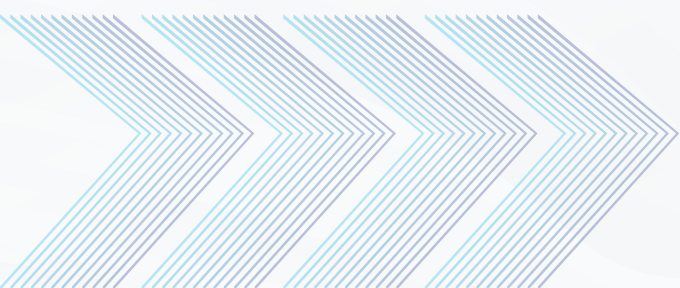


# **DISCLOSURE OF BENEFICIAL OWNERS**



# BACKGROUND

Government Notice No. 391 and No. 386 of 14th May 2021, was published by Ministry of Industry and Trade, to the effect that all companies are required to disclose beneficial owners.

This is the result of the Amendment of section 2 of the Companies Act, 2002 (the Act) by the Finance Act of 2020 to include the Beneficial Owners as one of the requirement to be reported to the Registrar of the Companies (the Registrar). Following this, the Companies (Beneficial Ownership) Regulations, 2021 (the regulations) came into operation.

On Friday 22nd October 2021, the Registrar held a stakeholders meeting where a presentation was made involving among other things how the process is done in online portal.

## WHO IS A BENEFICIAL OWNER?

The Regulations define a Beneficial Owner as a natural person who directly or indirectly ultimately owns or exercises substantial control over an entity or an arrangement; who has a substantial economic interest in or receives substantial economic benefit from an entity directly or indirectly whether acting alone or together with other persons; on whose behalf an arrangement is conducted; or who exercises significant control or influence over a person or arrangement through a formal or informal agreement.

This is to say, a Beneficial Owner is a natural person who ultimately own and substantially controls the legal entity.

## SUBSTANTIAL CONTROL

Basically, Substantial Control means the ability or power to direct or cause the direction of the management or policies of an institution. Now as per the regulations this include the following;

- Percentage of shares with voting rights exercised by a person in the company;
- Powers to appoint and terminate directors in the company.

## 25% OWNERSHIP REQUIRES DISCLOSURE

Neither the Act nor the regulations provide for the percentages that required to be notified however, during the stakeholders meeting on 22nd October, 2022, the Registrar issued directives that the threshold for declaration shall be 25% of shares held.

## COMPLIANCE

Each Company is required by 1st January 2022 to declare its Beneficial Owner (s) to the Registrar in a prescribed form. Other compliance includes to notify the Registrar within 30 days of the following in a prescribed form:

- When the beneficial owner ceases to operate;
- When there is a variation in shareholding structure that affects the beneficial owner. and
- All other changes that affect the beneficial owner prescribed by the regulations.

# REQUIRED BENEFICIAL OWNER INFORMATION

## The details of the beneficial owners includes:

- The full name of the beneficial owner;
- Date and Place of birth;
- Telephone number;
- Nature of the interest including the details of the legal, financial, security, debenture or informal arrangement giving rise to the beneficial ownership;
- Place of work and position held, and if the beneficial owner is politically exposed persons is to be stated in the oath or affirmation;
- Nationality, identifications number, passport number or other appropriate identification;
- Residential and postal address if any; and
- And lastly the date of declaration.

## TYPES OF ENTITIES REQUIRED TO COMPLY

The law clearly provides under section 14(2)(b) the Act that beneficial ownership shall be disclosed for all incorporated companies in Tanzania. This means entities like branches of Foreign Companies are obligated under the regulations.

## ACCESSIBILITY AND LIMITATION TO ACCESS BENEFICIAL OWNER INFORMATION

The regulations prohibit the Registrar or his employees from divulging information to a third party except:

- When communicating with the beneficial owner concerned;
- In order to comply with any requirement of the new regulations or;
- In compliance with a court order.

Moreover, Section 451B of the Act allows access of the beneficial owners' information to some of the authorities like:

- Those designated responsibilities for combating money laundering and terrorist financing;
- The financial Intelligence Unit;
- Government institutions responsible for overseeing or implementing economic empowerment of Tanzanian nationals pursuant to the respective laws; and
- Other national competent authorities which are responsible for the prevention of money laundering and funding of terrorism.

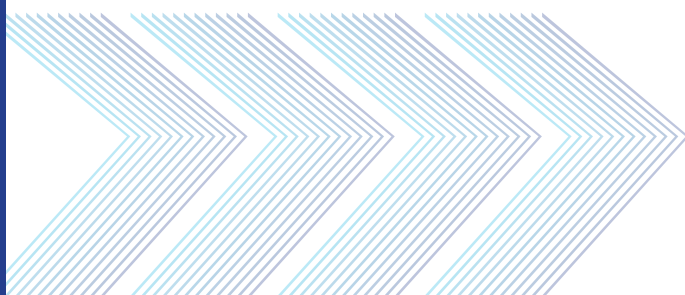
## DEADLINE

The registrar has issued directives that 1st January 2022 shall be the deadline for submission of beneficial owner information for all companies.

We do not know whether there will be another extension for the submission.

## NON- COMPLIANCE

Failure to comply with these regulations is an offence which is punishable to a fine of not less than Tanzania Shilling 5 Million but not more than 10 million.



## **OUR CONTACT:**

### **Florian Mutagwaba**

**Manager - Legal and Secretarial Services**

**Email:** fmutagwaba@pkfea.co.tz

**Mobile:** +255715919779

### **Revelian Elias**

**Senior Consultant - Legal and Secretarial Services**

**Email:** relias@pkfea.co.tz

**Mobile:** +255652727976

### **Address:**

Upanga, Kibasila Street, Girl Guides Building, 1st floor, Tower B,  
P.O. Box 7323, Dar Es Salaam, Tanzania,

**Tel:** +255 22 215 2501/03/04, **Email:** pkftz@pkfea.co.tz