

**CAYMAN ISLANDS**



# **BENEFICIAL OWNERSHIP TRANSPARENCY (AMENDMENT) BILL, 2024**

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**A BILL FOR AN ACT TO AMEND THE BENEFICIAL OWNERSHIP TRANSPARENCY ACT, 2023 TO AMEND THE MEANING OF “BENEFICIAL OWNER”; TO EMPOWER THE COMPETENT AUTHORITY TO PROVIDE ACCESS TO THE SEARCH PLATFORM TO THE CUSTOMS AND BORDER CONTROL SERVICE, AMONG OTHER ENTITIES; TO ENSURE THE CONTINUED EFFECTIVENESS OF THE BENEFICIAL OWNERSHIP LEGISLATIVE FRAMEWORK; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

## PUBLISHING DETAILS

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**Sponsoring Ministry/Portfolio:** Ministry of Financial Services and Commerce



## Memorandum of OBJECTS AND REASONS

This Bill provides for the amendment of the of the Beneficial Ownership Transparency Act, 2023 (“the principal Act”) to modify the meaning of “beneficial owner” and to provide other enhancements to ensure the sustained effectiveness of the beneficial ownership transparency legislative framework.

Clause 1 of the Bill provides the short title of the legislation.

Clause 2 amends section 4 of the principal Act to provide for the circumstances under which a trustee of a trust shall be identified as the contact person in respect of a legal person. The amendment also provides that the senior managing official shall be identified as the contact person where there is no registrable beneficial owner or a trustee identified in accordance with section 4(3).

Clause 3 amends section 6 of the principal Act to make it a requirement for a legal person to identify not only the trustees of a trust but the senior managing official where there is no registrable beneficial owner or trustee identified.

Clause 4 amends section 10 of the principal Act to include in the companies exempted from the provisions of the principal Act a company that is registered as a non-profit organisation in accordance with section 7 of the Non-Profit Organisations Act (2020 Revision).

Clause 5 amends section 11 of the principal Act to provide that there is no requirement to enter required particulars regarding an individual or a reportable legal entity that is not a senior managing official or a trustee identified under section 4(3).

Clause 6 amends section 12 of the principal Act to provide for, among other things, the information that must be included in the written confirmation of the category of a legal person. Where the legal person does not fall within the categories set out in section 12(1)(a) to (d) the respective required particulars under subsection (5), (6) or (7) shall be included in the written confirmation of the category of legal person.

Clause 7 amends section 13 of the principal Act to clarify that the corporate services provider shall establish and maintain a register in relation to the legal person that has engaged the corporate services provider. The clause also replaces the definition of “adequate beneficial ownership information”. The new definition, among other things, provides that adequate beneficial ownership information is information that is sufficient to identify a registrable beneficial owner, the senior managing official or a trustee identified under section 4(3).

Clause 8 repeals and replaces section 16 of the principal Act to provide that the corporate services provider engaged by a legal person shall remove the relevant entry from the legal person’s beneficial ownership register where the registrable beneficial owner, senior

managing official or a trustee identified in accordance with section 4(3) is no longer functioning in the respective role.

Clause 9 amends section 22 of the principal Act, among other things, to include the Customs and Border Control Service and a foreign beneficial ownership competent authority in the list of entities to which the competent authority may provide access to the information on the search platform. The clause also amends section 22 to provide that the competent authority shall keep a record of access to the search platform. The record shall include the date and time at which the search platform was accessed and the purpose for which it was accessed.

Clause 10 amends the principal Act by the insertion of new section 22A. The new section provides for the protection of searches from dissemination where access to the search was provided under section 22. Information relating to the access to a beneficial ownership register and the information access shall be an exempt matter for the purposes of the Freedom of Information Act (2021 Revision).



**CAYMAN ISLANDS**

# BENEFICIAL OWNERSHIP TRANSPARENCY (AMENDMENT) BILL, 2024

## Arrangement of Clauses

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(AMENDMENT) BILL, 2024**

**A BILL FOR AN ACT TO AMEND THE BENEFICIAL OWNERSHIP TRANSPARENCY ACT, 2023 TO AMEND THE MEANING OF “BENEFICIAL OWNER”; TO EMPOWER THE COMPETENT AUTHORITY TO PROVIDE ACCESS TO THE SEARCH PLATFORM TO THE CUSTOMS AND BORDER CONTROL SERVICE, AMONG OTHER ENTITIES; TO ENSURE THE CONTINUED EFFECTIVENESS OF THE BENEFICIAL OWNERSHIP LEGISLATIVE FRAMEWORK; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

**Short title**

1. This Act may be cited as the Beneficial Ownership Transparency (Amendment) Act, 2024.

**Amendment of section 4 of the Beneficial Ownership Transparency Act, 2024  
- meaning of beneficial owner**

2. The *Beneficial Ownership Transparency Act, 2023*, in this Act referred to as the “principal Act”, is amended in section 4 as follows —
  - (a) by repealing subsection (3) and substituting the following subsection —
    - “(3) Where a trust meets one of the specified conditions in respect of an individual under subsection (1), a trustee of the trust shall be identified as the contact person.”; and



- (b) in subsection (4), by deleting the words “individual who meets the definition of a beneficial owner pursuant to subsection (1) or (3)” and substituting the words “registrable beneficial owner or a trustee identified in accordance with subsection (3)”.

**Amendment of section 6 - duty of legal persons to identify registrable beneficial owners, etc.**

3. The principal Act is amended in section 6(2)(c) by deleting the words “a trust referred to in section 4(3)” and substituting the words “the trust identified in accordance with section 4(3) or the individual identified in accordance with section 4(4)”.

**Amendment of section 10 - exemption**

4. The principal Act is amended in section 10 by repealing subsection (3) and substituting the following subsection —

“(3) A company that is —

- (a) designated as a company to which section 80 of *the Companies Act (2023 Revision)* applies; or
- (b) registered in accordance with section 7 the *Non-Profit Organisations Act (2020 Revision)*,

is exempt from the provisions of this Act.”.

**Amendment of section 11 - corporate services providers to review particulars**

5. The principal Act is amended in section 11 as follows —

- (a) in subsection (3), by deleting the words “registrable beneficial owner” and substituting the words “registrable beneficial owner, a senior managing official or a trustee identified in accordance with section 4(3)”; and
- (b) in subsection (4), by deleting the words “the required particulars if the required particulars have been” and substituting the words “the identity of the beneficial owner or reportable legal entity if the identity of the beneficial owner or reportable legal entity has been”.

**Amendment of section 12 - required particulars and written confirmation required for categories of legal persons**

6. The principal Act is amended in section 12 as follows —

- (a) in subsection (4) by repealing paragraph (e), and substituting the following paragraph —

“(e) for persons under subsection (1)(e), where the registrable beneficial owner, senior managing official or trustee identified in accordance with section 4(3) is an individual, the required particulars set out in subsection (5) or (6) or, where the registrable beneficial owner or





- trustee identified in accordance with section 4(3) is a corporate entity, the required particulars set out in subsection (7).”;
- (b) in subsection (8), by deleting the words “A licensed fund administrator or the contact person under subsection (4)(c) shall provide” and substituting the words “The legal person shall appoint the licensed fund administrator or the contact person referred to in subsection (4)(c) and shall be responsible for the licensed fund administrator or the contact person providing”; and
  - (c) by repealing subsection (9) and substituting the following subsections —
    - “(9) Where a legal person is being wound up, the corporate services provider or the liquidator shall provide the competent authority with the details of the liquidator along with the details of the registrable beneficial owners as at the date of the appointment of the liquidator, where the details of the registrable beneficial owners are held, as soon as may be reasonably practicable.
    - (10) For the purposes of subsection (9), “**liquidator**” means either the liquidator, the provisional liquidator or the joint liquidator as the case may be.”.

### **Amendment of section 13 - duty to establish and maintain register**

#### **7.** The principal Act is amended in section 13 as follows —

- (a) by repealing subsection (1) and substituting the following subsection —
  - “(1) A corporate services provider shall establish and maintain a register containing adequate, accurate and current beneficial ownership information in relation to the legal person that has engaged the corporate services provider in the form of required particulars in accordance with section 12.”; and
- (b) in subsection (4), by repealing paragraph (a) and substituting the following paragraph —
  - “(a) “**adequate beneficial ownership information**” means information that is sufficient to identify a registrable beneficial owner, the senior managing official or a trustee identified in accordance with section 4(3) and the means and the mechanisms through which beneficial ownership or control is exercised;”.

**Amendment of section 16 - retention on the register**

8. The principal Act is amended by repealing section 16 and substituting the following section —

**“Retention on the register**

16. Where a registrable beneficial owner, a senior managing official or a trustee identified in accordance with section 4(3) is no longer a registrable beneficial owner, senior managing official or trustee identified in accordance with section 4(3) of the legal person, the corporate services provider engaged by the legal person shall —
- (a) remove the related entry from the legal person’s beneficial ownership register: and
  - (b) retain the related record for five years from the date on which the registrable beneficial owner, senior managing official or trustee identified in accordance with section 4(3) ceased to function in the respective role in relation to the legal person.”.

**Amendment of section 22 - access to beneficial ownership information**

9. The principal Act is amended as follows —

- (a) in subsection (2) as follows —
  - (i) by inserting after paragraph (a) the following paragraph —

“(aa) the Customs and Border Control Service established under section 3 of the *Customs and Border Control Act (2024 Revision)*”;
  - (ii) by inserting after paragraph (h), the following paragraph —

“(ha)an entity within the meaning of section 2 of the *Public Management and Finance Act (2020 Revision)* that has received permission from the Cabinet for the purpose of carrying out its statutory duties”;
  - (iii) in paragraph (i), by deleting the words “*Procurement Act (2023 Revision)*”; and” and substituting the words “*Procurement Act (2023 Revision)*”;
  - (iv) by inserting after paragraph (i), the following paragraph —

“(ia) a foreign beneficial ownership competent authority that exercises similar functions and has similar responsibilities as the competent authority or a foreign competent authority with designated responsibility for combatting money laundering or terrorist financing; and”;
  - (v) in paragraph (j), by repealing subparagraphs (ii) and (iii) and substituting the following subparagraphs —



- “(ii) subject to subsection (2A), a licensed financial institution; or
  - (iii) subject to subsection (2A), a designated non-financial business and profession under regulation 55A of the *Anti-Money Laundering Regulations (2023 Revision)*.”;
- (b) by inserting after subsection (2) the following subsection —
- “(2A) Access to the information on the search platform for a licensed financial institution under subsection (2)(j)(ii) and a designated non-financial business and profession under subsection (2)(j)(iii) in respect of—
- (a) an individual is limited to —
    - (i) name;
    - (ii) country of residence;
    - (iii) nationality;
    - (iv) date of birth;
    - (v) information from the individual’s government-issued identification document; and
    - (vi) nature of control; and
  - (b) a corporate entity, is limited to —
    - (i) name;
    - (ii) registered office;
    - (iii) legal form;
    - (iv) registration number; and
    - (v) nature of control.”;
- (c) in subsection (6) as follows —
- (i) in paragraph (a), by deleting the words “who is a registrable beneficial owner” and substituting the words “, except where the individual is a minor within the meaning of section 2 of the *Age of Majority Act (1999 Revision)*”; and
  - (ii) by repealing paragraph (b) and substituting the following paragraph —

“(b) for a corporate entity —

    - (i) name;
    - (ii) registered office;
    - (iii) legal form;
    - (iv) registration number, where held; and
    - (v) nature of control.”; and

(d) by inserting after subsection (7) the following subsection —

“(8) The competent authority shall keep a record of access to the search platform, the date and time when it was accessed and the purpose for which it was accessed.”.

**Insertion of section 22A - protection of searches from dissemination**

**10.** The principal Act is amended by inserting after section 22 the following section —

**“Protection of searches from dissemination**

**22A.** Where access to the search platform is provided in accordance with section 22, any information relating to the access to the beneficial ownership register and the actual information accessed shall be an exempt matter for the purposes of the *Freedom of Information Act (2021 Revision)*.”.

Passed by the Parliament the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

*Speaker*

*Clerk of the Parliament*

