



GOVERNMENT OF BERMUDA

**Ministry of Finance**

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**Ministry of Finance Headquarters**

April 9<sup>th</sup>, 2016

**Exchange of Notes between the Government of the United Kingdom and the Government of Bermuda in respect of the sharing of beneficial ownership information**

1. This commitment between the Government of the United Kingdom and the Government of Bermuda ("the Participants") is an important demonstration of our partnership to enhance the effectiveness of the long-standing law enforcement cooperation between the Participants in respect of the on-going sharing of beneficial ownership information.

2. The Participants recognise the importance of the provision of beneficial ownership information for the prevention and detection of corruption, money laundering, terrorism financing, financing of the proliferation of weapons of mass destruction and other serious and organised crime. It also recognises the importance of facilitating timely and secure access for law enforcement agencies to such information whilst ensuring individuals concerned are not informed that a request has been made.

3. This commitment is made in the context of a number of international initiatives to improve access to beneficial ownership information, including the Fourth Money Laundering Directive of the European Union, Financial Action Task Force (FATF) Recommendations and Guidance on Transparency and Beneficial Ownership, the G20 High Level Principles on Beneficial Ownership Transparency and the UK Government's decision to establish a public central register of beneficial ownership information.

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4. It also recognises that Bermuda has a long established central register of company beneficial ownership. The Bermuda Police Service has arrangements with law enforcement both internationally and with the United Kingdom. Given Bermuda's existing central register, there are no legislative arrangements required in order to provide information pursuant to this Arrangement, although Bermuda plans to make legislative changes as part of its ongoing programme to ensure compliance with the global standards, and in particular, the Financial Action Task Force 40 Recommendations, in preparation for its Anti-Money Laundering National Risk Assessment.

5. Through this Exchange of Notes, each Participant commits to providing the law enforcement authorities of the other Participant with beneficial ownership information for corporate and legal entities incorporated in their respective jurisdiction and will implement this commitment as set out in the attached Technical Protocol, which is to be read as part of the commitment of both Participants.

6. The Participants will hold adequate, accurate and current beneficial ownership information for corporate and legal entities incorporated in their own jurisdictions. This information will be held in a secure central electronic database or similarly effective arrangement.

7. Law enforcement authorities of the Participants will have the automatic right to the provision of unrestricted and timely (where urgently required, within one hour) beneficial ownership information held in the other jurisdiction for the law enforcement purposes set out in Paragraph 2 above.

8. The Participant in whose jurisdiction the requested beneficial ownership information is held will be responsible for ensuring that searches are carried out securely; in particular ensuring that those interested in or otherwise connected to the corporate and legal entities concerned are not informed that a search is in progress or has been conducted and ensuring that the information that a search has been requested or conducted is not made known publicly, in accordance with the terms of the attached Technical Protocol.

9. Furthermore, the Participants will monitor the practical application of this commitment so that action can be taken to ensure it is implemented effectively and efficiently.



Signed on behalf of the  
Government of the UK



Signed on behalf of the  
Government of Bermuda

Date : April 9<sup>th</sup> 2016

## Technical Protocol

1. This Technical Protocol is appended to the Exchange of Notes dated 2016 between the Government of the United Kingdom and the Government of Bermuda in respect of the sharing of beneficial ownership information and is to be used in accordance with Paragraph 2 of the Exchange of Notes.

### **Beneficial Ownership Information in respect of Corporate and Legal Entities incorporated in the UK**

2. The Government of the United Kingdom has established a comprehensive central register of people with significant control ("PSC Register"), to be held and maintained by Companies House. This will be a publicly accessible central register in respect of companies, limited liability partnerships (LLPs) and Societates Europaeae (SEs) incorporated in the United Kingdom. This will be online and searchable free of charge by both name of corporate entity and name of individual. Some PSC information is suppressed from the public central register under exceptional circumstances. All PSC information, including the information suppressed from the public central register, is available to the United Kingdom law enforcement authorities.

3. Acting only in furtherance of their functions, Bermuda law enforcement authorities will be able to request from the United Kingdom law enforcement authorities all of their non-public adequate, accurate and current beneficial ownership information from the PSC register.

### **Beneficial Ownership Information in respect of Corporate and Legal Entities incorporated in Bermuda**

4. The Government of Bermuda will establish and maintain a central database of beneficial ownership information ("the Bermuda Central Database") to be held and maintained by the Bermuda Monetary Authority acting in its capacity as the Controller of Foreign Exchange and as the agent of the Minister of Finance. This will contain adequate, accurate and current beneficial ownership information on corporate and legal entities incorporated in Bermuda.

5. The Bermuda Central Database will be held electronically and will be searchable by both name of corporate and legal entity and name of individual.

6. Acting only in furtherance of their functions, United Kingdom law enforcement authorities will be able to request from Bermuda law enforcement authorities all of their adequate, accurate and current beneficial ownership information contained on the Bermuda Central Database on corporate and legal entities incorporated in Bermuda.

## Obligations of Participants

7. The Participants will establish designated points of contact, whose function will be to receive and respond to each other's law enforcement authorities' requests for beneficial ownership information.

- i) Requests for information will be submitted to the designated point of contact on a form, the template for which is attached to this Protocol.
- ii) The designated point of contact will be permanently staffed by individuals who have passed security vetting tests to a standard agreed with the National Crime Agency.
- iii) The designated point of contact will provide the information sought of it within twenty-four hours of the submission of a request for information unless it is notified that the request for information is urgent, in which case it will provide the information sought of it within one hour, or such other time period as may be agreed between the requesting law enforcement authority and the designated point of contact in accordance with the individual circumstances of the request. In calculating these periods of time, no allowance will be made for office hours, weekends or public holidays.
- iv) Members of the designated point of contact will provide beneficial ownership information that is both complete and helpful to the requesting law enforcement authorities. As such, the designated point of contact will accept and reply to requests for such information, which include requests for sequential searches to be carried out. Such requests may include a request to identify the beneficial owner of a named company incorporated in the Participant's jurisdiction and then to identify all other corporate and legal entities incorporated in the Participant's jurisdiction in which the beneficial owner has an interest as well as the names of other individuals with interests in those corporate and legal entities. Multiple or sequential search requests may be made at the same time, and will be conducted within the same twenty-four hour period (or one hour in urgent cases).
- v) Members of the designated point of contact will have full authority to respond to requests for information made in accordance with this Protocol. It follows that no member of the point of contact will be required to seek any further authorisation or confirmation that they may respond to a request for information.
- vi) The Participants will ensure the security of the request and any information provided by:
  - a. criminalising any disclosures of information relating to requests made in accordance with this Protocol, and reinforcing the severity of the offence with a suitably dissuasive penalty;
  - b. ensuring that each member of the designated point of contact has imposed as part of his or her terms and conditions of service an instruction not to disclose

any information relating to requests made in accordance with this Protocol, and by bringing enforcement action in the case of any breach; and

c. providing the designated point of contact with physically secure premises and secure IT systems from which to operate.

vii) The criminal and administrative controls referred to in paragraphs vi) a. and b. above will not apply to any request for information or any supply of information to the Participants' law enforcement authorities made in accordance with the terms of this Protocol.

viii) Arrangements for the supply of information by the designated point of contact in accordance with the terms of this Protocol are intended to mirror the ability of Participants' law enforcement authorities to obtain beneficial ownership information held in each other's jurisdiction. It follows that information supplied through the designated point of contact to law enforcement authorities in accordance with the terms of this Protocol may be used by them free from any further procedural conditions. For the avoidance of doubt, the Participants accept that the information may be used in criminal and/or civil proceedings and may be disclosed by law enforcement authorities in accordance with applicable legal provisions, including data protection and freedom of information legislation.

ix) Any mutual legal assistance or other legal mechanism that either Participant may require in order to render information received in accordance with this Protocol admissible in criminal and/or civil proceedings will be sought and supplied in accordance with existing arrangements.

x) All requests for information will be subject to the Participants' duties and responsibilities under constitutional and international obligations, where applicable.

### **Amendments**

8. Amendments to the commitment set out in the Exchange of Notes may be agreed in writing by both Participants.

### **Review**

9. In recognition of our joint commitment to fighting serious and organised crime, the Premier of Bermuda and the Secretary of State will review together the operation of these arrangements in consultation with law enforcement agencies six months after the coming into force of these arrangements, and thereafter annually. This will be in addition to ongoing monitoring of the practical application of the commitment by both Participants.

### **Transition**

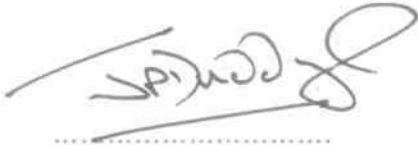
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*Telephone: 441-295-5151 (Ext. 1496)*

*Facsimile: 441-295-5727*

10. These arrangements will come into effect no later than 30 June 2017. Each Participant will ensure that any necessary legislative regulatory or technical changes are made to allow implementation by this date.

**Date for coming into effect**

11. The commitment set out in the Exchange of Notes will be effective upon signature by the Participants.



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Signed on behalf of the  
Government of the UK



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Signed on behalf of the  
Government of Bermuda

Date : April 9<sup>th</sup> 2016

**Definitions of the Terms used in the Exchange of Notes and Technical Protocol**

12. For the purposes of the commitment set out in the Exchange of Notes and Technical Protocol, the following definitions will apply:

"automatic" has the meaning set out in paragraph 7v) of this Protocol.

"the Bermuda Central Database" means the Bermuda Central Register.

"beneficial owner" means any natural person(s) who ultimately owns or controls a corporate or legal entity through direct or indirect ownership of more than 25% of the shares or voting rights or ownership interest in that entity, or through control via other means. This is abbreviated from Article 3(6) of the Fourth Money Laundering Directive's definition of a beneficial owner.

"corporate and legal entities" has an ordinary meaning. Participants should ensure that the widest possible range of corporate and legal entities incorporated in their jurisdiction is covered.

"designated point of contact" means in the case of:

Bermuda, the Bermuda Monetary Authority as per paragraph 4 of the Technical Protocol; and

the UK, the UKFIU, being the United Kingdom's Financial Intelligence Unit.

"law enforcement authorities" means law enforcement and tax authorities .

"secure" has the meaning set out at paragraph 7ii) and vi) of this Protocol, and means the fact that a search has been requested or conducted will not be made public or communicated to any person whatsoever apart from those suitably security cleared individuals who have responsibility for processing a request, including the officials conducting the search.

"similarly effective arrangement to a secure central electronic database" is defined as one which meets the following criteria:

a) law enforcement and tax authorities can obtain corporate and legal entities beneficial ownership information without restriction, and this information is to be available in accordance with Paragraph 2 of the Exchange of Notes for use in both civil and criminal proceedings;

b) law enforcement authorities of the Participants are to be able to identify quickly all corporate and legal entities connected to a beneficial owner without needing to submit multiple and repeated requests; and



c) corporate and legal entities or those to whom the beneficial ownership information relates are not to be alerted to the fact that a request has been made or an investigation is underway.

"suitably security cleared individuals" has the meaning set out in paragraph 7ii) of this Protocol.

"timely" has the meaning set out in paragraph 7iii) of this Protocol.

## INTERNATIONAL REQUEST FOR BENEFICIAL OWNERSHIP INFORMATION

Any unauthorised disclosure of information relating to this request may constitute a criminal offence.

Requestor details:

Name:		Competent Authority*:	
Telephone:		Email:	

\*Competent Authority refers to any UK or Bermuda Law Enforcement or Tax Authority

URN	
Operation / Case Ref:	
Jurisdiction for Request:	
Date and Time of Submission:	
Authorising Officer Grade/Rank	
<b>Urgent / Return</b>  Appropriate rationale must be given as to reason for urgency e.g. threat to life, immediate risk of asset flight, time critical Court applications	<b>Rationale:</b>

REQUEST RELATES TO SERIOUS & ORGANISED CRIME

Information Requested:

*Ministry of Finance, 30 Parliament Street, Hamilton HM 12 Bermuda*  
*Telephone: 441-295-5151 (Ext. 1496) Facsimile: 441-295-5727*

1. Accurate and current beneficial ownership information on all legal persons named in this request;
2. Identification of the beneficial owner of any named company;
3. Identification of all other legal persons in which the beneficial owner has an interest as well as the names of other individuals with interests in those legal persons.

**Subject details:**

(if you are enquiring about more than one subject, copy and paste this section as required. The boxes will expand automatically):

<b>Surname:</b>		<b>Forename:</b>	
<b>DOB:</b>		<b>Where born:</b>	
<b>Nationality:</b>		<b>Occupation:</b>	
<b>Alias:</b>		<b>Gender:</b>	
<b>Address(es):</b>			

<b>Subject link to the overseas jurisdiction:</b>	
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**Company details:**

(if you are enquiring about more than one company, copy and paste this section as required):

<b>Company name:</b>			
<b>Registration number:</b>		<b>Country of</b>	

*Ministry of Finance, 30 Parliament Street, Hamilton HM 12 Bermuda*  
*Telephone: 441-295-5151 (Ext. 1496) Facsimile: 441-295-5727*

		Registration:	
Company address(es):			

Subject link to the overseas jurisdiction:	
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IT SHOULD BE NOTED THAT ANY INFORMATION OBTAINED AS A RESULT OF THIS REQUEST MAY BE USED BY RELEVANT UK COMPETENT AUTHORITIES IN ANY CRIMINAL OR CIVIL PROCEEDINGS WITHOUT PRIOR RECOURSE.