

Beneficial Ownership Requirements: Companies (Amendment) Act

November 2019



Agenda

- | | |
|---|----|
| 1. Nature of changes in Companies Act | 4 |
| 2. Beneficial ownership:
Disclosure & reporting requirements | 6 |
| 3. Beneficial ownership:
Bearer share warrants & bearer warrants | 10 |
| 4. Our services | 12 |

1

Nature of changes in
Companies Act

Changes in Companies Act

The Companies (Amendment) Act, 2019 ('CAA') was assented to by Parliament on 4 April 2019 and proclaimed by the President on 30 May 2019.

Nature of Changes

The CAA introduces a number of new reporting and disclosure requirements on the following:

- companies
- beneficial owners who are not shareholders
- shareholders; and
- senior company officials.

In summary, the CAA requires companies to ascertain their true owners and disclose same to the Companies Registry using prescribed forms.

In the following slides we have outlined additional details in respect of specific obligations.



2

Beneficial ownership:
Disclosure &
reporting
requirements

Beneficial ownership: disclosure and reporting requirements

Scope

The following requirements are applicable to all companies incorporated in Trinidad and Tobago ('T&T'), save for public companies.

Definition of Beneficial Owner

Section 9 of the CAA effectively defines a beneficial owner as the natural person who is the ultimate owner of a company. In situations where this cannot be determined, the beneficial owner will be deemed to be the natural person who exercises *control* over a company.

Definition of control

Section 4 of the Companies Act defines control as the power of a person to secure by means of —

- (a) the holding of shares or the possession of voting power in relation to that body corporate; or
- (b) any other power conferred by the articles of incorporation or other document regulating the body corporate,

that the business and affairs of the body corporate are conducted in accordance with the wishes of that person.



Beneficial ownership: disclosure and reporting requirements

– Summary of obligations

Companies	Deadline/frequency	Shareholder and beneficial owners	Deadline/frequency
issue a notice to all shareholders requiring that a declaration of beneficial owners holding interest to be submitted by them	As soon as practically possible and annually thereafter	Shareholders who are not beneficial owners to submit a declaration to the company stating who the shares are beneficially held for, and providing particulars sufficient to identify the beneficial owners identified	As soon as practically possible (shareholders were required to submit this declaration no later than 28 June 2019 however it was not possible to do so by that date as the prescribed form required for its submission was not yet available)
maintain a register of declarations submitted by shareholders and beneficial owners (separate from register of shareholders)	On-going obligation	Shareholders as well as any persons who hold beneficial ownership in a local company are required to submit a declaration to the company providing particulars as to his/her ownership interest	Within 30 days of receipt of a notice by a company for the purpose of providing particulars as to his/her ownership interest
submit a return to the Companies Registry for the purpose of conveying the information provided by the declaration	Within 30 days of receipt of a declaration by a shareholder or beneficial owner	Where a person acquires a beneficial interest in a company but his/her name is not entered into the register of members in respect of the said shares, he/she is required to submit a declaration to the company specifying, amongst other things, the nature of the interest acquired in the shares of a company	Within 30 days of acquiring a beneficial interest in the shares of a company
submit a return to the Companies Registry for the purpose of providing the particulars of any issuance or transfer of shares	Within 30 days of (a) the issuance of shares, or (b) registration of a transfer of shares	both the shareholder and beneficial owner are required to submit declarations to the company specifying the nature of the change to information previously provided	Within 30 days of any change in the information provided by a shareholder and beneficial owner as it pertains to the beneficial interest in shares of a company

PwC

* Note that all notices, declaration and returns referred to above must be done using prescribed forms.

Beneficial ownership: disclosure and reporting requirements

– Summary of penalties for non-compliance

Penalties for non-compliance include the following:

- A company that fails to take reasonable steps to ascertain its beneficial owners will be guilty of an offence and it, along with every director and officer, will be liable on summary conviction to a fine of \$10,000 (and for every day for which the offence continues a further fine of \$300) and to imprisonment for three years.
- A person who fails, without reasonable cause, to submit a declaration commits an offence and is liable on summary conviction to a fine of \$10,000 (and for every day for which the offence continues a further fine of \$300) and to imprisonment for three years.
- Where a company fails to file a return required by the CAA within the specified period, the company and any director and officer of the company who knowingly and recklessly fails to file the return commits and is liable on summary conviction to a fine of \$10,000 (and for every day for which the offence continues a further fine of \$300) and to imprisonment for three years.



3

Beneficial ownership:
Bearer share
warrants & bearer
warrants

Bearer share warrants and bearer warrants*

The new disclosure and reporting obligations in relation to bearer warrants and share warrants ('Bearer Instruments') are only applicable to companies that have issued and outstanding Bearer Instruments. These companies, together with the holder of Bearer Instruments have to comply with the following requirements of the CAA.

1. Locally incorporated Companies

Summary of Obligations on Company	Summary of obligations on holders of bearer Instruments
By 29 November 2019, companies are required to deliver to the Companies Registry a return setting out the number of Bearer Instruments it has issued.	Within six (6) months of receiving a notice by the company, he/she is required to bring in the Bearer Instruments to the company for registration
As soon as possible after the filing of the abovementioned return, companies are required to issue a notice to the holder of all Bearer Instruments to bring same in for registration within six (6) months of receipt of the notice	
Companies are required to maintain a register of Bearer Shares brought in for registration	
Where the holder of a Bearer Instruments fails to bring the same in for registration, companies are required to apply to the High Court for the respective Bearer Instrument to be cancelled and upon cancellation to make the appropriate amendments to the Companies' share capital	

2. External Companies Registered as Branches in T&T

Similar obligations are imposed on external companies that have issued and outstanding Bearer Instruments in T&T.

* In respect of locally incorporated companies, the Companies Act prohibits the issuance of Bearer Shares and/or Bearer Share Certificates or the exchange or conversion of any share into Bearer Shares and/or Bearer Share Certificates. The CAA now extends the prohibition to cover Bearer Share Warrants and Bearer Warrants as well as provides a mechanism the registration of any Bearer Share Warrants and Bearer Warrants that companies may have issued prior to the commencement of the CAA. The CAA also now imposes the same prohibition on external companies registered in T&T with respect to Bearer Shares, Bearer Share Certificates, Bearer Share Warrants and Bearer Warrants as well as provides a mechanism for the registration of Bearer Shares, Bearer Share Certificates, Bearer Share Warrants and Bearer Warrants issued by the

PwC external company in T&T prior to the commencement of the CAA.

4

Our services

Our services

To assist you with compliance of your obligations under the legislation, we propose the following for your consideration:

1. Beneficial Ownership: Achieving initial compliance package

Under this option, we will assist the company, its shareholder(s) and beneficial owners with the following:

- Preparing the initial notices to the company's shareholders and beneficial owners requiring them to submit the relevant declaration
- Liaising with the company's shareholders and beneficial owners to collate the information required by the declaration
- Preparing draft declarations for the company's shareholders and beneficial owners based on the information obtained
- Preparing a draft of the return that the company is required to deliver to the Companies Registry for the purpose of conveying the information provided by the declarations received by its shareholders and beneficial owners
- Filing the return with the Companies Registry on the company's behalf.



Our services

To assist you with compliance of your obligations under the legislation, we propose the following for your consideration:

2. Beneficial Ownership: Ongoing annual compliance package

Under this option, we will assist the company, its shareholder(s) and beneficial owners with the following:

- Preparing the annual notice to shareholders and beneficial owners requiring them to submit the relevant declaration
- Liaising with the shareholders and beneficial owners of the company to collate the information required by the declaration
- Preparing draft declarations for the company's shareholders and beneficial owners based on the information obtained
- Preparing a draft of the return that the company is required to deliver to the Companies Registry for the purpose of conveying the information provided by the declarations received by its shareholders and beneficial owners
- Filing the return with the Companies Registry on the company's behalf.



Our services

To assist you with compliance of your obligations under the legislation, we propose the following for your consideration:

3. Beneficial Ownership: One-off filing packages

A. Filings required where there has been a change to the beneficial ownership information previously provided

Under this option, we will assist the company, its shareholder(s) and beneficial owners with the following:

- Liaising with the shareholders and beneficial owners of the company to collate the information on the change(s) for the purpose of preparing the relevant declaration to notify the company of same
- Preparing draft declarations for the company's shareholders and beneficial owners based on the information obtained
- Preparing a draft of the return that the company is required to deliver to the Companies Registry for the purpose of conveying the information provided by the declarations received by its shareholders and beneficial owners
- Filing the return with the Companies Registry on the company's behalf.



Our services

To assist you with compliance of your obligations under the legislation, we propose the following for your consideration:

3. Beneficial Ownership: One-off filing packages

B. Filings required where there an individual acquires a beneficial interest in shares of a company where such person's name is not entered into the register of members in respect of the said shares

Under this option, we will assist the company, its shareholder(s) and beneficial owners with the following:

- Liaising with the relevant shareholder and beneficial owner to collate the information on the new beneficial owner for the purpose of preparing the relevant declaration to notify the company of same
- Preparing draft declarations for the company's new beneficial owners based on the information obtained
- Preparing a draft of the return that the company is required to deliver to the Companies Registry for the purpose of conveying the information provided by the declaration received by the new beneficial owner
- Filing the return with the Companies Registry on the company's behalf.



Our services

To assist you with compliance of your obligations under the legislation, we propose the following for your consideration:

3. Beneficial Ownership: One-off filing packages

C. Filings required company upon (a) the issuance, or (b) registration of a transfer, its shares

Under this option, we will assist the company with the following:

- Liaising with the relevant parties to collate the information for the purpose of preparing a draft of the return that the company is required to deliver to the Companies Registry for the purpose of conveying the information in respect of (a) the issuance, or (b) registration of a transfer, its shares
- Filing the return with the Companies Registry on the company's behalf.



Our services

To assist you with compliance of your obligations under the legislation, we propose the following for your consideration:

4. Bearer Instruments: Achieving initial compliance package

Under this option, we will assist the company, and by extension, the holders of Bearer Instruments with the following:

- Preparing a draft of the return that the company is required to deliver to the Companies Registry for the purpose of setting out the number of Bearer Instruments it has issued;
- Filing the return with the Companies Registry on the company's behalf;
- Preparing the notice to holders of Bearer Instruments requiring them to bring the Bearer Instruments in to the Company for registration within 6 months.



Contact Us

Please contact us for additional information and to obtain a quote for our services. Information on next slide.



Let's Talk

Meet our Tax & Legal Services Team



Angelique Bart
Territory Tax & Legal Services Leader
Direct Line: 1 868 299 0700 x 0715
Email: angelique.bart@pwc.com



Nicole Joseph
Tax & Legal Services Partner
Direct Line: 1 868 299 0700 x 0716
Email: nicole.joseph@pwc.com

Fanny Ursulet-Headley
Executive Director
Direct Line: 1 868 299 0700 x1028
Email: fanny.ursulet-headley@pwc.com

Tonika Wilson-Gabriel
Executive Director
Direct Line: 1 868 299 0700 x 1032
Email: tonika.wilson@pwc.com

Karen Hackett
Senior Manager
Direct Line: 1 868 299 0700 x 1035
Email: karen.hackett@pwc.com

Michelle Carrington
Senior Manager
Direct Line: 1 868 299 0700 x 1040
Email: michelle.carrington@pwc.com

Suresh Cassie
Senior Manager
Direct Line: 1 868 299 0700 x 1011
Email: suresh.cassie@pwc.com

Alyssa Brown
Manager
Direct Line: 1 868 299 0700 x 3014
Email: alyssa.brown@pwc.com

Jo-Anna Mark
Manager
Direct Line: 1 868 299 0700 x 1043
Email: jo-anna.mark@pwc.com

© 2019 PwC. All rights reserved. PwC refers to the Trinidad & Tobago member firm and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details. This publication does not constitute legal, accounting or other professional advice. It is intended only to inform readers of developments as of the date of publication and is neither a definitive analysis of the law nor a substitute for professional advice. Readers should discuss with professional advisers how the information may apply to their specific situations. Unless prior written permission is granted by PwC, this publication may be displayed or printed only if for personal non-commercial use and unchanged (with all copyright and other proprietary notices retained). Any unauthorised reproduction is expressly prohibited.



Port of Spain Office

PricewaterhouseCoopers Limited
P.O. Box 550
11-13 Victoria Avenue
Port of Spain
Trinidad and Tobago
West Indies

Telephone: 1 868 299 0700
Telefax: 1 868 623 6025

San Fernando Office

PricewaterhouseCoopers Limited
19-21 Independence Avenue
San Fernando
Trinidad and Tobago
West Indies

Telephone: 1 868 299 0700
Telefax: 1 868 657 4993

www.pwc.com/tt