

Government of Anguilla

Ministry of Finance & Health



**Public Consultation Paper Commercial
and Beneficial Ownership Registry Bill
December 2021**

CONSULTATION PROCESS

The Government of Anguilla, through the Commercial Registry is upgrading the Company Registration System. The system is intended to facilitate the incorporation/formation of legal entities and arrangements in line with the Registry Acts as well as to maintain Beneficial Ownership information with restricted access. The system will also have the capacity to host due diligence materials on a segregated section. This would facilitate in particular the due diligence process for complying with AML/CFT standards by Company Managers. This is intended to be the most efficient combined incorporation/AML-CFT compliance process in the world, facilitating both the immediate incorporation of companies and a streamlined process to enable licensees to ensure compliance with their AML/CFT obligations. Legislation is intended to provide for the establishment of this electronic registration system for the Commercial Registry and to provide for the maintenance of certain customer due diligence and beneficial ownership information.

Accordingly, this consultation is intended to identify any major areas of concern with the draft Bill and Regulations respectively. All comments should be submitted on or before December 20th 2021.

Please note that you may submit comments electronically or by post. However, emailed submissions – in Word, PDF or RTF format – are preferred. Submissions should be addressed to:

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Background

- I. In April 2016, Anguilla and other UK Crown Dependencies and Overseas Territories entered into reciprocal arrangements with the UK Government, committing to the provision of beneficial ownership information within an enhanced manner based on requests from law enforcement and tax authorities. Within the UK-Anguilla Exchange of Notes, UK and Anguilla mutually acknowledged 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 organized crime. The agreement also recognized the importance of expediting timely and secure access to such information.

- II. In the Exchange of Notes and Technical Protocols – the Government of the Anguilla committed to establishing and maintaining an electronic platform or similarly effective arrangement, that will allow it to immediately access adequate, accurate and current beneficial ownership information on corporate and legal entities incorporated in the Anguilla. This would not be a public register or database. Acting only on the furtherance of their functions, United Kingdom law enforcement authorities will be able to request provision of this information within 24 hours of submission of a request and in urgent cases within an hour. The electronic platform would only be accessible to Anguillan Competent Authorities.

- III. In the exchange of notes, Anguilla committed to the implementation of arrangements to give effect to the initiative by no later than 30 June 2017. This includes necessary legislative regulatory changes and the establishment of a populated centralized platform or similarly effective system.

- IV. Since then, the United Kingdom Government (UKG) has been working with the Overseas Territories (OTs) and Crown Dependencies to support international efforts to promote

transparency through the introduction of Publicly Accessible Registers of Beneficial Ownership.

- V. The Sanctions and Anti Money Laundering amendment compels Overseas Territories (OTs) to establish public registers of beneficial ownership to set up public registers of company beneficial ownership by 31 December 2020. If they do not do so, the Secretary of State is should prepare an Order in Council requiring them to do so by 2023. The UKG has a duty to work with the overseas territories to ensure the same.
- VI. The Crown Dependencies have subsequently released a joint action plan committing to the introduction of public registers by 2023, which aligns with the principles of the EU 5th Anti-money laundering directive.
- VII. AMLD 5 requires public access to data on the beneficial owners of legal entities such as companies, but not trusts. Instead, members of the public wishing to access trust data need to demonstrate a legitimate interest: The access to data on the beneficial owner of trusts will be accessible without any restrictions to competent authorities, Financial Intelligence Units, the professional sectors subject to Anti-Money laundering rules (banks, lawyers...) and will be accessible to other persons who can demonstrate a legitimate interest.
- VIII. The Crown Dependencies propose a staged approach to implement public registers by 2023, in line with developing best practices. The Official Statement can be accessed [here](#). The stages are:
 - a. the interconnection of the islands' registers of beneficial ownership of companies with those within the EU for access by law enforcement authorities and Financial Intelligence Units; then
 - b. access for financial service businesses and certain other prescribed businesses for

corporate due diligence purposes; then

c. public access aligned to the approach taken in the EUDirective

- IX. In June, 2020, Anguilla publicly committed to “to work in collaboration with HMG towards a publicly accessible register of beneficial ownership for companies, in line with international standards and best practices as they develop globally, and in accordance with the principles of the EU Fifth Anti-Money Laundering Directive as implemented by EU member states, in a practical, phased approach through 2023”
- X. Cayman Islands, Gibraltar, Falkland Islands, Turks and Caicos have similarly committed to implementation in line with the principles of the EU 5MLD.
- XI. Anguilla has procured and is set to implement at the end of December 2021 a new company registration database (“CRES”) which will include the capacity to enable the maintenance of beneficial ownership information.
- XII. Pursuant to the afore mentioned commitments given to the UK Government in Relation to the electronic registers of beneficial ownership information, the Government has drafted a Bill to establish a Commercial and Beneficial Ownership Register (Registration System). As such, the DRAFT Commercial and Beneficial Ownership Registry (“the Bill”) and the DRAFT Commercial Registry and Beneficial Ownership Regulations (“the Regulations”) attached, contains the provisions necessary to establish an electronic registration system for the Commercial Registry and certain customer due diligence and beneficial ownership information.

CONSULTATION

The Ministry of Finance and Health invites service providers in the financial services industry, companies and the general public to submit further comments on the DRAFT Commercial and Beneficial Ownership Registry Bill and comments on the Draft Commercial and Beneficial Ownership Registry Regulations which will be provided under separate cover tomorrow 9th December 2021. This consultation is intended to identify any major areas of concern with the draft Bill and Regulations. All comments should be submitted on or before December 20th 2021.

Particularly, comments are invited in relation to Section 25 of the Bill “Inspection of information in the Beneficial Ownership Register”. This section provides the gateway for access to BO information by Non- Governmental Authorities. Persons are reminded of Anguilla’s commitment to Public Registers in line with AMLD 5 by 2023. This commitment can be accessed [here](#). This staged approach would see Beneficial Ownership information collected and shared with governmental authorities (national and foreign) in the first stage; then with persons with legitimate interests (e.g. Banks as part of due diligence checks) in the second stage; and in the final stage, members of the public with restrictions.

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