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Open letter to the Financial Action Task Force President, Secretariat and Members

Copied to: Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), Central Africa Anti-Money Laundering Group (GABAC), Middle East and North Africa Action Task Force (MENAFATF)

12 January 2022

To support African continent in its fight against capital flight, ensure that revised Recommendation 24 requires centralised, public registers of beneficial ownership

1. Transparency International and its national chapters and partners in 12 African countries wish to express our dismay over the revelations contained in the recent Pandora Papers investigations. The leaked financial data highlighted yet again how elected officials, public servants, military leaders and businesspeople use shell companies, secrecy jurisdictions and other legal vehicles to move wealth offshore. Among them, 12 million financial documents reveal the conspicuous wealth accumulated by the African elites. The volume of the capital flight is in stark contrast with the abject poverty and underdevelopment faced by most African countries.

2. At least 35 heads of state and more than 300 politicians from 90 countries are alleged to have evaded scrutiny and shielded themselves with anonymity. While owning assets through anonymous structures offshore is not illegal *per se*, we note with great concern that nearly 50 politicians and at least five current or former heads of state are from Africa – some of whom previously presented themselves as strong anti-corruption reformers. These cases involve the use of anonymous companies, trusts and other legal vehicles to conceal previously unknown wealth harboured in offshore jurisdictions. Their exposure as beneficial owners showcases the extent to which public officials and private individuals advance their private interests through suspicious deals – in many cases circumventing asset and conflict of interest rules. Although diverse industries are represented, the lucrative extractives industry stands out as the most suspicious source of the concealed wealth.

3. According to recent UN estimates, the African continent loses US$88.6 billion per year in illicit financial flows. The capital that should be used for domestic resource mobilisation – to address poverty and inequality, or to manage the COVID-19 pandemic – leaves under suspicious circumstances and with unclear sources of opulent wealth.

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4. In February, the UN High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel) in its final report recommended that, to effectively tackle illicit financial flows, international anti-money-laundering standards should require that all countries create a centralised beneficial ownership register for all legal vehicles and encourage countries to make the information public. In June, the political declaration of the first-ever UN General Assembly Special Session (UNGASS) against Corruption reiterated the importance of promoting beneficial ownership disclosure and transparency through registers.

5. The implementation of **public, central beneficial ownership registers** is the sole mechanism for ensuring that foreign and domestic law enforcement authorities have direct, timely and unrestricted access to the real owners of companies. Beneficial ownership registers also bear the advantage of enabling the use of gathered data to assess money laundering risks and therefore improve relevant policies, supervision and enforcement. When this data is made accessible to the public, further oversight by civil society and the media is assured.

6. We note that the periodic exposures of conspicuous and largely unexplained wealth in offshore havens urges the African governments and, in particular, the law enforcement agencies to become more innovative and pragmatic in fighting money laundering and illicit financial outflows. The greater use of non-conviction-based asset forfeiture and plea bargains help many African jurisdictions in targeting stolen assets abroad and domestically. These tools prove effective for preventing illicit financial outflows in some African countries while using financial intelligence to locate, confiscate and repatriate some illicit African assets.

7. Most governments in Africa acknowledge that anonymous companies have been enabling illicit financial outflows for far too long. We acknowledge that some progress has been made. For example, Ghana, Kenya, Senegal, Uganda, Nigeria, South Africa, Togo and Zambia have all made demonstrable advancements on their commitments through the Open Government Partnership (OGP) and the Extractives Industry Transparency Initiative (EITI). However, the ever-increasing volume of illicit financial outflows from Africa and the growing inequality in most African countries highlight that the progress is too slow and uneven. The absence of legal frameworks to clearly define beneficial ownership, the lack of availability of registries that collect information on both legal entities and trusts and the lack of public access to these registers are serious impediments.

8. We are aware that to effectively address reduction of illicit financial outflows requires levelling the playing field globally, beyond the African continent. The Pandora Papers clearly underscore the crucial role of professional enablers of financial crime based in Europe and North America, and increasingly also in Asia and the Middle East. However, it is paramount that the African authorities effectively implement and use public beneficial ownership registers by extracting and probing actionable financial intelligence.

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9. To this effect, we welcome FATF's recent efforts to eliminate the abuse of offshore companies and corporate secrecy. We are united in the view that FATF members must revise the Recommendation 24 on beneficial ownership transparency, making centralised, public registers of beneficial ownership a requirement.

10. In addition, as part of the FATF strategic review, the next round of mutual evaluations and related follow-up processes, FATF members should put particular emphasis on ensuring the adequate and meaningful implementation of FATF recommendations, in a way that ensures the effectiveness of measures in place. Specific consideration should be given to whether or not competent national authorities have access to and enjoy the sufficient level of operational independence to act on available financial intelligence. Only the rigorous implementation of these measures will prevent illicit financial outflows and investigate money laundering cases irrespective of the political, economic or societal status of implicated persons and entities.

11. We believe that it is a shared interest that the implementation of the above-mentioned measures contributes to the reduction of the staggering volume of illicit financial flows that exacerbate African poverty and underdevelopment.

12. Through the Transparency International Secretariat in Berlin, Germany and through the undersigned national chapters in Africa, we remain at your disposal in assisting with these efforts.

Signatories
Transparency International Nigeria/ Civil Society Legislative Advocacy Centre (CISLAC)
Gambia Participates
Ghana Integrity Initiative
Centro de Integridade Publica Mozambique
Transparency International - Sierra Leone
Transparency International Kenya
Transparency International Zambia
Transparency International Initiative Madagascar
Transparency Morocco
Center for Transparency and Accountability in Liberia (CENTAL)
Transparency International Zimbabwe
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