

BEST PRACTICES FOR TRINIDAD AND TOBAGO

1. **Institution:** Financial Entities within Trinidad and Tobago and the Registrar General's Department in the Office of the Attorney General and Ministry of Legal Affairs.
2. **Title:** Identification of Beneficial Ownership information in accordance with Article IX of the Convention- Illicit Enrichment.
3. **Description of the best practice:** **The Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Bill, 2023** (herein after referred to as **Bill No. 3**), is Senate Bill No.: 3 of 2023 and was introduced in the Senate on the 24th of November, 2023. **Bill No.3** has been passed in the Senate and is currently before the House of Representatives for the 3rd Reading and Passage of the Bill. **Bill No.3** is an omnibus bill which is a comprehensive legislative measure encompassing a variety of different provisions of a similar subject. The Bill seeks to amend several Acts related to trusts and beneficial ownership.

The Miscellaneous Provisions (Registrar General, Companies, Registration of Business Names, and Non-Profit Organisations) Bill, 2023 (herein after referred to as **Bill No. 4**.) is Senate Bill No. 4 of 2023 and was introduced in the Senate on the 24th of November, 2023. **Bill No.4** has been passed in the Senate and is currently before the House of Representatives for the 1st Reading of the Bill. **Bill No.4** seeks to make amendments to the **Registrar General's Act, Chap. 19:03**, the **Companies Act, Chap. 81:01**, the **Registration of Business Names Act, Chap. 82:85**, and the **Non-Profit Organisations Act, No. 7 of 2019**. **Clause 4 of Bill No.4** proposes to make amendments to the **Companies Act, Chap. 81:01**.

The amendments proposed by both **Bill No. 3** and **Bill No.4** are considered a best practice as the amendments seek to create internal obligation on both financial entities and companies themselves and a separate obligation for the Registrar General. Regarding internal obligations, the proposed amendments require companies to ascertain and obtain information as to all the beneficial owners of the company; maintaining and keeping an updated register of all the beneficial owners and taking reasonable steps to verify information on the register of the beneficial owners of the company. The beneficial ownership information collected must be filed with the Registrar General. The proposed amendments will also require the Registrar General to maintain a register of beneficial owners. The disclosure of the beneficial ownership information as well as the maintenance of this information is a best practice as it plays a central role in transparency and help keep the integrity of the financial sector. Another reason why this disclosure is a best practice is because there will be a record of who the actual beneficial owners are and the individuals who ultimately own or control a legal entity or arrangement. This information will allow for

the tracing and recovering of illicit gains from corruption.

4. Reasons/Importance: Beneficial Ownership legislation is important as it enhances transparency and accountability as well as ensuring compliance with anti-money laundering and counter-terrorism laws.

The amendments proposed by **Bill No. 3** seek to insert a definition for Beneficial Ownership into each of the Acts as it pertains to Trustees, Natural Persons, Statutory Bodies, Corporation Sole, Partnerships, and Non- Profit Organizations which did not exist before. **Bill No. 4** also proposes to make amendments to the **Companies Act, Chap. 81:01** by inserting a definition for beneficial ownership. Both **Bill No.3** and **No.4** seek to create obligations on financial entities and companies with respect to the collection, maintaining and disclosing of beneficial ownership information. This collection and disclosure of beneficial ownership information is important as it will deter individuals and natural persons from the use of financial entities to hide illicit gains because the disclosure of this information can be used to determine if there is suspicious activity happening in an entity as well as determine who stands to gain from those activities.

It is also important to maintain beneficial ownership information as maintenance of beneficial ownership information is a cornerstone that underpins not only international standards on tax under the Global Forum framework, but also Trinidad and Tobago's international obligations under the Financial Action Task Force framework as it relates to money laundering, countering of terrorist financing, and proliferation of weapons of mass destruction. **Bill No.3** and **Bill No.4** create obligations for both financial entities and the Registrar General to maintain a register of beneficial owners. The implementation of a proper beneficial ownership registry is key in the process of combating illicit activities and schemes.

The amendments proposed **Bill No.3** and **Bill No.4** will also ensure that the collection, maintenance and disclosure of beneficial ownership is mandatory and failure to carry out these obligations results in penalties. These penalties include imprisonment for three years and fines of ten thousand dollars for providing false information in a statement or failure to submit a statement with beneficial ownership information. This is important as both bills seek to enhance transparency by requiring the disclosure of beneficial ownership of financial entities and criminalize the conduct surrounding illicit enrichment. This duty to disclose beneficial ownership information and the penalties associated with the failure to disclose will ensure that corporate entities do not utilize the cover of anonymity to conduct illicit financial practices.

5. Approach: Consideration was given to international standards on tax under the Global Forum framework, the Financial Action Task Force framework and existing legislation in other jurisdictions such as Canada, New Zealand, The United Kingdom and other

commonwealth jurisdictions in the drafting of **Bill No.3** and **Bill No. 4**.

6. Implementation: As aforementioned before, **Bill No.3** was introduced in the Senate on the 24th of November, 2023, has been passed in the Senate and is currently before the House of Representatives for the 3rd Reading and Passage of the Bill. Bill No.4 was introduced in the Senate on the 24th of November, 2023. **Bill No.4** has been passed in the Senate and is currently before the House of Representatives for the 1st Reading of the Bill. **Bill No.3** and **Bill. No.4** will come into operation on such day as is fixed by the President by Proclamation. Therefore, when both bills are proclaimed, the amendments proposed in the bills will take effect and be implemented within Trinidad and Tobago.
7. Outcome: Trinidad and Tobago has identified that there are issues regarding money laundering and illicit financial practices which necessitated the development of a comprehensive regulatory framework for the acquiring, maintaining and disclosure of beneficial ownership information. The expected outcome of this regulatory framework proposed by **Bill No.3** and **No.4** is to prevent money laundering by enhancing transparency, accountability, and facilitating the tracing and verification of beneficial ownership of financial entities.
8. Potential for technical cooperation: This practice can be adapted and used by other countries. Provision of technical assistance may be possible based upon specific requests.
9. Follow-up: There are obligations on the Financial Entities and companies within Trinidad and Tobago to maintain their own registers of Beneficial Ownership information as well reporting and disclosing this information to the Registrar General of Trinidad and Tobago. The Registrar General also has obligations to monitor the disclosure of beneficial ownership information and maintain a separate register with the beneficial ownership information that has been disclosed by the financial entities and companies. As such both the financial entities and the Registrar General will monitor the practice's implementation.
10. Lessons: The Best Practice has not been fully implemented and only upon full implementation then the lessons learnt can be evaluated.
11. Documentation:
 1. **The Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies, Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Bill, 2023:**

<https://printery.gov.tt/e-gazette/2023/Bills/Senate/Senate%20Bill%20No.%203%20of%202023%20-%20The%20Miscellaneous%20Provisions%20Bill,%202023.pdf>

2. **The Miscellaneous Provisions (Registrar General, Companies, Registration of Business Names, and Non-Profit Organisations) Bill, 2023:**

[https://printery.gov.tt/e-gazette/2023/Bills/Senate/Senate%20Bill%20No.%204%20of%202023%20-%20The%20Miscellaneous%20Provisions%20\(Registrar%20General,%20Companies,%20Registration%20of%20Business%20Names,%20and%20Non-Profit%20Organisations\)%20Bill,%202023.pdf](https://printery.gov.tt/e-gazette/2023/Bills/Senate/Senate%20Bill%20No.%204%20of%202023%20-%20The%20Miscellaneous%20Provisions%20(Registrar%20General,%20Companies,%20Registration%20of%20Business%20Names,%20and%20Non-Profit%20Organisations)%20Bill,%202023.pdf)

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