

Beneficial Ownership Register Policy

SECTION 1: Jersey's current position on registers of beneficial ownership

1. It is the Government of Jersey's view that the need for accurate beneficial ownership information to be available and accessible by law enforcement and tax authorities is a fundamental part of international tax, financial regulatory and anti-money laundering standards. Every Jersey incorporated company and any company incorporated elsewhere being administered in Jersey under Jersey's laws is subject to transparency requirements that ensure that ownership information is available and accessible to such authorities in a timely, accurate and adequate manner.
2. Jersey has legislation in place which ensures that adequate, accurate and current beneficial ownership information is available for all legal entities in accordance with international standards.
3. For Jersey incorporated companies this information is held in the central registry known as Jersey's Companies Registry, housed and operated by the Jersey Financial Services Commission (the **JFSC**). Such a register has been kept since 1989.
4. For all other legal entities beneficial ownership information is held by Trust and Company Service Providers (**TCSPs**). Jersey has comprehensive regulation of TCSPs, supervised by the JFSC, which requires them to hold adequate, accurate and current beneficial ownership information on all their clients.
5. Comprehensive and ongoing verification and supervision, ensures that Jersey has a standard of beneficial ownership information available and accessible found in few other jurisdictions around the world. The report on an assessment by Moneyval of Jersey's compliance with international AML standards, published in May 2016, includes the following statement:

"Jersey's combination of a central register of the UBO with a high level of vetting/evaluation not found elsewhere and regulation of TCSPs of a standard found in few other jurisdictions has been widely recognised by international organisations and individual jurisdictions as placing Jersey in a leading position in meeting standards of beneficial ownership transparency."
6. In 2016 the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes revised its terms of reference for assessments, with particular emphasis on the availability and accessibility of beneficial ownership information. Jersey was one of the first jurisdictions to be assessed and the assessment report published in October 2017 showed that Jersey was fully compliant with all the elements, a rating not yet achieved by many of the G20, OECD and EU Member States.

7. Jersey is also an active member of the Corporate Registers Forum (CFR), the European Commerce Registers Forum (ECRF), the European Business Register (EBR) and the International Association of Commercial Administrators (IACA). Through these forums Jersey has offered to assist other jurisdictions in the implementation of an effective Central Register of beneficial ownership, and we are supportive of the work on the practicalities of the interlinking of registers.
8. Jersey was an early adopter of the Common Reporting Standard (CRS) on Automatic Exchange of Information whereby beneficial ownership information is already being automatically exchanged with all EU Member States that have satisfied the requirements of the CRS.
9. Jersey was also among those jurisdictions that committed in 2016 to join an international initiative, led by the “G5” and subsequently by a total of some 50 jurisdictions including the EU Member States, to develop a new international standard on the automatic exchange of beneficial ownership. Jersey is playing an active role in the relevant fora (the FATF and the Global Forum) in the work underway to take forward this initiative.
10. Jersey has signed an Exchange of Notes with the UK Government reinforcing the existing arrangements for providing beneficial ownership information to law enforcement and tax authorities. Jersey has been sharing beneficial ownership information with authorities, such as the National Crime Agency, to their declared satisfaction, for nearly 30 years and the signing of this agreement represented the reinforcement of existing arrangements by introducing a new mechanism for sharing information between FIU units. The new agreement involves the use of technology to speed up responses to requests, requiring non-urgent queries to be dealt with in 24 hours and urgent queries in one hour. In April 2018, the United Kingdom Government and the Government of Jersey carried out a review of the Exchange of Notes Agreement. That review was summarised in a Report to the States Assembly by the Government of Jersey¹ and a Written Ministerial Statement to Parliament in the United Kingdom² and confirmed:

“The EoNs arrangements have, since their coming into effect in July 2017, provided law enforcement officers with enhanced access to company beneficial ownership information, as originally envisaged in 2016, and are being used to facilitate ongoing criminal investigations.”

¹ <https://statesassembly.gov.je/assemblyreports/2018/r.64-2018.pdf>

² <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-05-01/HCWS661/>

SECTION 2: contemporary issues regarding beneficial ownership registers

Discussion on the international standard

11. The Financial Action Task Force (FATF) provides the appropriate global benchmark on customer due diligence and transparency³. The relevant standards are set out in Recommendations 24 and 25 of the 2012 FATF Recommendations⁴. Recommendations 24 and 25 are as follows:

E. TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS AND ARRANGEMENTS

24. Transparency and beneficial ownership of legal persons

Countries should take measures to prevent the misuse of legal persons for money laundering or terrorist financing. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities.[...]

25. Transparency and beneficial ownership of legal arrangements

Countries should take measures to prevent the misuse of legal arrangements for money laundering or terrorist financing. In particular, countries should ensure that there is adequate, accurate and timely information on express trusts, including information on the settlor, trustee and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.

12. The key pillars of the FATF requirement relating to beneficial ownership are therefore that information collected must be: 1) adequate; 2) accurate; and 3) timely, and that the information must be available for access by competent authorities. It does not require

³ In remarks published in June 2013 the G8 appeared to acknowledge that the FATF Recommendations are the appropriate global benchmark for verification of client identity. The G20 High Level Principles on Beneficial Ownership Transparency are consistent with the FATF Recommendations although the G20 Principles are too high level to offer much guidance on the matters being considered in this paper.

⁴ *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, The FATF Recommendations*, adopted by the FATF Plenary in February 2012 and updated October 2018.

making that information available to the public. Reflecting this, currently only five countries worldwide (Denmark, Ghana, Nigeria, Ukraine and the UK) operate a public central beneficial ownership register.

Government of Jersey Policy

EU Code Group commitments

13. In December 2017 the EU Code of Conduct Group on Business Taxation (the **EU Code Group**) confirmed that Jersey is a cooperative tax jurisdiction, and confirmed they would work with the Island throughout 2018 to ensure that this position is maintained. In order to secure its continued status as a cooperative jurisdiction, Jersey made a written commitment to address concerns identified by the EU Code Group, by the end of 2018. These concerns specifically relate to a perceived lack of legal substance requirements that could lead to profits being registered in Jersey that are not commensurate with real economic activity.
14. A central part of addressing the EU Code Group's concerns is the proposed new primary legislation which will create an economic substance test in Jersey (see [P.132](#) for the draft law). It should be noted that Article 8 of the draft law provides that, in cases of a failed economic substance test, information on ultimate legal owner and ultimate beneficial owner will be shared with the relevant EU member states.
15. However, Jersey has used other means to display its commitment to being a cooperative tax jurisdiction to the EU Code Group. Significantly, the Minister will make a political commitment on the sharing of beneficial ownership information with EU member states.
16. That political commitment will be as follows.

EU member states are currently working towards the establishment of central registries, and the interconnection of these registries by 2021. Jersey and the EU have a shared objective in relation to enhancing adequate, accurate and current beneficial ownership information, and making it available to appropriate law enforcement and tax authorities, Jersey is prepared to make a political commitment, that builds upon the commitment made in 2016 (see para. [6] above) and to work with the EU in ensuring on a reciprocal basis that legal and beneficial ownership information in relation to bodies corporate is able to be appropriately shared in a real-time or close to real time manner with tax and law enforcement authorities. That would include looking to work with the EU in the development of the interconnection of Registry systems as outlined in Commission Implementing Regulation (EU) 2015/884 of 8 June 2015 which should provide reciprocal access to law enforcement and tax authorities of beneficial ownership information.

General policy direction and commitment to review

17. As outlined in Section 1, Jersey holds a leading position in having beneficial ownership information available and effective procedures for information sharing that are designed to ensure that the jurisdiction is not being used for money laundering and terrorist financing. Jersey and the FATF share a common policy aim: to ensure effective implementation of legal, regulatory and operational measures for combating money laundering and terrorist financing. In effective pursuit of that aim, Jersey remains committed to keeping the international standard on beneficial ownership registers under review. If public registers were to become an international standard, Jersey will consider implementing such a policy in the same way as we have other international standards in this area.