

Beneficial Ownership Transparency:

Nigeria's best chance for surviving its
COVID-19 induced fiscal crisis.

Key takeaways

- Nigeria has a severe corruption crisis chipping away at the fabric of its politics alongside a civil service that poses a severe threat to a sustainable recovery from COVID-19 shocks to its economy.
- Nigeria has another problem more severe than corruption — low tax revenue, despite a large economy measured by its GDP. But this is less debated than corruption in the country's mainstream media. For the first time in the last 61 years, Nigeria's non-debt servicing expenditures are being funded by creditors and foreign donors — all thanks to the economic shocks induced by the COVID-19 pandemic. In the 17 months between January 2020 and May 2021, all salaries and pensions paid by the federal government were borrowed. In 2020, the borrowed money was insufficient to pay all pensioners, so only 67% or N359.6bn of the N536.7bn budgeted was paid; 33% of pensioners were abandoned.
- Beneficial Ownership Transparency can help solve Nigeria's low revenue crisis and generate N19.6 trillion per year in tax revenue for Nigeria without increasing the prevailing tax rates in the country on citizens and companies. This, it will do by creating the foundational framework for the government to get an accurate picture of how much each taxpayer is genuinely worth so those previously evading or avoiding tax get to pay their fair share.
- One of Nigeria's 36 states is already seeing some results in its tax revenue after implementing reforms that enable it to get a clearer picture of the actual net worth of each taxpayer resident in the state. Despite being one of the worst-hit states by COVID-19 cases, this state was among those states that saw a growth in their Internally Generated Revenue, IGR. The state saw a 12.93% growth in IGR in FY2020 when 18 other Nigerian states experienced negative growth in their IGR.
- The article wraps up by providing four actionable recommendations that can be implemented in the next 12 months to improve tax revenue necessary to finance a sustainable recovery from COVID-19 shocks.

Background

Despite the best efforts of many think tanks, civil society organizations, and well-meaning policymakers in government at implementing cross-sectoral reforms since 1999¹, Nigeria continues to be a paradox of natural and human resource wealth, even in 2021. It is a country blessed with 46 different natural resources and the largest black population on the planet — with many of its citizens emerging as high achievers around the world, yet it is home to some of the most vulnerable populations in the world many of whom now face multiple jeopardies due to macroeconomic shocks from COVID-19 that ravaged the economy in 2020.

Nigeria boasts of the likes of Dr. Oluyinka O. Olutoye, a trailblazer who achieved a rare surgical feat when he successfully operated on a 23-week old fetus (baby-in-utero) at the Texas Children Hospital, United States; Adebayo Ogunlesi who owns and operates the Gatwick Airport in the UK; a former World Bank Vice President, Dr. Okonjo Iweala, who is now the first female and first African Director-General of World Trade

Organization, WTO, amongst many other high flyers. Unfortunately, at least 86million Nigerians still live in extreme poverty. Post the 2020 COVID-19 outbreak, at least four more people now fall into poverty every minute in Nigeria² amidst limited opportunities for financing quality education and healthcare that would otherwise enable the country to achieve collective prosperity for all.

Undoubtedly, some Nigerians have benefited from education reform efforts over the years; however, the overall quality of the country's public education system still leaves much to be desired. Public school structures are dilapidated or non-existent in many communities, whilst many pupils have been sighted receiving lectures under trees or in collapsing classrooms. UNICEF estimates that there were at least 8.7m children out-of-school³ before the COVID-19 lockdowns — one of the highest in the world.

Some financially stable Nigerians can afford some level of decent healthcare. Still, the public hospitals available to the average Nigerian and those living below the poverty line are so substandard and unsanitary

1. The year 1999 is a reference point because it marks the return of Nigeria to democracy, after successive years of military rule.

2. See 'World Poverty Clock' by the World Data Lab. Available at: <https://worldpoverty.io/map>.

3. The Better Education Service Delivery for All (BESDA) program of the Federal government claims to have enrolled 924,590 out of school children in Nigeria. See "BESDA programme: FG enrolls 924,590 out of school children in Nigeria", by Aliyu Dangida, on March 18 2021, in the Vanguard (Online) Newspaper. Available at: <https://www.vanguardngr.com/2021/03/besda-programme-fg-enrolls-924590-out-of-school-children-in-nigeria/>.

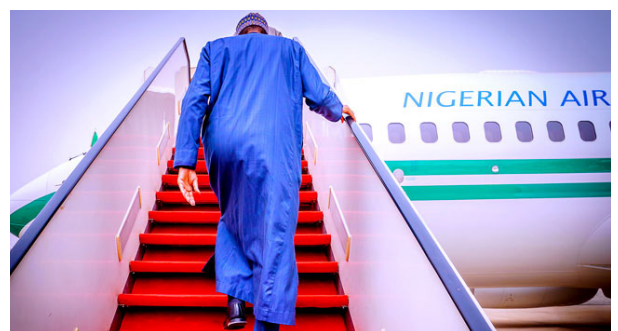


Pupils sit under the tree to learn at Yoldeboki Primary School, Gombe State

that they could be mistaken for relics of a prehistoric era. The fact that the country's president received all his medical checkups and treatment in the United Kingdom in the past 6 years is a testament to the country's lamentable healthcare situation. In some cases, poor citizens have been seen receiving treatment under trees — even before the deadly COVID-19 pandemic struck the country in February 2020.

Despite the country's infrastructure deficit and huge service delivery gaps, essential members of its political elite are pretty detached and so corrupt that the little revenue earned by the government for fixing its decaying infrastructure is stolen by some elites in leadership and their cronies in the private sector. For example, in 2020, N1.1 billion Conditional Cash Transfers (CCT) meant to cushion the economic effect of the COVID-19 pandemic for more than 50,000 rural women was instead paid into the private accounts of 17 people. A few years ago, in 2016, the then Director-

General for the NIA, Ayodele Oke, diverted \$43million from the public budget and stored it in cash in his apartment at Osborne Towers in Ikoyi until the loot was discovered by a whistleblower⁴. Indeed, Nigeria loses significant funds to corruption that could otherwise be used to provide infrastructure and social protection for its citizens; the country was considered one of the 30 most corrupt countries in the



A: Patients at a Hospital in Kaffe - Sokoto State, receiving medical care under trees
B: H.E. Muhammadu Buhari on one of his trips to the UK for a medical checkup

4. See "Ikoyi Whistleblower Gets N421m, Leaves Nigeria", by Charles Kumolu, December 14 2017, in Sahara Reporters (Online) Newsblog. Available at: <http://saharareporters.com/2017/12/14/ikoyi-whistleblower-gets-n421m-leaves-nigeria>

world out of 170 countries monitored by Transparency International's 2020 Corruption Perception Index, CPI.

Nigeria's real predicament

Notwithstanding Nigeria's corruption crisis, there is an equally important, if not a more severe crisis, but one that is less discussed — that is, how small Nigeria's revenue is compared to its infrastructure and social protection needs. This crisis is worthy of the undivided attention of Nigeria's supporters, especially considering that shocks from the COVID-19 pandemic have thinned out the government's already small revenue base, further limiting the size of the spending it can afford to budget for improving the quality of public service delivery and infrastructure for a sustainable recovery. About half of the government's revenue comes from petroleum taxes and proceeds of crude oil sale; the other half comes from non-oil taxes, fines, and "special accounts", all of which were hit by shocks from the COVID19 pandemic and are only now slowly recovering.

According to the World Bank, an additional 10million Nigerians may fall into poverty due to the economic effects of COVID19, significantly increasing the resources the government will need to mobilise to finance social protection and infrastructure required to achieve collective prosperity. However, the federal government of Nigeria's total approved 2021 "Budget of Economic Recovery and Resilience" is N14.78 trillion⁵. Of this amount, it announced it can only generate 52.77% or N7.8 trillion from its revenue — it will have to borrow or sell off some of its assets to meet up with its total spending obligations. Even if its revenue were enough to finance the total 2021 spending of N14.78 trillion, this budget is still the smallest amongst its peers in the "MINT Countries", a group of 4 countries (Mexico, Indonesia, Nigeria, and Turkey) selected based on possessing specific similar demographic, geographic, and economic factors including possessing a potential to be amongst the top global economies by 2050. Nigeria's contemporary in the MINT group, Mexico, has a 2021 budget⁶ of N122 trillion - 8.3 times Nigeria's budget. Turkey, Nigeria's African peer in the MINT group, boasts of a N69 trillion budget - 4.6 times Nigeria's budget while

5. See "Senate passes N982bn Supplementary Budget to Boost Military Operations", by Dyepekazah Shibayan, on July 7 2021, in the Cable (Online) Newsblog. Available at: <https://www.thecable.ng/just-in-senate-passes-n895bn-supplementary-budget-to-boost-military-operations/amp>

6. Conversion rate is one Mexican Peso to N20.33k Naira.

Nigeria's 2022 proposed budget in comparison with other MINT countries



Indonesia will spend N49.8 trillion in 2021. That's how small the budget of economic recovery of the Federal Government of Nigeria is.

Also, before the COVID-19 pandemic, Nigeria's infrastructure needs were considered to be significant — estimated to cost \$3 trillion over the next 30 years or N42 trillion by Moody's Investors Services, a leading global risk assessment firm⁷. More resources may now be required due to the distortion of Nigeria's macroeconomic fundamentals (e.g. devaluation of the naira) due to

COVID-19 induced shocks. In this light, even if grand theft of public funds is reduced to zero today, the FG's total revenue and Resultant budget are still grossly inadequate to meet Nigerians' infrastructure and social protection needs.

Furthermore, the first five months from January to May 2021 paint a gloomy picture as the federal government missed its prorated revenue target significantly; what it earned in that period was so small that 97.8% or N1.80 trillion of the N1.84⁸ trillion revenue earned went to paying debt servicing obligations

7. See "Research Announcement: Moody's - Significant financing from private sector and multilaterals needed to address Nigeria's Infrastructure Deficit" by Kunal Govindia (VP-Senior Analyst) and Kevin Maddick (Associate Managing Director), on November 18 2020, in Moody's Investor Service. Moody's. Available at: https://www.moody.com/research/Moodys-Significant-financing-from-private-sector-and-multilaterals-needed-to--PBC_1253651.

8. The funds that are not within this calculation consist of revenue from Government Owned Enterprises (GOEs). See the Budget Office of the Federation/Federal Ministry of Finance, Budget and National Planning. 2022-2024 Medium Term Expenditure Framework and Fiscal Strategy Paper, at p. 15, at Table 4.3. Available at: <https://cutt.ly/YRFzRr2>.

for maturing debts, leaving only N400 Million for any real spending. In simple English, the federal government had to borrow to finance the remaining N3.06 trillion spent during that budget period.

The way forward

One public policy solution that can rapidly grow Nigeria's revenue if implemented with diligence is Beneficial Ownership⁹ Transparency (BOT), a potent set of tools that could help any willing government boost its tax revenue without increasing tax on its people by revealing the identities of individuals and companies who are hiding behind the anonymity of their company ownership to either reduce their legal tax obligation or evade tax entirely.

With a GDP of N136.67 trillion in 2020, Nigeria has the largest economy in Africa. However, it has a pitiable tax to GDP ratio of 6.3%, one of the smallest¹⁰ amongst "Africa 30" — a group of 30 African

countries whose tax-to-GDP are monitored by the OECD. It is also the smallest amongst its peers in the MINT countries mentioned earlier; Turkey, Nigeria's African counterpart amongst the MINT countries, boasts of a tax-to-GDP ratio of 23.1%, Mexico has a tax-to-GDP ratio of 16.5%, while Indonesia has 11.6%. Their larger tax-to-GDP ratio means these countries can mop up public revenue from their economy more effectively than Nigeria and channel it to sizable public spending budgets that are critically needed to sustain recovery from COVID-19 shocks.

One of the reasons for Nigeria's small tax revenue and, as such, its small tax-to-GDP ratio, includes high incidences of tax evasion and tax avoidance which is made possible either: (a.) by the natural persons intentionally hiding the true extent of assets and wealth they are beneficial owners of— locally or offshore, or (b.) ineffective tools, skills and policy frameworks for the government's bureaucracy to register all companies in existence in Nigeria, their legal or beneficial ownership-data, staffing data and adequately

9. A beneficial owner is a natural person who ultimately owns, controls, or enjoys the benefits of the existence of a corporate entity or transaction. This type of owner may be different from the legal owner typically listed in official registration documents.

10. However, this rate is expected to be lower due to the effects of the COVID-19 pandemic and its related fiscal effects, in addition to the fall in oil prices globally, leading to a negative GDP growth in general. See "Nigeria's revenue to GDP ratio lowest in the world, says World Bank", by Wasilat Azeez, on July 27 2021, in the Cable (Online) Newsblog. Available at: <https://www.thecable.ng/nigerias-revenue-to-gdp-ratio-lowest-in-the-world-says-world-bank>. However, the World Bank claims that Nigeria-if it implements the right revenue and economic reforms-can push its tax-to-GDP ratio to 7%. See "World Bank says reforms can raise Nigeria's revenue to N10 trillion in 3 years", by Williams Ukpe, on June 25 2021, in Nairametrics. Available at: <https://nairametrics.com/2021/06/25/world-banks-says-reforms-can-raise-nigerias-revenue-to-n10-trillion-in-3-years/>.

monitor commercial transactions for taxation purposes.

There are 41.5million Micro, Small and Medium Enterprises, MSMEs that employ nearly 80% of Nigeria's labour force and contribute to 50% of the country's GDP. Yet, only 3million companies are registered¹¹ with the country's Corporate Affairs Commission, indicating that there are millions of businesses whose owners and beneficial owners may not be known to the government and whose annual profit and loss are not captured in the CAC Form 10A-C, IT4, BN/7 as required by the Companies and Allied Matters Act, CAMA, 1990 (as Amended in 2020). The implication is that the government and its internal revenue services at the federal and subnational levels cannot tell when individuals are under-declaring their income to pay less than their fair share of taxes. This depletes revenue that should otherwise

accrue to the government. (see table below)

In a similar vein, the beneficial ownership (BO) database by NEITI has thrown new light on the opacity in the ownership of several oil wells in Nigeria. For example, two lucrative oil wells identified by their Oil Mining Lease, OML number, are listed as being owned by a corporate entity, "Oando OML 125 & 134 Limited" based in Lagos, Nigeria, while 60% of this company is further owned by Oando PLC whose natural owners are known; the natural owners of the remaining 40% profits from these oil wells are not known, as they are registered under another company called "Oando OML 125 & 134 BVI Limited" registered in the British Virgin Islands, BVI, a jurisdiction ranked as having the highest tax underpayment complicity (closely followed by the Cayman Islands) in the 2021 Corporate Tax Haven Index, which is a ranking of jurisdictions most complicit in

Table: Number of MSMEs in Nigeria

Size Category	Assets (N Million) excl. land and buildings	Employment not Band	Number in Nigeria
Micro enterprises	Less than 10	Less than 10	41,469,947
Small and Medium enterprises	10 to 199	10 to less than 1,000	73,081

Source: SMEDAN, NBS

11. Micro Enterprises have between 1 and 9 employees; Small Enterprises have between 10 and 49 employees; and Medium Enterprises have between 50 and 249 employees. See "Micro, Small, and Medium Enterprises (MSMEs) in Nigeria – An Overview", in Invoice.ng (Online). Available at: <https://invoice.ng/blog/msmes-in-nigeria-overview/>.

helping multinational corporations underpay corporate income tax. Also, two other oil wells, OML 120 and 121 are 98% owned by a company whose natural owners are not known in the NEITI database but listed as "CAMAC Energy Holdings Limited", registered in Cayman Island. Only 2% of both oil wells¹² are listed as owned by Limota Asande Lawal, affiliated with the Nigerian-American oil industry billionaire, Lawal Kase Lukman; both individuals are directors of another corporate vehicle, "CAMAC Nigeria Limited" registered with the Corporate Affairs Commission in Nigeria. These practices, while perfectly legal, are examples of mechanisms that reduce what should accrue to the government in tax revenue. This is not limited to Nigeria's oil sector only as can be gleaned from the revelation in Panama Leaks¹³ that Nigeria's richest man and foremost industrialist and several other wealthy Nigerian families across different sectors have links to assets stored in tax havens British Virgin Island, BVI, and the Cayman Islands.

Nigeria's 'Acres of Diamonds' is in its tax revenue

For Nigeria to earn more tax revenue, it needs to work on improving its tax-to-GDP from 6.3% of its N136.67 trillion, at least to match the average tax-to-GDP amongst the MINT countries which is 14.37%; matching the MINT average could mean total tax revenue of N19.64 trillion per year (that is 14.37% of N136.67 trillion) without further increasing tax rates. However, even this average performance would not be sufficient to raise the N42 trillion per year needed to meet Nigeria's infrastructure needs over the next 30 years as estimated by Moody's Investment Services. To meet this target, Nigeria needs to aspire to hit a tax-to-GDP ratio of 30.7%. This is doable as seen in other high-performing African countries on this indicator; South Africa has a tax-to-GDP of 29.1%, Seychelles 32.4%, and Tunisia 32.1%.

A critical step for Nigeria in growing its tax revenue towards this target without increasing prevailing tax rates would be knowing exactly how much each Nigerian and multinationals operating in Nigeria

12. The Nigeria Extractive Industries Transparency Initiative (NEITI) Beneficial Ownership register unfortunately does not include a unique identifier for companies, also those listed as beneficial owners are other legal entities registered in offshore jurisdiction. See "Extractive Industries Transparency Initiative: Overview". Available at: <https://eiti.org/nigeria..>

13. See "Panama Papers: Eminent Nigerians in another corruption cesspool", by Gbenro Adeoye, on June 16 2016, in the Punch (Online) Newspapers. Available at: <https://punchng.com/panama-papers-eminent-nigerians-in-another-corruption-cesspool/>.

is worth at the end of every year — and this is where the government needs to leverage the full potential of Beneficial Ownership Transparency.

What would effectively leveraging beneficial ownership transparency look like?

This would entail:

- Collection of beneficial ownership data in Annual returns forms of CAC for registered companies. This is useful for provenance.
- Collection of beneficial ownership data for newly registered companies and other asset classes.
- Strengthening of the automated sharing of annual returns data with Federal Inland Revenue Service (FIRS)¹⁴.
- Leveraging the Automatic Exchange of Information, AOEI framework with other

jurisdictions¹⁵ like British Virgin Island, BVI when conducting tax assessments and reviewing commercial transactions for tax purposes.

- Linking all in-country beneficial ownership databases together and with global ones.

Policy objective -

Beyond company ownership, there are other forms of assets and license ownership from which natural persons earn income and on which they need to pay tax; all these asset ownership databases need to be linked together with the federal government's central beneficial ownership database, so the government has a fairly accurate picture of the net worth of each Nigerian for fair taxation purposes; this is critical in identifying those that are under-declaring for tax purposes. Some of the beneficial owners' databases that need to be interlinked include¹⁶:

14. While there is already a level of information sharing between the Corporate Affairs Commission and the Federal Inland Revenue Service (in terms of Tax Identification and Contractor information relating to procurement), it can be improved to much more optimal levels and include much more detailed operational information. See "Procurement bureau integrates database with FIRS, CAC, other agencies", by Basseyy Udoh, August 7 2018, in Premium Times (Online) Newspaper. Available at: <https://www.premiumtimesng.com/news/more-news/279308-procurement-bureau-integrates-database-with-firs-cac-other-agencies.html> and "Nigerian govt merges CAC, Tax ID registrations", by Oladeinde Olawoyin, on June 29 2020, in Premium Times (Online) Newspapers. Available at: <https://www.premiumtimesng.com/business/400239-nigerian-govt-merges-cac-tax-id-registrations.html>.

15. See the Automatic Exchange Portal. Organisation for Economic Cooperation and Development. Available at: <https://www.oecd.org/tax/automatic-exchange/about-automatic-exchange/>.

16. Note that this list is not exhaustive.

- Beneficial Owners in Company Registration Databases; according to the Banks Asset Declaration Act 1984.
- Beneficial Owners and legal owners listed in Land Ownership Registries (CofO); One of Nigeria's 36 states, Kaduna State, is blazing the trail in its efforts to implement reforms that enable it to get a clearer picture of the true net worth of individuals resident in the state — and the results so far are impressive. Despite being the second most affected state by COVID-19 pandemic out of Nigeria's 36 states, Kaduna saw a 12.6% increase in its Internally Generated Revenue, IGR, from N44.96bn in 2019 to N50.77bn in 2020, in a year when 18 other states saw a decline in their IGR¹⁸; 14 of which saw a decline for the first time since 2017 due to COVID-19 induced shocks.
- Resource extraction licenses; OMLs (Oil Field, Marginal Oil Fields, Gold, Blue Sapphire, and other solid mineral licenses);
- Beneficial Owners listed in Vehicle Registration License databases;
- OpenOwnership's Global Beneficial Ownership Register currently has over 12million records from 200 jurisdictions across the world¹⁷;
- Ownership data for Assets listed in foreign jurisdictions accessed through AEOI frameworks like the BVI CRS ;
- Ownership data for Assets listed by politically exposed persons in the Code of Conduct Bureau, CCB;
- Ownership data for Assets listed by bankers and customs officials

Conclusion

Indeed, investing in collecting, structuring, and linking ownership data across all asset classes in the country and offshore holds significant promise of identifying the actual net worth of each Nigerian and multinational for fair taxation purposes and contributing to yielding as much as possible N19.7trillion in tax revenue for the government.

17. It should be noted that some of the Beneficial Ownership data from the Extractive Industries Transparency Initiative are currently linked to the Open Ownership database but not the entire data from the Corporate Affairs Commission.

18. BudgetIT research.

Nevertheless, it should be noted that beneficial ownership transparency, once fully implemented for taxation purposes, only provides the necessary intelligence to improve a country's tax revenue; taking action on the insights it provides to increase Nigeria's tax-to-GDP from 6.3% to 14.37% of the country's N136.67 trillion GDP relies on good old political will and the level of independence given to the country's revenue collection agencies by the political class. For example, in Kaduna State, the leadership of the state's revenue service attributed its success to and lauded the state governor for giving them the latitude to enforce tax collections in cases when increased transparency revealed underpayment by some taxpayers — even when some high net worth individuals politically connected to the governor were affected.

Recommendation

The following can be done to make Beneficial Ownership Transparency an integral part of Nigeria's COVID-19 Recovery Plan:

1. Introduce zero registration fees to accelerate the collection of Beneficial Ownership data.

One of Nigeria's biggest barriers to collecting beneficial ownership data is the enormous fees associated with starting and registering a company which can range from N50,000 to as high as N120,000 for some company types; this is counterproductive in a country with a colossal trust deficit between the government and the citizens. In comparison, company registration in Rwanda and Slovenia is free; the United Kingdom charges £19 while South Africa charges £9 according to a ranking by Rovva.

Company registration is currently the primary process for collecting beneficial ownership data in Nigeria, so the country should introduce an 18-month, zero-fee regime for starting and registering companies that would help the government record legal ownership and beneficial ownership data of

most of 42 million Micro, Small, and Medium-scale Enterprises (MSMEs) majority of whom are not in the Corporate Affairs Commission, CAC database.

2. Update BO data via CAC Annual Returns forms and enable automated data sharing with federal and subnational internal revenue services.

There is a need for stronger enforcement of yearly submission of Profit and Loss data in CAC Annual Returns Form 10A-C, IT4, and Form BN/7. These forms could collect updated beneficial owners data annually and the data automatically shared with FIRS. This is valuable for provenance so tax authorities can see not only who own a valued asset now but those who have owned it in the past.

There is commendable data sharing between the CAC and FIRS; companies are now issued their Tax Identification Number as part of the company registration process at CAC without going separately to the FIRS office. This can be leveraged further for sharing annual performance data, ensuring that

the government has a clearer and fairer picture of companies' earnings and their beneficial owners for tax assessment purposes.

3. Collect, verify and store BO data for all asset types

If the policy objective of deploying beneficial ownership transparency in Nigeria is to increase tax revenue, the country should go beyond collecting beneficial ownership data for companies alone; beneficial ownership data should also be collected for all asset ownership types: - e.g. Oil Licenses, Vehicle License, Land ownership. The fees for registering these types of assets do not necessarily need to be waived.

Also, efforts should be made to authenticate and verify data submitted to the beneficial ownership data, as erroneous or misleading data would still give an inaccurate profile.

To effectively share data, it has to be collected and stored in a well-structured format. Thankfully, the good people at OpenOwnership¹⁹ have developed the Beneficial

19. Open Ownership provides a set of free implementation tools, guides and technical support for policymakers seeking to implement.

Ownership Data Standard and provide technical support to interested governments across 23 countries.

4. Develop Local Data Sharing Protocols amongst all tiers of government and MDAs in Nigeria

There are more than 1,000 government agencies at the federal, state, and local levels, some of whom either generate or utilise relevant ownership data of citizens in the course of their daily activities. The government needs to

develop data sharing protocols and processes for Beneficial Ownership data amongst all relevant agencies and levels of government, especially strengthening and automating whatever protocol exists between the CAC, FIRS, Vehicle, and Land Registration offices across the country.

The government also has to integrate local beneficial ownership data with data accessed through Automatic Exchange of Information, AEOI frameworks existing with foreign jurisdictions.

Contact:

info@yourbudgit.com +234-803-727-6668, +234-908-333-1633

Address: 55, Moleye Street, Sabo, Yaba, Lagos, Nigeria.

   budgITng

www.yourbudgit.com