



GOVERNMENT OF BERMUDA

BERMUDA'S G8 BENEFICIAL OWNERSHIP ACTION PLAN

The Bermuda Government has continually demonstrated its commitment to take the required measures to protect our borders from those who would wish to use them to undertake or hide criminal or other such unacceptable activity, and for over 70 years has imposed safeguards in this regard. The actions taken have contributed to our hard earned reputation as a quality international financial centre, with a strong regulatory framework and a well developed and highly regarded regime for incorporation and corporate transparency.

Bermuda is committed to continual enhancement and update of our AML/ATF regime to protect our reputation as a quality international financial centre with particular focus on the insurance sector. As we have done for more than 70 years, we will continually review our arrangements to prevent the misuse of companies and legal arrangements and enhance corporate transparency and international cooperation. As part of our ongoing program of appropriately updating and enhancing our regime, we will continue to review and consider global developments in relation to access and disclosure of beneficial ownership information, including having a central registry for beneficial ownership information.

Notwithstanding our long history of knowing our clients and the strength and robustness of our existing regime, Bermuda remains committed to constantly reviewing and updating our regime to ensure compliance with and implementation of international Standards. In this regard, as part of our updates to embed the 2012 FATF revisions into our regime, and to ensure that Bermuda can appropriately play its role in the global fight to combat money laundering, terrorist financing and the financing of proliferation, Bermuda will undertake the following initiatives in relation to preventing the misuse of companies and legal arrangements.

1. Complete the National Risk Assessment in relation to money laundering and terrorist financing, and publish its findings on or before end of first quarter 2014.
2. Continue implementation of the new licensing and supervisory regime for Corporate Service Providers to impose prudential and AML/ATF obligations on such entities; and review and appropriately update our supervisory arrangements for other Financial Institutions and for Designated non Financial Businesses and Professions.
3. Continue work on addressing gaps in Bermuda's AML/ATF regime in relation to the 2012 revision of the FATF standards, particularly in relation to Recommendations 24 and 25 and other provisions relating to beneficial ownership requirements, as part of preparations for a 2015 review of Bermuda's AML/ATF regime.
4. In conjunction with the Financial Action Task Force (FATF), the Caribbean Financial Action Task Force, the Group of International Finance Centre Supervisors and other such bodies, participate in work to update and enhance Guidance and Standards of Best Practice for Trust and Company Service Providers and assist in promulgating such Standards.
5. Review and appropriately enhance corporate transparency mechanisms in line with international standards and their implementation globally.
6. Review and update mechanisms for domestic and international cooperation in compliance with international standards, including in relation to the timely and effective exchange of beneficial ownership information.
7. Continue work with international bodies (FATF, OECD, IOSCO, IAIS, G8 and others) and other jurisdictions in respect of standards relating to corporate transparency and information exchange mechanisms; and sharing information on Bermuda's approach and experiences.

Background Information on Bermuda's Robust regime for Incorporation and Corporate Transparency

As early as 1939, Bermuda established a legislative framework requiring that persons, wishing to incorporate in Bermuda, provide central authorities with information on the proposed ultimate beneficial owner(s) of the business. Under the Exchange Control Act 1972 and Regulations which were put in effect in 1973, companies were required to seek permission from the Bermuda Monetary Authority (BMA), as the Exchange Controller, to issue or transfer shares to non residents. This permission is required both during the incorporation process and post incorporation. As part of the process to obtain permission, companies are required to provide details of ultimate beneficial owners. All such information is subject to vetting by the BMA and is retained by the BMA. In addition, information on ultimate beneficial ownership in relation to all applicants, regardless of whether the person is a Bermuda resident or non resident, is required as part of the application for incorporation under the Companies Act 1981.

The development and update of Bermuda's prudential and anti-money laundering and anti-terrorist financing (AML/ATF) legislative framework, which now has a significant level of compliance with international standards, has contributed to the strong and robust regime in place today for the disclosure and access to beneficial ownership information under Bermuda law.

Recent enhancements include enacting legislation to subject Corporate Service Providers (CSPs), including persons acting as nominees, to prudential and AML supervisory obligations; and changing the threshold for beneficial ownership done by CSPs to 10% (rather than the 25% required for FIs and other DNBPS). Once licenses are issued under the new CSP Act, other amendments will be made to the regime to reflect the more stringent regulatory and AML/ATF obligations, which will be in place for CSPs.

Key components of our current regime include:

- Both the Companies Act 1981 and the Exchange Control Act 1972 impose requirements to identify the beneficial owners of Companies;
- There is a requirement to submit to a central authority (the BMA), for vetting and approval, information on ultimate beneficial owners (using a 10% threshold), at time of application for incorporation. In addition, Exchange Control permission is required for transfer of shares for non-residents. All such information is retained in the BMA's files.
- Basic information must be provided to the Registrar of Companies annually;
- Companies are required to maintain a registered office in Bermuda and must keep a register of shareholders which must be accessible for public viewing;
- Companies formed under the laws of another country, who wish to carry on business in Bermuda, are required to obtain a permit issued by the Minister of Economic Development. Permission requires a full vetting of ultimate beneficial ownership by the BMA;
- Under the regulatory legislation there are shareholder controller provisions for Financial Institutions, requiring approval of such persons by the Bermuda Monetary Authority;
- Provisions in the Companies Act require approval from the Minister of Economic Development for a local company to exceed the 40% shareholding limit for non Bermudian ownership; and allow the Minister, (who also gets information on ultimate beneficial ownership and has such information vetted), to stipulate detailed requirements in relation to such ownership;
- CSPs are now required to apply to the BMA for licenses and will be regulated as Financial Institutions and subject to prudential and AML/ATF requirements (this regime came into effect January 1, 2013);
- Persons acting as nominees are classified as CSPs and therefore subject to the appropriate licensing and prudential requirements;
- Trust Service Providers are regulated as Financial Institutions and must know the identity of settlors and beneficiaries of trusts;
- Bearer shares are not permitted;
- Only four (4) entities are authorized to operate as banks in Bermuda;

- Information requirements in relation to beneficial owners are imposed on FIs (including TSPs), lawyers and accountants at the 25% threshold. However for CSPs, which are also regulated as FIs, the threshold is 10%;
- Bermuda has signed 39 Tax Information and Exchange Agreements and Double Taxation Agreements and has been actively involved in exchange of information under these type of agreements over the years;
- There are a variety of enforcement powers in relation to non-compliance under regulatory, AML/ATF and company legislation;
- There are established legislative gateways for exchange of information - to domestic and international competent authorities; and
- Law enforcement authorities and other relevant agencies can gain full access to beneficial ownership information and can share with foreign counterparts.

External Endorsements of our Regime

The strength and robustness of our regime was confirmed by the International Monetary Fund in Bermuda's 2007 AML/ATF Mutual Evaluation Report, which rated Bermuda as fully compliant for both Recs. 33 and 34 dealing with Legal Persons and Legal Arrangements. This report noted that "there are a range of controls to mitigate the risk that legal entities and trust arrangements will be misused for illicit purposes". Since that review was carried out, the regime has been enhanced by imposition of more detailed beneficial ownership requirements; improving and expanding information exchange gateways; expansion of tax information exchange arrangements to a wider number of jurisdictions; and implementation of a supervisory regime for CSPs which imposes prudential and AML/ATF obligations.

The 2013 United States International Narcotics Control Strategy Report, issued by the US State Department, once again rated Bermuda being in the **lowest risk category** of countries and jurisdictions monitored for risk factors which potentially contribute to money laundering and terrorist financing. This ranking was consistent with Bermuda's position in prior years.

In November 2011 and again in 2012, Bermuda was named by the Financial Stability Board, as one of the jurisdictions already demonstrating sufficiently strong adherence to regulatory and supervisory standards on cooperation and information exchange.

The Cabinet Office

Government of Bermuda

30th July 2013