

Annex

To facilitate the provision of information on legislation, policies, practices and institutions related to promoting beneficial ownership information transparency, including existing registry (ies) and mechanism(s) to make requests for such information, the Secretariat has prepared the following questionnaire as a guide that States parties may wish to use. This questionnaire follows the same format as the questionnaire that was circulated in May 2022 in Note Verbale CU 2022/156(A)/DTA/CEB/CSS. If your Government responded to the previous questionnaire please only provide new and/or updated information.

The secretariat also wishes to draw the attention of the Government to the conference room paper entitled “Good practices and challenges with respect to beneficial ownership and how it can foster and enhance the effective recovery and return of proceeds of crime” (available at [CAC/COSP/WG.2/2022/CRP.1](#)) and to the contributions received in the response to the aforementioned Note Verbale (available on the ~~webpage of the 16th session of the Working Group on Asset Recovery~~).

Collecting the information for this questionnaire may require cooperation by several different agencies/authorities. States parties may wish to send the questionnaire to the following agencies/authorities, depending on their national system for obtaining and recording information on legal persons and legal arrangements in their country, e.g.:

- Company registry and any other relevant registry(ies)
- Agency(ies)/authority(ies)/body(ies) responsible for obtaining and maintaining beneficial ownership information
- National competent authorities responsible for international cooperation in criminal matters, including freezing and confiscation of criminal proceeds

Questionnaire on Beneficial Ownership Information

1. Definition of beneficial ownership & mechanisms for obtaining beneficial ownership information

1.1 Please provide the definition of “beneficial ownership” in your country for: (a) legal persons; and (b) legal arrangements, including the relevant legislation (if applicable). Please describe criteria and thresholds that are applied to determine beneficial ownership, including any criteria for exercising control without legal ownership (e.g. voting rights, right to appoint or remove board of directors).

- **Definition of “beneficial ownership” for (a) legal persons and (b) legal arrangements, including the relevant legislation (if applicable).**

a. [As per Section 2 of the Companies Act 2001:](#)

“*beneficial owner*” or “*ultimate beneficial owner*” –

(a) means any natural person who ultimately owns or controls a company or the natural person on whose behalf a transaction or activity is being conducted in relation to a company; and

(b) includes –

(i) the natural person who ultimately owns or controls a company through –

(A) direct or indirect ownership of such shares in such percentage as may be prescribed;

(B) voting rights;

(C) ownership interest; or

(D) control by other means;

(ii) where no natural person under paragraph (i) is identified, or if there is any doubt that the person identified is the beneficial owner, the natural person who controls the company in the manner one company controls another company under section 5;

(iii) where no person under paragraphs (i) and (ii) is identified, the natural person who acts as executive director or has equivalent executive powers;”

b. **As per Section 17E (3)(1) of The Financial Intelligence and Anti-Money Laundering Act 2002 (“FIAMLA 2002”):**

“(3) In subsection (1) – “*beneficial owner*” –

(a) means the natural person –

(i) who ultimately owns or controls a customer;

(ii) on whose behalf a transaction is being conducted; and

(b) includes those natural persons who exercise ultimate control over a legal person or arrangement and such other persons as may be prescribed.”

c. **As per Section 2 of The Financial Intelligence and Anti-Money Laundering Regulations 2018 (“FIAML Regulations 2018”)**

““*Beneficial owner*” –

(a) means the natural person –

(i) who ultimately owns or controls a customer; or

(ii) on whose behalf a transaction is being conducted; and

(b) includes those natural persons who exercise ultimate control over a legal person or arrangement and such other persons as specified in regulations 6 and 7;”

- **The criteria and thresholds that are applied to determine beneficial ownership, including any criteria for exercising control without legal ownership (e.g. voting rights, right to appoint or remove board of directors).**

Please see the definition of “*beneficial owner*” under **Section 2 of the Companies Act 2001, Section 17E (3) (1) of FIAMLA and Section 2 of The FIAMLA Regulations 2018** above.

Furthermore, **Regulations 6 and 7 of The FIAML Regulations 2018** provides for the criteria and thresholds that are applied to determine beneficial ownership for (i) a legal person and (ii) legal arrangements, as hereunder stipulated:

- (i) Legal persons

“6. (1) Where the customer is a legal person, the reporting person shall identify and take reasonable measures to verify the identity of beneficial owners by obtaining information on –

(a) the identity of all the natural persons who ultimately have an ownership interest of 20 per cent or more in the legal person;

(b) where there is doubt under subparagraph (a) as to whether the person with the ownership interest of 20 per cent is the beneficial owner or where no natural person exerts control through ownership interests, the identity of the natural person exercising control of the legal person through other means as may be specified by relevant regulatory body or supervisory authority; and

(c) where no natural person is identified under subparagraph (a) and (b), the identity of the relevant person who holds the position of senior managing official.

(2) A reporting person shall keep records of the actions taken under paragraph (1) as well as any difficulties encountered during the verification process.”

(i) Legal Arrangement

“7. For customers that are legal arrangements, the reporting person shall identify and take reasonable measures to verify the identity of beneficial owners by obtaining information –

(a) for trusts, on the identity of the settlor, the trustee, the beneficiaries or class of beneficiaries, and where applicable, the protector or the enforcer, and any other natural person exercising ultimate effective control over the trust, including through a chain of control or ownership;

(b) For other types of legal arrangements, on the identity of the persons in equivalent or similar positions

2. Access to basic information on legal persons

2.1 Please describe the **process** for obtaining *basic information* on legal persons created or registered in your country, including the role of the company registry.

a. Registrar of Companies (“ROC”)

Basic information on legal persons is obtained from the Registrar of Companies (“ROC”), more specifically, from the Corporate and Business Registration Department (“CBRD”) which is a government office, falling under the aegis of the Ministry of Finance, Economic Planning and Development. The CBRD is the company registry in Mauritius.

One of the functions of the CBRD is to provide company information to the public. Such information can be obtained through the website of the CBRD or by making a formal request to the CBRD to obtain such information.

All Government Departments and Agencies (including Law Enforcement Agencies (“LEAs”)) have access to the details (directors, shareholders, secretary etc...) of the legal persons free of charge. Any other person may have access to such information upon payment of a nominal fee. The LEAs have access to basic information and general information on legal persons by way of a platform named “Info Highway process” where online information are obtained in a CBRD portal (restricted database).

The Registrar of Companies can also provide basic information on Foundations and Limited Liability Partnership ('LLPs') as these types of legal persons fall under its purview. For LPs/LLPS, any change in the registered particulars or general partner/limited partner should be notified within 21 days beginning on the date of the changes.

As per **Section 2 of the Foundations Act 2012**, ““Registrar” means the Registrar of Companies, appointed under the Companies Act, who shall also be the Registrar of Foundations;” By virtue of **Section 28 of the Foundations Act 2012**, the Registrar shall establish and maintain a register of Foundations and the Registrar shall maintain a record of every Foundation registered under this Act and all documents filed in relation to the Foundation.

LEAs can request information on Foundations and LLPs by making a formal request to the ROC.

a. Cooperative Societies

Basic information on Cooperative Societies is provided following a written request thro' email or letter made to the Registrar. Accurate and timely information is made available to appropriate authorities after approval of the Registrar. However, it is to be noted that a database is available at the Co-operatives Division for recording of basic information on co-operative societies.

b. Management Companies

Also, a Management company is empowered under **Section 190 (6) (a) of the Companies Act 2001** to “*authorise at least one officer, who shall be ordinarily resident in Mauritius, to provide, upon request by any competent authority, all basic information and beneficial ownership information of the company.*”

c. Registrar of Association (“ROA”)

Section 4(1) of the Registration of Association Act 1978 states that “*The Registrar shall keep a register in which shall be entered the particulars of every registered association.*”

LEAs can request information by making an official request to the Registrar of Association in order to:

- (i) inspect the Register of Associations and the Register of Trade Unions; and
- (ii) obtain a copy of the certificate of registration of an association, or a copy or extract of the annual return of an association/trade union and of any other document relating to the registration of an association/trade union, certified by the Registrar

d. Co-operatives

Basic information on Co-operatives can be obtained from the Registrar of Co-operative societies who shall be a public officer (**Section 3 of Co-operatives Act 2016**). LEAs can request

information by making an official request to the Registrar of Association.

e. The Financial Services Commission (“FSC”)

The Financial Services Commission (“FSC”) keeps documents in relation to basic information and details on legal persons as the FSC is the integrated regulator in Mauritius for the financial services sector (other than banking) and global business. Information on persons licensed by the Financial Services Commission (the “FSC” or the “Commission”) such as the name of licensee, date of licence/approval/authorization /registration and type of licence are publicly available on the FSC’s website.

- 2.2 Please list the **categories** of *basic information* on legal persons that is obtained and recorded by the company registry (or other relevant registries), e.g. name of entity, date of incorporation, tax ID number, etc.

REGISTRAR OF COMPANIES

Domestic Companies

- Name of entity
- Date of incorporation
- Name of Directors
- Name of Secretary
- Name of shareholders
- Registered address
- Business registration Number.
- Nature of Business
- Category- whether Private, Domestic, limited by shares
- Any change in Director, Shareholder or secretary
- Latest Financial Statements (if filed)

For Transfer of shares, any change in shareholders should be notified within 28 days from date of transfer.

Global Business Companies

The information publicly available:

- Name of company
- Address of registered office
- Address Management Company or registered agent
- Proof of incorporation
- Legal forms and status
- Basis of regulating powers
- List of directors

Limited Liability Partnership (“LLP”)

By virtue of **Section 5 of the Limited Liability Partnerships Act 2016**, “The Registrar of Limited Liability Partnerships shall be the Registrar of Companies appointed under the

Companies Act.”

Basic information would include the following:

- the name of the limited liability partnership,
- proof of registration,
- legal form and status,
- address of its registered office,
- basic regulating powers, including the partnership agreement,
- list of its managers;
- a register of its partners containing the names of the partners and their contribution to the limited liability partnership

Foundations

The register of Foundations shall contain a record of –

- the name of the Foundation;
- the address of the registered office of the Foundation;
- the name and address of the founder;
- the date of registration of the Foundation;
- the period, if any, for which the Foundation is established;
- the name and address of the secretary;
- the name and address of members of the Council; and
- such other matter as may be prescribed or otherwise considered appropriate by the Registrar

COOPERATIVE SOCIETIES

Categories of basic information available:

- Name of Co-operative Society
- Registration Number
- Date of Registration
- Address of the seat of society
- Objects of the society
- Class of society (Primary/secondary/tertiary)
- Name and address of Board of Directors

2.3 Is the company registry available publicly & online in your country? **YES** / NO

If **YES**, please provide links to the company registry and any other relevant registries of legal persons, or provide details about how the public can access them.

a. Corporate and Business Registration Department(CBRD)

Yes. The company registry for companies which is known as the CBRD in Mauritius is fully electronic and accessible online to all competent authorities and the public. The company registry, through the Mauritius Network Services, is accessible on the following link:

<https://onlinesearch.mns.mu/>

Basic Information on Foundations and Limited Liability Partnership can be obtained from the website of the CBRD on the aforesaid link.

b. Registrar of Association

Information from the Registrar of Association can be obtained from the following link and by way of official request: <https://labour.govmu.org/Pages/Registry-of-Associations.aspx>

c. Co-operatives

No registry, whether publicly or online is available for the co-operative societies.

d. The Financial Services Commission (“FSC”)

Information from the FSC can be obtained by making an official request.

3. Access to beneficial ownership information of legal persons

3.1 Through which mechanism(s) can competent authorities (such as law enforcement, police, financial intelligence unit and tax agencies) access *beneficial ownership information* on companies and other legal persons created or registered in your country. Please select all that apply.

- Through a registry/registries with beneficial ownership information
- Through a different mechanism
- Competent authorities do not currently have access to beneficial ownership information

If **REGISTRY**, please provide further details on such registry (ies) including:

- Authority- (ies)/agency (ies) responsible for obtaining and maintaining beneficial ownership information and for maintaining the register (ies). Please list if more than one;

a. The Registrar of Companies

LEAs can have access to beneficial ownership information through the CBRD portal of the Registrar of Companies where BO information has been filed with them (restricted access & double password protected). The Registrar for LLPS is also the Registrar of Companies where LEAs can have access to beneficial ownership information through the same portal.’

b. The Financial Services Commission

The Financial Services Commission (“FSC”) keeps documents in relation to the beneficial ownership information and details on beneficial ownership as the FSC is the integrated regulator in Mauritius for the financial services sector (other than banking) and global business.

LEAs can make official request to the FSC in relation to the beneficial ownership information and details on beneficial ownership for the financial services sector (other than banking) and global business.

c. Cooperative Societies

Adequate, accurate and up-to-date information on beneficial ownership can be obtained or accessed rapidly and efficiently to competent authorities upon request (letter/email) made to the Supervisory Authority (Registrar).

d. Registrar of Association

Beneficial Ownership information does not apply to registered associations and trade unions which fall under the purview of the Registrar of Associations. It is to be noted that there are no shareholdings (i.e no owners) in associations and trade unions and they cannot be controlled by one person.

- Types of legal entities covered within the scope of the beneficial ownership registry(ies), including any exempt entities;

The types of legal entities covered within the scope of the beneficial ownership registries are:

- (a) Legal persons which includes any entity other than a natural person and also includes a company, a foundation, an association, a limited liability partnership ; and
- (b) *legal arrangement* which includes *an express trust or any other similar arrangement*;

- Details of the registry's (ies') access policy:
 - Is the information on the registry (ies) available to the public? **YES / NO**
 - If **YES**, please include a link(s) to the registry (ies).
 - If **NO**, please list the authorities/agencies that have access to this information, or that can request access.

Registries with Beneficial Ownership information is not available to Public.

Competent authorities and LEAs have access/ or can request access for beneficial ownership.

The list of authorities/agencies that have access to this information, or that can request access is as follows:

1. The Independent Commission Against Corruption (“ICAC”);
2. The Mauritius Police Force;
3. The Mauritius Revenue Authority;
4. The Financial Intelligence Unit (“FIU”); and
5. The Asset Recovery Investigation Division;

- Does accessing beneficial ownership information in the registry (ies) entail any costs?

LEAs have access to such beneficial ownership information free of charge.

- Does the registry (ies) provide features to search information by different types of information, e.g. legal entity name, name of director, name of beneficial owner, by first or last name, by business address, by registered agent? Is it

possible to search for a combination of information (Boolean searches)?

Yes to LEAs only [through the Information Highway System [for basic information] and through the CBRD portal (restricted access & double password protected) - for BO Information].

It is not possible to search for a combination of information (Boolean searches).

- Frequency of updates of information and triggers for updates;

Registrar of Companies

The **Companies Act 2001** provides that the Registrar of Companies should be apprised of all changes in the share register within 14 days from the date on which any entry or alteration is made in the share register (**Section 91(3A) of the Companies Act 2001**).

Under section **41A(2) of the Limited Liability Partnership Act 2016**:

“Every limited liability partnership shall, within 14 days from the date on which an entry or alteration is made in the register of partners, file with the Registrar such entry or alteration.”

For Foundations, any change in membership of council should be notified within 7 days and any alteration in its charter should be notified to the Registrar (**section 17 of The Foundation Act 2012**).

FSC

Pursuant to FSC AML/CFT Code, FIAMLA and FIAML Regulations 2018, all financial institutions falling under the purview of the FSC are required to collect and maintain up-to-date information on beneficial ownership information relating to legal persons and legal arrangements.

All financial intuitions are required to seek prior approval of the FSC for any change in ownership of shares or any legal or beneficial interest in accordance with section 23 of the Financial Services Act 2007.

It is a statutory requirement under **section 29 (4) of the Financial Services Act 2007**, for every licensee to keep and maintain, at all times, a register of the beneficial owners of each of its customers. The implementation of these requirements are being monitored by the FSC as part its offsite and onsite monitoring.

- Any mechanisms to verify beneficial ownership information submitted to the registry (ies) by legal persons or their representatives (if they exist).

a. Registrar of Companies

The Registrar of Companies is empowered under the different legislations to obtain and maintain beneficial ownership information. The existing legal framework allows to capture beneficial ownership information by the Registrar of Companies not only at the time of incorporation or registration but also on an ongoing basis as and when new shares are issued or transferred. This has ensured that accurate and up-to-date information is captured in the Beneficial Ownership (BO) Register.

- **Section 15 (1) of the Companies Act 2001** provides:

“(1) For the purpose of ascertaining whether a company or an officer is complying with this Act or any subsidiary enactment made under this Act, the Registrar may, on giving 72 hours written notice to the company, call for the production of or inspect any book required to be kept by the company.”

Section 190 (6) (a) & (b) of the Companies Act states that a company shall authorise at least an officer to provide beneficial ownership information of the company and to notify the Registrar of Companies the name and particulars of the officer.

As per **section 91 (3A) (a) (i), (ii) & (c) of the Companies Act**, a company shall keep an updated record of the action taken to identify a beneficial owner or an ultimate beneficial owner and to lodge the information with the Registrar of Companies through Companies and Businesses Registration Integrated System or such other electronic system or in such other manner as the Registrar of Companies may approve.

Details on beneficial ownership is required to be disclosed:

- at the time of incorporation of a company
- at the time of registration of a foreign company
- at the time of registration by way of continuation of a company
- on filing of the annual return of the company
- in the case of a foreign company, on filing the financial statements of the company
- upon any change, including transfer, in the shareholding of a company
- at the time of an issue of shares.

The Registrar of Companies had set up an electric BO Register system in July 2020 which allows the sharing of beneficial ownership information with all Supervisors and Law Enforcement Agencies. The competent authorities have been granted a secured password providing real time access to the BO register.

The BO Register is accessible by competent authorities only and is not public.

Additionally, a monitoring mechanism has been set up by the Registrar of Companies in collaboration with Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) Supervisors in order to further ascertain the accuracy and reliability of the BO information. The FIs have an obligation to keep the BO register accurate and updated. DNFBPs supervisors verify the consistency of the BO information obtained from the FIs during onsite inspections with the records in the BO register of the Registrar of Companies. Any discrepancy or breach, as identified, are taken up by the concerned Supervisors for remediation and/or enforcement action.

- **Section 30 of the Foundations Act 2012** provides:

“(1) For the purposes of ascertaining whether a Foundation or an officer is complying with this Act, the Registrar may, on giving 7 days’ written notice to the Foundation, call for the production of, or inspect, any record required to be kept by the Foundation.

(2) This section shall also apply to a Foundation redomiciled in Mauritius in accordance with section 47.”

- **Section 6 of the Limited Liability Partnership Act 2016** provides:

“(1) For the purpose of ascertaining whether a limited liability partnership, a manager or a partner is complying with this Act, the Registrar may, on giving at least 3 days’ notice in writing to the limited liability partnership, call for the production of, or inspect, any book, record or other document required to be kept by the limited liability partnership.

(2) The Registrar may, by notice in writing and within such time as may be specified in the notice, require a limited liability partnership or any of its partners or its manager to produce any book, record or other document and to furnish any information relating to the accounting records referred to in section 41.”

b. Financial Services Commission

Section 43 of the Financial Services Act 2007 also allows the FSC to carry out onsite inspection at any time on the business premises of a licensee, or at such other place and at such time as the FSC may determine, and to audit its books and records to check whether the licensee is complying or has complied with the requirements of the Financial Intelligence and Anti-Money Laundering Act, the Prevention of Terrorism Act and any applicable enactment, or guidelines or the conditions of its licence, authorization or registration.

c. Co-operatives

Section 19(2) of the Co-operatives Act 2017 provides:

“The register shall be open to inspection subject to such conditions as the Registrar may determine.”

Input from FSC

The Registrar of Companies is empowered under the different legislations to obtain and maintain beneficial ownership information. The existing legal framework allows to capture beneficial ownership information by the Registrar of Companies not only at the time of incorporation or registration but also on an ongoing basis as and when new shares are issued or transferred. This has ensured that accurate and up-to-date information is captured in the Beneficial Ownership (BO) Register.

Pursuant to section 23(1)(c)(viii) of the Companies Act, an application for incorporation of a company shall be accompanied by a declaration regarding beneficial ownership.

Section 190 (6) (a) & (b) of the Companies Act states that a company shall authorise at least an officer to provide beneficial ownership information of the company and to notify the Registrar of Companies the name and particulars of the officer.

As per section 91 (3A) (a) (i), (ii) & (c) of the Companies Act, a company shall keep an updated record of the action taken to identify a beneficial owner or an ultimate beneficial owner and to lodge the information with the Registrar of Companies through Companies and Businesses 2

Registration Integrated System or such other electronic system or in such other manner as the Registrar of Companies may approve.

Details on beneficial ownership is required to be disclosed:-

- *at the time of incorporation of a company;*
- *at the time of registration of a foreign company;*
- *at the time of registration by way of continuation of a company;*
- *on filing of the annual return of the company;*
- *in the case of a foreign company, on filing the financial statements of the company;*
- *upon any change, including transfer, in the shareholding of a company;*
- *at the time of an issue of shares.*

The Registrar of Companies had set up an electric BO Register system in July 2020 which allows the sharing of beneficial ownership information with all Supervisors and Law Enforcement Agencies. The competent authorities have been granted a secured password providing real time access to the BO register.

The BO Register is accessible by competent authorities only and is not public.

Additionally, a monitoring mechanism has been set up by the Registrar of Companies in collaboration with Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) Supervisors in order to further ascertain the accuracy and reliability of the BO information. DNFBPs supervisors verify the consistency of the BO information obtained from the FIs during onsite inspections with the records in the BO register of the Registrar of Companies. Any discrepancy or breach, as identified, are taken up by the concerned Supervisors for remediation and/or enforcement action.

3.2 Please describe any other sources (mechanisms) through which competent authorities/agencies can access beneficial ownership information in your country. In each case, please describe how beneficial ownership information on companies and other legal entities is made available to authorities and/or the public (if applicable).

Examples may include through private-public partnerships (e.g. involving financial institutions, notaries and/or corporate service providers), through stock exchange or security exchange commission, or disclosure obligations for participation in public procurement processes, etc.

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Input from the Bank of Mauritius (“BOM”):

In December 2010, the Bank of Mauritius (BOM) issued Guidelines instructing its licensees to collect and keep on record beneficial owner information for all its customers, including legal entities and legal arrangements. The Guidelines also included the obligations to keep this information up to date. In January 2020, the BOM issued updated Guideline on AML/CFT which reinforce the earlier instructions based on the Financial Intelligence and Anti Money Laundering Act as amended in late 2018 and Financial Intelligence and Anti Money Laundering Regulations.

The said Guideline specifies that CDD information on the customer and the beneficial owner has to be kept up to date.

Identification and verification of beneficial ownership information, the availability of accurate and up-to-date beneficial ownership information in a timely manner and assessment of adequacy of sanctions screening procedures for beneficial ownership information are regular features of on-site AML/CFT inspections, including targeted/specific special AML/CFT examinations.

FIAML Regulation 14(3) also stipulates that a reporting person shall ensure that all CDD information and transaction records are kept in such a manner that they are swiftly made available to the FIU or any relevant regulatory body or supervisory authority upon request.

The BOM may share BO information with competent authorities under confidential cover to assist the authority in their investigation.

If competent authorities (other than the BOM) require the BO information for civil or criminal proceedings, a court order would be required to enable the licensee to disclose the information to the competent authority.

Input from FSC:

As per **section 16 of the Financial Services Act 2007 (the “FSA”)**, submission of information on beneficial owner forms part of the licensing criteria when an application is being submitted to the FSC for authorization. As per **section 23 of the FSA**, a licensee requires the approval of the FSC for a transfer of shares or legal or beneficial interest of more than 5 per cent and where there is a transfer of shares or legal or beneficial interest of less than 5 per cent in a licensee, the licensee shall notify the FSC of the transfer.

In addition, **section 29(4) of the FSA** requires licensees to keep and maintain at all times a register of the beneficial owner of each of its customers and to record such information as the FSC may determine. Under the FSA, a licensee shall submit beneficial ownership information at licensing stage and seek the prior approval of the Commission whenever there is any change in beneficial interest in the licensee post licensing.

Furthermore, by virtue of **section 42 of the FSA**, the Chief Executive of the FSC can request a licensee to furnish beneficial ownership information.

Furthermore, in accordance with **section 87(1) of the FSA**, the FSC can request and/or share with a supervisory body or any other public sector agency any information relevant to the administration of the relevant Acts for the purpose of discharging the functions of the FSC or of that body, including information on beneficial ownership.

These information can be obtained by making an official request to these competent authorities.

3.3 Are foreign legal persons, foreign (express) trusts or foreign legal arrangements allowed to operate in/own assets/ and/or register in your country? **YES / NO**

If **YES**, please provide a broad overview of your country’s system and mechanisms for obtaining beneficial ownership information on (express) trusts and other similar legal arrangements created or registered in your country.

Foreign Companies

All foreign companies which have a place of business or that are carrying on business in Mauritius must be registered with the Registrar of Companies, including foreign companies establishing or using a share transfer office or a share registration office in Mauritius or administering, managing, or dealing with property in Mauritius as an agent, or personal representative, or trustee, whether through its employees or an agent or in any other manner (**Section 273 and Section 274(a) of the Companies Act 2001**).

With regards to owning assets, foreign companies may do so, but subject to the provisions of the **Non-Citizen Property Restriction Act 2002**.

Foreign Trust

Under **Section 2 of the Trust Act 2001** “foreign trust” means a trust, the proper law of which is a law other than the law of Mauritius.”

Under **Section 60(2) of the Trust Act 2001**:

“(2) A foreign trust shall not be enforceable in Mauritius to the extent that—

(a) it purports to do anything which under the law of Mauritius is an offence;

(b) it confers or imposes any right or function, the exercise or discharge of which under the law of Mauritius is an offence;

(c) it is immoral or contrary to public policy; or

(d) it purports to apply directly to immovable property situated in Mauritius.”

Under section **60(2)(d) of the Trust Act 2001**, a foreign trust shall not be enforceable in Mauritius to the extent that it purports to apply directly to immovable property situated in Mauritius, unless prior approval is received from the Prime Minister’s office

- how is basic information on these arrangements recorded (if at all)?

Foreign Companies

Section 276 of the Companies Act 2001 reads as follows:

“(1) Every foreign company shall, within one month after it establishes a place of business or commences to carry on business in Mauritius, file with the Registrar-

(a) a duly authenticated copy of the certificate of its incorporation or registration in its place of incorporation or origin or a document of similar effect;

(b) a duly authenticated copy of its constitution, charter, statute or memorandum and articles or other instrument constituting or defining its constitution;

(c) a list of its directors containing similar particulars with respect to directors as are, by this Act¹, required to be contained in the register of the directors, managers and secretaries of a company;

(d) where the list includes directors resident in Mauritius who are members of the local Board of directors of the company, a memorandum duly executed by or on behalf of the foreign company stating the powers of the local directors;

(e) a memorandum of appointment of power of attorney under the seal of the foreign company or executed on its behalf, in such manner is to be binding on the company, stating the names and

¹ As per Companies (Prescribed Forms) (Amendment) Regulations 2006GN No. 151 of 2006 the particulars in the prescribed forms include: Full name, residential address, Citizen of Mauritius(yes/no), business occupation, other directorship(If there is other directorship, in any public company, or subsidiary of any public company, provide annexure, and if none, state so)

addresses of 2 or more persons resident in Mauritius, not including a company, authorized to accept on its behalf service of process and any notices required to be served on the company; (f) notice of the situation of its registered office in Mauritius and. Unless the office is open and accessible to the public during ordinary business hours on each day, other than Saturdays and public holidays, the days and hours during which it is open and accessible to the public; and (g) a declaration made by the authorized agents of the company.”

Foreign Trusts

A foreign trust is a trust set up abroad. Under section 60(2) of the Trust Act 2001, A foreign trust shall not be enforceable in Mauritius to the extent that—

- (a) it purports to do anything which under the law of Mauritius is an offence;
- (b) it confers or imposes any right or function, the exercise or discharge of which under the law of Mauritius is an offence;
- (c) it is immoral or contrary to public policy; or
- (d) it purports to apply directly to immovable property situated in Mauritius.

If the foreign trust is managed by a Qualified Trustee, then the basic information on the foreign trust as well as the beneficial ownership information will have to be recorded in line with the requirements of the FSA and the Financial Intelligence and Anti-Money Laundering Act 2002 (“FIAMLA”) – same obligations imposed on our licensees under the FSC will be applicable to Qualified Trustees and the same obligations imposed on Reporting Persons under the FIAMLA will be applicable to Qualified Trustees regarding record of basic and BO information.

It is to be noted that Qualified Trustees are licensees of the FSC and by virtue of the definition section of the Trust Act, a “qualified trustee” means a management company or such other person resident in Mauritius as may be authorised by the Commission to provide trusteeship services.

- how is beneficial ownership information on these arrangements recorded (if at all)? Please provide details of the relevant legislation and practices.

Under **Regulation 7(a) of the FIAML Regulations 2018**, a reporting person shall identify and take reasonable measures to verify the identity of beneficial owners by obtaining information in relation to trust, on the identity of the settlor, the trustee, the beneficiaries or class of beneficiaries, and where applicable, the protector or the enforcer, and any other natural person exercising ultimate effective control over the trust, including through a chain of control or ownership.

Under **Section 29(5) (a) of the Financial Services Act 2007**, *“Every qualified trustee shall keep and maintain, at all times, a register of any trust under its administration or trusteeship and record such information as the Commission may determine.”*

Input from the ROC:

Pursuant to section 23, 93 and 276 of the Companies Act, Beneficial Ownership Information for foreign legal persons are required at the time of the registration of the entity and any time there is a change thereto.

Input from FSC

Section 29(4) of the Financial Services Act provides that every licensee shall keep and maintain, at all times, a register of the beneficial owners of each of its customers and record

such information as the Commission may determine. This will be applicable to a Qualified Trustee administering a trust. This will in our view also include a foreign trust being administered by a Qualified Trustee.

ICAC is requested to liaise with the Corporate and Business Registration Department with respect to beneficial ownership information on foreign legal persons.

(i) **Other types of legal arrangements**

As regards the other types of legal arrangements, a reporting person shall identify and take reasonable measures to verify the identity of beneficial owners by obtaining information on the identity of the persons in equivalent or similar positions as the settlor, the trustee, the beneficiaries or class of beneficiaries, and where applicable, the protector or the enforcer, and any other natural person exercising ultimate effective control over the trust, including through a chain of control or ownership. (**Regulation 7(b) of the FIAML Regulations 2018**)

4. Access to basic information and beneficial ownership information of (express) trusts and other similar legal arrangements

4.1 Does your country recognize (express) trusts or other similar legal arrangements?
YES / NO

- If **YES**, please provide a broad overview of your country's system and mechanisms for obtaining beneficial ownership information on (express) trusts and other similar legal arrangements created or registered in your country.
- If **NO**, please skip to question 5

a. Trust

The beneficial owners of a trust include the settlor, the trustee, the beneficiary and where applicable, a protector or an enforcer, and any other natural person exercising ultimate effective control over the legal arrangement, including through a chain of control or ownership, by virtue of **Regulation 7 of the FIAML Regulations**.

A Qualified Trustee² is required to keep a register of the names and the last known address of each beneficiary and settlor of the trust under its administration. (**Section 29(5) (a) of the Financial Services Act 2007**)

Moreover, the **Financial Services Act 2007** places an obligation on every Qualified Trustee to keep and maintain, at all times, a register of beneficial owners, as well as, a register of any trust under its administration or trusteeship and record such information as the FSC may determine.

Law enforcement agencies ("LEAs") such as the ICAC may then upon request by way of official letter to the Financial services Commission (FSC) seek information with regards to the beneficial ownership information.

² is defined under the Trusts Act 2001 as a Management Company or such other person resident in Mauritius as may be authorised by the FSC to provide trusteeship services.

b. Waqf(a similar legal arrangement as a trust)

A Waqf is a permanent dedication by a person professing the Muslim faith of any property in order that the use of, or the income accruing from, the property may be devoted to any purpose recognized by Muslim Law as religious, pious or charitable. To form a Waqf, a deed must be drawn up by a notary and registered and remain in the custody of the Board of the Waqf.

By virtue of **Section 50(1) (c) of the Waqf Act 1941**, the Board of the Waqf shall keep a register of all waqfs.

The Board supervises the general administration, the finances of any Waqf property, keeps register of all waqfs and calls for information

4.2 How is *basic information* on (express) trusts and other legal arrangements obtained and recorded in your country?

Law enforcement agencies such as the ICAC may make a request by way of official letter to the FSC seeking information with regards to beneficial ownership information.

As regards the basic information on the waqf, LEAs can make an official request to the Board of the Waqf. The website is accessible on the following link: https://www.africanadvice.com/1018495/Companies_And_Businesses/Seychelles/Board_Of_Waqf_Commissioners/

4.3 How is *beneficial ownership information* on (express) trusts and other legal arrangements obtained and recorded in your country?

- Through a registry/registries with beneficial ownership information**
- Through a different mechanism
- Competent authorities do not currently have access to beneficial ownership information

If **REGISTRY**, please provide details on the registry(ies), authority(ies)/agency(ies) in charge of maintaining the registry(ies), type of information collected, and details on the access policy.

If **ALTERNATIVE MECHANISM**, please provide details on the mechanism, type of information collected, and details on the access policy.

a. Trust

“A Qualified Trustee is required to keep a register of the names and the last known address of each beneficiary and settlor of the trust under its administration. To further enhance transparency, the FSA has been amended to, inter alia, place an obligation on every Qualified Trustee to keep and maintain, at all times, a register of beneficial owners, as well as, a register of any trust under its administration or trusteeship and record such information as the FSC may determine. Such information shall be made available to the FSC upon request.”³

³Paragraph 4.1.6 of PRACTICE NOTES FOR QUALIFIED TRUSTEES AND MANAGEMENT COMPANIES WHEN PROVIDING CORPORATE TRUSTEESHIP SERVICES AND RECORDING BENEFICIAL OWNERSHIP INFORMATION, < <https://www.fscmauritius.org/media/54952/pn-publication.pdf>>

b. Waqf

As mentioned above, the Board of the Waqf should keep a register of all waqfs. As regards the basic information on the Waqf, LEAs can make an official request to the Board of the Waqf. The website is accessible on the following link: https://www.africanadvice.com/1018495/Companies_And_Businesses/Seychelles/Board_Of_Waqf_Commissioners/

5. Sanctions

5.1 Please describe the types of sanctions, sanctionable conduct, and targets of sanctions for non-compliance with beneficial ownership disclosure regulations (whether on the registry (ies) or through an alternative mechanism).

Section 19 of FIAMLA 2002 provides:

“(1) Any reporting person⁴, or any director, employee, agent or other legal representative of a reporting person who, knowingly or without reasonable excuse –

(a) fails to comply with section 17⁵, 17A⁶, 17B⁷, 17C⁸, 17D⁹, 17E¹⁰, 17F¹¹ or 17G¹²;

(b) destroys or removes any record, register or document which is required under this Act or any regulations; or

(c) facilitates or permits the performance under a false identity of any transaction falling within this Part,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10 million rupees and to imprisonment for a term not exceeding 5 years.

(2) Any person who - (a) falsifies, conceals, destroys or otherwise disposes of or causes or permits the falsification, concealment, destruction or disposal of any information, document or material which is or is likely to be relevant to a request to under the Mutual Assistance in Criminal and Related Matters Act 2003; or

(b) knowing or suspecting that an investigation into a money laundering offence has been or is about to be conducted, divulges that fact or other information to another person whereby the making or execution of a request to under the Mutual Assistance in Criminal and Related Matters Act 2003 is likely to be prejudiced,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.”

⁴ A reporting under section 2 of FIAMLA 2002 means a bank, financial institution, cash dealer or member of a relevant profession or occupation;”

⁵ Risk assessment

⁶ Policies, controls and procedures

⁷ Fictitious and anonymous accounts

⁸ Customer due diligence requirements

⁹ Third party reliance

¹⁰ Existing customers

¹¹ Record keeping

¹² Obligation to report currency transactions

A failure to keep beneficial ownership information entails the following sanction:

- a. Under the FIAMLR 2018: it is an offence punishable upon conviction with a fine not exceeding Rs 1Million and a term of imprisonment not exceeding 5 years;
- b. As per the Companies Act 2001 (Act), penalty is applicable where a company fails to comply with the Act, including BO information obligations, making the company and every director of the company to be liable for an offence and shall, on conviction, be liable to a fine not exceeding MUR 100,000; and

A failure to comply with **Section 91(3) of the Companies Act 2001** (Company to maintain share register which shall include details of shareholder and beneficial owners and the number of shares held by them) by Companies other than a small private company amounts to an offence and shall on conviction liable to a fine not exceeding 300,000 rupees.

5.2 Please describe the powers available to the designated authority (ies)/agency (ies) to enforce sanctions for non-compliance with the beneficial ownership disclosure requirements, **including any statistics on enforcement of such sanctions.**

Input from ROC:

Section 91 (3C) (a) of the Companies Act 2001, Section 39 (7) & (8) of the Limited Partnerships Act 2011, Section 41A (6) of the Limited Liability Partnerships Act 2016 and Section 36 (7) of the Foundation Act 2012 provides that should the relevant entity fails to comply with the requirement of the law regarding disclosure of the beneficial ownership information, it shall commit an offence and shall, on conviction, be liable to a fine not exceeding Rs 300,000.

Section 17F of The Financial Intelligence and Anti-Money Laundering Act 2002 requires that a reporting person (in this case the CSPs) shall maintain all books and records, including all documents evidencing the identity of beneficial owners.

Section 19 of FIAMLA provides any reporting person, or any director, employee, agent or other legal representative of a reporting person who, knowingly or without reasonable excuse fails to comply with **section 17, 17A, 17B, 17C, 17D, 17E, 17F or 17G** shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10 million rupees and to imprisonment for a term not exceeding 5 years.

Statistics:

Type of Entity	No of Compounding letters issued As at 31-Dec-2021	No of Compounding letter issued As at 31-May 2023	No of Entities which have complied As at 31-May-2023	% Compliance	Removed from Register
Companies	724	993	630	63%	10
Limited Partnerships	24	26	19	73%	7

Limited Liability Partnerships	7	7	6	86%	1
Foundations	84	197	186	94%	11
Total	839	1223	841	69%	29

Input from FSC:

The FIAMLA imposes the statutory obligation on its licensees to take reasonable measures to identify and verify the identity of the natural persons exerting ultimate control of a legal person or arrangement such that the licensees recognise the “controlling mind” of their clients.

The FSC is empowered to take a number of administrative sanctions as prescribed under **section 7(1)(c) of the FSA**, including the imposition of administrative penalty, for failure to comply with beneficial ownership disclosure requirements, which are intended to be effective, proportionate and dissuasive.

As per **section 18 of the FIAMLA**, supervisory authorities may take appropriate regulatory action in the event of non-compliance of the statutory provisions of the FIAMLA. Furthermore, as per **section 32A of the FIAMLA**, any person who contravenes the FIAMLA shall commit an offence and shall, on conviction, be liable, where no specific penalty is provided, to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

The sanctioning mechanism of the FSC clearly embeds both administrative and criminal sanctions and aims to drive up compliance with the legal requirements as well as increase the quality of beneficial owner data in order to prevent the misuse of legal persons for ML/TF by ensuring that legal persons are sufficiently transparent, in line with FATF recommendation 24 and its Interpretive Note.

From January 2022 to June 2023, the FSC has imposed administrative penalties on 3 licensees for failure to take reasonable measures to ascertain and verify the identity of its clients’ beneficial owners, amongst other ML/TF related deficiencies observed. The FSC also revoked the licence of a licensee which revealed, amongst other breaches, failure on the part of its management company to take reasonable measures to verify the identity of the licensee’s beneficial owner.

6. International Cooperation, asset recovery and challenges

- 6.1. Does your country make beneficial ownership information available to foreign competent authorities (directly or upon request)? Please provide details of the relevant legislative and regulatory framework in your country that allows for the international exchange of such information.

Yes.

- (i) The Financial Services Commission (“FSC”).

The FSC is the regulatory authority responsible for the regulation, supervision and inspection of all financial services other than banking institutions and global business in Mauritius. Management Companies are required to do the necessary filing with the FSC and the ROC pertaining to company details which includes details on beneficial owners.

As such, the FSC is empowered under the Financial Services Act 2007 (“FSA 2007”), more specifically, **sections 87(3) and 87(4)** to exchange and provide information to foreign competent authorities. Such information also relates to beneficial ownership information.

Section 87(3) of the FSA 2007 reads as follows:

“(3) The Commission may, in furtherance of its objects and functions, enter into any agreement or arrangement for the exchange of information with a public sector agency, a foreign supervisory institution, a law enforcement agency or an international organization, where the Commission is satisfied that the public sector agency, the foreign supervisory institution, the law enforcement agency or the international organization, as the case may be, has the capacity to protect the confidentiality of the information imparted, in case such a condition of confidentiality is imposed by the Commission.”

Section 87(4) of the FSA 2007 stipulates as follows: *“(4) Notwithstanding the Mutual Assistance in Criminal and Related Matters Act and any other enactment, any agreement or arrangement between the Commission and a foreign supervisory body may provide that the Commission shall provide such assistance to the foreign supervisory institution as may be required for the purposes of its regulatory and supervisory functions.”*

- (ii) The FIU is the central Mauritian agency for the request, receipt, analysis and dissemination of financial information regarding suspected proceeds of crime and alleged money laundering offences as well as the financing of any activities or transactions related to terrorism to relevant authorities.

The FIU is also empowered under Part V of the FIMALA 2002, more specifically, by virtue of sections 20 and 21 (1) to provide such information.

Part V of FIAMLA 2002 refers to the *“Provision and exchange of information in relation to money laundering and financial intelligence information”*.

Section 20 (Membership of international financial intelligence groups and provision of information to overseas financial intelligence units) of FIAMLA 2002 reads as follows:

“(1) The FIU shall be the only body in Mauritius which may seek recognition by any international group of overseas financial intelligence units which exchange financial intelligence information on the basis of reciprocity and mutual agreement.

(2) Where it becomes a member of any such international group as is referred to in subsection (1), the FIU may exchange information with other members of the group in accordance with the conditions for such exchanges established by the group.

(3) Without prejudice to subsections (1) and (2), where the FIU becomes aware of any information which may be relevant to the functions of any overseas financial intelligence unit, or comparable

body it may, offer to pass on that information to the overseas financial intelligence unit or comparable body on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(4) Subject to subsection (5), where a request for information is received from an overseas financial intelligence unit or comparable body, the FIU shall pass on any relevant information in its possession to the overseas financial intelligence unit or comparable body, on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(5) Where a request referred to in subsection (4) concerns information which has been provided to the FIU by a supervisory authority, a Ministry or other Government department or statutory body, the information shall not be passed on without the consent of that supervisory authority, Ministry, Government department or statutory body, as the case may be.”

Section 21 of FIAMLA 2002 (Provision of information by FIU to investigatory authorities, supervisory authorities, Counterterrorism Unit, Real Estate Agent Authority, Financial Reporting Council or Registrars) stipulates as follows:

“(1) where it becomes aware of any information, which-
(a) may be relevant to the functions of any of the supervisory authorities, the Counterterrorism Unit, the Real Estate Agent Authority, the Financial Reporting Council or Registrars; and
(b) does not of itself justify a dissemination to any of the investigatory authorities under section 13, the FIU may, by itself or at the request of the supervisory authorities the Counterterrorism Unit, the Real Estate Authority or the Financial Reporting Council or Registrars, subject to subsection (4), pass on the information to the relevant supervisory authority the Counterterrorism Unit the Real Estate Agent Authority, the Financial Reporting Council or Registrar.”

Input from FIU:

The Financial Intelligence Anti-Money Laundering Regulations 2018 (FIAML Regulations 2018) spells out the obligations of a reporting person in terms of beneficial ownership information:

A reporting person, i.e a bank, financial institution, cash dealer or member of a relevant profession or occupation, shall identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner, using relevant information or data obtained from reliable sources such that the reporting person is satisfied that he knows who the beneficial owner is.

In addition, the Financial Intelligence Anti-Money Laundering Act (FIAMLA) 2002 requires that all records obtained through CDD measures evidencing the identity and records of beneficial owners shall be maintained for a period of not less than 7 years.

In terms of the availability of beneficial ownership to foreign competent authorities, the information is not publicly available. Such information is only provided under request to the Corporate and Business Registration Department (CBRD).

The Financial Intelligence Unit Mauritius is able to access remotely the beneficial ownership information from the database of CBRD and it is also empowered to exchange such information under the part V of The Financial Intelligence and Anti-Money Laundering Act 2002:

PART V - PROVISION AND EXCHANGE OF INFORMATION IN RELATION TO MONEY LAUNDERING AND FINANCIAL INTELLIGENCE INFORMATION

20. Membership of international financial intelligence groups and provision of information to overseas financial intelligence units

(1) The FIU shall be the only body in Mauritius which may seek recognition by any international group of overseas financial intelligence units which exchange financial intelligence information on the basis of reciprocity and mutual agreement.

(2) Where it becomes a member of any such international group as is referred to in subsection (1), the FIU may exchange information with other members of the group in accordance with the conditions for such exchanges established by the group.

(3) Without prejudice to subsections (1) and (2), where the FIU becomes aware of any information which may be relevant to the functions of any overseas financial intelligence unit, or comparable body it may, offer to pass on that information to the overseas financial intelligence unit or comparable body on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(4) Subject to subsection (5), where a request for information is received from an overseas financial intelligence unit or comparable body, the FIU shall pass on any relevant information in its possession to the overseas financial intelligence unit or comparable body, on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(5) Where a request referred to in subsection (4) concerns information which has been provided to the FIU by a supervisory authority, a Ministry or other Government department or statutory body, the information shall not be passed on without the consent of that supervisory authority, Ministry, Government department or statutory body, as the case may be.

Input from FSC

Yes.

- (i) The Financial Services Commission ("FSC")

The FSC is the regulatory authority responsible for the regulation, supervision and inspection of all financial services other than banking institutions and global business in Mauritius. Management Companies are required to do the necessary filing with the FSC and the ROC pertaining to company details which includes details on beneficial owners.

*As such, the FSC is empowered under the Financial Services Act 2007 ("FSA 2007"), more specifically, **sections 87(3) and 87(4)** to exchange and provide information to foreign competent authorities. Such information also relates to beneficial ownership information.*

Section 87(3) of the FSA 2007 reads as follows:

"(3) The Commission may, in furtherance of its objects and functions, enter into any agreement or arrangement for the exchange of information with a public sector agency, a foreign supervisory institution, a law enforcement agency or an international organization, where the Commission is satisfied that the public sector agency, the foreign supervisory institution, the law enforcement agency or the international organization, as the case may be, has the capacity to 4

protect the confidentiality of the information imparted, in case such a condition of confidentiality is imposed by the Commission."

Section 87(4) of the FSA 2007 stipulates as follows: *"(4) Notwithstanding the Mutual Assistance in Criminal and Related Matters Act and any other enactment, any agreement or arrangement*

between the Commission and a foreign supervisory body may provide that the Commission shall provide such assistance to the foreign supervisory institution as may be required for the purposes of its regulatory and supervisory functions.”

(iii) The Mutual Assistance in Criminal and Related Matters Act 2003

By virtue of **Section 5 of The Mutual Assistance in Criminal and Related Matters Act 2003 (“MACRMA”)**, a foreign state¹³ may make a request to Mauritius to obtain information in relation to a serious offence, make a request for assistance to the Central Authority¹⁴ in any proceedings commenced in the foreign State.

Such a request may relate to any matter referred to in section 4 (2). The request for “information” falls under section 4(2). Such information also encompass beneficial ownership information.

- 6.2. Please describe how foreign competent authorities may request or access beneficial ownership information on legal persons and legal arrangements formed in your country. Which agency (ies)/authority (ies) is/are responsible for receiving and responding to foreign requests? **Please provide contact information and instructions.**

The Attorney General’s Office is the competent authority for receiving Mutual Legal Assistance requests which require BO information from foreign competent authorities (the formal channel) . The database at the AGO keeps records of all the requests (incoming and outgoing) which pertain BO information. However, most of the information are already provided by the requesting country when the requests are made. In other cases, the AGO writes to the relevant Banks or the ROC for more details about BO information.

STEPS FOR MLA REQUEST

STEP 1: CONSIDER IF INFORMATION OR EVIDENCE CAN BE OBTAINED BY INFORMAL CHANNELS

Central Authorities should consider seeking informal (agency-to-agency or police-to-police) assistance before making a formal mutual legal assistance request as information can be provided more quickly.

Mauritian authorities may be able to provide the following types of informal assistance: taking voluntary witness statements, conducting voluntary witness interviews, sharing intelligence, obtaining criminal records and obtaining publicly available material.

STEP 2: CONSULT WITH THE CENTRAL AUTHORITY BEFORE SUBMITTING THE REQUEST

¹³ “foreign State” – means a State other than Mauritius, and every constituent part of such State, including a territory, dependency, protectorate, which administers its own laws relating to international co-operation; and includes a foreign Government or international organization with which Mauritius has entered into an agreement under the Piracy and Maritime Violence Act 2011;

¹⁴ “Central Authority” means the Attorney-General, who shall, for the purposes of a request from a foreign State or an international criminal tribunal, or a request from Mauritius to a foreign State or an international criminal tribunal, be the appropriate competent authority;

Central Authorities should contact their Mauritian counterpart prior making a request for mutual legal assistance especially in serious cases in order to ensure that the assistance sought is available under MACRMA and whether the request will meet Mauritius' legal requirements.

STEP 3: ENSURE THE REQUEST IS PROPORTIONATE

A MLA request should be proportionate to the level of crime being investigated.

If significant resources will be required to execute a request and the offence being investigated is very minor, the request may be given low priority due to limited resources available to Mauritian Authorities.

STEP 4: INDICATE ON WHICH BASIS THE REQUEST IS MADE

A MLA request should clearly identify the treaty, convention (UNCAC, UNTOC, OECD Anti-Bribery Convention, other) or any other avenue of cooperation in seeking assistance from Mauritius.

STEP 5: IDENTITY THE AUTHORITY CONDUCTING THE INVESTIGATION OR PROSECUTION

A MLA request should clearly indicate which authority in its country is conducting the investigation and/or prosecution.

STEP 6: SUMMARISE THE CASE

A MLA request should provide a summary of the facts giving rise to the request and a description of the offences charged or under investigation.

The connection between evidence requested and the facts of the case as detailed in the request and connection to Mauritius must be clearly established.

It is not sufficient to simply state that the material is relevant to the case - requesting authorities must specify how the assistance is relevant and will advance their case.

Details should also be given of:

- the person or persons (including legal) named in the request including, where available, address, date of birth and nationality;
- the location of a company / person evidence is needed from;
- the name of the suspect and what they are being charged with, and
- in requests where a person needs to be visited, state whether they are a witness or a suspect.

STEP 7: SET OUT THE APPLICABLE LEGAL PROVISIONS

A MLA request should include the full text of all relevant offence and penalty provisions related to the investigation and/or prosecution, including applicable penalties.

STEP 8: IDENTIFY THE ASSISTANCE BEING SOUGHT

A MLA request should set out in specific terms, exactly what assistance is being sought from Mauritius and any particular requirements that must be met (for example, certification/authentication needs).

STEP 9: IDENTIFY THE URGENCY IN THE EXECUTION OF

The request should expressly identify any time period within which the assistance is sought and the reason for this time constraint (such as a pending court proceeding or a time-sensitive investigation).

If there is a statutory limitation period on the prosecution of the offence, the relevant dates should be provided.

STEP 10: HIGHLIGHT ANY SPECIFIC CONFIDENTIALITY REQUIREMENTS

Under MACRMA, the existence and nature of requests for assistance are subject to confidentiality except to the extent necessary to execute the request.

If the case is particularly sensitive, the need and reasons for confidentiality should be expressly set out in the request.

The contact details of the Attorney General's office are:

1. RAMLOLL Rajeshsharma, S.C,
Solicitor-General
Head of MLA and Extradition Unit
Email: rramloll@govmu.org
2. NIRSIMLOO Verna (Miss)
Chief State Attorney
Email: vnirsimloo@govmu.org

Attorney-General's Office
3rd floor, R.Seeneevassen Building
Port Louis,
Republic of Mauritius
Phone + 230 203 4740
Fax + 230 201 0250

- 6.3. In your opinion, what are the main challenges faced by *foreign competent authorities* to access beneficial ownership information held in your country?

Input from FIU:

The main challenges faced by foreign competent authorities to access beneficial ownership information held in Mauritius are described as below:

1. Access to BO information – FIU has access to Mauritius BO Registry on legal persons, however access to BO registry on legal arrangements is not available.
2. Scope of Legal Framework – For Mauritius, the scope of the legal framework does not cover all legal persons. For example, all legal persons are required to disclose BO information except société and associations.

Input from AGO:

Information on Beneficial ownership is not available on public domain therefore an application has to be made by way of MLA requests.

Input from ROC:

The FIU is already connected to the Beneficial Ownership Register kept by the CBRD and this information is shared with their international counterparts for any inquiry or investigation.

Moreover such information is shared officially via Mutual Legal Assistance cases through the Attorney General's Office. Whereas the National Sanctions Secretariat publishes on its website the names of designated persons for reference purposes and any positive or negative match has to be reported.

However the beneficial ownership register is still not a public register but can be made available upon request by the company, the beneficial owner himself or by virtue of a Court Order.

The main challenges faced by foreign competent authorities still remain the availability of timely and accurate information, as this depends on the reporting of discrepancies by other regulatory, supervisory, and law enforcement bodies.

Input from FSC:

The FSC, as an institution which promotes, inter alia, good governance, transparency of financial institutions, collaborates promptly with foreign regulators when in receipt of properly made requests.

- 6.4. In your opinion, what are the main challenges faced by *competent authorities of your country* to access/receive beneficial ownership information held in a foreign country?

The main challenges faced by competent authorities in Mauritius to access/retrieve beneficial ownership information held in a foreign country are as follows:

- a. Relying on international cooperation requests to access beneficial ownership information takes a significant amount of time and as such, causes considerable delay.
- b. Investigations can further be hampered by extensive time delays, especially in cases where it is necessary to obtain a court order to access the necessary information from the foreign country.
- c. Authorities rely largely on financial institutions to supply beneficial ownership information — this may be incomplete and inaccurate, ultimately thwarting efforts to track down criminals.
- d. Difficulty in determining the accuracy of UBO details and timely access by authorities of the UBO information,

- e. Existence of bearer share and nominee shareholder arrangement obscuring the actual UBO details,
- f. A lack of regulatory enforcement on licensees that fails to identify UBOs, and the legal complexities in sharing information across jurisdictions.
- g. UBO information in foreign jurisdictions can be accessed from public registries where such arrangements are in place. However, in the absence of public registries, commercial databases may not be easily accessible or affordable.

Input from FSC:

International Cooperation and Information Exchange between countries are essential for obtain beneficial ownership related information held in another jurisdiction. The absence of mutual legal assistance agreements, information sharing mechanism or lack of cooperation from authorities in the country where the information is held can create obstacles in accessing/receiving relevant information. Confidentiality clauses in the information sharing agreements may also impede sharing of information. In view of these aforementioned challenges in accessing beneficial ownership information held in a foreign country, this may impede on the due diligence exercise conducted by the FSC at the time of licensing/authorization, thus leaving the first filter vulnerable.

Input from FIU:

FIU Mauritius makes requests through the respective overseas Financial Intelligence Unit.

Input from AGO:

Information on Beneficial ownership is not available on public domain therefore an application has to be made by way of MLA requests.

Input from the Mauritius Police Force (“MPF”):

Challenges:

1. Legal and Jurisdictional Barriers:

One of the primary challenges is navigating different legal frameworks and jurisdictional barriers between countries. Each country may have its own laws and regulations regarding data privacy, financial secrecy, and information sharing, which can hinder the seamless exchange of beneficial ownership information.

2. Data Protection and Privacy:

Many countries have stringent data protection and privacy laws that govern the sharing of personal information. Sharing beneficial ownership details could be restricted due to concerns about maintaining data confidentiality and preventing misuse.

3. Lack of centralised B.O Registers:

Some countries may not have centralized beneficial ownership registries, or if they do, the quality and accuracy of the data may vary. In the absence of reliable central databases, obtaining accurate and up-to-date information becomes challenging.

4. Limited information sharing agreement:

The willingness of a foreign country to cooperate and share beneficial ownership information is essential. In some cases, lack of bilateral agreements or information-sharing treaties can hinder the exchange of data.

5. Complex Structures and Offshore entities:

Entities may create complex corporate structures involving multiple jurisdictions and offshore entities to obscure the true beneficial owners. Identifying the ultimate beneficial owners in such cases can be a daunting task.

6. Resource Constraints:

Competent authorities may face resource limitations, including financial, technical, and human resources, which can impede their ability to conduct thorough investigations and request information from foreign counterparts.

- 6.5. Do you have any case studies or examples where the transparency of beneficial ownership has *enabled or enhanced the effective recovery and return of proceeds of crime in (or for) your country?*

Input from AGO:

No case study or example is available. Kindly note that the Competent Authority gets the requests through MLA and the details are sent to the requesting country. The Competent Authority will not necessarily have the outcome of the case.

7. Good Practices for Beneficial Ownership Transparency

- 7.1. Has your country implemented any specific good practices relating to Beneficial Ownership Transparency that you wish to highlight? *Examples could include good practices in verification, data format, searchability, use of technology, enforcement of sanctions, automatic red flagging, use or risk-based approach.*

Yes, Mauritius has started to adopt good practices relating to Beneficial Ownership Transparency as follows:

1. While players in the industry were ensuring UBO information was obtained during onboarding as part of Customer Due Diligence requirements, to show its further commitment, in 2020 the Companies Act 2001 was amended to require that UBO full name and address at incorporation be submitted to the Registrar of Companies which is the gatekeeper of UBO information for a registry approach to be properly implemented.
2. Further licensees are to ensure that share registers of companies have the details of the UBO in cases where shares are held by nominees and, more importantly, UBO information are to

be kept updated.

3. The Financial Intelligence and Anti-Money Laundering Act (FIAMLA) also requires that UBOs be identified and verified.
4. Mauritian licensees can expect to onsite and offsite monitoring to demonstrate that UBOS have been properly ascertained and verified.
5. The dynamics of regulatory supervision have changed. Co-operation among local regulators and enforcement authorities provides the possibility to verify accuracy of filing, resulting in discrepancies flagging licensees or even fines. Cross-verifying of information during onsite visits at different financial institutions also add to the credibility of the Mauritian authorities.
6. Access to mutual assistance and co-operation in the sharing of information across jurisdictions is an added measure to ensure actual UBOs are identified in cases of suspicion.
7. The sharing of information among tax authorities and automatic exchange of information provisions, also implies that transparency on actual owners gains further momentum with no room for obscuring actual UBOs.
8. This re-enforcement from the FATF together with the international trend in the disclosure of UBOs, shows the commitment of Mauritius to move into a safer AML/CFT group of jurisdictions by further changing its regulations, implementing the registry approach, enhanced supervision by regulators and scrutiny around the process of identification of UBO disclosures at the licensee level.
9. On the international scene, Mauritius has the obligation to ensure FATF measures are in place. Locally, it is expected that the continuing heightened efforts of Mauritian players to ensure and demonstrate robust AML/CFT will be recognized and that the jurisdiction will soon move into a white listing zone.

Input from ROC:

The Registrar of Companies (“ROC”) has adopted a multi-pronged approach to ensure more effectiveness in obtaining accurate and updated information on beneficial ownership through three main mechanisms namely the Registry Approach, the Company Approach and the Existing Information Approach.

Input from AGO:

As per the rating of the FATF, it should be noted that Mauritius is rated as compliant for recommendation 33 and largely compliant for recommendation 34.

Input from FSC:

The requirements for reporting persons to collect and maintain up-to-date information on beneficial ownership information relating to legal persons and legal arrangements are set out under **Regulations 3, 6 and 7 of the Financial Intelligence and Anti-Money Laundering (FIAML) Regulations** respectively. Financial institutions and DNFBPs are required to collect BO information on all their customers at the onboarding stage. This information is also reviewed

and updated, as part of the ongoing monitoring of KYC/CDD which includes an assessment of beneficial owners, depending on the risk profile of the customer, e.g., on an annual basis for high-risk customers or such higher frequency as determined by the policy of the FIs/DNFBPs. Further, FIs/DNFBPs would as part of its market intelligence update the information as and when it comes across any information that warrants a review. However, irrespective of the risk profile of the customer, the latter is also required to provide the financial institution/DNFBP with up-to-date BO information whenever there is a change thereto. The implementation of these requirements by financial institutions is being monitored by the respective Supervisors.

The FSC, as the AML/CFT Supervisors of the Non-Bank Financial Institutions, conducts offsite monitoring and onsite inspections as per its AML/CFT RBS Framework.

During onsite inspection, the FSC verifies whether the FI has taken reasonable measures to identify and verify the identity of the natural persons exerting ultimate control of a legal person or arrangement such that the FI is satisfied it understands the “controlling mind” of the client. The FSC will also verify as to whether the identified beneficial owners’ ownership status has been confirmed using the share register, by a lawyer/accountant/trust and company service provider, or through a public beneficial ownership registry, other through some other mechanism.

Additionally, during offsite reviews, verification is done as to whether the FI has up to date information on its beneficial owners on its records in line with the FIAML Regulations and also verify, in cases where senior managing officials have been designated as beneficial owners, whether necessary measures have been undertaken by the FI to identify and verify its beneficial owners prior to designating an official.

With regards to sanctions, the relevant legislations governing the various entities enable the regulatory bodies to impose appropriate sanctions for failure to maintain and disclose BO information.

Section 18 of the FIAMLA enable supervisors to impose regulatory actions on any financial institution under its purview which has failed to comply with any requirement imposed under the FIAMLA and the FIAML Regulations.

In addition, **section 17F of the FIAMLA** requires that a reporting person (in this case the Corporate Service Providers) shall maintain all books and records, including all documents evidencing the identity of beneficial owners while **section 19 of FIAMLA** provides that any reporting person, or any director, employee, agent or other legal representative of a reporting person who, knowingly or without reasonable excuse fails to comply with **section 17F** shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10 million rupees and to imprisonment for a term not exceeding 5 years. It should be noted that “Reporting Person”, as per the FIAMLA, means a bank, financial institution, cash dealer or member of a relevant profession or occupation.

Moreover, section 91 (3C) (a) of the Companies Act, section 39 (7) & (8) of the Limited Partnerships Act 2011, section 41A (6) of the Limited Liability Partnerships Act 2016 and section 36 (7) of the Foundation Act 2012 provides that should the relevant entity fails to comply with the requirement of the law regarding disclosure of the beneficial ownership information, it shall commit an offence and shall, on conviction, be liable to a fine not exceeding Rs 300,000. For small private company which falls under section 329 of the Companies Act, the fine does not exceed Rs 100,000.

The Registrar of Companies has also issued a Practice Direction in March 2020 to inform stakeholders of their obligations in law relating to Beneficial Owners. To ensure compliance, reports are generated on a regular basis and reminders are issued to those non-compliant

companies which have indicated that they have beneficial owners on the Register but have not disclosed such information.

It should be noted that the sanction process at the Registrar of Companies for failure to keep and disclose BO information consists of 4 steps:

- The entities are first issued a reminder requesting them to disclose the BO information.
- If no disclosure has been made, then compounding letters are issued.
- If there is no response yet, a 1st Notice of removal is issued for failure to disclose the BO information.
- Finally, if no disclosure is made despite the issue of the 1st Notice of removal from the register, then the entity is removed from the register which means it will not be able to operate.

The FSC also applies administrative sanctions for failure by its licensee to keep beneficial ownership information. Where a licensee, including a global business company, is unable to comply with the relevant CDD measures for Beneficial Owners, he shall be in breach of the FSA, FIAMLA and FIAML Regulations and he shall:

- not open the account, commence the business relationship or perform a transaction; or
- terminate the business relationship; and
- in relation to the customer, file a suspicious transaction report under section 14 of the FIAMLA.

Where a licensee fails to comply with the above, the FSC is empowered to take administrative sanctions as prescribed under section 7 (1) (c) (v) of the FSA.

8. Follow-up to the special session of the General Assembly against corruption

- 8.1. Please describe any other measures, if any, that your country may have taken to implement paragraph 16¹ of the political declaration adopted by the General Assembly at its special session against corruption held in June 2021.

Paragraph 16 reads as follows: *“16. We commit to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate, reliable and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems and using as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering. To this end, we will develop and implement the measures necessary to collect and share such information on the beneficial ownership of companies, legal structures and other complex legal mechanisms, and we will enhance the ability of competent authorities in this regard.”*

Mauritius is compliant with Paragraph 16 of the political declaration adopted by the General Assembly at its special session against corruption held in June 2021.

Input from ROC:

Mauritius has taken appropriate measures by amending relevant legislations to ensure beneficial ownership transparency.

1. A multi-pronged approach has been adopted as follows:

i). The Registry Approach

The ROC is required to keep a central registry for BO information for all types of legal persons and is also empowered as per above-mentioned legislations to obtain all basic and BO information at the time of incorporation and registration of entities and in case of any change in particulars. The information obtained is updated into the BO register.

ii). The Company Approach

Through the company approach, entities are required to take reasonable measures to obtain and keep updated BO information. This information should be made available upon request of competent authorities as provided for under Section 190 (6) of the Companies Act 2001, Section 36 of the Foundations Act; Section 25 of the Limited Liability Partnerships Act and Section 38 of the Limited Partnerships Act

iii). The Existing Information Approach.

The existing information includes:

- (i) information obtained by financial institutions and/or DNFBPs: and
- (ii) information held by other competent authorities on the legal and beneficial ownership of companies; (e.g. Company registries, tax authorities or other regulators).

Financial Institutions and DNFBPs are required to obtain and keep the BO information of their customers under Financial Intelligence Anti Money Laundering Act 2002 and Financial Intelligence Anti Money Laundering Regulations 2018.

2. Sufficient and adequate information such as name, nationality, citizenship, identification document number, ownership percentage if any, category of beneficial owner as defined in Section 2 of Companies Act 2001.

The verification framework comprises of

- (i.) off-site monitoring;
- (ii.) on-site inspection; and
- (iii.) thematic review.

(i.) Ongoing Off-site monitoring

Off-site monitoring entails the reviewing and analysing of preliminary in-house available information for all legal entities comprising of, inter alia, their structure, size, activities and characteristic of the beneficial owner.

(ii.) On-site Inspection

Based on the outcome of the off-site risk evaluation, an inspection plan was designed to carry out an on-site inspection with the following objectives:

- i. Accessing compliance with Companies Act 2001;
- ii. Maintenance of Statutory Records; and
- iii. Verifying of the accuracy of the Beneficial Ownership Information as disclosed to the ROC.

The main criteria used to assess the risk associated with a legal entity are based on its annual

turnover, years of operation, structure of the entities, compounding offences, shareholding structure, citizenship of the beneficial owner as well as whether the activities of the entities are being supervised or monitored by another competent authority.

(iii.) Thematic Review

Thematic review is as an integral part of the ROC's supervisory and risk management approach. Thematic reviews is usually undertaken on areas of deficiencies identified during inspections, based on information received from other competent authorities as well as information from other sources including media and complaints.

Two thematic reviews have been conducted so far. One on PEPs and the other one on a number of companies involved in fraudulent activities.

To ensure competent authorities have access to beneficial ownership information, different legislations have been amended to the effect that a company shall authorise an officer to provide basic and beneficial ownership information of the company upon request as per Section 190 (6).

A fine not exceeding Rs.300,000 is applicable in case of non-compliance with the disclosure requirements.

The attorney general office in Mauritius has procedures in place to ensure effective international exchange of beneficial ownership information.

Input from FSC:

Mauritius was initially rated Non-Compliant in its Mutual Evaluation Report (MER) in July 2018 for FATF Recommendation 24. Since then, Mauritius has taken measures to address the technical compliance deficiencies identified in its MER and was re-rated largely compliant with FATF Recommendation 24 in September 2021.

Mauritius had previously set up a Technical Working Group comprising of representatives from the FSC, Bank of Mauritius, Financial Intelligence Unit, Registrar of Companies, Registrar of Associations, Registrar of Cooperatives and the Ministry of Financial Services and Good Governance to conduct an assessment of the vulnerabilities and the extent to which legal persons that can be formed or registered in Mauritius can be or are misused for ML.

In line with the above, Mauritius is now reviewing the ML risk assessment of legal persons based on the newly developed World Bank Methodology on Risk Assessment of Legal Persons, Legal Arrangements, and Beneficial Ownership-related Risks. An assessment of the TF risks associated with Legal Persons will also be conducted in line with criterion 24.2 of FATF Recommendation 24.

Moreover, under section 6(k) of the FSA, the FSC can enter into an agreement or arrangement for the exchange of information with a foreign supervisory institution. The FSC can also disclose information under section 87(3) of the FSA to foreign supervisory institutions as may be required for the purposes of its regulatory and supervisory functions.

Notwithstanding the above, the FSC has signed various MMOUs (IAIS, IOSCO, SADC, CISNA and GIFCS amongst others) and MoUs which provides for the exchange of information including sharing of information on beneficial ownership.

Input from AGO:

Legislative amendments in relation to Beneficial Ownership Information have been proposed and are being considered in the AML/CFT (Miscellaneous provisions).