



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO



FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

Ministry of Finance

## **BENEFICIAL OWNERSHIP GUIDANCE FOR SUPERVISED ENTITIES**

**14<sup>th</sup> OCTOBER, 2024**

### **Purpose**

This Guidance is intended to provide assistance to Non-Regulated Financial Institutions and Listed Businesses (collectively "Supervised Entities") supervised by the Financial Intelligence Unit of Trinidad and Tobago in meeting their Beneficial Ownership obligations under the Financial Obligations Regulations 2010.

**FIUTT REFERENCE: GN/005/2024**

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## 1. INTRODUCTION

This Guidance is intended to assist Non-Regulated Financial Institutions and Listed Businesses (“Supervised Entities”) supervised by the Financial Intelligence Unit of Trinidad and Tobago (“FIUTT”) in complying with their legal obligations **with regard to obtaining the beneficial ownership information of their customers/clients**, to ensure compliance with the Anti-Money Laundering, Counter Financing of Terrorism and Counter Proliferation Financing (“AML/CFT/CPF”) Laws.

Corporate vehicles play a vital role in the global economy by conducting a wide variety of commercial activities and services. However, their unique legal status, characteristics and complex structure increases their susceptibility to misuse by criminals through intricate schemes designed to conceal the true beneficial owners and the real purpose for holding assets and conducting transactions. Corporate vehicles include various types of *legal persons* and *legal arrangements* whereby the persons conducting transactions may not necessarily be the individuals who ultimately benefit from such transactions.

**“Legal persons”** refers to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, bodies corporate, foundations, *ansalt*, partnerships, or associations and other relevantly similar entities. See [FATF Glossary](#).

Shell companies and complex ownership and control structures involving many layers of shares registered in the name of other legal persons, bearer shares, and the unrestricted use of legal persons as directors, and formal nominee shareholders facilitate the obscuring of beneficial ownership information. See FATF Guidance [“Beneficial Ownership of Legal Persons”](#) to learn more about legal persons.

**“Legal arrangements”** refers to express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include *fiducie*, *treuhand* and *fideicomiso* (types of French, German and Mexican trust arrangements). See [FATF Glossary](#).

ML/TF risks are usually inherent due to the private nature of legal arrangements, the ease of formation, its flexibility and the ability to protect assets. They enhance anonymity by disconnecting the beneficial owner from the trustee, settlor, protector or beneficiary. Additionally, a trust can be created in one jurisdiction while being used in another to hold assets across jurisdictions to disguise the origins of criminal proceeds. See FATF Guidance [“Beneficial Ownership and Transparency of Legal Arrangements”](#) to learn more about legal arrangements.

The identification of the beneficial ownership of clients/customers and transactions removes the anonymity of the individuals ultimately behind such transactions and account activities. Obtaining such information and confirming its accuracy can assist competent authorities, such as Law Enforcement Agencies, by pinpointing those natural persons who may be ultimately responsible for a particular activity.

This Guidance is a general, informative document and is not intended to replace the FORs or any of the AML/CFT/CPF Acts and Regulations.

**This Guidance should not be construed as legal advice and should be read in conjunction with the said laws.**

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## 2. DO BENEFICIAL OWNERSHIP REQUIREMENTS APPLY TO YOU?

You are legally required to comply with beneficial ownership requirements if you conduct business activities which fall within any of the categories listed below **AND** when you conduct transactions where your client/customers are legal persons or legal arrangements:

Listed Business (LB) activities as defined in the First Schedule of the Proceeds of Crime Act:	Non –Regulated Financial Institutions (NRFI) as defined in Section 2 of the Financial Intelligence Unit Act of Trinidad and Tobago:
Real Estate	A society registered under the Co-operative Societies Act
Motor Vehicle Sales	A person who carries on money or value transfer services
Gaming House	A Building Society registered under the Building Societies Act
Pool Betting	
National Lotteries On-Line Betting Games	
Jewellery	
Private Members' Club	
Accountant, an Attorney-at-law or other Independent Legal Professional	
Art Dealer	
Trust and Company Service Provider	

**Note:** All Listed Businesses and Non-regulated Financial Institutions are required to comply with domestic AML/CFT/CPF laws and to be registered with the FIUTT for AML/CFT/CPF Supervision to ensure compliance with such AML/CFT/CPF legislation. To understand further whether you may fall within the above listed categories, please [click here](#).

### 3. BENEFICIAL OWNERSHIP VS LEGAL OWNERSHIP

Ownership in a legal person or legal arrangement comprises of both *legal ownership* and *beneficial ownership*.

#### LEGAL OWNERSHIP




As it relates to legal persons, legal ownership refers to the individual or entity whose name is officially recorded as the owner of a company. Legal owners have the formal title or proprietary right to the legal person and possess the authority to make decisions about it.

In relation to legal arrangements, the trustee is the legal owner of the assets held in trust on behalf of the trust and its beneficiaries.

#### BENEFICIAL OWNERSHIP

A beneficial owner is a **natural person** who **ultimately owns or controls** legal person or legal arrangement and is the **real person** who ultimately benefits from the business activity. More than one natural person can be beneficial owners of a legal person or legal arrangement.

A beneficial owner is NOT:

-  Another Company
-  A Firm
-  A Nominee Shareholder

#### FATF'S DEFINITION OF BENEFICIAL OWNER

***In the context of legal persons***, beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those natural persons who exercise ultimate effective control over a legal person. Only a natural person can be an ultimate beneficial owner, and more than one natural person can be the ultimate beneficial owner of a given legal person.

***In the context of legal arrangements***, beneficial owner includes: (i) the settlor(s); (ii) the trustee(s); (iii) the protector(s) (if any); (iv) each beneficiary, or where applicable, the class of beneficiaries and objects of a power; and (v) any other natural person(s) exercising ultimate effective control over the arrangement. In the case of a legal arrangement similar to an express trust, beneficial owner refers to the natural person(s) holding an equivalent position to those referred above. When the trustee and any other party to the legal arrangement is a legal person, the beneficial owner of that legal person should be identified.

## THE FINANCIAL OBLIGATIONS REGULATIONS (FORs) & BENEFICIAL OWNERSHIP

Regulation 12(5) of the Financial Obligations Regulations (“the FORs”) defines Beneficial Ownership in the following manner:

“beneficial owner” means –

- (a) the natural person on whose behalf a transaction is being conducted;
- (b) the natural person who ultimately owns or controls a customer; or
- (c) the natural person who exercises ultimate effective control over the legal person or arrangement where the person on whose behalf a transaction is being conducted or where the person who owns and controls a customer, is a legal person or legal arrangement.

### ***Legal Persons***

Regulation 12(6) of the FORs clarifies that the natural person who exercises ultimate effective control in respect of a legal person means:

- (a) the natural person who ultimately owns or controls, through direct or indirect ownership, or through a chain of ownership, **ten per cent or more** of the shares or membership of a company, other than a company or external company listed on a regulated market that is subject to disclosure requirements which ensure adequate transparency of ownership information;
- (b) if no natural person is identified under paragraph (a), the natural person who exercises control of the company or external company through other means; or
- (c) if no person is identified under paragraphs (a) or (b), the natural person who holds the position of senior managing official of the company or external company.

### ***Legal Arrangements***

Regulation 12(7) of the FORs clarifies that the natural person who exercises ultimate effective control in relation to legal arrangements means:

- (a) for trusts, the settlor, the trustee, the protector, the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over trusts including through a chain of control or ownership, or control through other means; and
- (b) for other types of legal arrangements, persons in equivalent or similar positions to those listed in paragraph (a).



## 4. LEGAL REQUIREMENT TO IDENTIFY AND VERIFY BENEFICIAL OWNERSHIP INFORMATION

Regulations 12, 16, 17 of the FORs require financial institutions and listed businesses to identify and take reasonable measures to verify the identity of the beneficial owners of their customers/clients.

### **Regulation 12 of the FORs**

Regulation 12(1) of the FORs requires a financial institution or listed business to **identify** and **take reasonable measures to verify the identity** of the beneficial owner of any accounts held at the financial institution or listed business or potential accounts. Regulation 12(1) of the FORs further mandates that, for the purpose of identifying and verifying beneficial ownership information, financial institutions and listed businesses shall request original identification documents, data or other information from an applicant for business.

Where a customer is a legal person or where there is a legal arrangement, Regulation 12(2) of the FORs requires a financial institution or listed business to—

- a) verify that any person purporting to act on behalf of the legal person or legal arrangement is so authorised and identify and verify the identity of that person;
- b) verify the legal status of the legal person or legal arrangement;
- c) understand the nature of the customer's business and its ownership and control structure; and
- d) determine who are the beneficial owners of the legal person or legal arrangement.

### **Regulation 16 of the FORs**

Regulation 16(1) states that the requirements outlined in Regulation 15 of the FORs, with appropriate adaptations, apply to a business customer and that the financial institution or listed business shall verify the identity of the directors and other officers of a company, partners of a partnership, account signatories, beneficial owners and sole traders by means of documentary evidence.

Additionally, Regulation 16(2) mandates that the financial institution or listed business obtain, to the extent relevant to a proposed business relationship or transaction—

- a) the Certificate of Incorporation or Certificate of Continuance;
- b) the Articles of Incorporation;
- c) a copy of the Bye-laws, where applicable;
- d) management accounts for the last three years for self-employed persons and businesses which have been in operation for more than three years or three-year estimates of income for self-employed persons and businesses which have been in operation for less than three years; and
- e) information on the identity of shareholders holding more than ten per centum of the paid up share capital of the company.

Where a customer or client cannot satisfy the requirements of sub-regulation 16(2)(d), the financial institution or listed business may request other forms of proof of the source of funds to be used for the transaction.

**Regulation 17 of the FORs**

As it relates to legal arrangements, Regulation 17(1) states that where an applicant for business is a trustee, nominee or other legal arrangement, in addition to the requirements outlined in Regulation 15, the financial institution or listed business shall obtain the following information:

- a) evidence of the appointment of the trustee by means of a certified copy of the Deed of Trust;
- b) the nature and purpose of the trust;
- c) verification of the identity of the trustee, the protector and the settlor and any other natural person exercising ultimate effective control over the trust or other legal arrangement; and
- d) information on the identity of the beneficiary or class of beneficiaries and verification of this information where available.

**The verification of the identity of a beneficiary of a trust or other legal arrangement shall be performed before the pay-out or the exercise of vested rights (Regulation 17(2)).**

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## 5. HOW TO IDENTIFY THE BENEFICIAL OWNERS OF A LEGAL PERSON?

In a scenario where your client or customer of a transaction is a legal person, you are required, in accordance with Regulation 12 of the FORs, to identify the beneficial owner of the company on whose behalf the transaction is being conducted.

A natural person may be a beneficial owner of a company through:

1. [Possession of controlling ownership interest in the company](#); or
2. [Exercising ultimate effective control over the company through means other than ownership](#).

### 1. BENEFICIAL OWNERSHIP THROUGH OWNERSHIP INTEREST

FATF identifies beneficial owners, through ownership interest, to consist of both elements of ownership interest and control. This simply means that ownership interest does not solely qualify a person to be a beneficial owner but rather such person must possess *controlling ownership interest*.

Regulation 12(6) of the FORs identifies persons holding **ten per cent or more** of the shares or membership of a company to be beneficial owners through controlling ownership interest in the company.

A natural person may be the beneficial owner of a legal person through direct or indirect ownership interests.

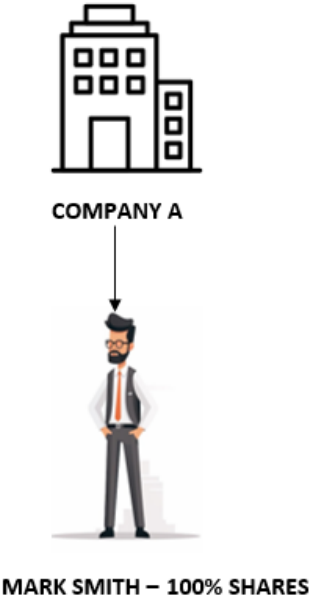
#### DIRECT OWNERSHIP INTEREST

Direct ownership exists where the shares or percentage holding of the legal person is directly held by a natural person. Ownership chains or multiple ownership channels do not exist in scenarios of direct beneficial ownership.

Where your customer/client is a legal person, and its legal owners are natural persons, the natural persons holding **10% or more of shares** of the said legal person are the beneficial owners of same.

The beneficial owner identified in a scenario of direct ownership is often also the legal owner of the legal person.

*Example 1. Beneficial Owner through Direct Ownership*

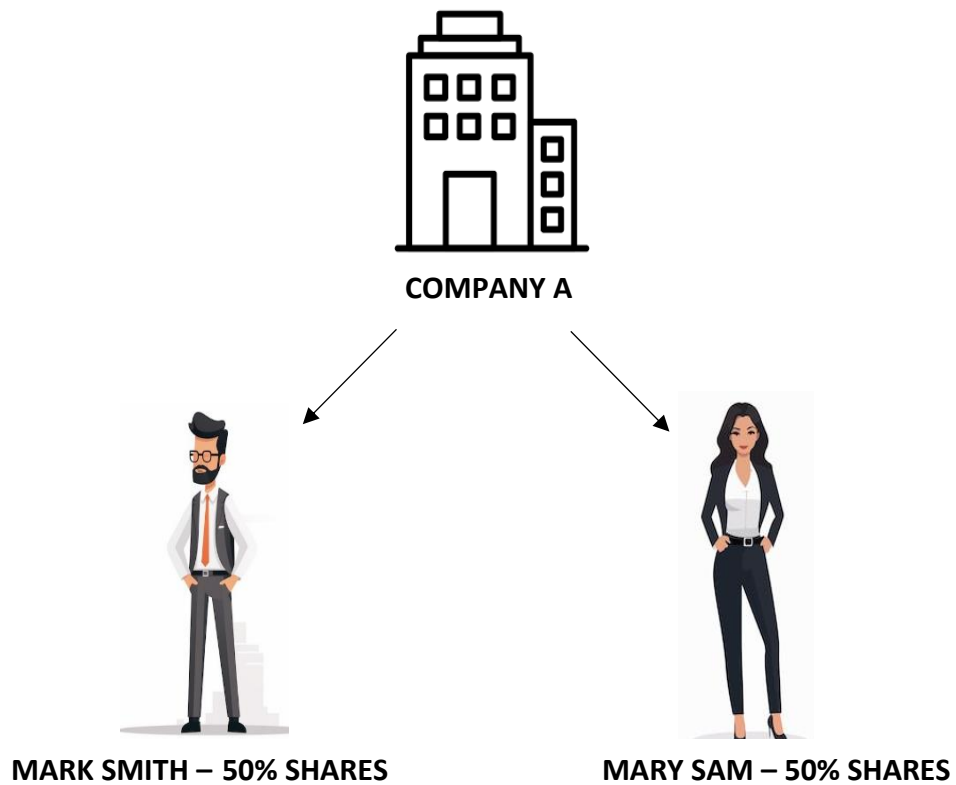


**Example 1:**

Company A is owned 100% by Mark Smith, who is a natural person. Mark holds all of the shares in Company A (more than 10% of the shares) and therefore is the beneficial owner of Company A. Identity information should be obtained and maintained for Mark.

In this scenario, Mark is also the legal owner of Company A.

*Example 2. Multiple Beneficial Owners Through Direct Ownership*

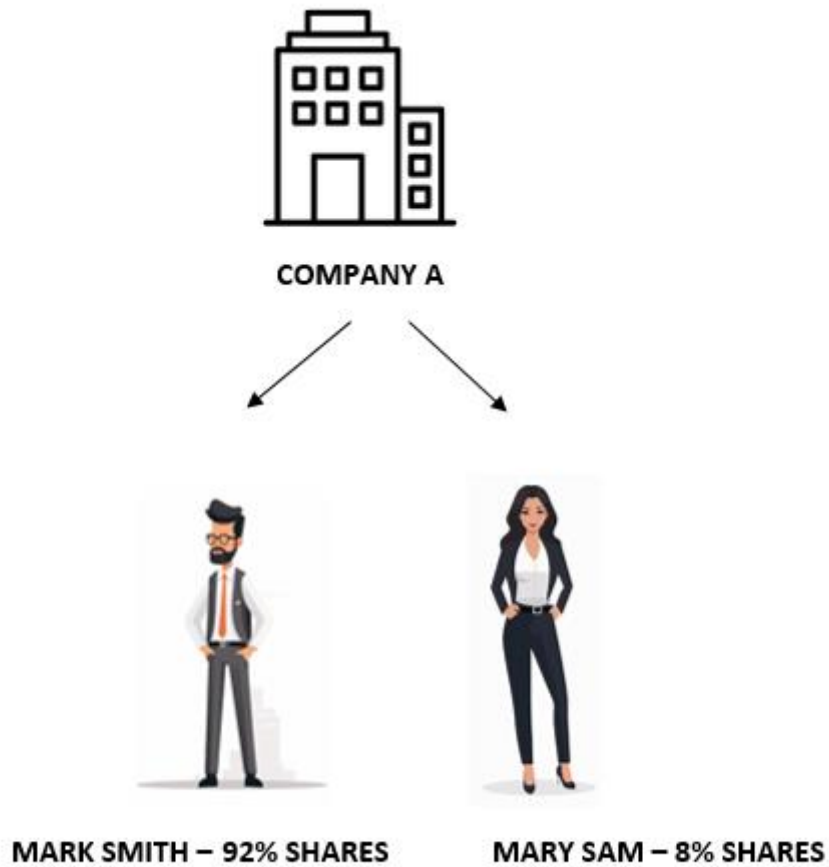


***Example 2:***

Company A is owned 50% by Mark Smith and 50% by Mary Sam, who are natural persons. Both Mark and Mary hold more than 10% of the shares in company and therefore BOTH are beneficial owners of Company A. Identity information should be obtained and maintained for Mark and Mary.

In this scenario, Mark and Mary are also the legal owners of Company A.

*Example 3. Beneficial Owner Through Direct Ownership*



***Example 3:***

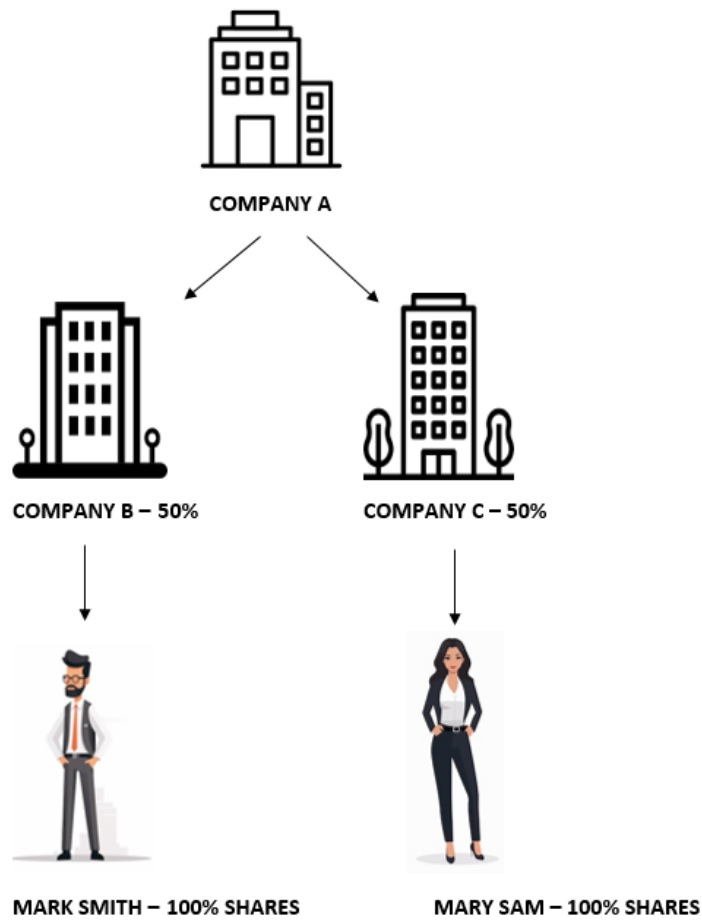
Company A is owned 92% by Mark Smith and 8% by Mary Sam, who are natural persons. Mark Smith holds more than 10% of the shares in company while Mary Sam does not. As such, only Mark can be identified as the beneficial owner of Company A since he alone has controlling ownership interest.

Though Mark is the only beneficial owner, it should be noted that both Mark and Mary are the legal owners of Company A.

### INDIRECT OWNERSHIP INTEREST

Indirect ownership exists where the shares or percentage holding of the legal person is held by another legal person. In this instance, ownership is often exercised through a chain of ownership and it is necessary to identify the **ultimate beneficial owner**, i.e., the natural person(s) with controlling ownership interest in the company in question. The ultimate beneficial owner, in a scenario of indirect ownership is often the natural person with beneficial interest in the intermediate holding company/companies.

*Example 4. Beneficial Owner by indirect ownership (simple)*



**Example 4:**

Company A is owned 50% by Company B and 50% by Company C. Since Companies B and C are legal persons and not natural persons, neither Company is a beneficial owner of Company A.

You must continue to *identify the natural person with controlling ownership interest* in Company A.

Company B is owned 100% by Mark Smith while Company C is owned 100% by Mary Sam. To calculate the percentage of ownership in Company A possessed by Mark and Mary through their ownership of Companies B and C, respectively, the following mathematical equation can be utilised:

Mark Smith:  $1 \times .5 = .5$  (50%)

Mary Sam:  $1 \times .5 = .5$  (50%)

Through their ownership of Company B and Company A, Mark Smith and Mary Sam each indirectly own 50% of Company A.

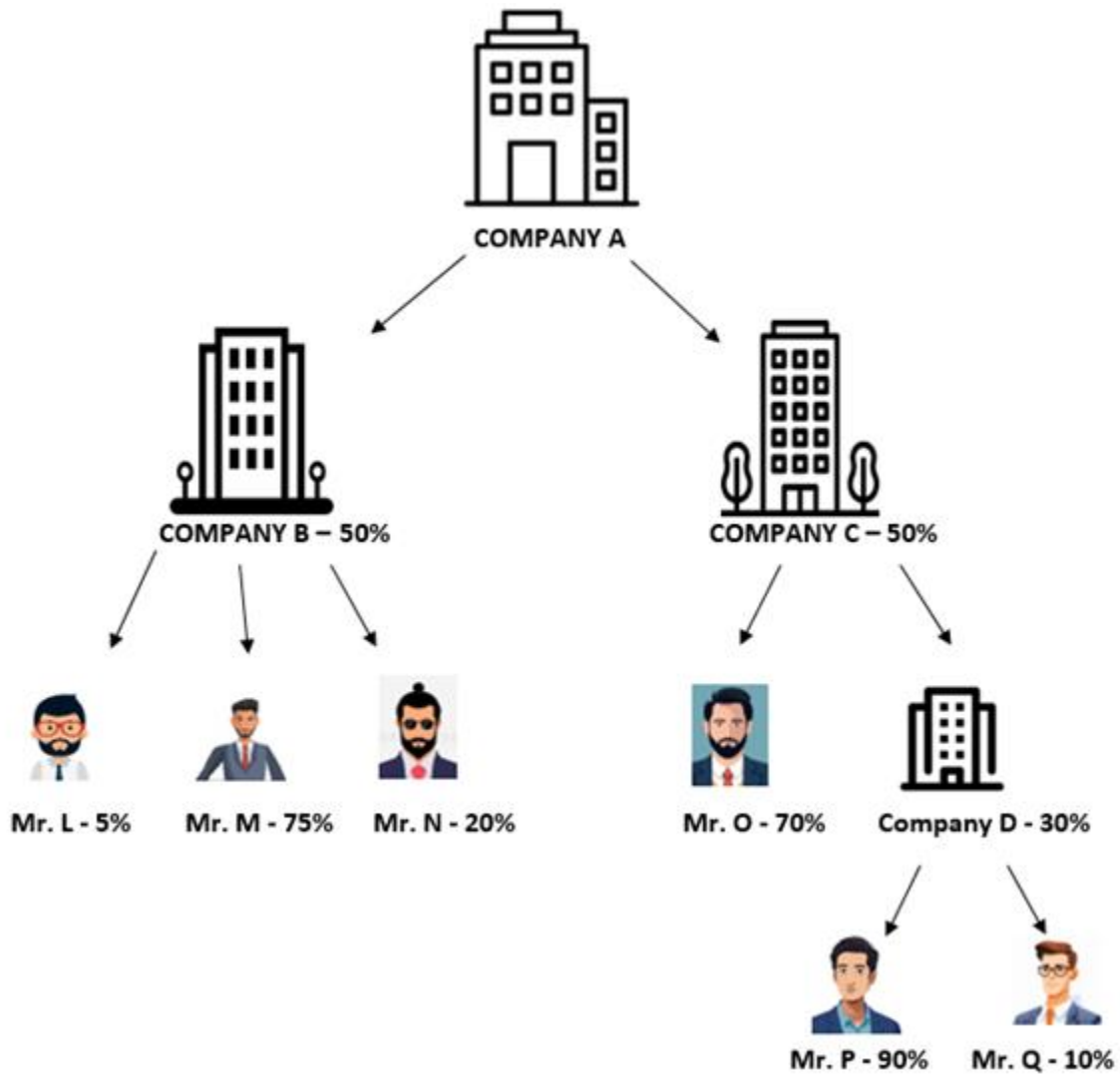
Therefore, given that both Mark Smith and Mary Sam each own more than 10% of shares in Company A, both individuals are beneficial owners of Company A.

**NOTE: Mark and Mary are beneficial owners of Company A, while Company B and Company C are legal owners of Company A**

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Example 5. Beneficial Owner by Ultimate Ownership (complex)



**Example 5:**

Company A is owned 50% by Company B and 50% by Company C. Since Companies B and C are legal persons and not natural persons, neither Company is a beneficial owner of Company A.

You must continue to *identify the natural person with controlling ownership interest* in Company A.

Company B is owned by Mr. L (5%), Mr. M (75%) and Mr. N (20%). To identify the percentage of ownership each individual has in Company A, through his ownership in Company B, the following mathematical equation can be used:

$$\text{Mr. L: } .05 \times .5 = .025 \text{ (2.5\%)}$$

$$\text{Mr. M: } .75 \times .5 = .375 \text{ (37.5\%)}$$

$$\text{Mr. N: } .2 \times .5 = .1 \text{ (10\%)}$$

Company C is owned by Mr. O (70%) and Company D (30%). Given that Company D is a legal person and not a natural person, you are required to identify the natural persons that own Company D. Company D is owned Mr. P (90%) and Mr. Q (10%). To identify the percentage of ownership each individual has in Company A, through his ownership in Company C and Company D, the following equation can be used:

$$\text{Mr. O: } .7 \times .5 = .35 \text{ (35\%)}$$

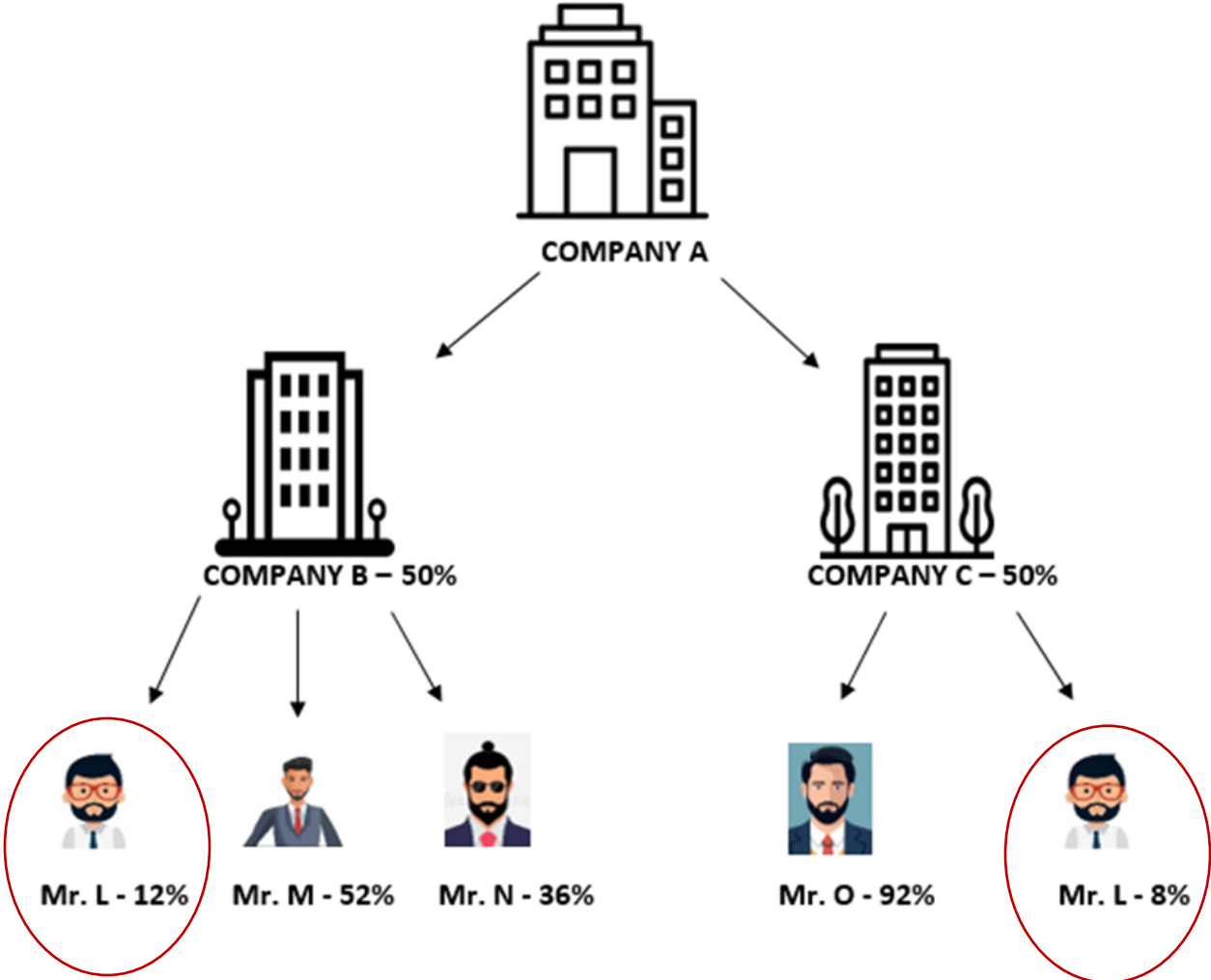
$$\text{Mr. P: } .9 \times .3 \times .5 = .135 \text{ (13.5\%)}$$

$$\text{Mr. N: } .1 \times .3 \times .5 = .015 \text{ (1.5\%)}$$

From the calculations above, it is revealed that Mr. M, Mr. N, Mr. O and Mr. P are all beneficial owners of Company A since they own more than 10% of shares in Company A.

**NOTE: Mr. M, Mr. N, Mr. O and Mr. P are all beneficial owners while Company B and Company C are legal owners of Company A.**

Example 6. Indirect ownership interest through aggregated interest



**Example 6:**

Company A is owned 50% by Company B and 50% by Company C. Since Companies B and C are legal persons and not natural persons, neither Company is a beneficial owner of Company A.

You must continue to *identify the natural person with controlling ownership interest* in Company A.

Company B is owned by Mr. L (12%), Mr. M (52%) and Mr. N (36%). To identify the percentage of ownership each individual has in Company A, through his ownership in Company B, the following mathematical equation can be used:

$$\text{Mr. L: } .12 \times .5 = .06 \text{ (6\%)}$$

$$\text{Mr. M: } .52 \times .5 = .26 \text{ (26\%)}$$

$$\text{Mr. N: } .36 \times .5 = .18 \text{ (18\%)}$$

Company C is owned by Mr. O (92%) and Mr. LP (8%). To identify the percentage of ownership each individual has in Company A, through his ownership in Company C and Company D, the following mathematical equation can be used:

$$\text{Mr. O: } .92 \times .5 = .46 \text{ (46\%)}$$

$$\text{Mr. L: } .08 \times .5 = .04 \text{ (4\%)}$$

From the calculations above, it is revealed that Mr. L, Mr. M, Mr. N and Mr. O are beneficial owners of Company A since they own more than 10% of shares in Company A.

Though Mr. L's interest in Company A through Company B is less than 10% (6%) and his interest in Company A through Company C is also less than 10% (4%), when aggregated-->Mr. L's interest in Company A actually meets the 10% threshold (6% + 4% = 10%).

**NOTE: Mr. L, Mr. M, Mr. N and Mr. O are all beneficial owners while Company B and Company C are legal owners of Company A.**

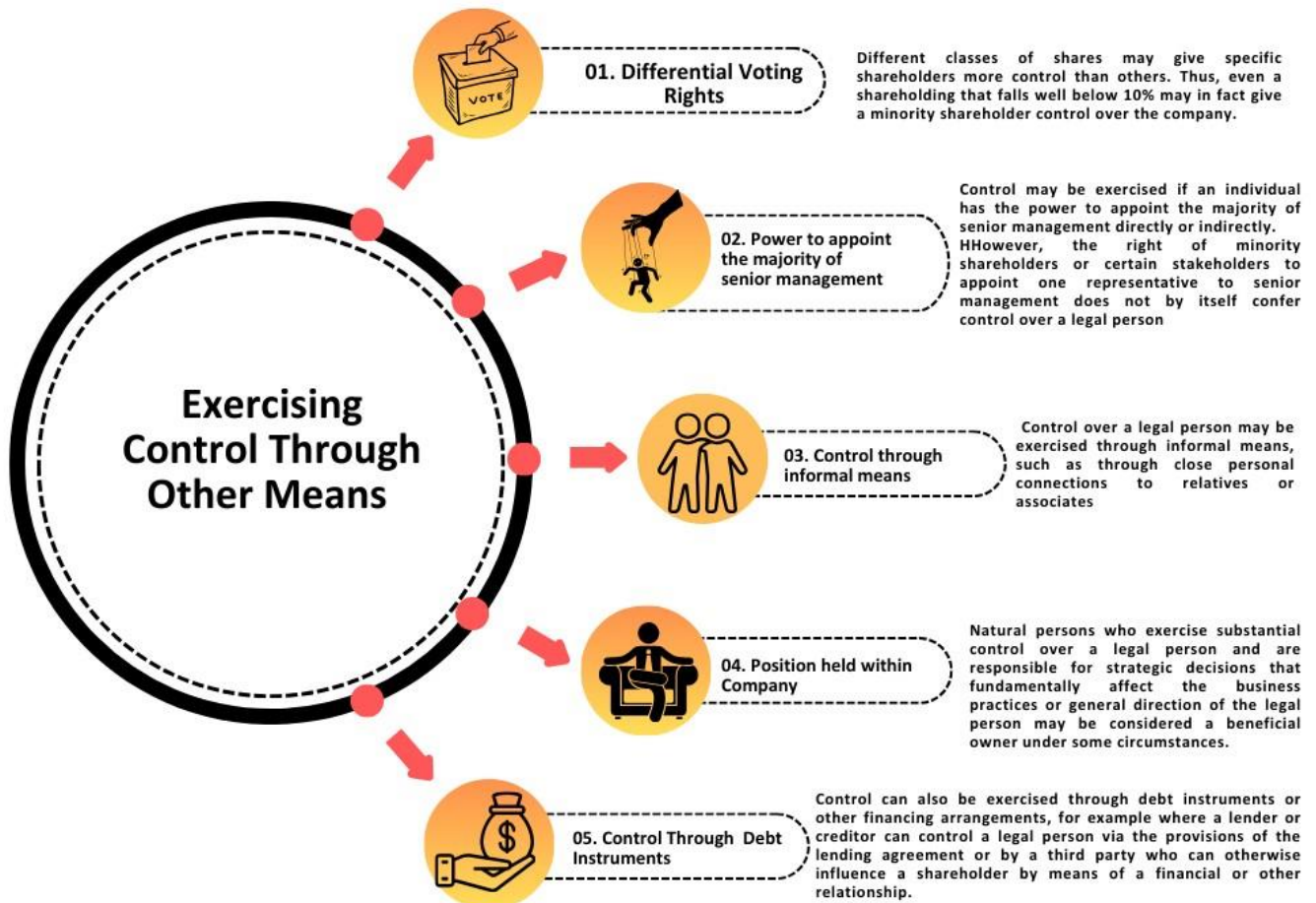
**NOTE: There may be circumstances where persons are beneficial owners even though their ownership interest falls beneath the 10% threshold. In such a case, these persons are beneficial owners through their exercise of ultimate effective control of the company.**

## 2. BENEFICIAL OWNERSHIP THROUGH CONTROL/OTHER MEANS (BEYOND OWNERSHIP INTEREST)

It is imperative to note that beneficial ownership should not only be determined by the ownership threshold.

Where it may not be possible to verify the identity of the natural person who has ultimate ownership of a Company, to the extent that there is doubt about whether a person with *ownership interest* is the beneficial owner, or where no natural person exerts *control through ownership interests*, the identity should be determined of the *natural persons (if any) exercising ultimate effective control* of the legal person through other means.

Identifying control through other means include examining the following<sup>1</sup>:



<sup>1</sup> FATF (2023), Guidance on Beneficial Ownership for Legal Persons, FATF, Paris

## WHERE NO BENEFICIAL OWNER CAN BE IDENTIFIED

In situations where a beneficial owner cannot be identified, i.e. where you are unable to identify any natural person with controlling ownership interest or any natural person exercising ultimate effective control, Regulation 12(6)(c) of the FORs requires you to obtain the identity of the natural person who holds the position of senior managing official of the company/legal person.

**PLEASE NOTE: You may accept the information of a senior managing official of the legal person in place of beneficial ownership information ONLY IF you are unable to identify a natural person with beneficial ownership through his/her ownership interest or his/her exercise of ultimate effective control through other means.**

## BENEFICIAL OWNERSHIP IN RESPECT OF DIFFERENT TYPES OF LEGAL PERSONS

### PARTNERSHIPS

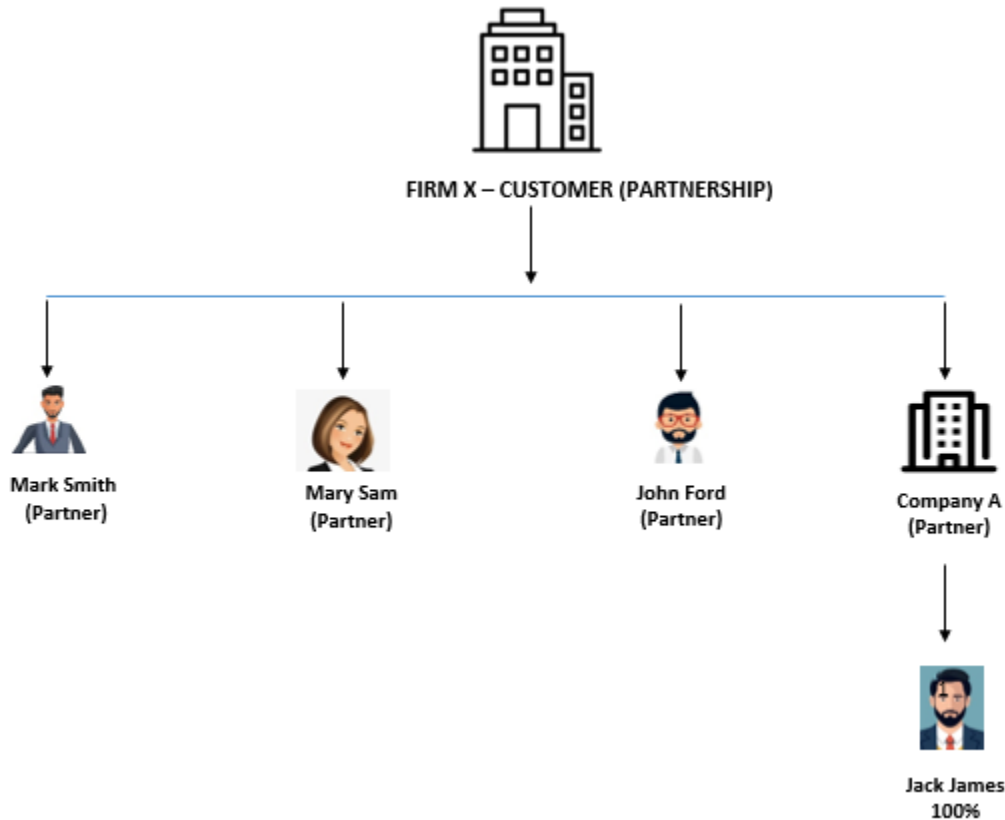
Where your client or customer is a partnership, you are required to identify, verify and maintain records of the beneficial owners of the partnership.

A Partnership is the relation which subsists between persons carrying on a business in common with a view of profit.

Section 20A of the Partnerships Act, Chapter 81:02 defines “beneficial owner” as

- (a) the natural person on whose behalf a transaction is being conducted;
- (b) the natural person who exercises ultimate effective control over a firm;
- (c) a natural person who is a partner of the firm; or
- (d) in respect of a partner that is—
  - i. a legal person, the beneficial owner of that legal person as identified under section 337A of the Companies Act or a reporting entity under section 4 of the Securities Act; or
  - ii. a trust or other form of legal arrangement, the beneficial owner of that trust or other form of legal arrangement as identified under section 10A of the Trustees Ordinance.

### Example 7- Partnership



#### **Example 7:**

Firm X (your client/customer) is a Partnership and checks reveal that the Partners of Firm X are Mark Smith, Mary Sam, John Ford and Company A. By virtue of Section 20A of the Partnerships Act, all natural persons who are partners of Firm X are the beneficial owners. Given that Company A is a legal person, it cannot be identified as a beneficial owners of Firm X. You are therefore required to identify and verify the natural persons who own Company A. Company A is owned 100% by Jack James. As such Mark Smith, Mary Sam, John Ford and Jack James are beneficial owners of Firm X

### NON-PROFIT ORGANISATIONS

Where your client or customer is a non-profit organisation (NPO), you are required to identify the beneficial owner of such entity. The beneficial owner of a NPO is the controller.

Section 3(1) of the Non-Profit Organisations Act, No 7. of 2019, defines a “controller” of a NPO as the natural person who exercises ultimate effective control over the non-profit organisation directly, indirectly or through other means. Where the controller of a non-profit organisation is a legal person or a trust the beneficial owner of that legal person or trust should be identified as the controller of the non-profit organisation.

## 6. IDENTIFICATION OF THE BENEFICIAL OWNERS OF A LEGAL ARRANGEMENT

Legal arrangements refer to express trusts and other similar legal arrangements. Other legal arrangements that are similar to express trusts operate in a like manner where there is a functional separation of ownership into two parts: legal control of assets, and benefit from these assets, held by different persons<sup>2</sup>.

Trusts may include a range of parties:



Regulation 12(7) of the FORs defines a beneficial owner of a legal arrangement as “the settlor, the trustee, the protector, the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over trusts including through a chain of control or ownership, or control through other means”.

When your client/customer, who is party to a legal arrangement, conducts a transaction, you are required to identify the beneficial owners of the legal arrangement before you.

In accordance with regulation 12(7) of the FORs, you must identify:

### I. The Settlor

Settlers are natural or legal persons who transfer ownership of their assets to trustees by means of a trust deed or similar arrangement. The Settlor is generally understood as the person establishing the trust.

It should be noted that the Settlor may not be named in the trust instrument. In fact, there may be circumstances where the settlor named in the trust instrument is not the “economic settlor” but instead acting as a “nominee” for the real economic settlor who is the real owner of the assets contributed to the trust. In this scenario it is important to obtain the identity of the economic settlor<sup>3</sup>.

Additionally, where the settlor named in the trust instrument is a legal person, you are required to identify the beneficial owner(s) of that legal person.

<sup>2</sup> FATF (2024), Guidance on Beneficial Ownership and Transparency of Legal Arrangements, FATF, Paris

<sup>3</sup> FATF (2024), Guidance on Beneficial Ownership and Transparency of Legal Arrangements, FATF, Paris



## II. The Trustee

Trustees are the legal, or natural, person who has powers over and can act in relation to trust assets. They are directly involved in trust transactions, or generally are required to conduct ongoing oversight and scrutiny of others who are dealing with the trust property.

Trustee usually perform their management, administration, and investment functions of the trust instrument personally but there may be situations where these functions may be delegated. In situations of delegation, a trustee may appoint custodians, investment managers, investment advisors, and other service providers to assist them in properly administering the trust. However, the trustee generally remains responsible for monitoring and reviewing the arrangements under which a delegate acts<sup>4</sup>.

## III. The Protector

A protector or guardian is generally appointed to oversee trustees' actions and to consider whether such actions are in the interest of the beneficiaries. The Protector can be either a natural or legal person. Where the Protector is a legal person, it is important to identify the beneficial owner of such appointed Protector.

A Protector may protect and ultimately control a trust because he or she may:

- approve the trustee's decisions.
- revoke a trustee's decisions
- may remove a trustee
- may appoint a new trustee.
- may change the jurisdiction of the trust.

## IV. Natural person exercising effective control

Beneficial owners of a legal arrangement include other natural persons may exercise effective control over the legal arrangement.

Ultimate effective control over trusts or similar legal arrangements includes:

- situations in which ownership/control is exercised through a chain of ownership/control; and/o
- any other individual with the power to decide who can exert control over the trust.

"Control" means a power (whether exercisable alone or jointly with another person or with the consent of another person) under the trust instrument or by law to:

- i. dispose of or invest (other than as an investment manager) trust property;
- ii. direct, make or approve trust distributions;
- iii. vary or terminate the trust;
- iv. add or remove a person as a beneficiary or to or from a class of beneficiaries; and/or
- v. appoint or remove trustees<sup>5</sup>.

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<sup>4</sup> FATF (2024), Guidance on Beneficial Ownership and Transparency of Legal Arrangements, FATF, Paris

<sup>5</sup> FATF (2024), Guidance on Beneficial Ownership and Transparency of Legal Arrangements, FATF, Paris

## V. Beneficiaries

A beneficiary of a trust is the person(s) who is(are) or may become entitled to the benefit, directly or indirectly, of any trust arrangement. A beneficiary can be a natural person, or a legal person or legal arrangement.

A beneficiary may include<sup>6</sup>:

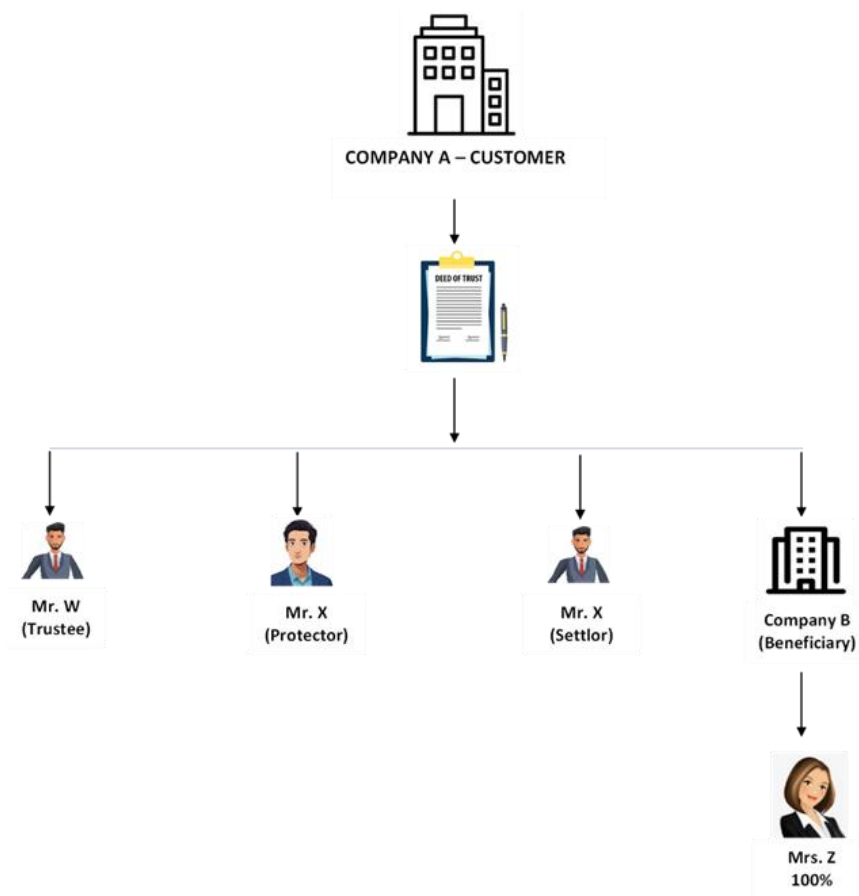
- those explicitly named in the trust instrument (trust deed) as a beneficiary or beneficiaries.
- those who may not be explicitly named but who can be clearly identified as being entitled to the benefit of a particular legal arrangement (e.g., a child of the settlor if the trust instrument names the beneficiaries as being the settlor's children).
- those who become beneficiaries at the occurrence of a specific event, such as the exercise of trustee discretion (objects of a power) or the realisation of an accumulation period

*Note: Where the parties to the trust or legal arrangement are legal persons or other legal arrangements, information on these parties should include the information on their beneficial owners, including the means and mechanisms through which the beneficial owner exercises beneficial ownership and the scope of their beneficial interest in the legal person or arrangement.*

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<sup>6</sup> FATF (2024), Guidance on Beneficial Ownership and Transparency of Legal Arrangements, FATF, Paris

*Example 8- Where There is a Corporate Trust within the Ownership Structure*



**Example 8:**

There may also be scenarios where there is a Corporate Trust within the ownership of a legal person.

Company A is wholly owned by Trust X. Therefore, the beneficial owners of Company A are the parties of the trust (i.e. the natural persons including the trustee, protector and settlor).

Note: One of the parties to the Trust is another legal person (beneficiary, Company B) and as such, you are required to also identify the beneficial owner of Company B (i.e. Mrs. Z).

**The beneficial owners of Company A are Mr. W, Mr. X and Mrs. Z.**

## 7. OBTAINING BENEFICIAL OWNERSHIP INFORMATION

Upon identifying the beneficial owner of either a legal person or a legal arrangement, it is important to ensure that the information gathered is adequate, accurate and up-to-date. Regulations 16 and 17 of the FORs require Supervised Entities to obtain specific documentation and information from clients/customers, who are legal persons or legal arrangements, when conducting business.

### ADEQUATE INFORMATION

Adequate information is information that is sufficient to identify the natural person(s) who are beneficial owner(s), and means and mechanisms through ownership, control or other means. Once the beneficial owner is identified it is important that information obtained on the said beneficial owner's identity is ample to assist law enforcement agencies and competent authorities should such identity information be requested.

Adequate information on a beneficial owner of legal person or legal arrangement include:

- first and last name
- nationality(ies)
- date of birth
- a tax registration number
- an identity number
- passport number
- place of birth
- residential address
- the tax identification number or equivalent in the country of residence.
- role of the beneficial owner in the legal arrangement must make clear whether this beneficial owner is the settlor, trustee, protector, beneficiary, or a natural person exercising ultimate effective control over the trust

As it relates to the means and mechanisms through ownership, control or other means, in the case of a legal person, the following information of the identified beneficial owner is necessary:

- percentage of shares
- voting rights
- information on whether the beneficial owner is involved in any nominee relationship
- type of participation in company
- whether interest in company is through ownership or control

As it relates to trusts and other similar legal arrangements, the means and mechanisms through which the beneficial owner exercises ownership and the scope of their beneficial interest in the legal arrangement must be identified.

## ACCURATE INFORMATION

Upon the identification of the beneficial owners of a legal person or arrangement, the information obtained must then be verified.

Verification is a combination of checks and other processes that ought to be adopted to ensure that the beneficial ownership data obtained is accurate.

According to FATF in its 2023 [Guidance on Beneficial Ownership for Legal Persons](#), the verification of the beneficial ownership information of a company typically involves a review of documents submitted such as share certificates, shareholder register, board meeting resolutions, and power of attorney documents. Verifying beneficial ownership information could also include, depending on the level of risk, manual or automated cross-checks with relevant government and other available databases.

In relation to legal arrangements, verifying beneficial ownership information can involve a review of documents submitted such as the trust instrument and any other document identifying beneficial owners, such as letters of wishes etc.

### Verification of the Identity of the Beneficial Owner

Steps ought to be taken to prove that a natural person, who has been identified as a beneficial owner, actually exists and is who they claim to be. This is often done through the use of government issued identity documents (such as passport, identification card and/or driver's licence) which evince the name, date of birth, nationality and other useful attributes of a person. Government databases such as the [Elections and Boundaries Commission Registration Database](#), the Registrar General's Online Companies Registry and the [Ministry of Works and Transport Customer Portal](#) can also be used to assist in further verifying the identity of the beneficial owner information provided.

Additionally, where the beneficial owner is resident outside of Trinidad and Tobago, steps must also be taken to verify the authenticity of the legal documents provided from abroad. This may take the form of certified or notarized copies of identification documents.

### Verification of the status of the Beneficial Owner

Apart from verifying the identity of a beneficial owner identified, it is important to confirm the *status of the beneficial owner*. This ensures that the person identified as a beneficial owner is in fact a beneficial owner of the legal person or legal arrangement.

To verify a beneficial owner's status in a legal person, FATF<sup>7</sup> has highlighted the following elements to be considered:

- does the person identified as beneficial owner has ownership interest, voting rights or control rights in the legal person, such that they meet the definition of beneficial owner?

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<sup>7</sup> FATF (2023), *Guidance on Beneficial Ownership for Legal Persons*, FATF, Paris

- is the identified beneficial owner actually exercising the rights associated with his/her level of ownership and/or control in practice?
- is the identified beneficial owner exercising rights in the legal person under instruction from, or by agreement with an undisclosed third party?
- are the identified beneficial owners consistent with the structure and risk profile of the legal person?

To verify a beneficial owner's status in a legal arrangement, FATF<sup>8</sup> has highlighted the following elements to be considered:

- Does the person identified as the beneficial owner meet the definition of a beneficial owner of the trust or the similar legal arrangement? i.e., is the person identified as beneficial owner the settlor/trustee/protector/beneficiary or object of a power of the trust/similar legal arrangement?
- Are there any other persons who can exercise ultimate effective control over the trust? Is the settlor or any of the beneficiaries acting as a nominee?
- Are there any legal persons/arrangements among the parties of the trust/similar legal arrangements? If so, have the natural persons who are their beneficial owners been identified?
- Are there any nominee arrangements involving parties to the trust/similar legal arrangements? If so, have the natural person who is the nominator (or its beneficial owners if the nomination is a legal person/arrangement) been identified?

**Note:** Supervised Entities are advised to utilise open source material in conjunction with any requested documentation to verify the beneficial owners of a Legal Person or Legal Arrangement. **Reliance on the Companies Online Registry, solely, does not amount to successful verification.**

### Verification - A Risk Based Approach

A risk-based approach should be adopted when considering the robustness and extent of documentation required to verify a beneficial owner's identity. **There is no set list of identification required but rather the degree of the verification exercise is one which may vary on a case by case basis.**

For guidance on adopting a risk based approach, please see the Guidance Notes published on the FIUTT's website as it relates to the sector within which you operate and see [FATF's website](#) for further guidance on adopting a risk based approach.

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<sup>8</sup> FATF (2024), Guidance on Beneficial Ownership and Transparency of Legal Arrangements, FATF, Paris

## UP-TO-DATE INFORMATION

The obligation of understanding ownership and control structure and the risk profile of a client who is a legal person or arrangement is ongoing in nature.

Additionally, supervised entities are required to retain/maintain legal and beneficial owner information and records of same in electronic or written form for a period of six (6) years. This is necessary to ensure that competent authorities such as law enforcement agencies can access beneficial ownership information, if and when needed to assist in an investigation.

In the circumstances where a beneficial owner has died, you are required to maintain the identity information of the deceased beneficial owner until he/she has been replaced.

Please see the FIUTT's [RECORD KEEPING GUIDANCE FOR SUPERVISED ENTITIES](#) for more information.

## 8. ACCESSIBILITY OF BENEFICIAL OWNERSHIP INFORMATION

The accessibility of beneficial ownership information to competent authorities enhances transparency and accountability in financial systems. This access enables authorities, such as law enforcement authorities, to effectively combat money laundering, financing of terrorism, proliferation financing, tax evasion, fraud and other financial crimes by identifying the individuals who ultimately control or benefit from a legal person or legal arrangement.

By knowing who the true owners are, authorities can more easily trace illicit activities, ensure compliance with regulations, and protect the integrity of the financial system. Furthermore, accessible beneficial ownership data fosters trust among investors and the public, promoting a fairer business environment and encouraging responsible corporate behaviour.

## 9. SCREENING AND SUBMISSION OF REPORTS TO THE FIUTT

Supervised Entities, upon identifying the identities of beneficial owners of a legal person or legal arrangement, are required to screen the names of these beneficial owners against the relevant sanctions lists and submit, if necessary, the appropriate reports to the FIUTT i.e. TFR Forms, STR/SAR Forms or ESOs.

For further guidance please see:

1. [FIUTT's Guidance on reporting Terrorist Funds Reports;](#)
2. [FIUTT's Guidance on reporting SARs/STRs;](#) and
3. [FIUTT's Guidance on reporting Proliferation Financing.](#)

## 10. SANCTIONS

A FI or LB which does not comply with the FORs, commits an offence and is liable on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for a term of two years and on conviction on

indictment, to a fine of three million dollars and to imprisonment for a term of seven years. *(See Section 57 of the POCA and Regulation 42 of the FORs)*

\*\*\*END OF DOCUMENT\*\*\*