

BENEFICIAL OWNERSHIP FREQUENTLY ASKED QUESTIONS (FAQ'S):

1. Who is a Beneficial Owner?

Beneficial Owner refers to the natural person (s) who ultimately owns or controls a customer and/ or the natural person on whose behalf a transaction is being conducted. It also includes those natural persons who exercise ultimate effective control over a legal person. Only a natural person can be an ultimate beneficial owner, and more than one natural person be the ultimate beneficial owner of a given legal person

Beneficial ownership information of legal persons is the information on the identities of a nature of the control exercised over a legal person by:

- a) The natural person(s) who ultimately have a controlling ownership interest in a legal person, if any; and
- b) The natural person exercising ultimate effective control over the legal person through other means than ownership interest, if any.

2. What makes beneficial ownership information important?

The misuse of legal persons could be significantly reduced if information regarding both the legal owner and the beneficial owner, were available to the authorities in a timely manner.

In general, the lack of adequate, accurate and up-to-date beneficial ownership information facilitates ML/TF by disguising:

- the **identity** of known or suspected criminals,
- the true **purpose** of an account or property held by a legal person and/or
- the **source or use** of funds or property associated with a legal person.

Legal and beneficial ownership information can assist competent authorities in particular law enforcement authorities and financial intelligence units (FIUs), by identifying those natural persons who may be responsible for the underlying activity of concern.

Enhancing the transparency of legal persons makes them less attractive for criminals in hiding their real identities.

BENEFICIAL OWNERSHIP FREQUENTLY ASKED QUESTIONS (FAQ'S):**3. What are the types of legal persons to which beneficial ownership information is relevant?**

- Companies
- Close Corporations (CC's)
- Trusts

4. How does beneficial ownership help combat money laundering and corruption? Is this question not a repetition on the importance of BO information?

By disclosing beneficial ownership information, authorities can better track and investigate suspicious transactions or activities.

It therefore becomes more challenging for individuals or entities to hide their true ownership or control of assets, which helps prevent money laundering, corruption and other illicit practices.

5. What are the challenges associated with beneficial ownership transparency?

- May include constantly maintaining accurate and up-to-date registers
- Ensuring compliance with the relevant laws and regulations
- Protecting sensitive personal information
- Addressing jurisdictional variations in beneficial ownership requirements.
- Striking a balance between transparency and privacy rights

6. How is beneficial ownership determined?

Beneficial ownership is determined by looking beyond legal ownership and considering factors such as control, influence, financial interest, or the ability to enjoy the benefit.

In terms of the Namibian laws, any person that has more than 20% ownership in an asset/entity, will be regarded as beneficial owner, or that has control other than shares within a company.

BENEFICIAL OWNERSHIP FREQUENTLY ASKED QUESTIONS (FAQ'S):**7. What is a beneficial ownership register?**

This is a registry that is to be kept and up dated by BIPA as the authority that registers and regulates legal persons. The Registry will contain BO information on the legal persons.

8. Are beneficial ownership registers mandatory?

In terms of Section 4 of the Financial Intelligence Act, 2012, the Business and Intellectual Property Authority (BIPA) are required to collect and keep accurate beneficial ownership information.

9. What is the use of a beneficial ownership register?

A register holding beneficial ownership information allows competent authorities to access such information from a direct source in a rapid and efficient manner.

10. What information does a typical beneficial ownership register contain?

- Full names of beneficial owner
- Date of birth
- Nationality
- Residential address
- National Identification number
- Nature or extent of the beneficial interest held by each individual.

11. Who is required to provide beneficial ownership information?

The legal person is required to provide accurate and up to date information on its Beneficial Owners to BIPA.

BENEFICIAL OWNERSHIP FREQUENTLY ASKED QUESTIONS (FAQ'S):**12. At what point would beneficial ownership information be disclosed?**

- Beneficial Information is to be disclosed at the time of registration of the legal person
- Within 7 working days after a material change has occurred to the BO information
- And thereafter at the end of the legal person's financial year end.
- All companies and Close Corporations must upon registration collect and keep accurate and up to date BO information and thereafter, annually submit the information to BIPA.

13. Who has access to beneficial ownership register information?

- Competent Authorities as defined under FIA will have full access to the BO registry.
- The public will have restricted and limited access to the registry. (Names only)

14. What form needs to be completed with BIPA on beneficial ownership information?**FORM BO1: Beneficial Ownership Declaration Form**

- This form is used to **LIST** all-natural persons, publicly listed companies or government agencies that may be regarded as beneficial owners within the specified company.

15. What are the punitive measures taken against any person that does not provide beneficial ownership information or intentionally provides incorrect information to BIPA?

In terms of FIA, If the company or close corporation refuses or fails to provide the information referred to in subsection (1)(a), within the period referred to in subsection (4), the company or close corporation commits an offence and is liable to a fine not exceeding N\$10 million, or where the commission of the offence is attributable to a representative of the company or close corporation, to such fine or imprisonment not exceeding a period of

BENEFICIAL OWNERSHIP FREQUENTLY ASKED QUESTIONS (FAQ'S):

10 years, or to both such fine and such imprisonment, and in addition the Registrar must de-register the relevant company or close corporation

16. Should beneficial ownership information only be provided for newly registered entities, or does it apply to all existing legal persons (Companies and Close Corporations)?

- All existing Companies and Close Corporations are required to visit BIPA and complete the required beneficial ownership forms in order to provide such information to BIPA.
- In addition, all new application for registration of Companies and Close Corporation, inclusive of Associations not for Gain (Section 21) Companies, will require completion of beneficial ownership information.
- No registration processing will take place without these forms as from the date so determined by the Registrar.

/END/