

# Transparency International UK – Response to the Cayman Islands’ consultation on providing legitimate interest access to beneficial ownership data

## SUMMARY

Transparency International UK is the UK-based chapter of Transparency International, the world’s leading non-governmental anti-corruption organisation. We raise awareness about corruption; advocate legal and regulatory reform at national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anti-corruption expertise in the UK. We base our advocacy on robust research, and, as a UK registered charity, are independent and non-political.

We welcome the Cayman Island’s consultation on providing legitimate interest access to beneficial ownership data on its corporate register. However, in its current form, the proposed Beneficial Ownership Transparency (legitimate interest access) Regulations 2024 and the Beneficial Ownership Transparency (Access Restriction) Regulations 2024 **will not enhance the Cayman Islands effort to tackle money laundering, corruption and its predicate offences, nor will it strengthen the integrity of its financial services.**

By making it less burdensome and more accessible to individuals and organisations with a legitimate interest, **the Cayman Islands has an opportunity to champion effective legitimate interest frameworks and maintain its position as a financial centre of excellence.** By enhancing its beneficial ownership register, the Cayman Islands will offer a competitive business environment whilst remaining steadfast committed to combating money laundering, terrorist and other criminal activities that misuse legal structures to exploit the financial services industry.

### Key Recommendations:

- **Clarify and expand the legal purposes of the register of beneficial owners to protect it from legal challenges and support broader goals of transparency and integrity in financial services.**
- **Enable general access based on an applicant’s status and their ability to demonstrate legitimate interest against a specified set of criteria, rather than on a case-by-case basis.**
- **Minimise financial, administrative, and time-related burdens on applicants and the competent authority by providing clear, concise guidance and ensuring that the process is transparent and timely.**
- **Enhance data usability by allowing bulk downloads, introducing lightweight terms and conditions and by refining the definition of beneficial ownership to ensure greater accuracy and compliance.**
- **Introduce adequate safeguard to keep users’ accessing beneficial ownership information confidential and ensure protections for those using data in public interest publications.**

## CONTEXT

Although the TI movement welcomes progress towards legitimate interest registers, we firmly believe that company ownership information should be publicly accessible. By operating in the public field and doing business, companies are using the systems and infrastructure the state provides them: legal entities are not meant to hide the people behind them.<sup>1</sup>

Financial secrecy in the British Overseas Territories, including the Cayman Islands, is facilitating economic crimes from around the world. Our research has identified hundreds of global corruption and money laundering schemes enabled by shell companies registered in these jurisdictions. Together, these cases amount to over £250 billion in economic damage – more than the whole of the UK’s foreign aid budget over the last two decades.<sup>2</sup>

Corporate secrecy in the Cayman Islands has been exploited by criminals from around the world on a large scale to hide and launder the proceeds of crime. Using open-source material alone, Transparency International UK has identified dozens of instances of Cayman Islands entities being used to launder money, resulting in billions of pounds worth of economic damage. For example, Cayman Island structures lay at the heart of one of the world’s biggest corruption cases, the 1MDB scandal, which saw \$4 billion stolen from Malaysia’s sovereign wealth fund and laundered through opaque shell companies.<sup>3</sup>

Further to this, following Russia’s full invasion of Ukraine in 2022, the use of Cayman Island companies to hold wealth by sanctioned individuals has been put into sharp focus. Whilst the Cayman Islands have frozen \$8.7 billion worth of assets linked to sanctioned Russians, the true scale of assets belonging to such individuals held by Cayman entities may be higher.<sup>4</sup> The use of nominees and proxies can only be identified when this information is accessible to investigators, journalists and civil society.

In his most recent public statement on this issue, Foreign Secretary David Lammy argued that he plans to ‘develop a clear time-bound action plan in government, working with the UK Overseas Territories and Crown Dependencies, to bring them all into full compliance with transparency requirements.’<sup>5</sup> And more recently, minister Stephen Doughty responded to a written question confirming that ‘full public accessibility remains [the UK Government’s] expectation. Access filtered to those with “legitimate interest” should be delivered to a clear timetable, as an interim step,’ and that he had communicated to the Overseas Territories the minimum requirements the UK Government would expect to see in any LIA regime.<sup>6</sup>

Whilst the introduction of legitimate interest access to the Cayman Islands beneficial ownership registry represents a step forward for corporate transparency, the resources required to implement

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<sup>1</sup> TI EU, *Transparency International EU’s assessment of the adopted Anti-Money Laundering Package* (April 2024) <https://transparency.eu/wp-content/uploads/2024/09/AML-package-briefing.pdf>

<sup>2</sup> Transparency International UK, *The cost of secrecy: The role played by companies registered in the UK’s Overseas Territories in money laundering and corruption* (December 2018) <https://www.transparency.org.uk/publications/cost-of-secrecy>

<sup>3</sup> <https://www.malaysiakini.com/news/400875> [accessed: 29 October 2024]

<sup>4</sup> Cayman News Services, *Cayman freezes US\$8.7 billion in Russian assets* (July 2022) <https://caymannewsservice.com/2022/07/cayman-freezes-us8-7-billion-in-russian-assets/>

<sup>5</sup> David Parsley, The I, *Labour to ban lawsuits that silence the press in Russian oligarch crackdown* (June 2024) <https://inews.co.uk/news/labour-crackdown-russian-oligarchs-slapp-lawsuit-ban-3088676?srsItd=AfmBOooTdO0UjtGlqX5G3SGDPfNxmWfXyU-iiyENJWghP5X3Aqp0F0m0>

<sup>6</sup> Written Question, *British Overseas Territories: Money Laundering*, Question for Foreign, Commonwealth and Development Office (October 2024) <https://questions-statements.parliament.uk/written-questions/detail/2024-10-07/7664>

and administer the legitimate interest access regime as currently stated would be significant and unworkable. Not only would this add costs for both the Cayman Islands Government and users of the register, but it would also likely impact its operation and undermine the intended purpose of tackling financial crime and the Cayman Islands' objective of having a world leading financial services sector.

Instead, implementing a publicly accessible register of beneficial ownership would achieve the intended policy intent, whilst not creating burdensome bureaucratic processes for the government and end-users.

At the very least, the Cayman Islands should ensure that it has an effective legitimate interest access register, in line with their previous commitment to follow global standards and the approach taken by the European Union.<sup>7</sup> By following the recommendations set out in this response, the Cayman Islands would reduce their cost in operating the register, tackle financial crime more effectively, and create certainty and trust in their business environment.

## RESPONSE IN DETAIL

*Clarify and expand the legal purposes of the register of beneficial ownership to protect it from legal challenges and support broader goals of transparency and integrity in financial services.*

Research by Transparency International's Secretariat and Open Ownership into the Court of Justice of the European Union (CJEU) ruling highlight that the narrow scope of the BO registers contributed to the findings that privacy infringements were unnecessary and disproportionate.<sup>8</sup> This is in large part because public registers were introduced under the 5<sup>th</sup> EU's Anti-Money Laundering directive, with an objective to identify and combat money laundering and its predicate offences.<sup>9</sup>

In contrast, the UK's policy goals behind its PSC register were much broader, aiming 'to enhance corporate transparency and, thereby, to facilitate economic growth and help tackle misuse of companies'.<sup>10</sup> This broader policy framing has helped the UK register remain compliant with the ECHR, as the UK Government assessed that 'the intrusions were limited and necessary in a

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<sup>7</sup> Government of the Cayman Islands, *Statement on Beneficial Ownership* (October 2019) <https://cigouk.ky/statement-on-beneficial-ownership/#:~:text=The%20Government%20of%20the%20Cayman,5th%20Anti%20Money%20Laundering%20Directive.>

<sup>8</sup> Tymon Kiepe, *Striking a balance: Towards a more nuanced conversation about access to beneficial ownership information*, Open Ownership (October 2023) <https://www.gov.uk/government/publications/people-of-significant-control-psc-register-review-of-implementation> ; Transparency International, *Legitimate interest 2.0: Enabling journalists and activists to follow the money in the European Union*, (August 2023) <https://www.transparency.org/en/news/access-beneficial-ownership-after-cjeu-legitimate-interest-6th-amld#:~:text=%5BB%5D%20the%20press%20and,accessing%20information%20on%20beneficial%20ownership.&text=T%20ransparency%20International%20believes%20that%20this,reflected%20in%20EU%2Dwide%20rules.>

<sup>9</sup> Tymon Kiepe, *Striking a balance: Towards a more nuanced conversation about access to beneficial ownership information*, Open Ownership (October 2023) <https://www.gov.uk/government/publications/people-of-significant-control-psc-register-review-of-implementation>

<sup>10</sup> Department for Business and Trade, *People of Significant Control (PSC) Register: review of implementation*, (August 2019) <https://www.gov.uk/government/publications/people-of-significant-control-psc-register-review-of-implementation#:~:text=The%20objective%20of%20the%20register,register%20in%20promoting%20corporate%20transparency.>

democratic society for the prevention and detection of crime and in for the economic well-being of the country.’<sup>11</sup>

This context highlights the importance of establishing a legitimate interest framework aligned with broad policy objectives rather than narrow, single-purpose goals. Experience drawn from the EU and the UK indicates that a broader framing of policy goals could mitigate privacy concerns and strengthen its legal grounding.

Looking at the 2023 *Beneficial Ownership Transparency Act*, which established the Cayman Islands’ register of beneficial ownership, the Act does not contain a specific policy aim. Associated documents, however, indicate that the legitimate interest framework’s purpose is to ‘preserve the integrity of the financial services industry’ and ‘aims to maintain its position as a premier financial centre of excellence, offering a sound and sustainable framework for businesses to operate within international standards, whilst remaining competitive.’<sup>12</sup> The Act grants access to BO data to a range of Competent Authorities, including police, aviation, tax and procurement authorities, indicating it has wider societal benefits than tackling money laundering.

As such, **the Beneficial Ownership Transparency Regulations should define legitimate interest in line with these broader policy objectives, not just limited to anti-money laundering efforts but also other societal impact such as enhancing the integrity of its financial system and increasing trust in its business environment.**

The EU’s recent introduction of a tightly defined legitimate interest framework is primarily a response to a policy framing that was too narrow. By being more explicit about the register’s broader aims, the Cayman Islands could similarly protect itself from legal challenges while allowing for more flexible access to beneficial ownership information.

*Enable access based on an applicant’s status and their ability to meet a set of criteria, rather than per request.*

The proposed Legitimate Interest framework falls short of the standards introduced in the EU’s 6<sup>th</sup> Anti-Money Laundering directive (6AMLD), which recognises that ‘legitimate interest should be presumed for certain categories of the public’, and that ‘In order to enable such categories to carry out their activities effectively and avoid risks of retaliation, they should be able to access information on legal entities and legal arrangements **without demonstrating a link with those entities or arrangements.**’<sup>13</sup>

There are a range of actors who regularly use company beneficial ownership data to contribute to the global response against corruption and money laundering, including:

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<sup>11</sup> Policy Paper, *Supplementary ECHR memorandum: amendments made to parts 1-3 Economic Crime and Corporate Transparency Bill (BEIS measures)*, (October 2023) <https://www.gov.uk/government/publications/economic-crime-and-corporate-transparency-bill-2022-echr-memoranda/supplementary-echr-memorandum-amendments-made-to-parts-1-3-economic-crime-and-corporate-transparency-bill-beis-measures#:~:text=Impact%20of%20recent%20CJEU%20ruling%20on%20beneficial%20ownership%20registers%20on%20ECHR%20analysis%20of%20the%20Bill>

<sup>12</sup> Ministry of Financial Services & Commerce, *Guidance on complying with beneficial ownership obligations in the Cayman Islands* (July 2024) [https://www.ciregistry.ky/wp-content/uploads/dlm\\_uploads/Beneficial-Ownership-Transparency-General-Guidance-Final.pdf](https://www.ciregistry.ky/wp-content/uploads/dlm_uploads/Beneficial-Ownership-Transparency-General-Guidance-Final.pdf)

<sup>13</sup> Paragraph 41, Directive (EU) 2024/1640 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1640>

- **Businesses:** who use corporate registers to comply with their obligations to undertake due diligence checks on clients and their source of wealth.
- **Journalists:** who use information from corporate registers to follow the money, identify potential criminality, and publish reports, which are used by business and law enforcement as open-source intelligence.
- **Civil society organisations:** who work with investigative journalists and use evidence from investigations and research using corporate data to inform policy responses against the illicit finance threat.
- **Financial crime specialists:** who use corporate registers to identify patterns of company incorporation, directors and addresses which are in the public interest, and were in turn shared with law enforcement agencies.

Both the UK Government<sup>14</sup> and EU<sup>15</sup> recognise the invaluable contributions of civil society organisations and journalists in identifying money laundering, corruption and other crimes. Under 6MLD, journalists and civil society organisations working on countering terrorism financing, anti-money laundering or any of the predicate offences (such as corruption, tax fraud, environmental crime, or trafficking) will be able to consult the data in the register (provided they provide verified information about their occupation) **without being required to justify their reasons for scrutinising a specific entity.**

However, under its current proposed legitimate interest framework, the Cayman Islands would require applicants to **both** provide credentials to prove that they belong to a specific group – for instance, a journalist or a member of a civil society organisation working on corruption – *and* demonstrate that the person making the request (the applicant) has a ‘legitimate interest in the information being sought’. In other words, applicants would need to justify their reason for scrutinising a specific entity.

Requesting that applicants demonstrate this ‘legitimate interest’ in the information being sought is not only **out of step with the EU’s approach but would also be detrimental to efforts to detect and combat money laundering.** Many investigations use the register as a primary source of evidence – meaning that investigations and analysis start based on the information contained in the register, rather than being consulted once suspicion of wrongdoing has occurred. The draft regulations would erect a new barrier to investigating financial crime rather than removing one.

**Administering access on a case-by-case basis is also likely to be logistically incredibly bureaucratic and difficult to administer.** There are over 100,000 legal entities registered in the Cayman Islands currently,<sup>16</sup> yet the demand for access to information on these companies will likely be manyfold this number. For example, the UK company register is measured in the millions while company searches are counted in the billions.<sup>17</sup> Considering the demand for Cayman beneficial ownership data is likely high, **we do not think the proposed approach to providing access is workable.**

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<sup>14</sup> <https://www.gov.uk/government/news/uk-government-to-tackle-global-financial-corruption> [accessed: 28 October 2024]

<sup>15</sup> Paragraph 41, Directive (EU) 2024/1640 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1640>

<sup>16</sup> Cayman Island General Registry, *Statistics webpage*, (Accessed in October 2024) <https://www.ciregistry.ky/companies-register/company-statistics/>

<sup>17</sup> Companies House, *New report estimates value of Companies House data at up to £3 billion per year* (September 2019) <https://www.gov.uk/government/news/new-report-estimates-value-of-companies-house-data-at-up-to-3-billion-per-year>

Finally, the current wording also gives **too much discretion** to the competent authority by stating that applications and documents are provided upon the ‘satisfaction of the competent authority’ that the applicant has a legitimate interest. Having an objective set of criteria for applicants to consider, as well as clearer language in the regulation, would help build confidence in the impartiality of the process. TI is producing recommendations on how this could work in an EU context and would be happy to share more detail with the Cayman Islands.

#### **Recommendation in detail:**

- **Ensure meaningful access to the register** by aligning the Cayman Island’s approach with the EU’s 6AML, granting full access to the register to a wide range of organisations or individuals involved in preventing, detecting and pursuing money laundering and underlying predicate offences.
- **Defining categories of groups that have legitimate interest** by default is the fairest and most cost-efficient way to implement legitimate interest access. Other groups with a legitimate interest should be able to apply and submit evidence supporting their application. This could be based on the example set out by the 6AML (See Annex below).
- **Provide guidance laying out clear and objective criteria** that applicants must meet, as well as the supporting evidence they must submit to be granted access will build confidence in the impartiality of the process.

*Minimise financial, administrative, and time-related burdens on applicants by providing clear, concise guidance and ensuring that the process is transparent and timely.*

In its 6AML, EU Member States worked to ensure that the application process itself was transparent, timely and affordable. However, as currently drafted, the Regulations create an application process which is too **burdensome and expensive, with some lack of clarity over timelines**.

Firstly, the proposed text requires applicants to pay a \$30 fee for each application they submit. This process is **burdensome and expensive** not just for the applicant who would need to compile application for each corporate record required and pay a \$30 processing fee for each request, but also for the competent authority itself, who (as we mention above) is likely to be inundated with requests and unable to cope. By comparison, the EU’s 6AML clearly states that the fee ‘shall be limited to what is strictly necessary to cover the costs of ensuring the quality of the information held in those registers and of making the information available.’ And that the fees should not ‘undermine the effective access to the information held in the central registers.’<sup>18</sup>

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Companies House, <https://www.gov.uk/government/news/new-report-estimates-value-of-companies-house-data-at-up-to-3-billion-per-year>

<sup>18</sup> Official Journal of the European Union, *Directive (EU) 2024/1640 Of The European Parliament And Of The Council*, (May 2024) [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L\\_202401640](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_202401640)

To put this into perspective, it could cost TI-UK over \$3 million to replicate previous research into the abuse of Scottish Limited Partnerships (SLPs)<sup>19</sup> and Limited Liability Partnerships (LLPs)<sup>20</sup> for the Cayman Island's 100,000+ companies – an impossibly high fee for an organisation of our size.<sup>21</sup>

The UK experience shows that providing free access to company information can provide substantial financial benefits and can complement paid-for products provided to commercial clients.<sup>22</sup> We think there is a strong argument to adopt a similar approach. This would help strike a balance between not imposing undue barriers to those investigating financial crime, while providing a sustainable income stream for the company register.

Secondly, while the current text indicates that competent authorities will need to provide a written notice to the applicant within seven working days of a decision being made, **there is no timeframe** as to how long the competent authority must *come to a decision*. The 6AMLD specifies that Member States competent authorities should conduct verification over credentials and/or legitimate interest and provide a response to the applicant within 12 working days.<sup>23</sup> The proposed regulation also **does not provide any means to appeal the decision** or what steps should be taken to do so.

Finally, **financial crime knows no borders**, and it is not uncommon for kleptocrats and criminals to use multiple jurisdictions to obtain and launder their ill-gotten gains. Recognising this threat, the EU's 6AMLD makes provision to facilitate the mutual recognition of legitimate interest to access beneficial ownership across the different Member States.<sup>24</sup> This helps avoid a situation whereby someone who proves they have a legitimate interest in one jurisdiction are denied access in another for no good reason, hampering cross-border investigations. By following the EU's approach and recognising the legitimate interest granted by the EU, the Cayman Islands can limit the financial and administrative costs associated with processing a high number of applications while maximising the impact of its register.

#### Recommendations in detail:

- **Streamline access to minimise bureaucratic costs:** To reduce the administrative burden and processing costs, the Cayman Islands should grant general access to the register. Successful applicants should retain access for a reasonable and clearly defined period - ideally no less than three years, in line with the EU's 6AMLD.<sup>25</sup>
- **Provide free access alongside paid-for commercial products:** To generate the maximum economic benefits from the register, access should be free for general users and

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<sup>19</sup> Transparency International UK, *Offshore in the UK*, (June 2017) <https://www.transparency.org.uk/publications/offshore-in-the-uk>

<sup>20</sup> Transparency International UK, *Partners in Crime*, (October 2022) <https://www.transparency.org.uk/sites/default/files/pdf/publications/Partners%20in%20Crime%20-%20Transparency%20International%20UK.pdf>

<sup>21</sup> Ibid., it would cost exactly \$2,753,010 to replicate Partners in crime analysis under current proposals <https://www.transparency.org.uk/partners-in-crime-UK-LLP-Limited-Liability-Partnership-money-laundering> ; \$2,753,010 to replicate Partners in crime analysis under current proposals

<sup>22</sup> Companies House/BEIS, *Valuing the user benefits of Companies House data* (September 2019) <https://assets.publishing.service.gov.uk/media/5d8a299aed915d5cff89a4a1/valuing-benefits-companies-house-data-policy-summary.pdf>

<sup>23</sup> Official Journal of the European Union, *Directive (EU) 2024/1640 Of The European Parliament And Of The Council*, (May 2024) [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L\\_202401640](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_202401640)

<sup>24</sup> Official Journal of the European Union, *Directive (EU) 2024/1640 Of The European Parliament And Of The Council*, (May 2024) [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L\\_202401640](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_202401640)

<sup>25</sup> Ibid.

complemented by paid-for products tailored for data intermediaries providing services for commercial users.

- **Establish transparent timelines and appeals processes:** To create more certainty and clarity, there should be clear timelines for decision-making on applications, and if access is denied, provide specific reasons. Applicants should also have the right to appeal decisions and clarity on how to do so.
- **Recognise legitimate interest across jurisdictions:** To avoid undue barriers to cross-border investigations and reduce unnecessary bureaucracy, the Cayman Islands should recognise legitimate interest granted by other EU states, and vice versa.

*Enhance data usability by allowing bulk downloads, introducing lightweight terms and conditions and by refining the definition of beneficial ownership to ensure greater accuracy and compliance.*

*Introduce adequate safeguard to keep users' accessing beneficial ownership information confidential and ensure protections for those using data in public interest publications.*

Investigations by journalist and due diligence carried out by companies will require applicants to have the ability to access timely, reliable and accurate data, ideally directly on the platform. We know that most investigations will require access to beneficial ownership details for multiple entities – sometimes all interconnected – to get to the bottom of a complex structure or chain of ownership. **As such, having up-to-date data on the platform is an absolute requirement.** In addition, valuable academic research and analysis is performed using aggregate data, rather than information relative to a specific entity.

For instance, our previous research has highlighted the potential widespread abuse of SLPs<sup>26</sup> and LLPs<sup>27</sup> using bulk data from UK Companies House. Bulk access to UK beneficial ownership data has enabled us to identify key weaknesses in the law that needed addressing, as well as tactical opportunities for interventions by AML supervisors and law enforcement agencies.

**The proposed regulation's language is also vague regarding the documents and information that the applicant will be able to access** once they have been able to prove their legitimate interest. It states that the competent authority would 'provide the applicant with the requested information on the search platform in writing'. It is unclear whether the applicant would have access to the platform and all relevant company information and whether access will be retained over time.

**The proposed regulation does not seem to imply that applicants will be able to download bulk data**, nor does it offer clarity on what applicants will be able to do with this data, once obtained. Worryingly, **the text does not specify that it will protect the details and identify of those who apply to access information on the register.**

The accuracy and utility of the register would be further improved by **refining the definition of beneficial owners**. The legislation as currently written leaves the register open to those seeking to avoid naming a beneficial owner using trust structures, with only the identity of trustees required.

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<sup>26</sup> Transparency International UK, *Offshore in the UK*, (June 2017) <https://www.transparency.org.uk/publications/offshore-in-the-uk>

<sup>27</sup> Transparency International UK, *Partners in Crime*, (October 2022) <https://www.transparency.org.uk/sites/default/files/pdf/publications/Partners%20in%20Crime%20-%20Transparency%20International%20UK.pdf>



This will result in other parties to trusts being missed and may result in the increased use of trusts to hide ownership of Cayman Islands companies.

There is growing evidence that as corporate transparency increases, those intent on hiding their identity for malign purposes are gravitating towards the use of complex trust structures. The speed at which trusts can secretly shift ownership of companies and their underlying assets is reminiscent of bearer shares. We have found these are particularly attractive to those seeking to avoid or evade sanctions.<sup>28</sup> Recognising this threat, both the UK Government<sup>29</sup> and EU<sup>30</sup> have adopted arrangements that would allow legitimate interest access to parties to trusts operating within their territories. To avoid Cayman's beneficial ownership register becoming a *de facto* register of opaque trusts controlling companies, it should also allow those with a legitimate interest access to obtain information about the parties to trusts either created in the Cayman Islands or controlling companies incorporated there.

#### Recommendations in detail:

- **Ensure data accuracy:** To ensure that the register is effective and delivers against its aims, it should be accessible online with up-to-date, ideally live data. At the very least, data should be published within a month and should include historic data too.
- **Facilitate research and analysis:** To enable research and analysis, the register should allow access to bulk data and provide a search interface to assist users.
- **Protect user confidentiality:** To avoid tipping off and retribution against those using the register, the competent authority should ensure that the identity of users accessing beneficial ownership information is always kept confidential and at no point made visible to the beneficial owner whose records are accessed.
- **Streamline terms of use:** To maximise the impact of the register, the terms and conditions of use should be lightweight and should not include any non-disclosure agreements. Journalists, researchers and other organisations accessing company data should have a clear understanding of the terms of use and the conditions (e.g. public interest) under which they may re-publish this information.
- **Future proof the register:** To protect against transparency avoidance strategies, the regulations should allow those with a legitimate interest to access information about the parties to trusts either created in the Cayman Islands or controlling companies incorporated there.

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<sup>28</sup> Harry Davies, *Leak reveals Roman Abramovich's billion-dollar trusts transferred before Russia sanctions*, The Guardian, (January 2023) <https://www.theguardian.com/world/2023/jan/06/roman-abramovich-trusts-transfer-leak-russia-sanctions> [accessed: 29 October 2024]

<sup>29</sup> For example: Section 23(2), Economic Crime (Transparency and Enforcement) Act <https://www.legislation.gov.uk/ukpga/2022/10/section/23> ; Regulation 45ZB, The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 <https://www.legislation.gov.uk/uksi/2017/692/regulation/45ZB> ; Consultation <https://www.gov.uk/government/consultations/transparency-of-land-ownership-involving-trusts-consultation> [accessed: 29 October 2024] ; Transparency of land ownership involving trusts consultation (December 2023), <https://www.gov.uk/government/consultations/transparency-of-land-ownership-involving-trusts-consultation> [accessed: 29 October 2024]

<sup>30</sup> Article 12(1)(e), Directive (EU) 2024/1640 [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L\\_202401640](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401640)

## ANNEX – ARTICLE 12(2), 6AML D

*The following natural or legal persons shall be deemed to have a legitimate interest to access the information listed in paragraph 1:*

*(a) , persons acting for the purpose of journalism, reporting or any other form of expression in the media, that are connected with the prevention or combating of money laundering, its predicate offences or terrorist financing;*

*(b) , civil society organisations, including non-governmental organisations and academia, that are connected with the prevention or combating of money laundering, its predicate offences or terrorist financing;*

*(c) , natural or legal persons likely to enter into a transaction with a legal entity or legal arrangement and who wish to prevent any link between such a transaction and money laundering, its predicate offences or terrorist financing;*

*(d) , entities subject to AML/CFT requirements in third countries, provided they can demonstrate the need to access the information referred to in paragraph 1 in relation to a legal entity or legal arrangement to perform customer due diligence in respect of a customer or prospective customer pursuant to AML/CFT requirements in those third countries;*

*(e) , third-country counterparts of Union AML/CFT competent authorities provided they can demonstrate the need to access the information referred to in paragraph 1 in relation to a legal entity or legal arrangement to perform their tasks under the AML/CFT frameworks of those third countries in the context of a specific case;*

*(f) , Member State authorities in charge of implementing Title I, Chapters II and III of Directive (EU) 2017/1132, in particular the authorities in charge of the registration of companies in the register referred to in Article 16 of that Directive, and Member State authorities responsible for scrutinising the legality of conversions, mergers and divisions of limited liability companies pursuant to Title II of that Directive;*

*(g) , programme authorities identified by Member States pursuant to Article 71 of Regulation (EU) 2021/1060, in respect of beneficiaries of Union funds;*

*(h) , public authorities implementing the Recovery and Resilience Facility under Regulation (EU) 2021/241, in respect of beneficiaries under the Facility;*

*(i) , Member States' public authorities in the context of public procurement procedures, in respect of the tenderers and operators being awarded the contract under the public procurement procedure;*

*(j) , providers of AML/CFT products, to the strict extent that products developed on the basis of the information referred to in paragraph 1 or containing that information are provided only to customers that are obliged entities or competent authorities provided that those providers can demonstrate the need to access the information referred to in paragraph 1 in the context of a contract with an obliged entity or a competent authority.*

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