

## Forms

With changes to Beneficial Ownership, all Incorporation Forms for Companies will be amended along with forms that provide updates to company particulars to include the additional information on Beneficial Owners. The Filed by Pages of the Forms will also expand as more information will be collected.

### Amended Forms

- The Articles of Incorporation ( Form1A,1B,1C,1D)
  - All Annual Return Forms (Forms 19A, Form 19B and 19E)
  - Forms that Deal with the Allotment of shares ( Form 9)
- All forms above must be filed with the new Beneficial Ownership Return Form A/B

### New Forms

- Forms 27A & 27B - Changes to Beneficial Ownership, members and shareholder information
- Forms 31A & 31B - Registration of overseas companies with shares and without shares (*These forms were once one form, the Form 31*)
- Form 5A - Notification to registrar of changes with identification
- Beneficial Ownership Return Form A, Form B and Form C

## About the AML/CFT Unit

The Anti-Money Laundering & Counter Financing Terrorism Department is the investigative arm the organization. The department is responsible for ensuring that the information received by the COJ in relation to the persons exercising ultimate ownership and control of companies is accurate and up to date by adequately and actively verifying, monitoring or implementing other measures to ensure the consistency and value of the register.

### Functions of the AML/CFT Unit:

- Conducting detailed examination and verification of all incoming new company registration and change information on BO's.
- Preparation and issuing of Registry Notices & Reminders.
- Notifying delinquent entities of registry discrepancies.
- Conducting field visits and audits of entity registers.
- Providing a pool of referrals to inform the Investigation, Litigation & Removal Proceedings.
- Processing of all incoming investigative requests from external stakeholders/competent authorities.



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# BENEFICIAL OWNERSHIP

Companies (Amendment) Act 2023



## What is Beneficial Ownership?

The term 'beneficial owner' refers to the natural person (that is, the real, living person) who ultimately owns or controls a company.

## Elements of the Definition

### Ultimate Ownership

means any situation in which ownership of a company is exercised by a natural person who ultimately owns, whether directly or indirectly, more than 25% of the voting power of the company or more than 25% of the issued shares of the company.

### (Direct) Ultimate Ownership or Control

Direct forms of ownership and control include: through the holding of ordinary shares by an individual or by maintaining a high management position in the company that allows such an individual to have substantial influence over the company's decisions.

### Ultimate Effective Control

means the control exercised by the natural individual who is in a position to determine the policy of the company or to make the final determination as to the decisions to be made by the company.

### (Indirect) Ultimate Ownership or Control

Indirect forms of ownership and control include kinship to the company or nominee arrangements or through the enjoyment of the company's assets without holding any interest in the company's shares.

## Company's Obligation

### Collect and maintain Beneficial Ownership Information

Collecting Additional Beneficial ownership and membership information: Names, Nationalities, Addresses, Occupations, Dates of Birth, TRN and PEP Status.) These must be provided by all companies at incorporation. After incorporation, companies will also be under an ongoing obligation to maintain and ensure that beneficial ownership information held is adequate, accurate and updated.

### Obligation to timely notify registrar of changes

Provisions are being proposed that will require that companies notify the Registrar of any changes to the information on the Register of Members and Beneficial Owners within fourteen (14) days of any changes. These changes include, change in name, address, shareholding and occupation. See Forms 27A, 27b, or Form C.

### Obligation to retain Beneficial Ownership Information

Companies will be required keep a record of the beneficial ownership information and the measures taken to confirm the accuracy of beneficial ownership information for a minimum of seven years from the day the last business



## Identifying a Beneficial Owner using the Cascading Effect

START

END



Ultimate Ownership: 25% or more shares or voting rights



Ultimate Effective Control: appoint/remove directors



Ultimate Effective Control: determine the policy of the company



High ranking employee of the company: Chairman, President, CEO

## Why Amendment to Beneficial Ownership

The changes are primarily because of the findings contained in the 2017 (MER) report. Jamaica revised and updated its beneficial ownership regime. In order to remain compliant with the Financial Action Task Force Standards and Recommendations, the country must reform its laws and procedures to increase the efficacy of its beneficial ownership regime. As a result of this AML/CFT legislative and procedural reform are high on the priority list of the Jamaican Government.

## Amendments

- Beneficial Ownership definition now includes all companies
- Obligations on companies to file and maintain proper records
- Establishment of an AML Unit at the Companies Office of Jamaica to investigate
- Increased sanctions to ensure compliance
- Beneficial Ownership information should now be provided for all companies

## Who is a Legal Owner

The legal owner is the person named in the register as a shareholder. The legal owner does not have to be the same person as the beneficial owner. The Legal owner is the person named in documents as the shareholder. In comparison to the Beneficial Owner who is the person who ultimately owns or controls the company.

## Sanctions

Penalty fees for failure to maintain adequate, accurate and up-to-date Beneficial Ownership and membership information.

Increase in fines and sentencing guidelines for officers and companies that are not compliant with Beneficial Ownership provisions.

Penalty fees for failure to correct Beneficial Ownership information and membership information on a company's records at the Companies Office of Jamaica.

**SANCTIONS**