

<b>Issue</b>	<b>Beneficial Ownership</b>
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- s.13,s.16

### Current Status

- s.13,s.16

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### Background and Analysis

- Beneficial ownership involves specific property rights that belong to an individual even though legal title to the property may belong to another individual. There are many valid reasons for holding shares through beneficial ownership, such as estate planning or business competitiveness considerations. Currently, almost all shares in publicly traded companies in Canada are legally held in depositories and the beneficial owner usually owns the shares through an intermediary or chain of intermediaries (such as investment dealers).
- Canada is a member of the Financial Action Task Force, an international body that sets standards and promotes effective implementation of measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.
- Three Financial Action Task Force recommendations relate to beneficial ownership information.
  - Recommendation 10 requires financial institutions to identify and verify their clients' beneficial ownership. This is implemented in Canada through rules and guidelines issued by the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).
  - Recommendation 24 requires countries to ensure that there is adequate, accurate and timely information accessible on the beneficial ownership of legal persons (i.e. corporations), and Recommendation 25 requires this for the beneficial ownership of trusts.
- In April 2016, the G20 Finance Ministers and Central Bank Governors' Meeting released a communiqué reiterating "the high priority it attaches to financial

transparency and effective implementation of the standards on transparency by all, in particular with regard to the beneficial ownership of legal persons and legal arrangements.”

- The Financial Action Task Force conducted an on-site evaluation in November 2015. While the report, which was released in September 2016, found that Canadian authorities have a good understanding of most of Canada's money laundering and terrorist financing risks, it identified some deficiencies related to beneficial ownership. According to the report, financial institutions have done little to verify the accuracy of beneficial ownership information despite the strengthening of legal requirements. As well, there is currently no tracking of information about beneficial ownership of corporation or trusts.

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s.16 and trusts are established under provincial law, s.13,s.16  
s.13,s.16

- BC business corporation legislation does not require corporations to identify their beneficial ownership information. Registered shareholder information is required to be kept by the corporation at its records office. The information is available for inspection by any person, and a current list of shareholders is available upon affidavit that the information will be used for corporate purposes.
- Since 2004, BC corporate law has barred the issuance of bearer shares, which are wholly owned by whoever physically holds the shares. However, some shares issued before 2004 may still be in bearer form. s.13

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- Under BC securities legislation, some obligations are imposed on corporations to disclose beneficial ownership in certain situations and investment dealers also have certain obligations to track beneficial ownership. s.13

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- s.13,s.16

## Position of Federal Government

- s.13,s.16

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- s.13,s.16

### **Position of Other Provinces/Territories**

- Unknown.

### **Recommended BC Position**

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Contact: Cynthia Callahan-Maureen (250-387-7520)  
Financial and Corporate Sector Branch, BC Finance

May 23, 2017

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### **Position of Federal Government**

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### **Position of Other Provinces/Territories**

- Unknown.

### **Recommended BC Position**

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Contact: ~~Chris Dawkins~~ Cynthia Callahan-Maureen (250-387-752067)  
Financial and Corporate Sector Branch, BC Finance

~~June 6, 2016~~ May 18, 2016 7

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### **Position of Other Provinces/Territories**

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## Recommended BC Position

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Contact: Chris Dawkins (250-387-7567)  
Financial and Corporate Sector Branch, BC Finance

June 6, 2016

## Issue Beneficial ownership

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### **Position of Other Provinces/Territories**

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### **Recommended BC Position**

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Contact: Chris Dawkins (250-387-7567)  
Financial and Corporate Sector Branch, BC Finance

June 6, 2016

## ADVICE TO MINISTER

<p>CONFIDENTIAL <i>DRAFT</i> GCPE-FIN ISSUE NOTE</p> <p>Ministry of Finance RECORD OPR: GCPE Finance Date: Feb. 10, 2017 Minister Responsible: Michael de Jong</p>	<p><b>Transparency International Report on Beneficial Ownership – Real Estate</b></p>
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### *DRAFT*

#### ADVICE AND RECOMMENDED RESPONSE:

- Announced with Budget 2016, changes to the Property Transfer Tax form require individuals who are not Canadian citizens or permanent residents to disclose their country of citizenship.
- Corporations must provide the name, address and citizenship of directors who are not Canadian citizens or permanent residents.
- Buyers will also be required to disclose whether the transfer involves a bare trust, and, if so, its trustees must provide the names, addresses and citizenship of the bare trusts' settlors and beneficiaries.

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#### SECONDARY:

- FINTRAC is an independent federal agency responsible for the detection, prevention and deterrence of money laundering” in Canada.

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## KEY FACTS REGARDING THE ISSUE:

On Dec. 9, 2016, Transparency International issued a report, criticizing Canada for allowing criminals involved in financial crime to use their illegally obtained wealth in Canada's legal economy through anonymous companies and trusts. The report's author, Adam Ross, believes the prevalence of opaque ownership in B.C. luxury real estate makes it impossible to accurately collect data on foreign ownership and the amount of offshore money invested in B.C. homes, despite B.C.'s requirement for foreign buyers to disclose their citizenship.

Ross contends that there are many ways to avoid reporting requirements, as some trusts are private contracts administered by lawyers under anonymity clauses that don't have to be disclosed on land titles and through nominees – people that appear as owners on home titles but are not the real buyers. He suggests that trusts can be layered on top of ownership structures reported to government agencies, adding more anonymity and that nominee owners have the potential to deprive treasuries of significant tax revenue.

The report was highlighted in a Vancouver Sun article that noted "almost half of Vancouver's 100 most expensive houses were bought using shell companies or other methods that obscure the identity of the owners," and pointed out a rise in tactics to obscure ownership over the previous five years. It maintains that an influx of overseas capital is one of the causes of substantial increases to average home prices in Canada, including Vancouver.

Transparency Canada used the report to issue a call for requirements for all companies and trusts in Canada to identify their beneficial owners, with the information collected into a central registry that would be publicly available through an open data format.<sup>s.13</sup>

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Communications Contact:

Program Area Contact:

Steve Hawkshaw

250 387-7364

File Created:

File Updated:

File Location:

NEW - OPERATIONS\Issues Notes\Housing and Real Estate

Program Area	Comm. Director	Deputy	Minister's Office

## ADVICE TO MINISTER

**CONFIDENTIAL**  
**DRAFT GCPE-FIN ISSUE NOTE**

**Ministry of Finance**  
**RECORD OPR: GCPE Finance**

**Date: Feb. 10, 2017**

**Minister Responsible: Michael de Jong**

## Transparency International Report on Beneficial Ownership – Real Estate

**DRAFT**

**ADVICE AND RECOMMENDED RESPONSE:**

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Program Area	Comm. Director	Deputy	Minister's Office