

EXECUTIVE SUMMARY

**TRACKING BENEFICIAL OWNERSHIP  
AND THE PROCEEDS OF CORRUPTION:  
EVIDENCE FROM NIGERIA**

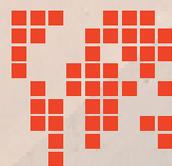
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**Northumbria  
University  
NEWCASTLE**



**ACE**

GLOBAL INTEGRITY

Anti-Corruption Evidence  
Research Programme

# EXECUTIVE SUMMARY and RECOMMENDATIONS

- 1. This project set out to answer the research question: can improvements be made to the identification and tracking of Beneficial Ownership (BO) in Nigeria to increase the likelihood of recovering the proceeds of grand corruption?**
- 2. Our research question necessitated an analysis of grand corruption in Nigeria and the use of beneficial ownership and Nigeria's anti-corruption and asset recovery regime - especially its actions regarding beneficial ownership.** This focus had the objective of assessing and proposing improvements to the identification and tracking of BO in Nigeria to increase the likelihood of recovering the proceeds of grand corruption through practical and practitioner relevant recommendations with the intention of helping the Nigerian authorities.
- 3. While the Final Report ('the Report') does not offer a 'silver bullet' to the problems of grand corruption, the answer to our research question is a qualified 'yes'.** The qualification concerns the necessary suggested improvements to the BO regime which require a number of other changes to be made first. We have concluded that the *'devil is in the detail'* and if certain building blocks are not in place then any changes to the accessibility and availability of BO, and its usefulness for investigative, prosecutorial and asset recovery purposes will be sub-optimal.
- 4. We followed a triangulation approach to the methods employed.** These were: an analysis of secondary literature on corruption and beneficial ownership within and outside of Nigeria; primary research through the collection and collation of data from, and of information from interviews with, concerned agencies, professionals and non-governmental organisations in Nigeria, the UK and the USA; and assessment of the findings through structured workshops, written feedback on our interim report and follow-up discussions with specific organisations. While we acknowledge issues with available data, we consider that our approach allowed for a contextual analysis of grand corruption and the evidence of the disguise of the proceeds. of grand corruption.
- 5. Both our interim report and the Report contextualised corruption within the specific structural conditions of the economy and decisions that have affected Nigeria's growth and development.** These included the continued dominance of the cash based society; the reliance on the oil and extractive sector of the economy for both export earning and government revenue; and an extremely low tax base of the formal economy. This situation appears compounded by an evident lack of tax compliance. Understanding the implications of such a context will be important to assessing the focus and effectiveness of those laws, procedures and institutions established to address corruption and the proceeds of grand corruption.

- 6. Elections of representative bodies are not only a (re)distribution of the political landscape but also a matter of income: positions in one of the representative bodies are coveted because of their (relatively) higher remuneration packages.** In this context it is difficult to ignore the negative effects within Nigerian society of patronage, of political clientelism and of 'godfatherism' as well as practices that create avenues for rent-taking, embezzlement and personal wealth accumulation.
- 7. It is not easy to identify cases of grand corruption.** If it were, then honest anti-corruption agencies would have little difficulty in arresting the perpetrators. Similarly, if it were easy to 'follow the money', the authorities would have more success in recovering the proceeds of corruption. Our case analysis notes four issues. First, being an influential patron in the region or country, requires spending not only to keep up appearance but also to buy loyalty while still leaving enough money for direct personal enrichment of astonishing dimensions. Second, many of the cases concerned the abuse of contracts, with contracts being awarded to companies run by close friends or business associates. Across the cases, purchase of property is widespread. Property and land ownership is particularly problematic due to the high degree of opacity of land ownership records and difficulty of access to records for investigators. Third, the use of currency purchase through Bureau de Change (BDC) operators is a method of laundering. Finally, companies, shell companies, banks and other means are used to hide and disperse the proceeds of corruption.
- 8. Against these issues, we note several factors.** First, while legislation has created sufficient agencies, these often have overlapping mandates that have resulted in competition rather than collaboration (although an agency view would argue that an advantage of overlapping mandates was to eliminate gaps). Second, evaluation of operational efficiency of the agencies is severely hampered by inadequate data – information we were told was available was rarely forthcoming, while that from the public domain was frequently not up-to-date. Sometimes data is collected without a clear purpose, making it less useful, and the same information may be separately collected by different agencies, creating unnecessary inefficiencies. Sometimes data that should be collected and disseminated, such as Suspicious Transaction Reports (STRs), is not. Third, using a standardised data collection template and record management process for capturing and validating data, particularly BO data, does not happen. Fourth, the means of, and enthusiasm for, intelligence and information verification and sharing is sporadic in practice.
- 9. We would argue that the basic building block to the work of relevant agencies is data, and particularly BO-relevant data.** A great deal of information is collected on BO by different agencies but what is missing is the institutional capacity to bring it together in a timely and useable form for those who need access to the information. To be useful (and compliant with Financial Action Task Force Recommendation No. 24), records have to be accessible (on-line if possible), accurate, shared in a timely manner and in a format that is useable. We were told of agencies finding it difficult to share data and that record keeping differs between agencies. We have looked at the content of data capture forms to see what information is requested and held by different agencies.

Of particular interest is the personal identification information (variables, fields and format) that is collected by multiple agencies and that could usefully be shared in furtherance of both BO identification and prevention of corruption if standardised, validated, maintained and accessible.

**10. Consequences of existing weaknesses.** Whether it is company registration, asset and income disclosure, land registration or financial reporting, we consider that the weaknesses – from uniformity through verification to dissemination – have significant implications for the investigation and recovery of the proceeds of corruption. At the same time, those weaknesses are equally noticeable in terms of how individual agencies handle and record data. Further weaknesses apply to information sharing. There are several consequences. For investigations it means a disorganised system with no central database leading to poor judicial consequences, delays in asset recovery and the absence of transparency in the management of recovered assets.

**11. In terms of findings, the Report notes that there cannot be a single ‘silver bullet’ that we can recommend in connection with how greater knowledge of BO information would help in the fight against corruption.** This is because the system itself mitigates against any willingness to achieve substantive institutional or procedural reform. Nevertheless, our report acknowledges the role of BO in facilitating anti-corruption investigations and the tracing and recovery of the proceeds of corruption.

**12. The Report has highlighted the challenges.** These include the general lack of transparency and tendency towards secrecy which compound a systematic data deficiency. The issue of BO as a fundamental building block in addressing the investigation and recovery of the proceeds of corruption has been undermined by a lack, or poor quality, of data and record management. There were problems with inter-agency and cross border support, information-sharing, cooperation, and investigation faced by the authorities in making effective use of BO information. The primary research confirms that the most frequently occurring themes that emerged were: data deficiency; cooperation; intelligence and information; BO and delays in courts.

**13. The Nigerian authorities face challenges in minimising opportunity for illicit financial flows arising from the structural characteristics of the economy.** The institutional landscape is complex with overlapping mandates and duplication in effort. Consistent with the findings of others, we observe the absence of collaboration, coordination, and information-sharing between various anti-corruption agencies to be longstanding, structural and cultural in organisational terms.

**14. In terms of Recommendations, our analysis suggests that (i) some improvements can be made to BO data; (ii) such changes can improve the use of BO data in anti-corruption responses by relevant agencies ; and (iii) the first two recommendations would be helped by incremental changes both to agencies’ work and inter-agency working.**

## 15. Recognising that the issue of BO and the associated agencies should be seen against the background of the governance of Nigeria, the Report therefore recommends that:

### 15.1 In terms of data:

- **Data use and harmonisation:** there should be a national agreement or protocol on data content and recording. This would be underpinned by a proactive approach to records management across the public sector. This could be developed into a uniform set of standards, one that specifies what information should be recorded, how, by whom, how verified, how stored, how updated, how accessed. When such data is used for any law enforcement investigation or intelligence function, that incidence should be associated with a unique reference number for tracking and management purposes. The agreement or protocol should be set in a context of explaining the value that would be added to information sharing, the work of agencies, the prosecutions, and the recovery of assets. The agreement or protocol will govern both natural persons' and legal persons' data.
- **Data-sharing:** The Corporate Affairs Commission (CAC) should push ahead with implementing the provisions of the Companies and Allied Matters Act (CAMA) 2020 with respect to BO as a priority. We support the efforts of Nigerian Extractive Industries Initiative (NEITI) and recommend that the data captured by the CAC be harmonised with that from NEITI so that the two databases could be easily searched, and data shared with relevant authorities, in particular the Federal Inland Revenue Service (FIRS) and the Code of Conduct Bureau (CCB).
- **Data access:** to improve transparency and assist in data management and record keeping a unique case record or identification number should be created that would link cases prosecuted and convicted to assets recovered rather than the present system whereby the case number is tied to the court, changing as a case moves through the court system.
- **Data management:** The inconsistency and unreliability of data urgently calls to the establishment of a central data base which should be fed from sectoral registries and databases and to the recognition of records management as an important discipline role within the civil service.
- **Data cleaning:** Verifying historic data as it is transferred onto the CAC portal will be a significant piece of work that should be properly resourced. A process that includes removal of old data of companies that no longer exist; validating/refreshing data on companies in existence; and adding a new layer of BO data to companies currently in existence.

**15.2** The National Assembly should move to assemble the Proceeds of Crime POCA legislation without delay. They could also consider an amendment to the AML/CFT Regulations (2013 s.13-16) to require the regulated sector to report discrepancies between PSC information available through CAC and the information that they obtain through independent checks when on-boarding new or transacting with existing customers.

**15.3 Reporting of STRs should not simply be an automated process.** In connection with reporting of potentially suspicious transactions it is important for banks to carefully look at the justification for payments of Naira deposits or for international funds movements. Operational level staff should be empowered to act on and report their suspicions. More senior officials should record their reasons if no further action is taken to avoid any conflict of interest. By restricting the number of Politically Exposed Persons (PEPs) that must be tracked and instead concentrating on a smaller number of the most senior individuals, banks would be able to use their internal compliance and risk teams to properly monitor unusual or large-scale account activity.

**15.4 Central Bank Capacity.** To limit opportunity for corrupt proceeds to enter the financial system in Nigeria, we would suggest that continued investment should be made in the technical capacity within the Central Bank so that they have a greater understanding of the risks faced by the regulated sector and are able to properly apply a risk-based approach to their supervision. In line with other countries, information on regulated entities (and individual officers) subject to regulatory sanction should be shared in public notices.

**15.5 There should be a transparent system of case selection focusing on those that have caused the greatest public damage and have the greatest chance of success.** The Economic and Financial Crimes Commission and/or the Independent Corrupt Practice Commission should pay attention to evidence management, ensuring that evidence is correctly obtained, timing its presentation in court effectively, and ensuring that the strongest evidence that clearly ties the charge to the defendant is presented. Disorganisation can compromise the trial and likelihood of conviction.

**15.6 The prosecution can simplify the process of trial by presenting the strongest evidence against a single charge,** rather than a large amount of weaker evidence against multiple charges as appears evident in several of the cases of grand corruption we reviewed. It is not necessary to present all available evidence to the court, only that which absolutely links the defendant to the charge for a conviction to be secured and/or assets to be recovered. Pursuit of cases from prosecution through the courts should be clear and unbiased and the agencies should not be restricted by political party interests. Removal of political influence ensures that investigators should be able to pursue cases irrespective of political affiliation of the suspect. This also would address the charge of 'mutual softness' by the main political parties.

**15.7 We would greatly support and emphasise current initiatives to create and task working groups from the different agencies to focus on particular cases. Groups should be kept small to work well,** effective operational collaboration is more than just turning up at a task force meeting. In this regard we suggest creation of an operational-level working group comprising only Police, EFCC, ICPC, the Special Control Unit Against Money Laundering (SCUML) and the Nigerian Financial Intelligence Unit (NFIU). To facilitate discussion and consensus building, this group should be kept small in its membership, ideally comprising only two representatives from each of the five named agencies. This group should be chaired by the NFIU as the central organisation responsible for quality of intelligence and as coordinator with the financial sector. This group should meet monthly.

**15.8 We also emphasis the sharing of technical expertise between agencies at the operational investigator/practitioner level** as well as the sharing of intelligence and knowledge so that the lead agency does not always have to start an investigation from the beginning. From the perspective of operational efficiency it is equally important to ensure that agencies share information on cases that are underway so that one agency does not inadvertently interfere with or hamper the operations of another. Moving more quickly will prevent individuals from disposing of or dissipating their assets, an area that was particularly frustrating to the

**15.9 We recommend that CCB limit the scope of their activity to the most senior civil servants only.** Asset declaration forms should include information of assets held without inclusion of specific valuations and that asset declaration reports by senior civil servants should be in the public domain. Sharing of this information would facilitate linking of assets to BOs.

**15.10 We recommend that the data captured by the CAC be harmonised with that from NEITI so that the two databases could be easily searched and data shared with relevant authorities.** We propose enabling public access to the details of BO to enable the regulated sector and civil society organisations to add an additional level of checking of accuracy of data. To encourage reporting to the land registries, fees should be made reasonable and the process kept simple and straightforward.

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