



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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*Lught-Reill Shirveishyn Argidoil Ellan Vannin*

# **Beneficial Ownership Act 2017**

## **Guidance**

**December 2024**

**GC2024/0010**

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Version 1 (December 2024)	<p>This 2024 Guidance was informed following significant engagement with nominated officers throughout 2023 and 2024.</p> <p>This 2024 Guidance is intended to assist relevant persons when interpreting the requirements of the Beneficial Ownership Act 2017 and when using the Isle of Man’s Database of Beneficial Ownership.</p> <p>This 2024 Guidance provides examples and further detail regarding the various obligations of relevant persons caught by the legislation.</p>
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## Introduction

This Beneficial Ownership Act 2017 Guidance (the “Guidance”) should be read in conjunction with the [Beneficial Ownership Act 2017](#) (the “Act”) and is issued by the Isle of Man Financial Services Authority (the “Authority”) under section 4(4) of the Act and laid before Tynwald under section 4(7) of the Act. This Guidance supersedes the Authority’s 2017 Guidance<sup>1</sup> with the purpose of providing relevant persons<sup>2</sup> with supplementary and up-to-date information on matters relating to beneficial ownership and the use of the Isle of Man’s Database of beneficial ownership (the “Database”) in practice. The Guidance also seeks to assist relevant persons in understanding their responsibilities under the Act.

The Act and this Guidance apply to those legal entities set out in section 5(1) of the Act.

When determining legal obligations, direct reference must be made to the Act in the first instance. The provisions contained within the Act and the Guidance do not remove or reduce any obligations imposed on a business and legal entity under any other legislation concerning beneficial ownership information. This includes, but is not limited to, obligations on a business in the regulated sector (as defined in Schedule 4 of the Proceeds of Crime Act 2008) to comply with the provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Code 2019. In the event of any inconsistency between the Guidance and the Act, the Act takes precedence. Legal advice should be sought in instances where a person is unsure of the application of the Act to their particular circumstances.

The Authority issues guidance for various purposes including:

- to illustrate best practice;
- to assist persons in complying with legislation; and
- to provide examples or illustrations.

It is beyond the scope of the Guidance to provide for every possible circumstance. If after consulting this Guidance any beneficial ownership matter remains unclear, relevant persons should proactively seek advice.

The Guidance is not law; however, it is persuasive, and section 4(5) of the Act requires regard to be had to this Guidance in interpreting references in the Act. Where a person follows this Guidance, this would generally indicate compliance with the legislative provisions and vice versa.

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<sup>1</sup> GC 2017/0003

<sup>2</sup> Those listed at section 30(2) of the Act

## 1. Definitions

Section 4(4) of the Act provides that the Authority may issue guidance about the meaning of the following terms:

- beneficial ownership;
- ownership;
- control;
- legal ownership; and
- registrable beneficial ownership.

The definition of beneficial owner is set out at section 4(1) of the Act and provides that “**beneficial owner**” means, “*a natural person who ultimately owns or controls a legal entity to which the Act applies, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means, and “**beneficial ownership**” is to be construed accordingly.*”

The definition is broad and seeks to capture **all** individuals who hold **any** definable interest through whatever means in the legal entity concerned or who are able to exercise control over the entity concerned. It is essential that all beneficial owners are identified, and their beneficial ownership interest and/or right to exercise control of a legal entity is verified, at the outset, so that those individuals who are registrable beneficial owners can be determined and their required details<sup>3</sup> submitted to the Department for Enterprise (the “Department”) accurately and within the prescribed timeframes.

As set out in section 4(2) of the Act, the term “**beneficial owner**” applies regardless of whether an individual holds an interest solely, jointly or severally, and also includes individuals with an interest below the registrable threshold of more than 25% of the total ownership or control of an entity.

The term “**ownership**” should be construed as including beneficial ownership and/or legal ownership of the entity concerned. Regard should still be had to the distinct natures of these two types of ownership, and the differing roles they hold within the context of the Act.

The term “**control**” should be construed broadly, as including all individuals who, by whatever means, hold a right in respect of, or are able to exercise significant influence over, the decision-making process of the entity.

A person may hold such a right as a result of a variety of circumstances including, but not limited to:

- the provisions of the entity’s constitution;
- the rights attached to the shares or securities which the person holds;
- a professional capacity through the provision of trust / corporate service appointments such as that of a corporate trustee or council member of a foundation;
- by virtue of the powers granted in trust or foundation documentation;
- through court appointment, such as that of a liquidator; or
- some other agreement or otherwise.

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<sup>3</sup> Those listed at section 11 of the Act – See section 2 of this Guidance for further information

Whether a person holds such a right is a matter of fact and law, which must be determined in the case of each entity.

The term “**legal owner**” is defined in section 3 of the Act as meaning a natural or legal “*person who directly owns or controls shares or voting rights or other ownership interest in that entity or who exercises direct control via other means whether or not that person is also the beneficial owner of that interest*”. This includes corporate shareholders<sup>4</sup> and nominee shareholders<sup>5</sup> holding shares on behalf of others. There are instances whereby a person may be the legal owner of an entity, but not the beneficial owner. Legal ownership must also be considered in terms of the control that a legal owner may be able to exercise.

The term “**registrable beneficial owner**” is defined in section 3 of the Act as meaning “*a beneficial owner who owns or controls more than 25% of the beneficial ownership of a legal entity to which the Act applies and “registrable beneficial ownership” is to be construed accordingly*”. It is important to note that a registrable beneficial owner can only be a natural person whose ownership or control interest can be determined to be more than 25% of the total<sup>6</sup> (in either of the available nature of interests). So, in practice, a registrable beneficial owner is commonly a natural person who exercises ownership or control by direct<sup>7</sup> or indirect<sup>8</sup> shareholding. This will exclude such individuals as the beneficiaries of any **discretionary** trust<sup>9</sup> which itself owns an interest in the legal entity concerned. It will also exclude settlors of any trust (unless the trust is a revocable trust for which the settlor has been granted powers which can be understood as enabling the exercise of control) and may exclude protectors, depending on whether any powers they are given under the trust deed confers quantifiable control of over 25%. It will also exclude those who exercise control via other means unless this can be quantified as more than 25%.

Whilst the Act requires a legal owner to ascertain, maintain and provide to the nominated officer information on each beneficial owner of the interest he or she holds, regardless of size, the Act only requires information regarding registrable beneficial ownership of the legal entity to be submitted to the Database. Under section 20(5)(b) of the Act, if the entity has no registrable beneficial owner, confirmation of this fact must be provided to the Database. Such submissions to the Database are the responsibility of the nominated officer.

To avoid unnecessary complexity, most of the examples given in this Guidance generally involve the same class of shares with equal ownership and voting rights. The examples are **not** intended to be exhaustive, but simply illustrative of the principles which should be considered. The rights attached to shares and different classes of shares must be considered in all cases.

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<sup>4</sup> See section 4.1 of this Guidance - Page 13 - Diagram 5A & 5B

<sup>5</sup> See section 4.1 of this Guidance - Page 11 - Diagrams 4A & 4B

<sup>6</sup> Section 2.1 of this Guidance details what is expected when a beneficial owner has two different quantifiable interests of ownership & control

<sup>7</sup> See section 4.1 of this Guidance - Page 9 - Diagram 1

<sup>8</sup> See section 4.1 of this Guidance - Page 11 - Diagrams 4A & 4B

<sup>9</sup> See Section 4.1 of this Guidance - Page 15 - Diagram 6B

## 2. The ‘Required details’

The ‘required details’ are outlined in Section 11(1) of the Act. They refer to the information that must be submitted to the Department for recording on the Database in respect of each registrable beneficial owner.

The required details are made up of seven components:

- Name of the beneficial owner(s);
- Usual residential address of the beneficial owner(s);
- Service address of the beneficial owner(s) [if different from the residential address];
- Nationality of the beneficial owner(s);
- Date of birth of the beneficial owner(s);
- The date on which the beneficial owner(s) acquired an interest in the legal entity; and
- The nature and extent (expressed as a percentage) of the beneficial owner(s) interest in the legal entity

The legal owner of a legal entity has a duty to inform the nominated officer of the required details of the beneficial owners<sup>10</sup>. Please note, the legal owner must notify the nominated officer of the required details for **each** beneficial owner, whether they are registrable or not. The only exception to this requirement concerns a class of beneficial owners of such a size that it is not reasonably practicable to identify each beneficial owner, for example members of a mutual fund. In such circumstances, it is only necessary to record details sufficient to identify and describe the class of persons who are beneficial owners.

When submitting the required details to the Database, the nominated officer must record the required details of the registrable beneficial owners in line with their identification documents, in full and not abbreviated. The usual residential address of the beneficial owner must be recorded utilising the Database’s address verification gazetteer function. If this is not possible, the nominated officer should manually record the address in full, in line with the independent verification information obtained from the legal owner.

### 2.1 The nature and extent (expressed as a percentage) of the beneficial owner(s) interest in the legal entity – and how to record this on the Database

As outlined throughout the Guidance, beneficial ownership is to be construed as meaning both ownership and/or control of a legal entity to which the Act applies.

There are currently 6 nature of interest categories available on the Database.

They are as follows:

- Ownership
- Control

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<sup>10</sup> Section 9 of the Act

- Ownership and Control
- Control as Corporate Trustee
- Control as Council Member
- Control as Liquidator
- Control via other means

When submitting the required details to the Department, the nominated officer must select the nature of interest which most accurately captures the interest in the entity held by the beneficial owner.

The Department reserves the right to create new, or amend existing, natures of interest of beneficial ownership should it be felt necessary to best describe a beneficial ownership interest.

If a beneficial owner holds multiple interests in an entity, where the nature and percentages differ, and those multiple interests are above the registrable threshold (greater than 25%), multiple entries should be recorded on the Database. Examples of this may include the following scenario:

- Person A holds 60% of the shares of Company A which guarantee a right to dividends and surplus assets. However, they also hold 45% of the shares which confer voting rights. Person A should have two entries on the Database reflecting the distinct interests held in Company A. For example: Person A – 60% Ownership / Person A – 45% Control.

### 3. Duties of relevant persons

In order to identify the beneficial owners of a legal entity, it is essential that the structure of the legal entity is fully understood, and beneficial ownership is traced through any number of persons or arrangements of any description (see section 4(3) of the Act).

For the purposes of ascertaining the beneficial ownership of a legal entity, and whether those beneficial owners are registrable, the legal owner(s) and nominated officer play a significant and important role.

#### 3.1 Duties of a legal owner

Section 9 of the Act requires that all legal owners ascertain the beneficial owner of the legal owner's interest in the legal entity and provide the nominated officer with the required details of **each** beneficial owner alongside information from a reliable and independent source which verifies those required details.

A legal owner must supply such information to the nominated officer within the Act's prescribed timeframes, following:

- incorporation of the legal entity<sup>11</sup>;
- a relevant change<sup>12</sup> to the required details; and

<sup>11</sup> Section 9(3) of the Act

<sup>12</sup> As defined in section 3(1) of the Act

- upon receipt of a written notice<sup>13</sup> from the nominated officer<sup>14</sup>.

Each legal entity may have one or more legal owners, some of which may also be a beneficial owner. Further detail is provided regarding this, in Section 4 of this Guidance.

Where a legal owner, without reasonable excuse, fails to comply with section 9 of the Act or knowingly or recklessly makes a statement to the nominated officer, which is false, deceptive or misleading in a material particular, they commit an offence.

### 3.1.1 Information which verifies the required details

Verification of the required details comprises two components.

- Verification of identity:** A legal owner must provide information which verifies those aspects of the required details<sup>15</sup> which concern the identity of a beneficial owner. This may include obtaining government issued documents and proof of residential address.
- Verification of interest:** A legal owner must provide information which verifies the beneficial owner's interest<sup>16</sup> in a legal entity and when they acquired that interest.

The legal owner of an entity to which the Act applies is required to provide its appointed nominated officer with information from a reliable and independent source which verifies the required details for each beneficial owner. The Act does not prescribe the type or form of evidence required, except that it must be reliable and of independent origin.

Documentation which may be valid and appropriate for evidencing the required details, dependent on the type of legal entity in question, includes, but is not limited to:

- Share certificates;
- Declarations of trust (including nominee agreements) and other relevant trust documentation necessary to demonstrate ownership (legal and/or beneficial);
- Foundation instruments and letters of wishes;
- Structure charts or diagrams of the corporate structure (showing a clear representation of the ownership arrangements, including percentages and names);
- Registers of members;
- Identification documents (for example, a passport may cover a number of the required details such as the beneficial owner's name, date of birth and nationality); and
- Proof of address (for example, a utility bill)

As per section 13 of the Act, the nominated officer is required to maintain the required details and information which verifies those details in the Island, and this must be preserved for a minimum of 5 years from the end of the period to which the information relates.

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<sup>13</sup> A written notice may simply be an email or letter from the nominated officer requesting confirmation of the beneficial owners of the legal entity.

<sup>14</sup> Section 9(2) of the Act

<sup>15</sup> Section 11(1)(a) (i to v) of the Act

<sup>16</sup> Section 11(1)(a) (vi and vii) of the Act



## **3.2 Duties of a Nominated Officer**

The nominated officer must determine whether the legal entity to which they are appointed has any registrable beneficial owner(s).

In accordance with section 20(1) of the Act, the nominated officer must take all reasonable steps necessary to ascertain, through the information provided by the legal owner, whether any beneficial owner meets the registrable threshold of over 25% of the total ownership and/or control of a legal entity. The nominated officer must ensure that the required details of any natural person(s) identified as a registrable beneficial owner are submitted to the Department by way of the Database within the prescribed timeframes, so as to ensure compliance with sections 20(3) and 20(5) of the Act.

Where the nominated officer has determined through the undertaking of the reasonable steps (which must include obtaining and verifying the required details of each beneficial owner), that the legal entity has no registrable beneficial ownership evident through shareholding, consideration must be given to 'Control via other means' (see section 5.1 and 5.2) before a confirmation statement is submitted to the Department declaring such fact.

The reasonable steps referenced above must include issuing a written notice to the legal owner, in accordance with sections 14(1) and 20(2)(a) of the Act, in situations where the nominated officer is of the opinion that the legal owner has failed to comply with their obligations under section 9 or 12(1) of the Act.

Where the nominated officer does not take all reasonable steps to ascertain whether a legal entity has a registrable beneficial owner, this is an offence under section 20(8) of the Act.

### **3.2.1 Annual Statement to the Department**

The legal entity and the nominated officer must submit an annual statement to the Department confirming that they have both complied with their respective obligations under the Act. Each statement is to be submitted under section 42 of the Act and must be made by the date which the legal entity is due to submit its annual return.

The nominated officers' obligations include that the required details in respect of any registrable beneficial owner have been submitted to the Department and that all information entered on the Database in relation to the legal entity is up to date and correct.

It is recommended that in advance of submitting the statement of compliance, nominated officers take proactive steps to ensure that the information which they currently hold, which was provided to them by the legal owner and that has been used to ascertain the beneficial ownership of the legal entity, is accurate and current. This should be interpreted as forming part of the requirement on the nominated officer to take all reasonable steps necessary to ascertain whether the legal entity has a registrable beneficial owner, in accordance with section 20(1) of the Act.

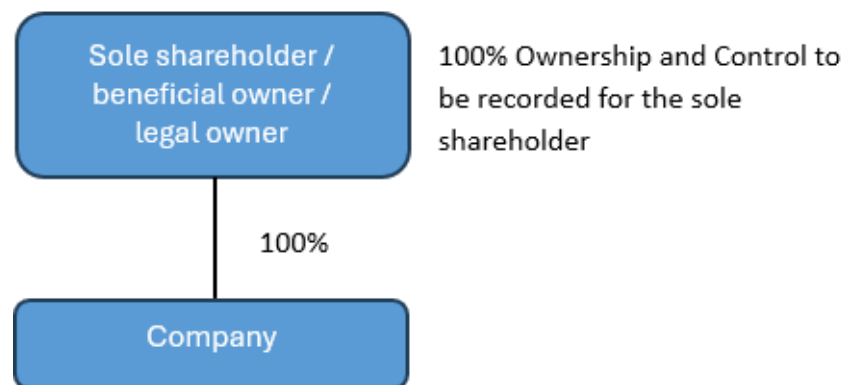
## 4. Ascertaining beneficial ownership – with examples

### 4.1 Companies to which the Companies Acts 1931 to 2004 or the Companies Act 2006 apply (except companies limited by guarantee)

In all structures, the legal ownership should be clear. In the case of these companies, the legal owner(s) will generally be the person or persons who directly holds the shares of the company and entered as a shareholder on the register of members.

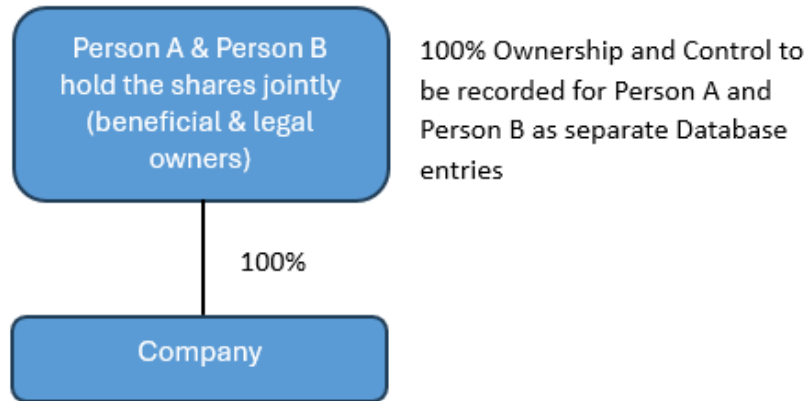
In the simpler structures, these are likely to be natural persons who hold the shares for themselves, and those persons will, therefore, be both the legal and beneficial owners of the company. Any such person who holds a shareholding of more than 25% of the issued share capital or voting rights (for their own benefit, rather than on behalf of another) would therefore be the legal owner of that interest, the beneficial owner of that interest, a registrable beneficial owner of the company and a person with a registrable level of control of the company for the purpose of the Database.

#### Example 1 – Diagram 1



An example of a simple structure is where a company has one shareholder who is a natural person, holding all shares for themselves. That person is therefore the legal owner, beneficial owner and a registrable beneficial owner and controller. This interest would therefore be recorded as 100% Ownership and Control.

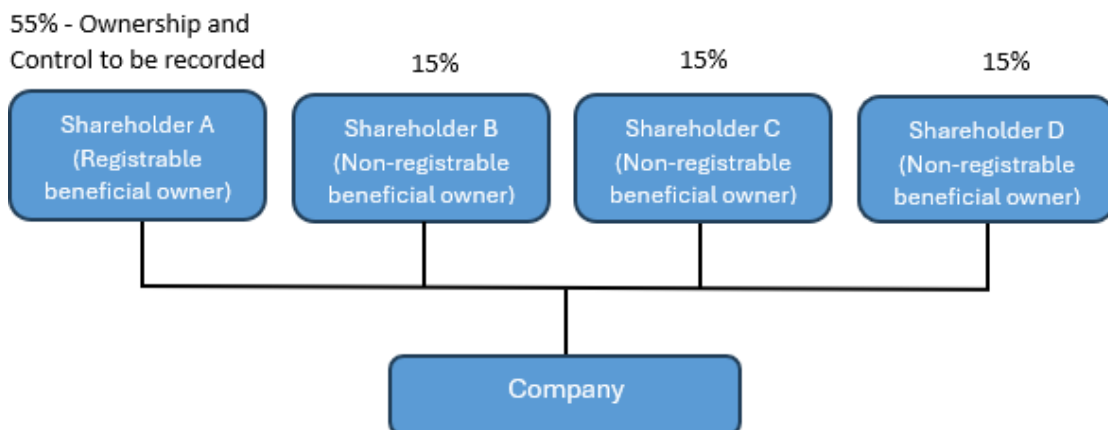
Example 2 – Diagram 2



It is important to note that, where shares are owned jointly by more than one individual, this must be taken into account when determining those individuals’ total ownership. For example, if two or more shareholders own shares jointly, they both own all of those shares together and the percentage of their beneficial ownership will include their joint holding and any other shareholding. Where shares are held jointly it may be that the total interest recorded on the Database exceeds 100%. For example, Company A has 50 issued shares. Person A and Person B hold 100% of the 50 shares jointly (this is reflected on the share certificate and register of members). The required details of both Person A and Person B must be submitted to the Department as separate entries on the Database but with each recorded as having an 100% Ownership and Control interest.

An example of the above is further outlined in section 4(2) of the Act.

Example 3 – Diagram 3



In another simple structure, a company has several shareholders, each of whom are natural persons who hold the shares for themselves. In this case, these persons are both legal and beneficial owners. Whether any of them are registrable beneficial owners depends on the percentage of the issued shareholding each of them has. In the example illustrated above in Diagram 3, the company has 4 shareholders with one individual holding 55% of the issued shares and the other 3 holding 15% each. Each of the shares confers rights to the holder which can be interpreted as ownership and control.

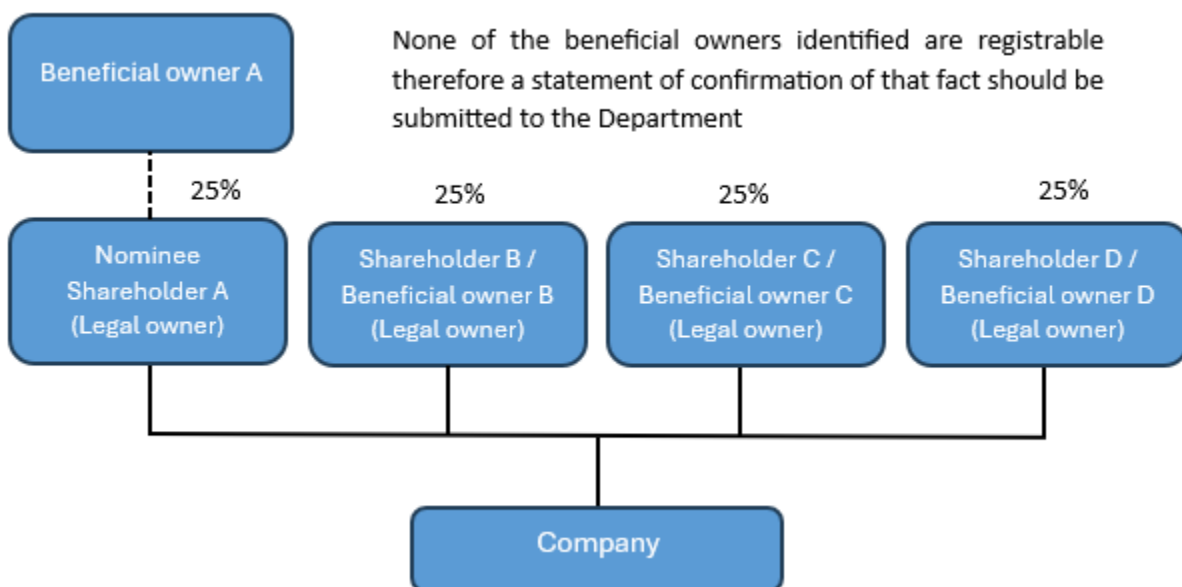
Here, only the beneficial owner with 55% of the shares is a registrable beneficial owner because that individual is the only person holding over 25% of the issued shares. They should be recorded on the Database as 55% Ownership and Control.

Example 4 – Diagrams 4A and 4B

A more complex structure is found where a company has one or more shareholders who are natural persons, but one or more of them hold the shares as nominee for another natural person. In this situation, the person holding the shares essentially holds them on trust or agreement for that underlying natural person. The person holding the shares in this situation is the legal owner and the person for whom they hold the shares is the beneficial owner. This is an example of indirect beneficial ownership. Whether that beneficial owner is a registrable beneficial owner or controller depends on the percentage they hold of the total issued shares of the company (whether their interest exceeds 25% of the total issued share capital).

The requirement to ‘look through’ nominee shareholding to the person on whose behalf the shares are held, follows the same principle, notwithstanding whether the person acting as nominee is a corporate nominee shareholder as opposed to a natural person, or whether they are holding the shares on behalf of a further legal person. There may be multiple layers of legal persons in a structure, but the requirement remains to trace beneficial ownership through any number of arrangements until the natural person(s) for whose benefit the interest is ultimately held can be ascertained.

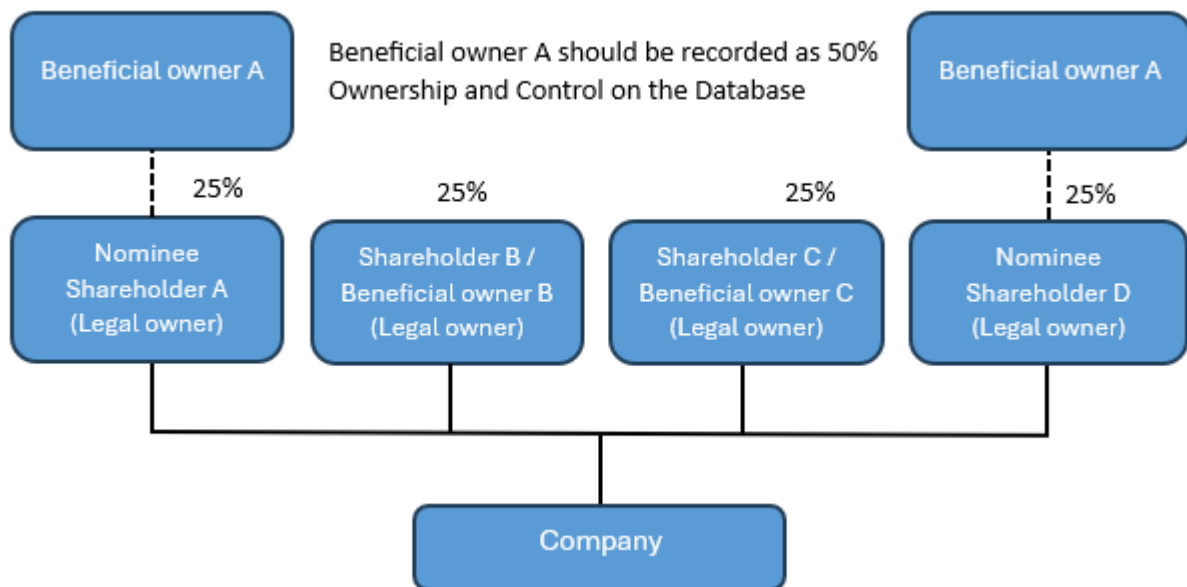
Diagram 4A



In the example in Diagram 4A, the company has 4 shareholders, 3 of whom hold the shares for their own benefit, whilst the fourth holds the shares for someone else. All the shareholders are legal owners, but the 3 who hold the shares for themselves are beneficial owners, as is the individual for whom the nominee shareholder holds shares. This scenario illustrates that legal ownership is not in all cases synonymous with beneficial ownership; a shareholder may be a legal owner but not a beneficial owner.

In Diagram 4A, there is no registrable beneficial owner, as no person is a beneficial owner or controller of more than 25% of the issued shares. The legal owner(s) must nonetheless provide the nominated officer with the required details (and information from a reliable and independent source which verifies the same) for each of the company's beneficial owners.

Diagram 4B

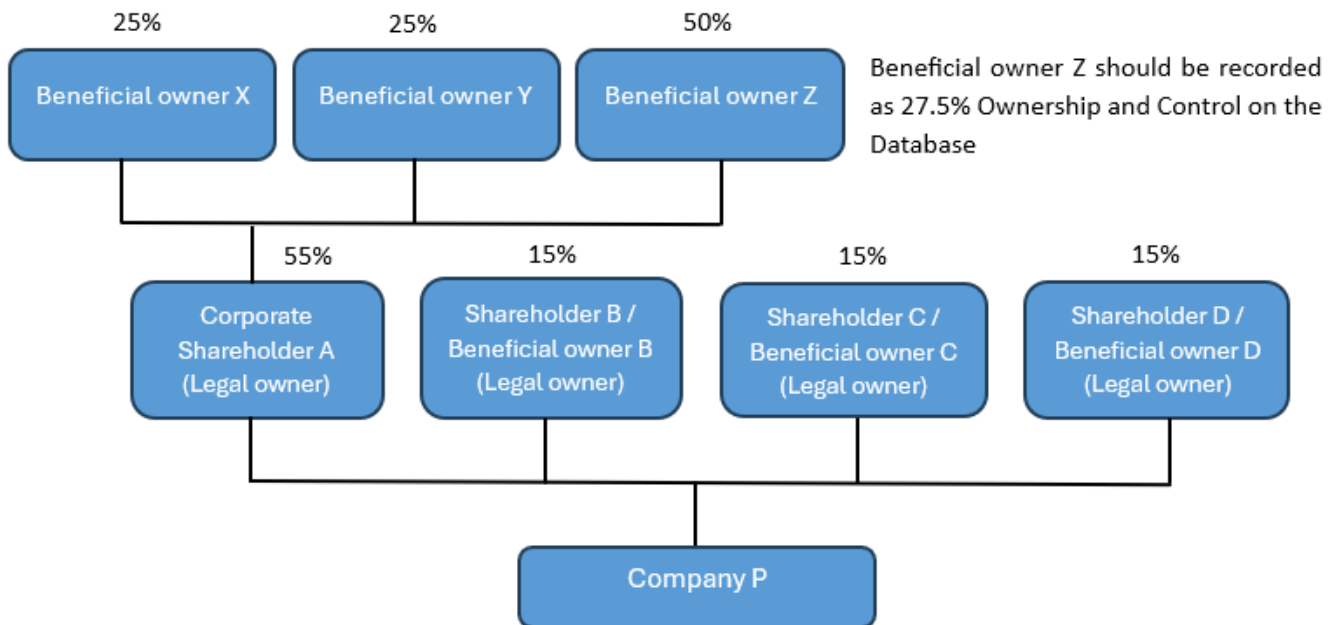


In Diagram 4B above, Beneficial owner A is a registrable beneficial owner because their total shareholding is 50%, despite being held by two different nominee shareholders. Whilst Beneficial owner A is a beneficial owner, they are not a legal owner because the shares to which they have an interest are held by the two nominee shareholders. The nominee shareholders are the legal owner of Beneficial Owner A's two separate interests in the company.

#### Example 5 – Diagram 5A and 5B

A more complex structure might involve a company which has multiple shareholders, one or more of which are themselves corporate entities (legal persons). These legal persons themselves have shareholders who either hold their share for themselves or as nominees for others.

Diagram 5A



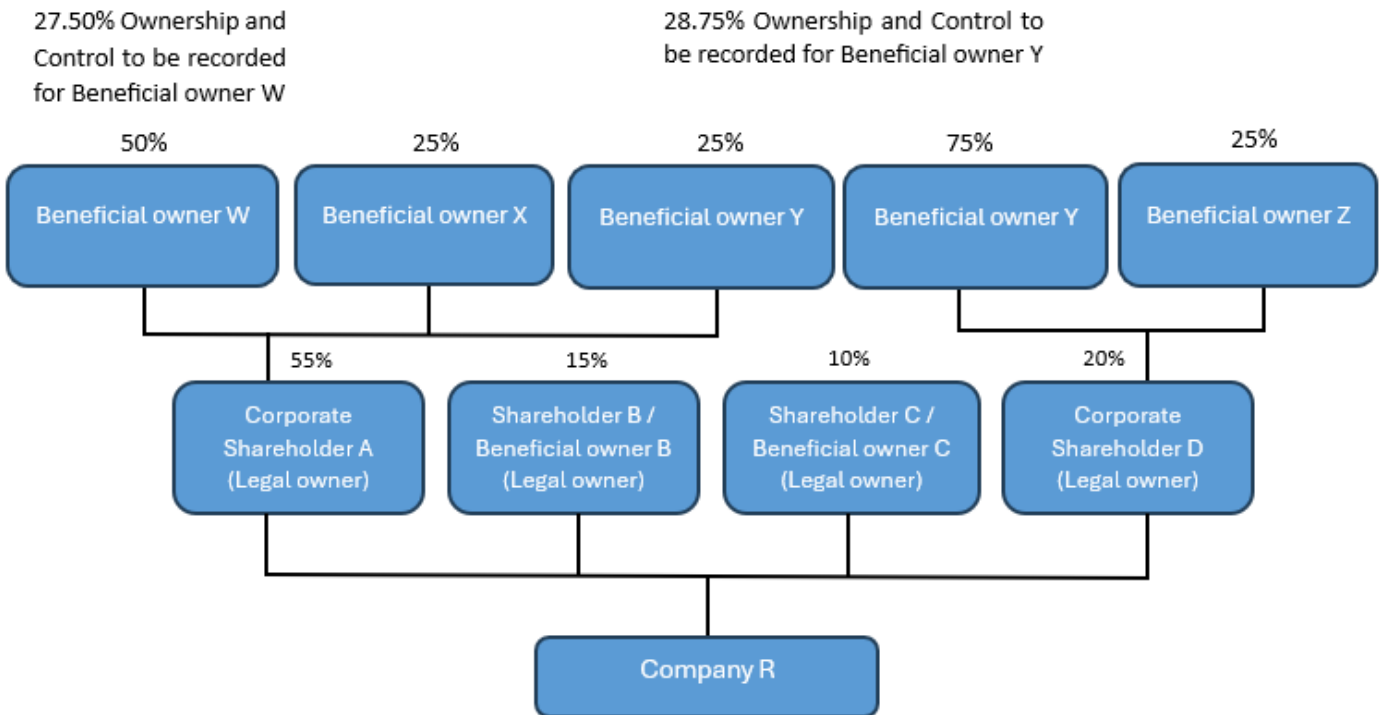
In the scenario illustrated in Diagram 5A above, all shareholders in Company P are legal owners. Those who are natural persons who hold the share for themselves are also beneficial owners and may, depending on their shareholding, also be registrable beneficial owners.

Where a shareholder in Company P is itself a legal person, its shareholders are beneficial owners of Company P and may, depending on their indirect apportioned shareholding in Company P, also be registrable beneficial owners.

Corporate Shareholder A holds 55% of the shares in Company P. Corporate Shareholder A itself has 3 shareholders, one of which, beneficial owner Z, holds 50% of the shares in Corporate Shareholder A.

Here, Shareholders A, B, C and D are all legal owners of Company P. Shareholders B, C and D are beneficial owners of Company P, as are beneficial owners X, Y and Z, but only beneficial owner Z is a registrable beneficial owner of Company P by virtue of their indirect shareholding in Company P quantifiable as 27.5% (being half of the 55% shareholding in Company P) which is more than 25% of the total available ownership and control of Company P.

Diagram 5B



27.50% Ownership and Control to be recorded for Beneficial owner W

28.75% Ownership and Control to be recorded for Beneficial owner Y

Where there are several corporate shareholders within a structure (some more complex structures could have many), the nominated officer must take all reasonable steps necessary to understand the ownership arrangements of each corporate shareholder in order to ascertain whether the legal entity has a registrable beneficial owner, even where the corporate shareholder holds an interest which is below the registrable threshold.

Circumstances may arise where the same natural person is a beneficial owner of multiple corporate shareholders which each have an interest in a legal entity. On their own, these distinct interests may appear to be below the threshold of registrability however when their ownership interests are added together and the interest of that beneficial owner is considered in its entirety, the extent (expressed as a percentage) of his or her interest in the legal entity may equate to more than 25% of the underlying entity.

The diagram above shows that there are two corporate shareholders, A and D, both of which are legal owners but not beneficial owners of Company R. Shareholder B and C are legal owners and beneficial owners whereas beneficial owner’s W, X, Y, and Z are all beneficial owners but not legal owners. Beneficial owner W is a registrable beneficial owner by virtue of holding an indirect interest of 27.5% (being half of the 55% shareholding in Company R held by Corporate Shareholder A). Beneficial owner Y is also a registrable beneficial owner, as they hold a cumulative interest in Company R of 32.5%, broken down as follows:

$$25\% \text{ of } 55\% (13.75\%) + 75\% \text{ of } 20\% (15\%) = 28.75\%.$$

### Example 6 – Diagrams 6A, 6B and 6C

Matters may become more complicated when trusts form part of the ownership structure.

Whilst a trust is not a legal entity to which the Act applies (see section 5(1) of the Act), the involvement of a trust in the ownership structure does not remove or in any way dilute the requirement to look through the structure to determine its beneficial owners and/or controllers.

An example would be where some or all shares in a company are owned by the trustees of an express trust to be held on trust for the beneficiaries of that trust. The trustees could be natural persons or could be a single corporate trustee. In either case, the trustee(s) will be the legal owners of the company and will (if natural persons) also be beneficial owners.

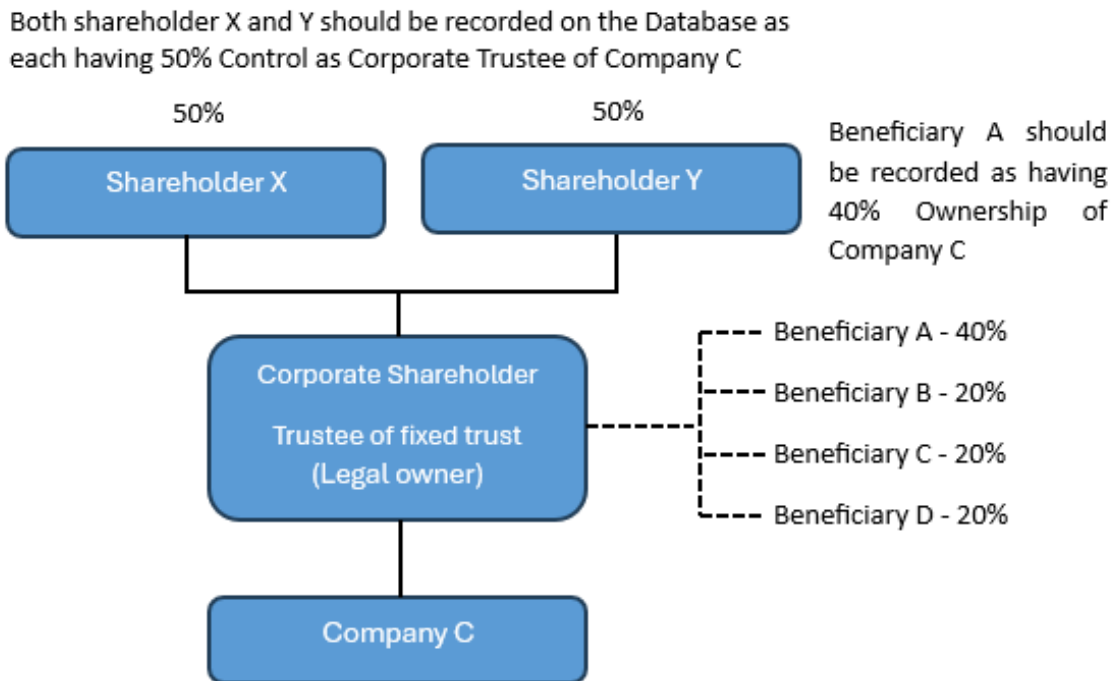
As, by operation of law, the trustees of a trust are joint legal owners of the trust assets, they will, when natural persons, and if their apportioned interest held in the company is greater than 25% of the total, be registrable beneficial owners of the company. In the case of a corporate trustee, the beneficial owners will be the shareholders of the corporate trustee; if registrable, their interest should be recorded on the Database as 'Control as Corporate Trustee'. Conversely, if the trustee is a natural person, rather than a corporate trustee, the interest held by a trustee should be recorded as 'Control' as they are an individual appointed in their personal capacity, and not a legal person or corporate.

Where the trust concerned is a fixed trust and its beneficiaries have a fixed entitlement to the trust property, those beneficiaries will be beneficial owners of the company and, depending on whether that entitlement translates to more than 25% shareholding of the company, may also be registrable beneficial owners. As a fixed interest in a trust will be dependent on the nature of the arrangement (e.g. a life interest in part of the trust income only) the quantifiable entitlement of the beneficiaries will need to be considered and determined on a case-by-case basis. It is therefore important that the basis for calculating the quantifiable element and basis for determining whether the beneficiary needs to be disclosed as having more than 25% ownership of the company is recorded and available for independent review. Advice should be taken where appropriate.

If, however, any of the beneficiaries of the trust only hold a contingent interest, and their interest is not guaranteed until a particular circumstance or event occurs, they cannot be registrable beneficial owners until such a time arises. An example of this may be in regard to beneficiaries of a life interest trust, whereby the beneficiary's interest is realised only upon the death of the life tenant.



Diagram 6A

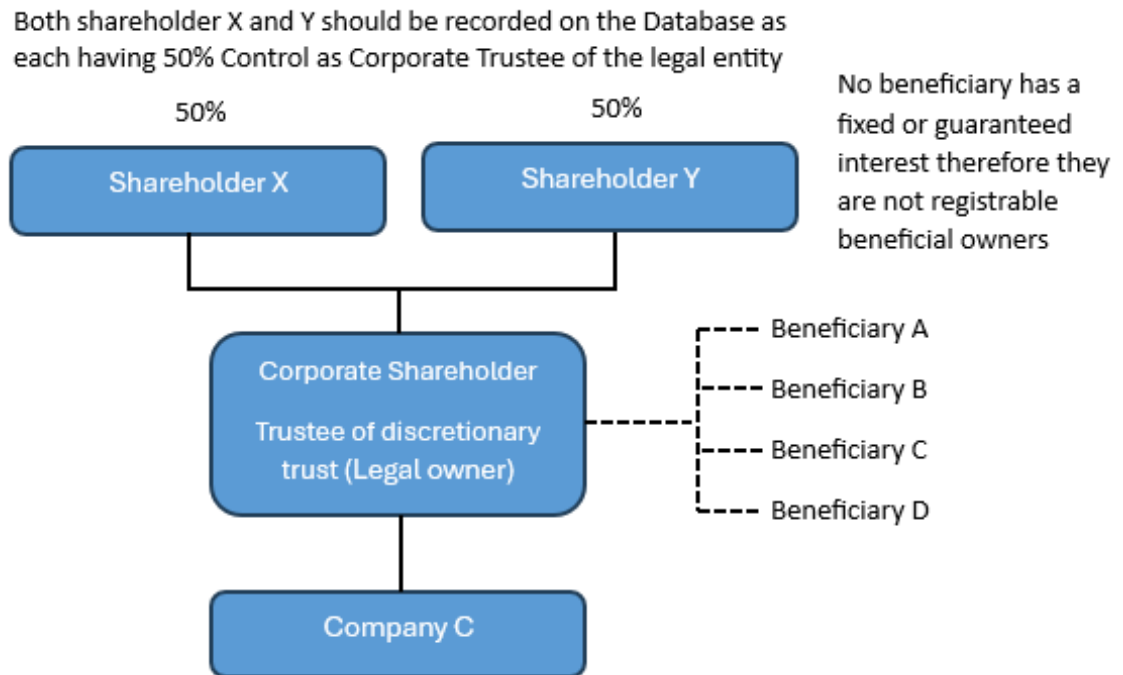


In the example illustrated above in Diagram 6A, Company C has one shareholder which itself is a corporate entity. This corporate entity has 2 shareholders, X and Y, who are natural persons, but the corporate entity is the corporate trustee of a fixed trust with four beneficiaries, A-D. Here, the corporate entity is the legal owner of Company C, as trustee of the fixed trust. Its shareholders are beneficial owners of Company C and may also be registrable beneficial owners of Company C depending on their shareholding.

In this example, Beneficiary A of the fixed trust is entitled to 40% of the trust distributions, whilst the other beneficiaries are entitled to only 20% each. All of the beneficiaries are beneficial owners of Company C, as are Shareholders X and Y. A is also a registrable beneficial owner as are X and Y who exercise 'Control as Corporate Trustee'.

Where the trust is a discretionary trust, its beneficiaries do not have an absolute right to any of the trust property, but only a right to be considered, as any benefit they receive is at the discretion of the trustees. In such circumstances, the beneficiaries of the discretionary trust cannot be beneficial owners and therefore cannot be registrable beneficial owners of the company. In that case, the registrable beneficial owners will, in the case of trustees who are natural persons, be those trustees. Where the trustee is a legal person, the registrable beneficial owners may be the trust company's shareholders, if their apportioned shareholding in the corporate trustee company is over 25%.

Diagram 6B

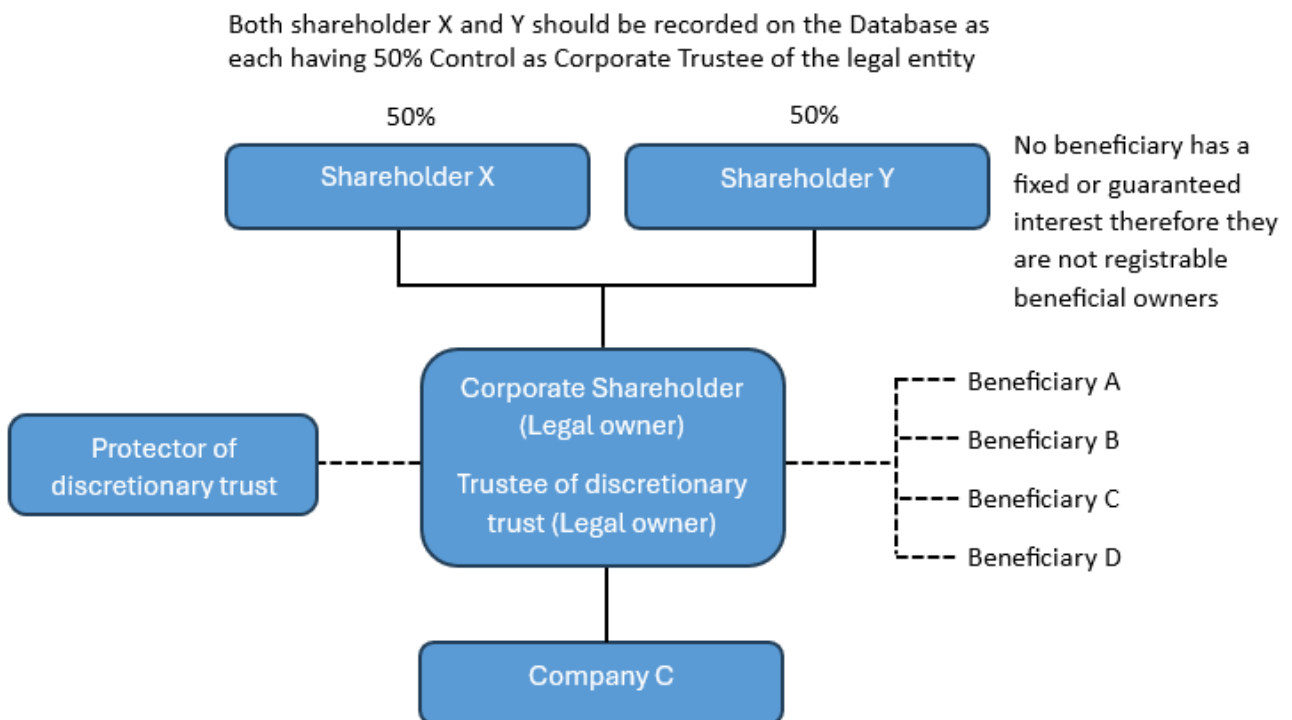


In Diagram 6B above, Company C again has one shareholder which itself is a corporate entity. This corporate entity has two shareholders who are natural persons, but the corporate entity is the corporate trustee of a discretionary trust with four beneficiaries. Here, the corporate entity is the legal owner of Company C, as trustee of the discretionary trust. Its shareholders are beneficial owners of Company C and in this case are also registrable beneficial owners of Company C because of their shareholding (the two shareholders of the corporate trustee should each be recorded on the Database as 50% 'Control as Corporate Trustee'). The beneficiaries of the discretionary trust, however, are neither registrable beneficial owners nor beneficial owners of Company C.

Where a trust forms part of the structure, another factor that must be considered when determining beneficial ownership, is the appointment of a protector. The trust documents may confer upon the protector significant rights or powers such as:

- The removal and appointment of trustees
- To consent to / veto distributions to beneficiaries
- To approve the addition or exclusion of beneficiaries
- To terminate or resetttle the Trust
- To appoint their own successor protector.

Diagram 6C



The rights conferred to different persons vary from trust to trust and may include administrative or fiduciary oversight or other significant influence or control over the trust. A ‘protector’ is one such person which may be granted powers of control within the trust deed.

In example 6C above, the nominated officer must reasonably consider the powers granted to the protector within the trust deed when ascertaining the beneficial ownership of Company C. Attempts must be made to quantify whether the protector, through one or more of the above such powers, has a ‘Control’ interest in the entity, and if this is determined to be over 25% of the total control, the protector’s required details must be recorded on the Database.

## 4.2 Companies Limited by guarantee to which the Companies Acts 1931 to 2004 or the Companies Act 2006 apply

In general terms, companies limited by guarantee have members, but do not have shareholders. The members *guarantee* the company's liabilities, that is, they may be required to pay money into the company if a claim is made against the company, but they do not receive dividends, and any profit made by the company is retained by the company. The traditional use of such companies in the Island has been for Non-Profit Organisations including charities. There are four different types of companies limited by guarantee which may be incorporated in the Island.

### 4.2.1 1931 Act Companies limited by guarantee

If a 1931 Act incorporated company is limited by guarantee, it only has guarantee members (which may be natural or legal persons) and these members are entitled to one vote each regardless of how much they guarantee to the company. Guarantee members therefore exercise control and through this control are beneficial owners by virtue of their voting rights and may be registrable beneficial owners through their voting rights if the company has 3 or fewer members (each member then having more than 25% of voting rights). They will also become beneficial owners or registrable beneficial owners through ownership interest if the company resolves to make a distribution of any assets to its members either during the life of the company or at winding-up. At this point, the company ceases to be a company limited by guarantee and becomes a company limited by shares. At this point, the company has the same characteristics as set out in the various scenarios detailed above in section 3.1 and the beneficial owners will be those natural persons who, either directly or through nominees or corporate or trust structures, ultimately hold those shares. The registrable beneficial owners will be those natural persons who ultimately hold over 25% of those shares.

### 4.2.2 2006 Act Companies limited by guarantee

There are two types of 2006 Act companies which are relevant here, namely, 2006 Act companies limited by guarantee and 2006 Act hybrid companies.

2006 Act companies solely limited by guarantee are rather different to 1931 Act companies. Whilst guarantee members are still only entitled to one vote per member, there are no statutory restrictions on distribution. If the company decides to make a distribution either during its lifetime or at winding-up, it does not cease to be a company limited by guarantee. If a guarantee member is entitled to a distribution, then the guarantee member (if he or she is a natural person) or the natural person ultimately benefiting from that distribution (if the member is a nominee, corporate entity or the trustee or trustees of a trust) is a beneficial owner and, if entitled to more than 25% of the company's assets, a registrable beneficial owner of the company.

There are 2006 Act companies which can be limited by guarantee and have a share capital (so-called hybrid companies). These can have guarantee members and shareholder members. As with other 2006 Act companies limited by guarantee, each guaranteed member is entitled to one vote and there are no restrictions on distribution. If the company decides to make a distribution either during its lifetime or at winding-up, it does not cease to be a company limited by guarantee.

A natural person who is a shareholder member, either directly or indirectly through a nominee, corporate or trust structure, is a beneficial owner of the company. If that natural person is entitled

to more than 25% of the issued share capital of the company, he or she is a registrable beneficial owner. With regard to guarantee members, if a member is entitled to a distribution, then the member (if he or she is a natural person) or the natural person ultimately benefiting from that distribution (if the member is a nominee, corporate entity or the trustee or trustees of a trust) is a beneficial owner and, if entitled to more than 25% of the company's assets, a registrable beneficial owner of the company.

### **4.3 Protected Cell Companies**

A company may be incorporated as a Protected Cell Company ("PCC") under the Companies Acts 1931 to 2004 or the Companies Act 2006 and must be a company limited by shares. A PCC is a company with an internal structure which allows for the legal separation of assets and liabilities into different cells and a central core. It is important to note that the PCC is a single legal entity and, whilst the cells and core have segregated liabilities and assets, they are **not** legal entities. The application of the Act to a PCC is to the company, not to its constituent cells and core.

A PCC may create core shares and cell shares thereby providing two classes of share capital, core shares which are attributable to the core, and cellular which are attributable to an individual cell. A PCC can create an unlimited number of cells and new cells can be added at any point. Creditors of a cell have recourse to the assets of that cell and to core assets, but do not have recourse to the assets of other cells.

Each cell has its own share of the PCC's overall share capital allowing a shareholder to be the sole owner of one cell whilst only having a small interest in the PCC as a whole. All those natural persons who hold core shares or cell shares, whether directly or indirectly through nominees, corporate or trust structures, will be beneficial owners of the PCC. Whether they are registrable beneficial owners will depend on whether their shareholding, whether core or cellular, amounts to more than 25% of the total issued share capital of the PCC as a whole.

### **4.4 Limited liability companies to which the Limited Liability Companies Act 1996 applies**

These are broadly similar to 2006 Act companies in terms of the way they function, with some differences in terminology, in that the "directors" of an LLC are referred to as managers, whilst the "shareholders" are referred to as members. The scenarios set out above are as applicable to these entities as they are to 1931 and 2006 Act companies.

### **4.5 Limited Partnerships to which section 48B of the Partnership Act 1909 (legal personality) applies**

In the case of limited partnerships, the partnership will have legal personality if the provisions set out in section 48B(1) of the Partnership Act 1909 are met. The limited partnership will then be caught by the provisions of the Act. In terms of ownership and control, a limited partnership has general and limited partners. The limited partners always have an ownership interest in the partnership, but generally have no control or voting rights, unless so permitted under the partnership agreement. The general partners always have controlling rights over the partnership.

The Act is, however, interested in ownership and control. A limited partner which owns more than 25% of the ownership interest in the partnership will be a registrable beneficial owner, despite having no control or voting rights. A general partner which controls over 25% will be a registrable beneficial owner, despite having no ownership rights.

#### 4.6 Foundations within the meaning of the Foundations Act 2011

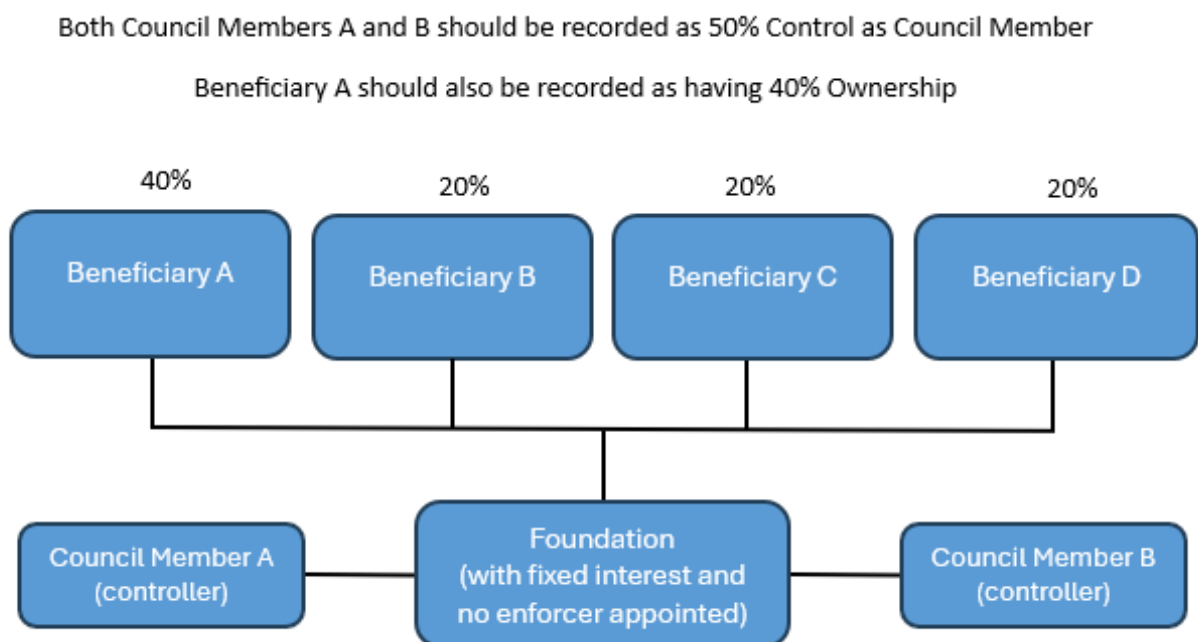
##### Example 7 – Diagrams 7A, 7B, 7C & 7D

Foundations have legal personality. Their objects may be to carry out a specified purpose or to benefit a person or class of persons. Members of the council of the foundation “control” the operation of the foundation. The founder (and an enforcer, if one is appointed) may also exercise control by virtue of powers retained under the foundation instrument and foundation rules, similarly to the settlor and protector/enforcer of a trust.

When the objects of a foundation are a person or class of persons, it will be necessary to consider the rights of those parties as detailed in the establishing instrument and foundation rules. It is recognised that a beneficiary of a foundation may have no interest in the foundation assets unless a right is granted within the rules or by the persons empowered to grant such rights. Foundations therefore have some of the characteristics of a company and some of a trust.

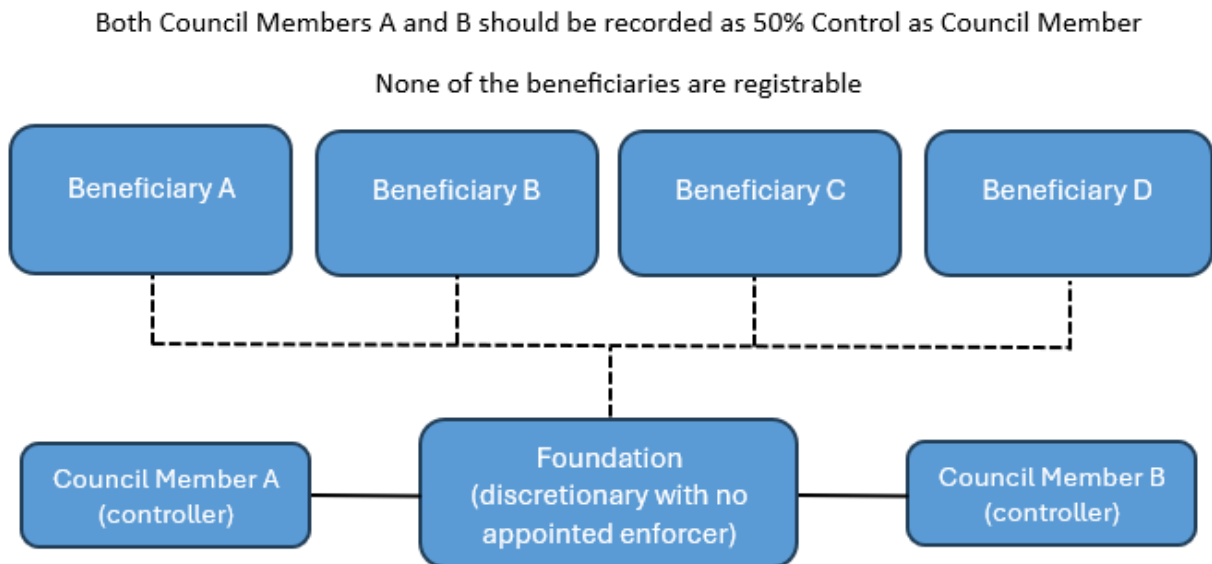
The below diagrams demonstrate examples where the council members are natural persons. Where a legal entity is appointed as a Council Member to a foundation, the controllers may be the shareholders of the legal entity; if registrable, their interest should be recorded on the Database as ‘Control as Council Member’.

Diagram 7A



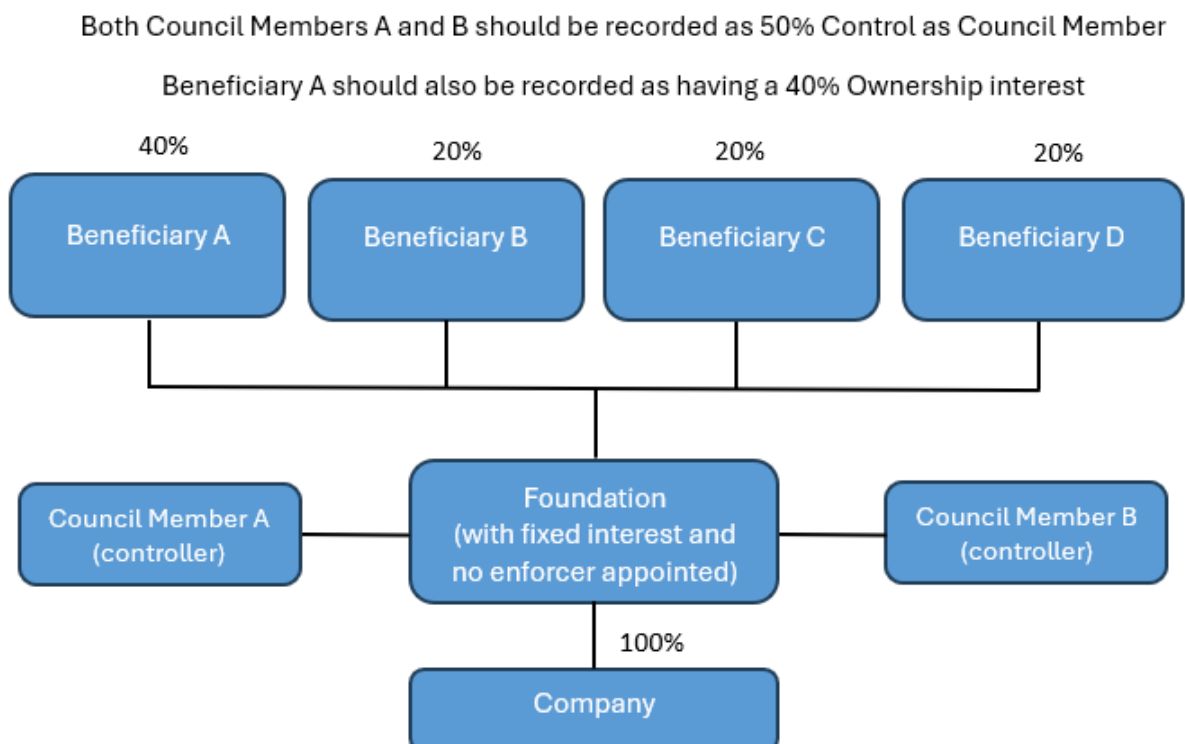
In Diagram 7A above, the foundation has fixed interests, and all the beneficiaries are beneficial owners, but of them, only Beneficiary A is a registrable beneficial owner. Council Members A and B are also registrable and should be recorded as each having 50% 'Control as Council Member'.

Diagram 7B



In Diagram 7B above, the foundation only has beneficiaries that benefit at the discretion of the foundation council. None of the beneficiaries is therefore a beneficial owner and the only registrable beneficial owners are Council Members A and B.

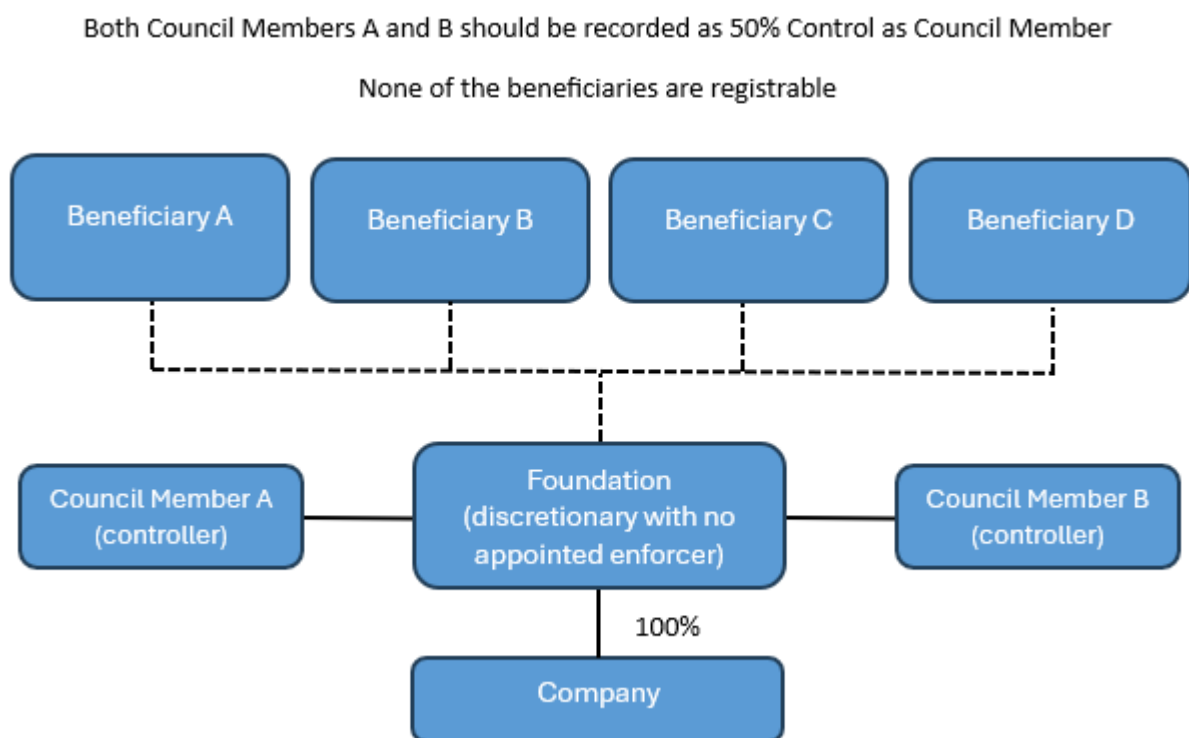
Diagram 7C



Similar provisions apply to companies owned by a foundation to those owned by a trust. The legal owner of the company will be the foundation and whether that foundation's beneficiaries are beneficial owners of the company will depend on whether the beneficiaries have fixed or discretionary interests.

In Diagram 7C above, the company is legally owned by the foundation which has beneficiaries with fixed interests. All of the beneficiaries are beneficial owners of the company via indirect ownership through the foundation. Beneficiary A, with a 40% interest, is a registrable beneficial owner, as are Council Members A and B who each exercise 'Control as Council Member'.

Diagram 7D



Finally, Diagram 7D above illustrates the situation where a company is owned by a foundation with discretionary beneficiaries. Again, the foundation is the legal owner of the company. However, as the beneficiaries only have discretionary interests, the beneficiaries are not beneficial or registrable beneficial owners. Only Council Members A and B should be recorded on the Database.

If in any of the above foundation examples, an enforcer is appointed, and the Foundation instrument confers upon the enforcer certain powers (for example, the power to appoint and remove the council members), relevant persons must consider those powers when determining whether the enforcer has a quantifiable 'Control' interest in the entity and should that interest be quantified as over 25%, their required details recorded on the Database.

In situations where the foundation is the legal owner of a more than 25% interest of a legal entity but the foundation does not yet have beneficial owners (the beneficiaries do not (yet) have a fixed



interest), the details of the council members and any other founder or dedicator who retains control of the interest should be provided and recorded as having a 'Control' interest. In addition, in the event that any founder or dedicator of the foundation retains control of more than 25% of the total, their details should also be recorded as having a 'Control' interest.

## 5 Control

### 5.1 Determining 'Control'

To be a registrable beneficial owner of a legal entity, a natural person must own or control more than 25% of the legal entity. Whilst control by way of shareholding, whether directly or indirectly held, is relatively simple to quantify, demonstrating control "via other means" can be more difficult.

A person can exercise significant control over a legal entity in a number of situations. Firstly, as set out above, if the person owns more than 25% of the beneficial ownership of the legal entity and so is a registrable beneficial owner, then, provided their shareholding confers voting rights, they would be able to block a special resolution of the members of the company and would therefore be able to exercise negative control over the company. If the shares which they beneficially own or control do not confer voting rights, then they would not be able to exercise control over the company using such rights but would still be registrable beneficial owners as the Act captures those who own or control more than 25% of the company.

In a different scenario, a person may hold shares which confer voting rights, but not ownership. If that person's voting rights amounted to over 25% of the total voting rights, then they would be a registrable beneficial owner by way of control.

### 5.2 Determining 'Control via other means'

'Control via other means' refers to any individual who does not hold more than 25% of the shares, an ownership interest or voting rights but still exercises significant control or influence over the legal entity.

Situations may occur where control may not be easily identified or demonstrated through established methods, such as voting via shares. Legal owners, therefore, must consider circumstances where control may be exercised via other means, as they are still required to ascertain the beneficial owner of the legal owner's interest, which includes control, and to provide to the nominated officer information from a reliable and independent source which verifies the required details.

Control should be considered in all instances; it should not be assumed that a Database entry for solely 'Ownership' also includes control.

### 5.3 Control as Liquidator

When a company goes into liquidation, the mind and management of the company is typically vested with the liquidator from the time of their appointment. The nominated officer, which also may be the liquidator, must consider the liquidator's position as in some cases the liquidator may meet the parameters of control within the context of the Act.

Relevant persons must also determine whether the ‘pre-liquidation’ beneficial owner is still able to draw an economic benefit from the company and, as such, whether their inclusion on the Database is still warranted.

## 6 Obligations under the Act

The Act imposes various obligations upon a number of different roles associated with the legal entities to which the Act applies (“Relevant legal entities”). The tables below summarise the various obligations of different ‘relevant persons’, defined in section 30(2) of the Act, and where to find such provisions in the Act (“BOA”). Please note that the below is only a guide; relevant persons should refer to the Act in order to fully understand their obligations.

<b>Legal entities – such as the company, foundation or limited partnership</b>	
BOA section 6(1) & (2)	Relevant legal entities must have a nominated officer. The nominated officer must be – (a) a natural person who is resident in the island; or (b) a trust and/or corporate service provider licensed under the FSA08
BOA section 7(1), (2), (3) & (4)	Relevant legal entities must – (a) give notice of the appointment of its first nominated officer to the Department for Enterprise (the “Department”) within one month of the appointment; and (b) where there is a relevant change in the details in its records of a nominated officer and a change of nominated officer appointment, a relevant legal entity must give notice to the Department within 21 days of the date of the occurrence.
BOA section 8(1)	Relevant legal entities must keep a record of information regarding their nominated officer- (a) In the case of a nominated officer who is a natural person- (i) the officer’s name; and (ii) the officer’s home address in the Island; (b) In the case of a nominated officer which has legal personality but is not a natural person- (i) the officer’s corporate or firm name; and (ii) the officer’s registered office or place of business in the Island; and (c) In all cases, written confirmation of the officer’s consent to the appointment.
BOA section 14(3), (4), (6) & (7)	If a nominated officer issues a notice to a legal entity querying the information that they have received (under s14(2) of the Act), the relevant legal entity must serve notice on the legal owners/beneficial owners stating that they have received such a notice from the nominated officer. The recipients of said notice have 14 days to make representations to the legal entity, which the legal entity must consider

	before taking any action it thinks fit with regards to the rights attached to the legal owner's interest.
BOA section 14(5)	Relevant legal entities must give notice to the Authority specifying any action it has taken as a consequence of a notice mentioned above within 14 days of taking the action.
BOA section 26(A)	A relevant legal entity who accesses the Database and knows or suspects any entry on the Database in relation to that legal entity is materially incorrect must notify the Department for Enterprise within one week of identifying the potential discrepancy.
BOA section 42	A legal entity must submit an annual statement to the Department for Enterprise confirming that it has complied with its obligations under the Act.

<b>Legal owners of the relevant legal entity (for example, where the relevant legal entity is a company, the legal owner(s) will be the person(s) who legally own(s)/holds the shares in such company – such person(s) may be a nominee or a trustee)</b>	
BOA section 9(1)	A legal owner must ascertain the beneficial owner(s) of the legal entity in which it holds an interest. In many instances, the legal owner(s) may be the beneficial owner(s) of the legal entity themselves.
BOA section 9(3) & (6), 11(1), 12(1) & (2)	<p>Within 21 days of the incorporation of the legal entity and/or the date of any notice (request for information) received from the nominated officer, legal owners must give notice to the nominated officer of the details required by the Act in respect of each beneficial owner of the legal owner's interest (the 'required details' as defined in section 11(1) of the Act)</p> <p>Such a notice must be accompanied by information from a reliable and independent source which verifies the required details. Acceptable documents used to verify certain aspects of the required details may include those suggested in the AML/CFT Handbook <a href="#">Supplemental Information Document</a>. Legal owners must also notify nominated officers if they know or have reasonable cause to believe that there has been a change to the required details., Notice of a change must be given within 21 days of the date on which the legal owner learns of the change or first has reasonable cause to believe that the change has occurred. The notice must be accompanied by information from a reliable and independent source which verifies the required details.</p>
BOA section 14(3)	Legal owners have 14 days to make representations to the legal entity if a notice is received from the legal entity under section 14(3) querying either a lack of information or the accuracy of information provided in relation to beneficial ownership.

<b>Beneficial owners and intermediate owners</b>	
BOA section 10(2)	Beneficial owners (and intermediate owners, should there be any) must assist legal owners to ascertain the beneficial owner of the legal owner's interest in the legal entity, and notify the legal owner of any changes to the beneficial ownership of that interest.
BOA section 14(3)	Beneficial owners have 14 days to make representations to the legal entity if a notice is received from the legal entity querying a lack of information or accuracy of information in relation to beneficial ownership.
BOA section 21(1)	Beneficial owners may consent for the nominated officer to voluntarily submit their information to the Department for Enterprise even if their interest is below the threshold for compulsory registration.

<b>Nominated officers</b>	
BOA section 13	<p>Nominated officers must ensure that the required details for all beneficial owners, and the information which verifies those details are maintained and preserved for the required time period so that they are available for disclosure when necessary. The information must be preserved for a minimum of 5 years from the end of the period to which the information relates, or if later, 5 years from the completion of any investigation carried out under the Act or any other enactment. The required details (and the information from a reliable and independent source which verifies the required details) must be preserved on either the Island or on a server which is permanently accessible from the Island.</p> <p>This requirement remains even if the legal entity is wound up, dissolved, struck off, removed from a register, or otherwise ceases to exist.</p>
BOA section 11(1)	<p>The required details for all beneficial owners (whether they are required to be included in the Database or not) are:</p> <p>(a) in respect of a beneficial owner —</p> <ul style="list-style-type: none"> <li>• his or her name;</li> <li>• his or her usual residential address;</li> <li>• a service address, where it differs from the residential address;</li> <li>• his or her nationality;</li> <li>• his or her date of birth;</li> <li>• the date on which he or she acquired an interest in the legal entity;</li> <li>and</li> <li>• the nature and extent (expressed as a percentage) of his or her interest in the legal entity.</li> </ul>

	<p>(b) in certain cases where the class of beneficiaries is of such a size that it is not reasonably practicable to identify each beneficial owner, details sufficient to identify and describe the class of persons who are beneficial owners must be obtained.</p>
BOA section 14(1) & (2)	<p>If a nominated officer is of the opinion that a legal owner has failed to comply with section 9 or 12 of the Act, or has made a statement which is false, deceptive or misleading in a material particular, the nominated officer must give notice to the legal entity of this opinion.</p>
BOA section 15(2)	<p>The nominated officer must disclose, in accordance with any notice issued by a competent authority under 15(3) of the Act, any information held in respect of the beneficial ownership of the legal entity specified or referred to in the notice.</p> <p>In the case of information relating to a registrable beneficial owner, this information must be provided within 7 days. Information relating to any non-registrable beneficial owner must be disclosed within 21 days. The aforementioned designates the maximum number of days considered to be an acceptable timeframe; in any event the information must be provided as soon as reasonably practicable within these timeframes.</p> <p>The information that must be disclosed includes information obtained before the Act came into operation.</p> <p>Disclosed information may be used by the recipient as evidence in criminal, civil and regulatory proceedings.</p>
BOA section 20(1), (3) & (5)	<p>For the purposes of the Database, nominated officers must take all reasonable steps necessary to identify any registrable beneficial owner(s), and submit details of each to the Database.</p> <p>Nominated officers should seek information from the legal entity and the legal owners to establish all relevant legal and beneficial owners, and obtain the details required in section 11 of the Act. Nominated officers must take all reasonable steps necessary to ascertain which beneficial owners are required to be registered on the Database.</p> <p>The reasonable steps must include issuing a written notice to the legal entity under section 20(2)(a) of the Act if the nominated officer considers a legal or beneficial owner has failed to comply with sections 9, 12(1) or 10 of the Act.</p> <p>The nominated officer must submit the required details or any information concerning changes to the required details for all registrable beneficial owners to the Department within 21 days of the information being notified under section 9(3)(b), 10(2) or 12.</p>

	Where the legal entity has no registrable beneficial owner, a formal statement confirming that fact must be submitted to the Department.
BOA section 22(2)	Nominated officers must use the required website (the Isle of Man Government's <a href="#">Online Services</a> website) to submit information to the Department for Enterprise, unless one of the exemptions in subsection 22(3) applies.
BOA section 42	A nominated officer must submit a statement of compliance to the Department for Enterprise annually, which confirms that - <ul style="list-style-type: none"> <li>• they have complied with their obligations under the Act;</li> <li>• the required details in respect of any registrable beneficial owners have been submitted to the Department for Enterprise; and</li> <li>• all information entered on the Database in relation to the legal entity is up to date and correct.</li> </ul>

<b>Any third party authorised by a legal entity to access beneficial ownership information under section 26(2)(e)</b>	
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BOA section 26A	A person who is authorised to access the Database must notify the Department for Enterprise within one week if they know or suspect that any entry on the Database is materially incorrect.
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## 7 Offences

Failure to meet obligations may be an offence under the Act. As the competent authority responsible for assessing compliance with the Act, the Authority has the powers to submit reports to the Attorney General on offences that may have been committed or may impose civil penalties on any relevant legal entity and/or relevant person where an offence has occurred.

The Beneficial Ownership (Civil Penalty) Regulations 2022 (“the Regulations”) specify the circumstances when the Authority may impose a discretionary civil penalty on a relevant person for contravening the Act in lieu of criminal proceedings. The penalties levied in the Regulations apply to each occurrence of a contravention of the Act.

The below tables set out the different offences specific to the Act and outlines the potential convictions in a criminal court.

<b>Legal entities</b>		
BOA section 6(1), (9) & (10)	Failure to appoint a nominated officer.	On conviction on information: a fine  On summary conviction: a fine not exceeding £5,000
BOA section 7(1), (4), (7) & (8)	Failure to notify the Department for Enterprise of the appointment or the change of a nominated officer within the prescribed timeframes. This also includes a change in the legal entity's records relating to the nominated officer.	On conviction on information: a fine  On summary conviction: a fine not exceeding £5,000
BOA section 8	Failure to keep a record of the required information relating to the appointed nominated officer.	On conviction on information: a fine  On summary conviction: a fine not exceeding £5,000
BOA section 26A	Failure to notify the Department of Enterprise within one week (without reasonable excuse) if the legal entity knows or suspects that an entry on the Database in respect of that legal entity, is materially incorrect.	On summary conviction: a fine not exceeding level 5 of the standard scale
BOA section 35	<p>Any officer of a legal entity is also guilty of an offence, and therefore liable to any relevant penalty, if they authorised, permitted, participated in, or failed to take reasonable steps to prevent the occurrence of an offence by the legal entity.</p> <p>Officers include</p> <ul style="list-style-type: none"> <li>• A director, secretary, partner, or other similar officer;</li> <li>• A person purporting to act as a director, secretary, partner or similar officer;</li> <li>• If the affairs of the legal entity are managed by its members or council members, a member or council member; and</li> <li>• If the legal entity has a registered agent (within the meaning of the Companies Act 2006, the Limited Liability Companies Act 1996 or the Foundations Act 2011).</li> </ul>	

<b>Legal owners</b>		
BOA section 9(1), (3), (6), (7)(a) & (9)	<p>Failure to identify or ascertain the beneficial owner(s) of the legal owner's interest in the legal entity, and/or failure to notify the required details of those beneficial owners to the nominated officer within the defined timeframes.</p> <p>Failure to comply is an offence under 9(7)(a).</p>	<p>On conviction on information: a fine</p> <p>On summary conviction: a fine not exceeding £5,000</p>
BOA section 9(1), (3), (6), (7)(b) & (10)	<p>Failure to identify or ascertain the beneficial owner(s) of the legal owner's interest in the legal entity, and/or failure to notify the required details of those beneficial owners to the nominated officer within the defined timeframes.</p> <p>Knowingly or recklessly making a statement to the nominated officer which is false, deceptive or misleading in a material particular is an offence under 9(7)(b).</p>	<p>On conviction on information: up to 2 years in prison or a fine (or both)</p> <p>On summary conviction: up to 6 months in prison or a fine not exceeding £5,000</p>
BOA section 12(1), (2), (4) & (5)	<p>Failure to give notice to the nominated officer of any known or suspected changes to the required details within the defined timeframe.</p>	<p>On conviction on information: a fine</p> <p>On summary conviction: a fine not exceeding £5,000</p>

<b>Beneficial owners and intermediate owners</b>		
BOA section 10(2), (3) & (5)	<p>Failure to assist the legal owner in ascertaining the beneficial ownership of a legal entity, and/or failure to notify the legal owner of any changes to the beneficial ownership of that interest.</p>	<p>On conviction on information: a fine</p> <p>On summary conviction: a fine not exceeding £5,000</p>



<b>Nominated officer</b>		
BOA section 13(1), (2), (3), (8) & (9)	Failure to preserve the required details and verification information in accordance the regulatory stipulations.	On conviction on information: a fine  On summary conviction: a fine not exceeding £5,000
BOA section 15(2), 7(a) & (8)	Failure to disclose beneficial ownership information in accordance with a notice from a competent authority.	On conviction on information: a fine  On summary conviction: a fine not exceeding £5,000
BOA section 15(2), (7)(b) & (9)	Knowingly or recklessly make a statement in response to receiving a notice which is false, deceptive or misleading in a material particular.	On conviction on information: up to 2 years in prison or a fine (or both)  On summary conviction: up to 6 months in prison or a fine not exceeding £5,000
BOA section 20(8)(a) & (9)	Failure to comply with section 20, subsections (1), (3), (4), (5), (6) or (7). Offences include a failure - <ul style="list-style-type: none"> <li>• To take all reasonable steps to ascertain if there are any registrable beneficial owners;</li> <li>• To submit the required details of all registrable beneficial owners to the Database;</li> <li>• To submit details of any changes to the required details; or</li> <li>• where there is no registrable beneficial owner, to submit an accurate statement to that effect.</li> </ul>	On conviction on information: a fine  On summary conviction: a fine not exceeding £5,000
BOA section 20(8)(b) & (10)	Knowingly or recklessly make a false, deceptive or misleading statement to the Department.	On conviction on information: up to 2 years in prison or a fine (or both)  On summary

		conviction: up to 6 months in prison or a fine not exceeding £5,000
BOA section 22(2), (4) & (5)	Failure to use the required website to submit information to the Department.	On summary conviction: a fine not exceeding £5,000

<b>Any Person</b>		
BOA section 18(1) & (2)	Any person who knows or suspects that a disclosure notice under section 15 has been issued or is to be issued by a competent authority and discloses to any other person information which may prejudice a criminal, civil, or regulatory investigation which is or has been carried out on or off the Island.	On conviction on information: up to 2 years in prison or a fine (or both)  On summary conviction: up to 6 months in prison or a fine not exceeding £5,000
BOA section 26(2)(e) & 26A	A third party authorised by a legal entity to access beneficial ownership information in relation to that legal entity who accesses the database but fails to notify the Department for Enterprise within one week (without reasonable excuse) if they know or suspect that an entry on the Database is materially incorrect.	On summary conviction: a fine not exceeding level 5 of the standard scale
BOA section 29(1) & (2)	Any person who knows or suspects that information on the database is or is proposed to be accessed in accordance with PART 3 of the Act and discloses to any other person any information which may prejudice a criminal, civil, or regulatory investigation which is being or may be carried out in the Island or elsewhere.	On conviction on information: up to 2 years in prison or a fine (or both)  On summary conviction: up to 6 months in prison or a fine not exceeding £5,000
BOA Schedule 1, paragraphs 7(1), (3)(b) & (5)	Any person who knows or suspects that an inspection is being, or is likely to be, carried out, or information or documents are likely to be requested or required in relation to oversight, and who consequently: falsifies, alters, conceals, destroys or otherwise disposes of, or causes, or permits the falsification, alteration, concealment,	On conviction on information: up to 2 years in prison or a fine (or both)  On summary conviction: up to 6

	<p>destruction or disposal of, information that the person knows or suspect is or would be relevant.</p> <p>Any person who for any purpose under this Act, furnishes the Authority with a document which they know to be false or misleading in a material particular, or recklessly furnishes the Authority with a document which is false or misleading in a material particular.</p> <p>Any person who makes a statement to the Authority which they know to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular;</p> <p>Any person who without reasonable excuse, fails to furnish information which they are required to furnish to the Authority.</p>	<p>months in prison or a fine not exceeding £5,000</p>
<p>BOA</p> <p>Schedule 1, paragraph 3, and schedule 1 paragraph 7(3)(a) &amp; (4)</p>	<p>Any person who without reasonable excuse, fails to comply with a requirement to provide information;</p>	<p>On conviction on information: a fine</p> <p>On summary conviction: a fine not exceeding £5,000</p>
<p>BOA</p> <p>Schedule 1, paragraph 6, and schedule 1 paragraph 7(3)(c) &amp; (4)</p>	<p>Any person who without reasonable excuse, fails to take the action specified in a report made by the Authority.</p>	<p>On conviction on information: a fine</p> <p>On summary conviction: a fine not exceeding £5,000</p>
<p>BOA</p> <p>Schedule 1, paragraph 7(3)(b) &amp; (5)</p>	<p>Any person who intentionally obstructs a person carrying out an inspection, investigation or search.</p>	<p>On conviction on information: up to 2 years in prison or a fine (or both)</p> <p>On summary conviction: up to 6 months in prison or a fine not exceeding £5,000</p>

<b>A third party that is authorised by a legal entity to access beneficial ownership information in relation to that legal entity</b>		
BOA section 26A(2)(e) & 26(A)	A third party that is authorised by a legal entity to access beneficial ownership information, who accesses the Database and knows or suspects that an entry on in relation to that legal entity is materially incorrect but does not notify the Department for Home Affairs within one week, without a reasonable excuse, commits an offence.	On summary conviction: a fine not exceeding level 5 of the standard scale

## 8. Oversight Functions

Section 30 of the Act states:

<p><b>30 Oversight functions of the Authority</b></p> <p>(1) Without limiting its functions under any other enactment, the Authority is responsible for assessing compliance with this Act by a relevant person.</p> <p>(2) For the purpose of this section and Schedule 1 (oversight by the Authority), “<b>relevant person</b>” means –</p> <ul style="list-style-type: none"> <li>(a) a legal entity to which this Act applies;</li> <li>(b) a nominated officer;</li> <li>(c) a legal owner;</li> <li>(d) a beneficial owner;</li> <li>(e) an intermediate owner (see section 10); and</li> <li>(f) a registrable beneficial owner.</li> </ul> <p>(3) Schedule 1 confers additional powers on the Authority to give effect to subsection (1).</p>
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Schedule 1 to the Act sets out the powers that the Authority has in relation to oversight. This provides the Authority the necessary powers of entry, ability to inspect relevant documentation acting as evidence of beneficial ownership, and the power to request and direct relevant persons to provide the required information.

## 9. Revocation

Beneficial Ownership Act 2017 Guidance June 2017 – GC2017/0003<sup>17</sup> is revoked.

<sup>17</sup> <http://www.tynwald.org.im/spfile?file=/business/opqp/sittings/Tynwald%2020162018/2017-GC-0003.pdf>