

EXPLANATORY NOTES TO NOTICE ON CAYMAN ISLANDS BENEFICIAL OWNERSHIP REGISTERS

What does the Legal Person need to do?

Step 1 – Read the Notice and these Explanatory Notes.

- Step 2 –*
- (1) If the legal person is a s12(1)(a) – (d) Legal Person, submit prescribed details to Portcullis using Form D.*
 - (2) If the legal person is a Relevant Legal Person:*
 - (a) read Section A of these Explanatory Notes to identify its “Registrable Beneficial Owner(s)”;*
 - (b) give notices to*
 - i. individuals it identified as its “beneficial owners”;*
 - ii. its reportable legal entity; and*
 - iii. persons it knows or reasonably believes are its registrable “Registrable Beneficial Owners”;* and
 - (c) Submit prescribed details of all its Registrable Beneficial Owners to Portcullis.*

As Relevant – Submit a Relevant Change to any of its Registrable Beneficial Owners or their respective prescribed details to Portcullis on a timely basis – see Section B.

SECTION A: DEFINITIONS OF TERMS USED IN NOTICE:

I. Legal Person

A “**legal person**” means the following types of entities incorporated, formed or established under the laws of the Cayman Islands:

- (a) a company;
- (b) a limited liability company;
- (c) a limited liability partnership;
- (d) a limited partnership;
- (e) a foundation company;
- (f) an exempted limited partnership; or
- (g) any other legal person that may be prescribed in regulations in the Cayman Islands.

II. s12(1)(a) – (d) Legal Person

A legal person is a **s12(1)(a) – (d) Legal Person** if it is

- (a) listed, or is a subsidiary¹ of a listed entity, on the Cayman Islands Stock Exchange or an approved stock exchange (see Annex to Explanatory Notes) (a “**s12(1)(a) Legal Person**”);
- (b) licenced under a regulatory law in the Cayman Islands (a “**s12(1)(b) Legal Person**”);

¹ a legal person is a subsidiary of a listed entity if —

- (a) the listed entity holds seventy-five per cent or more of the shares or voting rights in the subsidiary legal person;
- (b) the listed entity exercises ultimate effective control over the subsidiary legal person; or
- (c) the listed entity controls the subsidiary legal person by other means.

- (c) a fund registered under the Private Funds Act (2021 Revision) or the Mutual Funds Act (2021 Revision) (a “**s12(1)(c) Legal Person**”);
- (d) exempted by the Cabinet by virtue of the BOTA (a “**s12(1)(d) Legal Person**”).

As of now, no exemptions have been granted by Cabinet for s12(1)(d).

III. **s12(1)(e) Legal Person or Relevant Legal Person**

A s12(1)(e) Legal Person or Relevant Legal Person is a legal person which does not fall within the definition of a s12(1)(a)-(d) Legal Person.

IV. **Registrable Beneficial Owner (“Registrable BO”)**

The following are registrable beneficial owners in relation to a legal person –

- (a) an individual that the legal person identifies as a **beneficial owner** of the legal person; or
- (b) a **reportable legal entity** identified by the legal person –
 - (i) that directly holds a **relevant interest**² in the legal person or meets one or more of the specified conditions; or
 - (ii) through which any beneficial owner or reportable legal entity indirectly holds a relevant interest³ in the legal person.

See Section V below on how to identify persons as “beneficial owner” of a Legal Person

V. **Persons identified as “Beneficial Owner” of a Legal Person**

The categories of beneficial owner(s) of a legal person are

- A. an individual that is a “**beneficial owner**” of the Legal Person;
- B. a “**reportable legal entity**” of the Legal Person);
- C. a “**trustees of a trust referred to in s4(3) of the BOTA**”;
- D. a “**senior managing official**” where there is no one meeting the definition of a beneficial owner; and
- E. legal persons which are considered individual and **Deemed Beneficial Owners** or DBOs for purposes of the BOTA.

We set out below the criteria to be met for a person to fall within each of the above category:

- A. A “**beneficial owner**” or “**BO**” in relation to a legal person means an individual who meets any of the following specified conditions –
 - (a) the individual ultimately owns or controls, whether through direct or indirect ownership or control, twenty-five per cent or more of the shares, voting rights or partnership interests in the legal person;
 - (b) the individual otherwise exercises ultimate effective control⁴ over the management of the legal person; or
 - (c) the individual is identified as exercising control of the legal person through other means, except where that individual operates solely in the capacity of a professional advisor or professional manager.

² “**relevant interest**” means an interest that a person holds in a legal person consisting of —

- a. a partnership interest² or shares or voting rights in the legal person; or
- b. ultimate effective control² over the management of the legal person.

³ See above.

⁴ Ultimate effective control includes ownership or control exercised through a chain of ownership or by means of control other than direct control.

- B. “reportable legal entity” or “RLE”** in relation to a legal person, means another legal person, other than a foreign company, foreign entity or a foreign limited partnership, that if it were an individual would be a beneficial owner of the first mentioned legal person.
- C. “Trustees of a trust referred to in s4(3) of the BOTA”** – If, in relation to a legal person no individual meets any of the conditions specified in para VA.(a) to (c) above, and the trustees of a trust meet one of the specified conditions in relation to the legal person, the trustees of the trust are the beneficial owners of the legal person if they have ultimate effective control over the activities of the trust other than solely in the capacity of a professional advisor or professional manager.
- D. A “senior managing official”** - Where there is no individual or trustee who meets the definition of beneficial owner, the senior managing official⁵ shall be identified as the contact person. The senior managing official who is identified as a contact person is not a BO and may be contacted by the Competent Authority for enquiries relating to the ownership and control of the legal person.
- E. “Deemed Beneficial Owner or DBO”** - Under s2(2) of the BOTA, the following are deemed beneficial owners and reported instead of an individual:
1. a corporation sole;
 2. a government or government department of a country or territory or a part of a country or territory;
 3. an international organisation whose members include two or more countries or territories (or their governments); and
 4. a public authority.

VI. Required Particulars of Registrable BO

The *required particulars of an individual Registrable BO, except a DBO, or a senior managing official* are —

- (a) full legal name;
- (b) residential address;
- (c) an address for service of notices under the BOTA;
- (d) date of birth;
- (e) nationality;
- (f) information from the individual’s unexpired and valid passport, driver’s licence or other government-issued document that identifies the individual including —
 - (i) identification number;
 - (ii) country of issue; and
 - (iii) date of issue and of expiry.
- (g) nature in which the individual owns or exercises control of the legal person; and
- (h) the date on which the individual became or ceased to be a registrable beneficial owner in relation to the legal person in question.

The *required particulars of a DBO* are —

- (a) name;
- (b) principal office;
- (c) the legal form of the individual and the law by which the individual is governed; and
- (d) the date on which the individual became or ceased to be registrable beneficial owner in relation to the legal person in question.

⁵ “senior managing official” includes a director or a chief executive officer of the legal person.

The *required particulars of a reportable legal entity* are —

- (a) corporate or firm name;
- (b) registered or principal office;
- (c) the legal form of the entity and the law by which it is governed;
- (d) the nature of the reportable legal entity's ownership or its exercise of control of the legal person;
- (e) the register in which it is entered and its registration number in that register; and
- (f) the date on which it became or ceased to be a registrable beneficial owner in relation to the legal person in question.

The *required particulars of trustees of a trust referred to in s4(3), unless they meet the definition of a reportable legal entity*, are —

- (a) the trustees' name and address; and
- (b) the name of an individual who is the contact person and the individual's email address and telephone number.

VII. Relevant Change

A "relevant change" occurs if —

- (a) the registrable beneficial owner ceases to be a registrable beneficial owner in relation to the legal person; or
- (b) any other change occurs as a result of which the required particulars stated respecting the registrable beneficial owner in the legal person's beneficial ownership register are incorrect, incomplete or not current.

SECTION B: ALTERNATIVE ROUTES TO COMPLIANCE FOR LISTED OR REGULATED ENTITIES

If you are a **s12(1)(a)-(d) Legal Person**, you may benefit from an alternative route to compliance and satisfy beneficial ownership obligations by reporting limited particulars as provided in Section 12(4) of the BOTTA.

A s12(1)(a)-(d) Legal Person needs to confirm which category of legal persons it falls under s12(1) of BOTTA and provide the limited particulars as prescribed under s12(4) of BOTTA as follows:

- (a) **s12(1)(a) Legal Person** (i.e. a legal person listed on an approved exchange or its subsidiary) should provide the name and jurisdiction of the stock exchange;
- (b) **s12(1)(b) Legal Person** (i.e. a legal person licenced under a regulatory law in the Cayman Islands) should provide the regulatory law under which it is licensed;
- (c) **s12(1)(c) Legal Person** (i.e. a fund registered under the Private Funds Act (2021 Revision) or the Mutual Funds Act (2021 Revision)) should provide the contact details of a licensed fund administrator or another contact person licensed or registered under a regulatory law for providing beneficial ownership information located within the Cayman Islands.
- (d) **s12(1)(d) Legal Person** is a category of persons exempted by the Cabinet from full compliance with BOTTA and may provide such details as may be prescribed.

SECTION C: Changes to be updated to Portcullis

I. Changes to Alternative Route of Compliance

If you have provided a written confirmation of an alternative route of compliance to us and become aware that any information in the confirmation has ceased to be true, please provide us with all relevant details of such change within **SEVEN (7) DAYS**.

II. Changes in Information Required to be Contained in Beneficial Ownership Register

If a **relevant change** (see definition above) occurs, you are required to give notice to the registrable beneficial owner, as soon as reasonably practicable (that being no later than **THIRTY (30) DAYS** after becoming aware of the change or had reasonable cause to believe that the change had occurred), requesting confirmation of the change.

You are required to record the details of the change and furnish Portcullis with the details and date of the relevant change once it has been confirmed. The legal person should also supply to Portcullis revised Form A as applicable.

Where a registrable beneficial owner is deceased and has ceased to be a registrable beneficial owner, the legal person is required to provide a copy of the death certificate to Portcullis.

SECTION D: “Pending” Status on BOR

The corporate services provider of the legal person shall note in the legal person’s beneficial ownership register the word “pending” to show that either —

- (a) the legal person is in the process of taking steps to identify all of the required particulars of the registrable beneficial owner in relation to the legal person; or
- (b) the legal person has identified a registrable beneficial owner in relation to the legal person but all the required particulars of that beneficial owner have not yet been confirmed by the legal person or verified by the corporate services provider.

NOTE: If the legal person’s beneficial ownership register contains the note “**pending**” for an uninterrupted period of three or more calendar months, the legal person is presumed to be in breach of section 6 or section 11 of BOTa.

SECTION E: Restrictions Notices

I. Consequences of Failing to Disclose Beneficial Ownership

Pursuant to s18 of the BOTa, Portcullis will notify you if Portcullis is of the opinion that the legal person:

- (a) has failed to comply with section 8 (duty to give notice to registrable beneficial owners) or 14 (duty to keep register current) of BOTa; or
- (b) has made a statement regarding matters relevant to BOTa to the corporate services provider that is false or misleading,

On receipt of the aforementioned notice, you are required to provide Portcullis with:

- (a) the missing required particulars under section 12 of BOTA pertaining to registrable beneficial owners; and
- (b) a justification and a correction respecting any statement identified as being false or misleading in the notice.

If you fail to provide the missing particulars within **THIRTY (30) DAYS** of receipt of such notice, Portcullis will subject to s19 of the BOTA issue a restrictions notice to you and send a copy of such restrictions notice to the Cayman Islands competent authority.

II. RESTRICTION NOTICE IN RESPECT OF RELEVANT INTEREST

If a notice under section 8 (duty to give notice to registrable beneficial owners) or 14 (duty to keep register current) of BOTA was served on the legal person, **Portcullis may issue a restrictions notice** if the legal person has not within thirty (30) days of receiving such notice:

- (a) received compliance with the notice; or
- (b) provided Portcullis with a valid reason sufficient to justify the legal person's failure to comply with the notice,

provided further that the relevant interest is not subject to a pre-existing security interest granted to a third party who is not affiliated with the legal person.

III. Effects of Restrictions Notice

The effect of a restrictions notice with respect to a relevant interest is as follows:

- (a) any transfer or agreement to transfer the relevant interest is void;
- (b) no rights are exercisable in respect of the relevant interest;
- (c) no relevant interests may be issued in respect of the relevant interest or in pursuance of an offer made to the person holding the relevant interest;
- (d) other than in a liquidation, no payment may be made of sums due from the legal person in respect of the relevant interest, whether in respect of capital or otherwise; and
- (e) other than in a liquidation, an agreement to transfer any of the following associated rights in relation to the relevant interest is void:
 - a right to be issued with any shares issued in respect of the relevant interest; or
 - a right to receive payment of any sums due from the legal person in respect of the relevant interest.

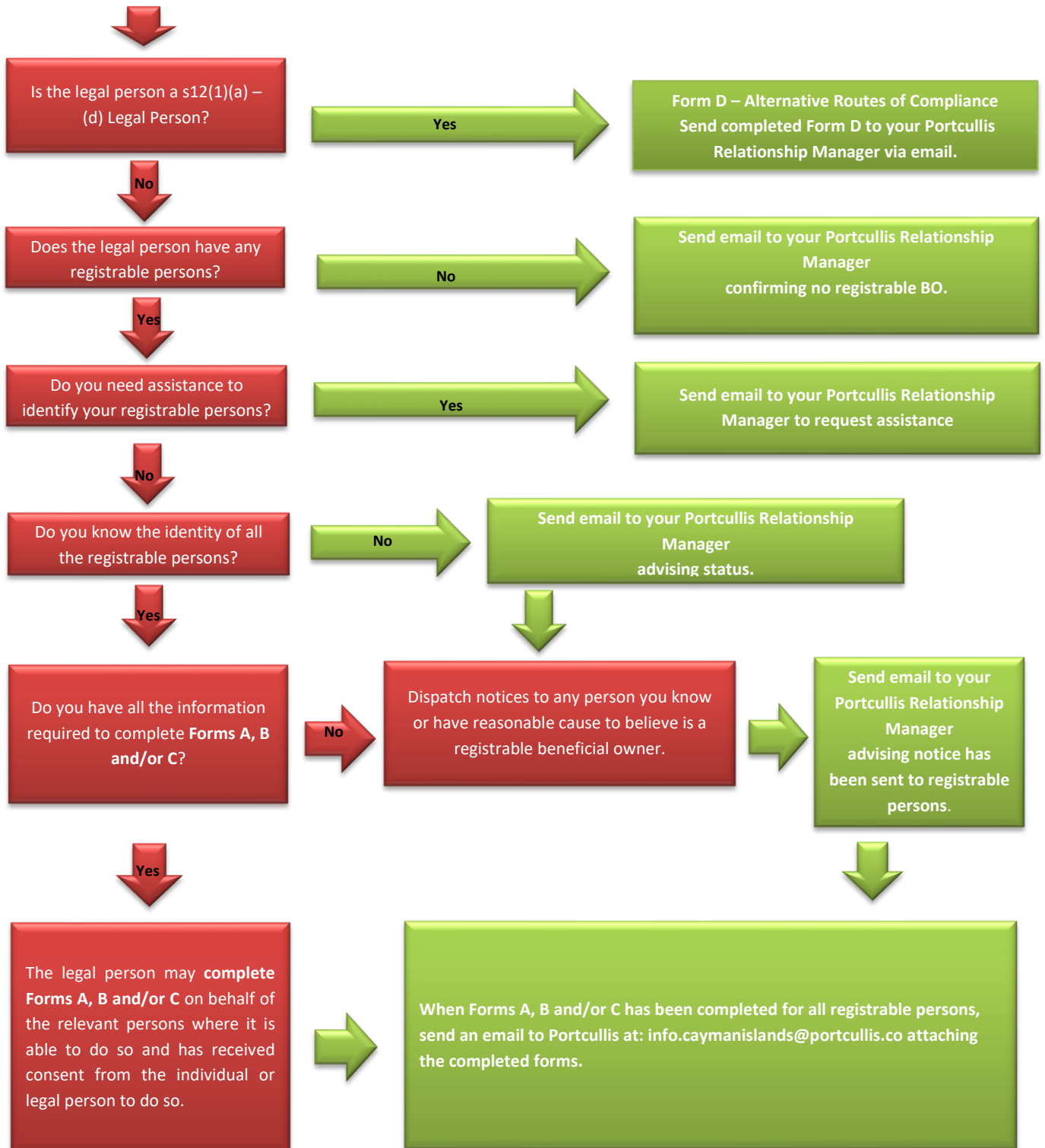
SECTION F: Who has access to information in the BOR

The BOR is not available to the general public. However, a copy of the BOR and the information therein will be maintained on a searchable platform maintained by the Cayman Islands competent authority.

The platform will be accessible to

- (a) governmental authorities in the Cayman Islands;
- (b) the Cayman Islands Financial Reporting Authority and/or a body assigned the responsibility of monitoring compliance by non-financial institutions with money laundering regulations in the Cayman Islands;
- (c) licensed financial institutions;
- (d) designated non-financial businesses and professions such as attorneys, accountants and real estate agents.

Flow Chart



Annex to Explanatory Notes

List of Approved Exchanges	
1. Amman Stock Exchange	47. Johannesburg Stock Exchange
2. Athens Stock Exchange	48. Korea Exchange (including KOSPI and KOSDAQ Market Divisions)
3. Australian Securities Exchange	49. London Stock Exchange (including AIM)
4. B3 S.A.	50. Luxembourg Stock Exchange
5. BATS Global Markets	51. Malta Stock Exchange
6. Bermuda Stock Exchange	52. Montreal Exchange
7. BOAG Borsen AG	53. Nagoya Stock Exchange
8. Bolsa de Barcelona	54. Nasdaq
9. Bolsa de Bilbao	55. Nasdaq Copenhagen (formerly known as Copenhagen Stock Exchange)
10. Bolsa de Madrid	56. Nasdaq Dubai
11. Bolsa de Valencia	57. Nasdaq Helsinki
12. Bolsa de Comercio de Buenos Aires	58. Nasdaq Iceland
13. Bolsa de Comercio de Santiago	59. Nasdaq OMX Nordic
14. Bolsa de Valores de Caracas	60. Nasdaq PHLX
15. Bolsa de Valores de Lima	61. Nasdaq Riga
16. Bolsa de Valores de Colombia	62. Nasdaq Stockholm
17. Bolsa Mexicana de Valores (Mexican Stock Exchange)	63. Nasdaq Tallinn
18. Bolsas y Mercados Espanoles	64. Nasdaq Vilnius
19. Borsa Istanbul	65. National Stock Exchange of Australia
20. Borsa Italiana	66. National Stock Exchange of India
21. Borse Berlin	67. New York Stock Exchange (NYSE)
22. Borse Frankfurt	68. New Zealand Stock Exchange
23. Borse Munchen	69. NYSE American
24. Borse Stuttgart	70. NYSE Arca
25. BSE Limited	71. NYSE Chicago
26. Bucharest Stock Exchange	72. NYSE Euronext
27. Budapest Stock Exchange	73. Osaka Exchange
28. Bursa Malaysia (including the Main Market and the ACE Market)	74. Philippine Stock Exchange
29. Chicago Board Options Exchange	75. Prague Stock Exchange
30. CME Group	76. Saudi Exchange (Tadawul)
31. Colombo Stock Exchange	77. Shanghai Stock Exchange
32. Cyprus Stock Exchange	78. Shenzhen Stock Exchange
33. Deutsche Borse	79. Singapore Exchange (including Catalist)
34. Dusseldorf Stock Exchange	80. SIX Swiss Exchange
35. Eurex	81. Stock Exchange of Mauritius
36. Euronext Brussels	82. Taipei Exchange
37. Euronext Dublin	83. Taiwan Stock Exchange
38. Euronext Lisbon	84. The Egyptian Exchange
39. Euronext NV	85. The Stock Exchange of Thailand
40. Euronext Oslo Bor	86. Tokyo Stock Exchange
41. Euronext Paris	87. Toronto Stock Exchange (including TSX Venture Exchange)
42. Fukuoka Stock Exchange	88. Warsaw Stock Exchange
43. Hong Kong Exchange and Clearing (HKEX) (including Growth Enterprise Market (GEM))	89. Wiener Borse AG (Vienna Stock Exchange)

44. Indonesia Stock Exchange 45. Intercontinental Exchange 46. International Securities Exchange	90. Any stock exchange that the Registrar may from time to time designate as an approved stock exchange by way of notice published in the Gazette.
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