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CONSOLIDATED TO 28TH APRIL 2023

BENEFICIAL OWNERSHIP REGULATIONS, 2020

Citation and commencement

1. These regulations may be cited as the Beneficial Ownership Regulations, 2020 and shall come into operation on the 28th day of August 2020.

Interpretation

2. In these Regulations, unless the context otherwise requires —

“Act” means the Beneficial Ownership Act, 2020 (Act 4 of 2020);

“authorised officer” means a person appointed under regulation 16(2);

“database” means the Seychelles Beneficial Ownership database maintained under section 13 of the Act;

“foreign counterparts” means the foreign competent authorities exercising functions and responsibilities in relation to the cooperation which is sought, though such foreign competent authorities have different nomenclature or status; and

“specified entities” means the entities specified in the Second Schedule and referred to in section 13(4) of the Act.

Determination of beneficial owners

3.(1) For the purposes of these regulations, the beneficial owner in relation to a legal person includes but is not limited to —

- (a) one or more natural persons who ultimately have a controlling ownership interest in a legal person; and
- (b) to the extent that there is doubt under sub-regulation (1)(a) as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interest, the

natural person, if any, exercising control of the legal person through other means; or

- (c) if no such person exists or no such person may be identified under sub-regulation (1)(a) and (b), the natural person who holds the position of a senior managing official of the legal person.

(2) For the purposes of sub-regulation (1)(a), the beneficial owner of a legal person (except the beneficial owner of a foundation, a partnership under the Civil Code of Seychelles Act 2020 (Act 1 of 2021) or a limited partnership under the Limited Partnerships Act (Cap 281), shall be a natural person who ultimately owns or controls, whether directly or indirectly, ten percent or more of ownership interest including the shares or voting rights of the said legal person —

(3) For the purposes of sub-regulation (1)(b), exercising control through other means includes, but is not limited to—

- (a) the right to appoint or remove the majority of the board of directors of a legal person;
- (b) where the person with controlling ownership interest is dominated by another person because of a familial or employment relationship;
- (c) where another person holds certain powers in relation to the legal person which are likely to be used in practice to affect the decisions taken by that person with the controlling ownership interest; or
- (d) any control over a legal person other than the control by ownership of any interest.

(4) For the purposes of subregulation (1), the beneficial owner in the case of a foundation includes, but is not limited to, a natural person

- (a) who holds, whether directly or indirectly, absolute decision or veto rights in the conduct and management of the foundation;
- (b) who holds the right, directly or indirectly to appoint or remove any of the councilors of the foundation;
- (c) who is a beneficiary in whom an interest is vested;
- (d) who is the default recipient of the assets of the foundation in the event of its termination; or
- (e) any other person, who benefits from the foundation.

(4a) The beneficial owner in the case of a limited partnership under the Limited Partnerships Act (Cap 281) shall be determined in accordance with subregulation (1) notwithstanding the fact that subregulation (1) applies to legal persons only.

(5) For the purposes of subregulation (1), the beneficial owner in the case of a partnership under the Civil Code of Seychelles Act 2020 (Act 1 of 2021) or limited partnership under the Limited Partnerships Act (Cap 281) includes, but not limited to a natural person who—

- (a) ultimately owns or controls, whether directly or indirectly, absolute decision or veto rights in the conduct or management of the partnership;
- (b) holds the right, directly or indirectly to appoint or remove any partner of the partnership; or
- (c) is entitled to the assets of the partnership in the event of the dissolution of the partnership.

(6) Subject to subregulation (7), the beneficial owner in the case of a trust and other similar legal arrangements shall be

- (a) the trustee or, in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a trustee;
- (b) the settlor or in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a settlor;
- (c) the protector, if any or in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a protector;
- (d) the beneficiaries or class of beneficiaries or in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a beneficiary or class of beneficiaries; and
- (e) any other natural person exercising ultimate effective control over the trust or the legal arrangement, including any person who has, under the trust deed of the trust or any similar document, power to —
 - (i) appoint or remove any of the trustees of the trust;
 - (ii) direct the distribution of funds or assets of the trust;
 - (iii) direct investment decisions of the trust;
 - (iv) amend the trust deed; or
 - (v) revoke the trust.

(7) Where a person under sub-regulation (6)(a), (b), (c) or (d) is not a natural person, the beneficial owners of that person shall be the beneficial owners of the trust or the legal arrangement.

(8) Where ten percent or more of any ownership interest is held jointly, then each joint owner shall be treated as a separate beneficial owner.

Holding of shares

4.(1) In these regulations, holding shares in a legal person means holding a right to share in the capital or, as the case may be, profits of that person.

(2) In these regulations, holding ten percent or more of the shares in that legal person means holding a right or rights to shares in ten percent or more of the capital or, as the case may be, profits of that person.

Voting rights

5.(1) For the purposes of these regulations, voting rights refers to the rights conferred on shareholders in respect of their shares or, in the case of a legal person not having a share capital, on members or officers, to vote at general meetings of the legal person or legal arrangement on all or substantially all matters.

(2) In relation to a legal person or legal arrangement that does not have general meetings at which matters are decided by the exercise of voting rights —

- (a) exercising voting rights means to exercise rights in relation to a person or persons that are equivalent to those of a person entitled to exercise voting rights in a company; and
- (b) exercising ten percent or more of the voting rights in the legal person or legal arrangement means to exercise the right under the constitutional document of the legal person or legal arrangement to effect changes to the overall policy of the legal person or legal arrangement.

Holding shares and rights indirectly

6. Shares or rights held—

- (a) by a legal person, which is under the control of an individual; or
- (b) by multiple legal persons, which are under the control of the same individual,

shall be an indication of indirect ownership by such individual.

Rights to appoint or remove members of the Board of a legal person

7. For avoidance of doubt, the reference of right to appoint or remove majority of the board of directors of a legal person in these regulations refers to the right to appoint or remove directors holding majority of the voting rights at the meetings of the board on all or substantially all matters.

Shares held by nominees

8. For the purposes of these regulations, shares held by a nominee on behalf of a nominator shall be treated as the shares were held by the nominator.

Rights treated as held by person who controls their exercise

9.(1) For the purposes of these regulations, where a person controls a right, the right shall be treated as held by that person and not by the person who in fact holds the right, unless that person also controls it.

(2) A person controls a right if, by virtue of any arrangement between that person and other person or persons, the right is exercisable only—

- (a)** by that person;
- (b)** in accordance with that person's directions or instructions; or
- (c)** with that person's consent or concurrence.

Rights exercisable only in certain circumstances

10.(1) Rights that are exercisable only in certain circumstances are to be taken into account —

- (a)** when the circumstances have arisen, and for so long as they continue; or
- (b)** when the circumstances are within the control of the persons having the rights.

(2) *Repealed.*

(3) *Repealed.*

(4) Rights that are normally exercisable but are temporarily incapable of exercise shall also be taken into account.

Rights attached to shares held by way of security

11. Rights attached to shares held by way of security provided by a person shall be treated, as held by that person —

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable in accordance with that person's instructions only; and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interest only.

Beneficial interest of beneficial owners

12.(1) Every legal person and legal arrangement shall include and update the register of beneficial owners with the details of the beneficial interest of each beneficial owner or each registrable legal person consisting of the —

- (a) means and mechanisms through which ownership or control is exercised; and
- (b) numerical value of interest held, description of voting rights or other forms of control, management position or other position held by the beneficial owner, whichever applicable.

(2) *Repealed.*

(3) *Repealed.*

(4) *Repealed.*

(5) Where there is a *bona fide* legal dispute as to the beneficial ownership of any interest in a legal person or legal arrangement which is in the process of being adjudicated by a court, no change should be recorded in the register of beneficial ownership before the determination of that matter by the court or the court orders, to do so.

(6) For the purposes of section 5(1) of the Act, it shall be sufficient if the register of beneficial owners contains the particulars of the current beneficial owners of the legal person or legal arrangement as on the date of commencement of the Act and any change thereof shall be updated under section 5(2) of the Act.

Periodic review of beneficial owners

13.(1) Every legal person or legal arrangement shall, at least once in every calendar year, review and verify its beneficial owners, including any changes required to be made to the registerable particulars of a beneficial owner.

Provided that at least one review and verification shall be undertaken within 3 months before the anniversary of its registration under its respective statutory legislation.

(2) Every legal person or legal arrangement shall, not later than 1 month from the anniversary of its registration under its respective statutory legislation, keep a declaration of compliance with subregulation (1) at the principal place of business of its resident agent in Seychelles.

(3) A legal person or legal arrangement shall not provide a false or misleading declaration under sub-regulation (1).

(4) A legal person or legal arrangement which fails to comply with subregulation (1), (2) or (3) shall be liable to a penalty not exceeding SCR20,000.

(5) This regulation shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Disclosure of a new beneficial owner

14. Every person, upon becoming a beneficial owner, shall submit to the relevant legal person or legal arrangement, a declaration of beneficial ownership, detailing the registrable particulars of the person in the Form specified in the Second Schedule to these regulations.

Inspection of the beneficial ownership register of extractive companies

15. Any person seeking inspection and obtaining copies thereof of the register of beneficial owners of an extractive company filed with the office of the Registrar General shall submit an application to the Registrar General in the Form specified in the Third Schedule along with payment of a fee of SCR200 to the office of the Registrar General.

Access to the database

16.(1) No person, other than an authorised officer of a specified entity, shall have access to the database.

(2) The Heads of specified entities shall appoint one authorised officer and an alternative authorised officer to access the database.

(3) An authorised officer shall access the database to execute a search only for the permitted purpose.

(4) For the purposes of these regulations, “permitted purpose” means searches related to —

- (a) the prevention, detection, investigation or prosecution of criminal offences;
- (b) the prevention, detection or investigation of civil offences;
- (c) the prevention, detection, investigation of or the bringing of proceedings for conduct, in which penalties other than criminal penalties are provided; and
- (d) the furtherance or discharge of any function under the Act, these regulations or any other laws under the purview of the specified entities.

(5) The FIU shall maintain a record of searches conducted by every authorised officer.

(6) Every authorised officer shall receive training conducted by the FIU to foster appropriate utilisation of the database.

(7) Every authorised officer conducting or prompting a search on the database shall ensure that the search is fully in conformity with the requirements of these regulations.

(8) An authorised officer who —

- (a) fails to comply with any requirement of these regulations;
- (b) accesses the database for any purpose other than the permitted purpose under these regulations,

shall be terminated from employment and also liable to a fine not exceeding SCR20,000 or to imprisonment for a term not exceeding one year or to both.

(9) Notwithstanding sub-regulation (2), in circumstances where direct access to the database by the authorised officers of the specified entities is not available, search shall be managed through an authorised officer of the FIU.

(10) In the event that search on the database is to be managed through an authorised officer of the FIU, a written request shall be submitted to the FIU which shall include —

- (a) name of specified entity and authorised officer;
- (b) case reference number of specified entity;

- (c) nature of the request;
- (d) subject details of the entity to be searched;
- (e) any other relevant information, to include but not limited to, the urgency of the request; and
- (f) disclaimer that the request conforms to the requirements of these regulations.

(11) Upon receipt of a request under sub-regulation (10), the FIU's authorised officer shall conduct the search and the result of the search shall be provided—

- (a) within 14 days of receipt of the request; or
- (b) where the request is urgent, within a shorter period of time as may be mutually agreed upon by the parties.

Disclosure of information from the database

17.(1) Information obtained from the search on the database shall be treated as confidential and shall not be disclosed except for a permitted purpose under these regulations.

(2) Notwithstanding sub-regulation (1), any information obtained from the database by a specified entity may be shared with any foreign counterpart agency —

- (a) if the disclosure is made in response to a formal request made by the foreign counterpart agency;
- (b) the request is made in furtherance of the agency's functions; and
- (c) the request and response are made in such manner and form consistent with the appropriate laws governing foreign information sharing by those specified entities.

(3) Any person who discloses any information obtained from the database other than for what is permitted under these regulations, shall be terminated from employment and also liable to a fine not exceeding SCR20,000 or to imprisonment for a term not exceeding one year or to both.

(4) Any person who discloses information accessed from the database commits an offence, if the person knows or suspects that any information or other matter disclosed may prejudice a criminal, civil or regulatory investigation which is being or may be carried out, or which have been or may be initiated.

(5) A person guilty of an offence under sub-regulation (4), shall be terminated from employment and also liable to a fine not exceeding SCR20,000 or to imprisonment for a term not exceeding one year or to both.

FIRST SCHEDULE

Repealed.

SECOND SCHEDULE

(Regulation 14)

In completing the below declaration, the beneficial owner may delete the below parts which are not relevant and complete the applicable parts of this Schedule accordingly.

Part A - To be completed by a beneficial owner of a company

Part B - To be completed by a beneficial owner of a partnership under the Civil Code of Seychelles Act or a limited partnership under the Limited Partnerships Act

Part C - To be completed by a beneficial owner of an association

Part D - To be completed by a beneficial owner of a foundation

Part E - To be completed by a beneficial owner of a trust)

Part F - To be completed if beneficial ownership interest are being held by nominee(s) on behalf of the beneficial owner, where the nominator is the beneficial owner.

*Part G - To be completed if any beneficial ownership interest are being held by nominee(s) on behalf of the beneficial owner, where the nominator is **not** the beneficial owner.*

TO: (Legal person/Legal arrangement Name)

Dated: _____

RE: Declaration of Beneficial Ownership

I, the undersigned, hereby confirm that I have become a beneficial owner as defined in the Beneficial Ownership Act, 2020 in respect of the above legal person or legal arrangement.

Therefore, I hereby provide you with the below particulars which I confirm to be true and correct:

1. Name:
2. Residential address:
3. Service address:
4. Date of birth:
5. Nationality:
6. National Identification Number or equivalent (if any):
- 7 Tax Identification Number or equivalent (if any):
8. Date on which I became a beneficial owner:

Part A

9. Particulars of the beneficial owner's beneficial interest:

I am the beneficial owner of the company in view that I:

- ☐ ultimately have controlling ownership interest in the company
- ☐ control the company through other means
- ☐ hold the position of a senior managing official of the company (can be selected only if control through *ownership or control through other means above has not been selected*)

Further details of my beneficial interest are as follows:

- ☐ Number and class of shares held ($\geq 10\%$):
- ☐ I exercise (whether directly or indirectly) ultimate control over 10% or more of total voting rights of members in the company
- ☐ I am entitled (whether directly or indirectly) to appoint or remove directors holding majority of the voting rights at the meetings of the board on all or substantially all matters
- ☐ I am otherwise entitled to exercise control over the company or its management (specify):
- ☐ Others: (Specify means and mechanism through which ownership or control is exercised, numerical value of interest held, description of voting rights or other forms of control, management position or other position held)

Part B

9. Particulars of the beneficial owner`s beneficial interest:

I am the beneficial owner of the partnership in view that I:

- ☐ ultimately have controlling ownership interest in the partnership
- ☐ control the partnership through other means
- ☐ hold the position of a senior managing official of the partnership (*can be selected only if control through ownership or control through other means above has not been selected*)

Further details of my beneficial interest are as follows:

- ☐ I ultimately own or control (whether directly or indirectly) absolute decision or veto rights in the conduct or management of the partnership
- ☐ I hold the right (whether directly or indirectly) to appoint or remove any partners of the partnership
- ☐ I am entitled to the assets of the partnership in the event of the dissolution of the partnership
- ☐ Others: (Specify means and mechanism through which ownership or control is exercised, numerical value of interest held, description of voting rights or other forms of control, management position or other position held)

Part C

9. Particulars of the beneficial owner`s beneficial interest:

I am the beneficial owner of the association in view that I:

- ☐ ultimately have controlling ownership interest in the association
- ☐ control the association through other means
- ☐ hold the position of a senior managing official of the association (*can be selected only if control through ownership or control through other means above has not been selected*)

Further details of my beneficial interest are as follows:

- ☐ I am a member of the committee of management of the association (state position):
.....
- ☐ I am otherwise entitled to exercise control over the association or its management (specify):
- ☐ Others: (Specify means and mechanism through which ownership or control is exercised, numerical value of interest held, description of voting rights or other forms of control, management position or other position held)

Part D

9. Particulars of the beneficial owner`s beneficial interest:

I am the beneficial owner of the foundation in view that I:

- ☐ ultimately have controlling ownership interest in the foundation
- ☐ control the foundation through other means
- ☐ hold the position of a senior managing official of the foundation (*can be selected only if control through ownership or control through other means above has not been selected*)

Further details of my beneficial interest are as follows:

- ☐ I hold (whether directly or indirectly) absolute decision or veto rights in the conduct and management of the foundation
- ☐ I hold the right (whether directly or indirectly) to appoint or remove any of the councillors of the foundation
- ☐ I am a beneficiary in whom an interest is vested
- ☐ I am default recipient of the assets of the foundation in the event of its termination
- ☐ I am benefiting from the foundation
- ☐ Others (Specify means and mechanism through which ownership or control is exercised, numerical value of interest held, description of voting rights or other forms of control, management position or other position held):

Part E

9. Particulars of the beneficial owner`s beneficial interest:

I am the beneficial owner of the trust in view that I am:

- ☐ a trustee
- ☐ a settlor
- ☐ a protector
- ☐ a beneficiary
- ☐ a person who is empowered to *(to be selected only if you are not a trustee, settlor, protector, beneficiary)*:

- ☐ appoint or remove any of the trustees of the trust
- ☐ direct the distribution of funds or assets of the trust
- ☐ direct investment decisions of the trust
- ☐ amend the trust deed
- ☐ revoke the trust
- ☐ others: (Specify means and mechanism through which ownership or control is exercised, numerical value of interest held, description of voting rights or other forms of control, management position or other position held)

Part F

10. Particulars of nominees and nominators where the nominator is the beneficial owner (if applicable):

The person(s) acting on my behalf as a nominee are as follows:

(i) Where the nominee is a natural person, his/her:

- (a) Name:
- (b) Residential Address:
- (c) Service Address:
- (d) Date of Birth:
- (e) Nationality:
- (f) National Identification Number or equivalent (if any):
- (g) Tax Identification Number or equivalent (if any):
- (h) Particulars and details of the interest held:

(ii) Where the nominee is a legal person, its:

- (a) Name:
- (b) Registered Address:
- (c) Incorporation/Registration Number:
- (d) Date of Incorporation/Registration:
- (e) Jurisdiction of Incorporation/Registration:
- (f) Tax Identification Number or equivalent (if any):
- (g) Information and details of the interest held:

Part G

11. Particulars of nominees and nominators where the nominator is not the beneficial owner (if applicable):

Nominees	Nominators
(Name of nominee 1)	(Name of nominator 1)
(Name of nominee 2)	(Name of nominator 2)

The details of the nominees and nominators mentioned above are as follows:

(i) Where a nominee is a natural person, his/her:

- (a) Name:
- (b) Residential Address:
- (c) Service Address:
- (d) Date of Birth:
- (e) Nationality:
- (f) National Identification Number or equivalent (if any):
- (g) Tax Identification Number or equivalent (if any):
- (h) Particulars and details of the interest held:

(ii) Where a nominee is a legal person, its:

- (a) Name:
- (b) Registered Address:
- (c) Incorporation/Registration Number:
- (d) Date of Incorporation/Registration:
- (e) Jurisdiction of Incorporation/Registration:
- (f) Tax Identification Number or equivalent (if any):
- (g) Information and details of the interest held:

(iii) Where a nominator is a natural person, his/her:

- (a) Name:
- (b) Residential Address:
- (c) Service Address:
- (d) Date of Birth:
- (e) Nationality:

(iv) Where a nominator is a legal person, its:

- (a) Name:
- (b) Registered Address:
- (c) Incorporation/Registration Number:
- (d) Date of Incorporation/Registration:
- (e) Jurisdiction of Incorporation/Registration:
- (f) The identity (i.e. name, residential address, service address, date of birth and nationality) of the beneficial owner of the legal person:

I am cognizant that enforcement actions may be taken against me pursuant to section 10 (7a) of the Beneficial Ownership Act, 2020, if it is found that I provided false or misleading information in this declaration.

(Signature)

(Full name of the beneficial owner)

THIRD SCHEDULE
(Regulation 15)

The Registrar of Companies

**Request form to inspect and obtain copies of the register of
beneficial owners for extractive companies**

I, holding ID
number...../...../.../.... hereby submit this request
for the inspection and to obtain a copy of the register of
beneficial owners relating to
..... I have
paid prescribed fee of SCR200 to the office of the Registrar
General and copy of the receipt is enclosed herewith.

Date:

Signature: