

**VIRGIN ISLANDS**

**BENEFICIAL OWNERSHIP SECURE SEARCH SYSTEM ACT, 2017**

**ARRANGEMENT OF SECTIONS**

*Section*

- 1...Short title and commencement.
  - 2...Interpretation.
  - 3...Application.
  - 4...Implementation of the Exchange of Notes.
  - 5...Establishment of Beneficial Ownership Secure Search System.
  - 6...Beneficial owners.
  - 7...Exempt person.
  - 8...Registrable legal entities.
  - 9...Duty of registered agent to identify beneficial owners.
  - 10...Duty to maintain RA database.
  - 11...Retention period.
  - 12...Duty to keep beneficial ownership information up to date.
  - 13...Designated person to use Beneficial Ownership Secure Search System.
  - 14...Confidentiality.
  - 15...Protection for registered agents.
  - 16...Giving false or misleading information.
  - 17...Regulations.
- SCHEDULE 1  
SCHEDULE 2  
SCHEDULE 3

**I Assent**

**(Sgd.) John S. Duncan, OBE,  
Governor  
12<sup>th</sup> June, 2017**

**VIRGIN ISLANDS**

**No. 15 of 2017**

An Act to establish a secure search system to facilitate the effective and efficient storage and retrieval of beneficial owner information for all corporate and legal entities using the system and to provide for matters incidental thereto.

[Gazetted 12<sup>th</sup> June, 2017]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and  
commencement.

**1.** (1) This Act may be cited as the Beneficial Ownership Secure Search System Act, 2017.

(2) The provisions of this Act shall come into force on the 30<sup>th</sup> June, 2017.

Interpretation.

**2.** (1) In this Act, unless the context otherwise requires,

No. 5 of 1997  
S.I. 2008 No. 12  
S.I. 2008 No. 13

“AML/CFT legislation” means the Proceeds of Criminal Conduct Act, 1997, the Anti-money Laundering Regulations, 2008 and the Anti-money Laundering and Terrorist Financing Code of Practice, 2008;

“beneficial owner” has the meaning specified in section 6;

“Beneficial Ownership Secure Search system” means the Secure Search system, an electronic platform or system to be established and

maintained by the competent authority under this Act to provide access to prescribed information contained in RA databases;

“corporate and legal entity” means

(a) a company as defined under section 3 of the BVI Business Companies Act, 2004; and

No. 16 of 2004

(b) a Limited Partnership as defined under section 2 of the Partnership Act, 1996;

No. 5 of 1996

“competent authority” means the Financial Investigation Agency established under the Financial Investigation Agency Act, 2003;

No. 19 of 2003

“designated person” has the meaning assigned under section 13;

“exempt person” means a person specified in section 7;

“exchange of notes” means

(a) the UK exchange of notes; and

(b) any similar agreement or arrangement made to which this Act applies by virtue of an Order made under section 4(3);

“foreign regulated person” has the meaning assigned to it under section 2(1) of the Anti-Money Laundering Regulations, 2008;

S.I. 2008 No. 12

“licensee” has the meaning assigned to it under section 2 of the Financial Services (Regulatory Code), 2009;

S.I. 2009 No. 60

“Minister” means the Minister responsible for Finance;

“prescribed information” means information prescribed under section 10;

“RA database” means an IT solution established and maintained by a registered agent, to hold the prescribed information for each relevant corporate and legal entity for which it acts as registered agent in accordance with this Act;

“recognised stock exchange” has the meaning assigned to it under section 2(1) of the Financial Services (Regulatory Code), 2009;

“registered agent” means a person who holds

(a) a licence to conduct company management business under the Company Management Act, 1990; or

No. 8 of 1990

No. 9 of 1990 (b) a licence under the Banks and Trust Companies Act, 1990 authorising it to provide registered agent services;

No. 16 of 2004 “Registrar of Companies” has the meaning assigned to it under section 2 of the BVI Business Companies Act, 2004;

“registrable legal entity” has the meaning specified in section 8;

Schedule 2 “requesting law enforcement authority” means a law enforcement authority specified in Schedule 2 which issues a request for a search to be conducted in the Beneficial Ownership Secure Search System under this Act; and

Schedule 1 “UK exchange of notes” means the exchange of notes between the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the Virgin Islands, for the exchange of beneficial ownership information as set out in Schedule 1.

(2) Where in this Act reference is made to Schedule 1, this shall be construed to include any Schedule set out in an Order made by the Minister pursuant to section 4.

Application. 3. This Act applies to all corporate and legal entities.

Implementation of the Exchange of Notes. 4. (1) This Act shall apply for the purposes of giving effect to the exchange of notes.

(2) Where an exchange of notes is amended by the parties thereto, the Minister may, by Order, amend Schedule 1 accordingly.

(3) Where the Government enters into an exchange of notes similar to the UK exchange of notes, the Minister may, with the approval of the Cabinet, by Order, provide that this Act shall apply to that exchange of notes with such necessary modifications as may be specified in the Order and the text of that exchange of notes shall be set out in a Schedule to the Order.

(4) For the avoidance of doubt and notwithstanding anything to the contrary contained in this Act or in any exchange of notes

(a) the Government shall exchange beneficial ownership information in accordance with the relevant exchange of notes;

(b) the designated person shall exchange beneficial ownership information with an authority specified in section 13(6); and

(c) anything required of the Government pursuant to a request made under or in accordance with the exchange of notes shall be dealt

with in such manner as would be consistent with and satisfy the requirements of the exchange of notes, and the doing of such thing by the Government shall be treated as a power the Government has by virtue of this Act to exercise.

5. (1) The Government shall establish a Beneficial Ownership Secure Search System to enable

Establishment of Beneficial Ownership Secure Search System.

- (a) each registered agent to establish an RA database; and
- (b) the designated person to access each RA database.

(2) The Beneficial Ownership Secure Search System shall

- (a) be secure and accessible only by the designated person;
- (b) be accessible only from a designated secured location within the Virgin Islands;
- (c) be able to search simultaneously all RA databases connected to the Beneficial Ownership Secure Search System by either the name of an individual or the name of a corporate and legal entity; and
- (d) prevent communication to any person of the fact that a search is being made or has taken place except where the designated competent authority expressly discloses such communication.

6. (1) A beneficial owner is the natural person who ultimately owns or controls a corporate or legal entity and includes, though not restricted to

Beneficial owners.

- (a) in the case of a legal person other than a corporate and legal entity whose securities are listed on a recognised stock exchange, a natural person who ultimately owns or controls, whether directly or indirectly, twenty five or more per cent of the shares or voting rights in the legal person;
- (b) in the case of a legal person, a natural person who otherwise exercises control over the management of the legal person;
- (c) in the case of a legal arrangement
  - (i) the partner or partners who control the partnership;
  - (ii) the trustee or other person who controls the legal arrangement; or

(iii) the settlor or other person by whom the legal arrangement is made;

(d) in the case of a corporate and legal entity which is in insolvent liquidation, administration or administrative receivership under the Insolvency Act, 2003, the natural person who is appointed as a liquidator, administrator or administrative receiver of the corporate and legal entity; or

(e) in the case of a receiver being appointed over twenty five or more per cent of the shares or voting rights in a corporate and legal entity, the creditor who appoints the receiver; or

(f) in the case of a shareholder in the corporate and legal entity who would otherwise be a beneficial owner under this subsection but is deceased, the natural person acting as an executor or a personal representative of the deceased's estate.

(2) Where there is a *bona fide* legal dispute as to the beneficial ownership of any interest in a corporate and legal entity which is in the process of being adjudicated by a court or tribunal, no change should be recorded with respect to the beneficial ownership of that interest in a RA database prior to the determination of that matter unless the court or tribunal so orders.

(3) A person shall not be treated as a beneficial owner only by reason of

(a) having the benefit of a security interest over shares or voting rights in a corporate and legal entity; or

(b) having a commercial exposure to the financial performance of a corporate and legal entity pursuant to financial derivatives or similar contractual arrangements.

(4) Where two or more persons hold any qualifying interest jointly, whether as joint owners or tenants in common, then each joint owner shall be a beneficial owner.

(5) The Minister may issue Guidance Notes in relation to the determination of who is a beneficial owner of a corporate and legal entity.

Exempt person.

**7.** (1) An exempt person shall be exempt from the provisions of section 10(3)(b).

(2) For the purposes of subsection (1), an exempt person is a person who meets one or more of the following conditions:

- (a) a corporate and legal entity which is recognised, registered or otherwise approved as a mutual fund under the Securities and Investment Business Act, 2010 including an approved fund, an incubator fund, a public fund, a professional fund and a private fund;
- (b) a corporate and legal entity the securities of which are listed on a recognised stock exchange;
- (c) a licensee;
- (d) a corporate and legal entity which is a subsidiary of a corporate and legal entity that falls within paragraph (a) or (b); or
- (e) a corporate and legal entity exempted by regulations.

(3) A corporate and legal entity (the “subsidiary”) is a subsidiary of another corporate and legal entity (the “parent”) if the parent

- (a) holds, directly or indirectly, a beneficial interest in 75% or more of the shares in the subsidiary; or
- (b) holds, directly or indirectly, more than 75% of the voting rights in the subsidiary.

**8.** A registrable corporate and legal entity in relation to a corporate and legal entity is a legal entity which

Registrable legal entities.

- (a) would be a beneficial owner of the corporate and legal entity if it were an individual; and
- (b) one or more of the following applies to it:
  - (i) it is a legal entity which is an exempt person;
  - (ii) it is a legal entity the securities of which are listed on a recognised stock exchange;
  - (iii) it is a licensee or a foreign regulated person; or
  - (iv) it is a sovereign state or a wholly owned subsidiary of a sovereign state.

**9.** (1) A registered agent shall take reasonable steps to

- (a) identify the beneficial owners and registrable legal entities of each corporate and legal entity for which it acts as registered agent;

Duty of registered agent to identify beneficial owners.

(b) collect the prescribed information with respect to each corporate and legal entity for which it acts as registered agent,

in accordance with this Act.

(2) A corporate and legal entity shall identify any person who is a beneficial owner or a registrable legal entity of that corporate and legal entity and notify the registered agent of those persons so identified as beneficial owners and those legal entities so identified as registrable legal entities within 15 days of identifying such person or entity;

(3) A registered agent is not required to identify any beneficial owner of a corporate and legal entity under subsection (1) who holds its interest, directly or indirectly, in the corporate and legal entity through a registrable legal entity if the registered agent identifies that registrable legal entity for that purpose.

(4) For the purposes of this section, a registered agent who takes steps to identify and verify the identity of the beneficial owners of a corporate and legal entity in accordance with its obligations under the AML/CFT legislation shall have taken all reasonable steps in accordance with this section, and references to beneficial owners and registrable legal entities of a corporate and legal entity shall be interpreted accordingly.

(5) Nothing in this section limits or affects the separate obligation of each registered agent to obtain and verify beneficial ownership information under applicable AML/CFT legislation.

(6) Where a corporate or legal entity fails to comply with a requirement of this section without reasonable cause he or she commits an offence and is liable

(a) on summary conviction to a fine not exceeding forty thousand dollars or to imprisonment for a term not exceeding six months or both; or

(b) on conviction on indictment, to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding five years, or both.

(7) Where a registered agent fails to comply with a requirement of this section without reasonable cause he or she commits an offence and is liable

(a) on summary conviction to a fine not exceeding twenty thousand dollars; or

(b) on conviction on indictment, to a fine not exceeding forty thousand dollars.



**10.** (1) Each registered agent shall establish and maintain an RA database in accordance with this section.

Duty to maintain RA database.

(2) Each registered agent shall enter in the RA database particulars of the prescribed information obtained by it under this Act with respect to each corporate and legal entity for which it acts as registered agent.

(3) The prescribed information with respect to each corporate and legal entity is

(a) the particulars of each corporate and legal entity including

- (i) the name, including alternative names;
- (ii) the incorporation number or its equivalent;
- (iii) date of incorporation;
- (iv) status;
- (v) registered address; and
- (vi) any other particulars as the Minister may by Order prescribe.

(b) with respect to each beneficial owner of the corporate or legal entity:

- (i) name;
- (ii) residential address;
- (iii) date of birth; and
- (iv) nationality.

(c) with respect to each registrable legal entity of the corporate and legal entity:

- (i) details of the registrable legal entity as outlined in subsection (3)(a);
- (ii) jurisdiction in which the registrable legal entity is formed;
- (iii) the basis or bases upon which the legal entity is designated as a registrable legal entity;

- (iv) where the registrable legal entity is a foreign regulated person, the name of the jurisdiction of regulation and the name of the foreign regulator; or
- (v) where the registrable legal entity is a sovereign state or a wholly owned subsidiary of a sovereign state the name of that sovereign state and (if applicable) wholly owned subsidiary.

(d) with respect to an exempt person

- (i) the details of the exempt person as outlined in subsection (3)(a); and
- (ii) the basis or bases upon which the exempt person is designated as an exempt person.

(4) Where a registered agent fails to comply with a requirement of this section without reasonable cause he or she commits an offence and is liable

- (a) on summary conviction to a fine not exceeding twenty thousand dollars; or
- (b) on conviction on indictment, to a fine not exceeding forty thousand dollars.

Retention period.

**11.** Information maintained by a registered agent on an RA database shall be maintained on the RA database for all corporate and legal entities

- (a) for five years following the dissolution of the corporate and legal entity; or
- (b) for five years after the corporate and legal entity ceasing to be a corporate and legal entity.

Duty to keep beneficial ownership information up to date.

**12.** (1) A corporate and legal entity shall within 15 days of becoming aware of a change of any of the prescribed information relating to beneficial owners or registrable legal entities notify its registered agent of such changes and the date such changes took place.

(2) A registered agent shall within 15 days of being notified by a corporate and legal entity of a change or otherwise becoming aware of a change of any of the prescribed information relating to beneficial owners or registrable legal entities cause the updated information provided under subsection (1) to be included on the RA database.

(3) Nothing in subsection (2) shall affect the obligations of a registered agent under AML/CFT legislation to verify the beneficial owner or owners and the particulars relating to each with respect to a corporate and legal entity.

(4) Where a corporate and legal entity fails to comply with a requirement of this section without reasonable cause he or she commits an offence and is liable

(a) on summary conviction to a fine not exceeding five thousand dollars; or

(b) on conviction on indictment, to a fine not exceeding ten thousand dollars.

(5) Where a registered agent fails to comply with the requirements of this section without reasonable cause he or she commits an offence and is liable

(a) on summary conviction to a fine not exceeding twenty thousand dollars; or

(b) on conviction on indictment, to a fine not exceeding forty thousand dollars.

**13.** (1) There shall be one or more designated persons who shall have access to the Beneficial Ownership Secure Search System from a physically secure premise and a secure IT system.

Designated person to use the Beneficial Ownership Secure Search System.

(2) A designated person shall have passed security vetting tests, be fit and proper and be so designated by the Minister by Order.

(3) A designated person shall, prior to being designated by the Minister, subscribe to the Oath of Confidentiality set out in Schedule 3.

Schedule 3

(4) The Minister shall keep a record of all Oaths of Confidentiality taken pursuant to this section.

(5) A designated person shall provide the results of any search of the Beneficial Ownership Secure Search System requested under this Act within 15 days of the submission of a request for information unless it is notified that the request is urgent, in which case it will provide the information sought of it within one hour, or such other time period to be agreed between the requesting law enforcement authority or an authority named in subsection (6) and the designated person in accordance with the individual circumstances of the request.

(6) A designated person shall execute a search of the Beneficial Ownership Secure Search System if formally requested to do so by a senior officer of any of the following authorities:

- (a) the Financial Investigation Agency;
- (b) the Financial Services Commission;
- (c) the International Tax Authority;
- (d) the Attorney General's Chambers.

(7) A search conducted under subsection (6) shall not be executed without certification that the request for the search

- (a) is proper and lawful and in compliance with the legislation governing the affairs of the authority making the request and any international agreement administered by it; or
- (b) is in response to a request from a designated law enforcement authority listed in Schedule 2.

Schedule 2

(8) A record shall be maintained of all searches conducted by a designated person under this Act.

(9) A designated person who fails to comply with a requirement of this section commits an offence and is liable to a fine not exceeding seventy five thousand dollars or to imprisonment for a term not exceeding two years or both.

(10) No person other than a designated person shall have access to the Beneficial Ownership Secure Search System to conduct a search of an RA database or access any data therein except the designated person or persons.

(11) The Minister may, by Order, amend Schedules 2 and 3.

Schedules 2  
and 3

Confidentiality.

**14.** (1) The particulars of and all matters relating to a request made under this Act shall be treated as confidential, and no designated person who is notified of a request, or is required to take any action, or supply any information in response to or in relation to any matters to which a request relates or in any way becomes aware of a request, shall disclose the fact of the receipt of such request or any of the particulars required or information supplied to any other person except in accordance with this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable

- (a) on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or both; or

(b) on conviction on indictment, to a fine not exceeding seventy thousand dollars or to imprisonment for a term not exceeding five years or both.

(3) All information maintained on each RA database is confidential, and shall not be accessible by any person except

(a) a designated person through the Beneficial Ownership Secure Search System; and

(b) the registered agent to whom the RA database relates.

(4) Any person who accesses data on an RA database except as authorised by this Act commits an offence and is liable

(a) on summary conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years or both; or

(b) on conviction on indictment, to a fine not exceeding seventy thousand dollars or to imprisonment for a term not exceeding five years, or both.

(5) A person who discloses information or produces documents as required by this Act is not in breach of any enactment, rule of law, agreement or professional code of conduct to which that person is subject only by reason of complying with the requirements of this Act, and no civil, criminal or disciplinary proceedings shall lie against him in respect thereof.

**15.** Where a registered agent has collected the prescribed information in accordance with the laws of the Virgin Islands or includes information on the RA database not specified in this Act, the collection of and inclusion of such information by the registered agent shall be treated as done in accordance with this Act and the registered agent is not in breach of any agreement, professional code of conduct or rule of law to which they are subject.

Protection for registered agents.

**16.** (1) A registered agent who intentionally provides false information relating to a corporate and legal entity on its RA database commits an offence.

Giving false or misleading information.

(2) A corporate and legal entity which intentionally provides false information under section 9(2) or 12(1) commits an offence.

(3) A person who commits an offence under this section is liable to

(a) on summary conviction to a fine not exceeding forty thousand dollars or to imprisonment for a term not exceeding two years or both, or

- (b) on conviction on indictment, to a fine not exceeding seventy five thousand dollars or to imprisonment for a term not exceeding five years, or both.

Regulations.

**17.** The Minister, with the approval of the Cabinet, may make regulations with respect to anything required to be carried out in this Act or prescribing anything required to be prescribed under this Act, including

- (a) specifying the manner or form in which a registered agent must keep the RA database; and
- (b) prescribing fees in relation to the establishment and maintenance of the Beneficial Ownership Secure Search System.

## SCHEDULE 1

(Sections 2, 2(2), 4(2))

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

1. This commitment between the Government of the United Kingdom and the Government of the Virgin Islands (“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.
4. It also recognises the Virgin Islands’ commitment on international cooperation matters, including the recent reforms to its legislative regime on beneficial ownership and its commitment to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, the signing of 28 Tax Information Exchange Agreements and enactment of legislation to implement the US FATCA, UK FATCA and OECD Common Reporting Standards. The Participants further recognise that the Virgin Islands is in the process of having beneficial ownership information of corporate and legal entities updated to ensure their adequacy and the process is expected to be completed at the end of 2016.

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, timely (where urgently required, within one hour) beneficial ownership information held in the other jurisdiction for the law enforcement purposes set 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.

8. 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 the  
Virgin Islands

Date: 8<sup>th</sup> April, 2016



## **Technical Protocol**

1. This Technical Protocol is appended to the Exchange of Notes dated 8 April 2016 between the Governments of the United Kingdom and the Virgin Islands 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 Incorporate 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 Societas 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, Virgin Islands 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 the Virgin Islands**

4. The Government of the Virgin Islands will establish and maintain an electronic platform (“the Virgin Islands Platform”) that will allow it to immediately access adequate, accurate and current beneficial ownership information on corporate and legal entities incorporate in the Virgin Islands.

5. The Virgin Islands Platform 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 the Virgin Islands law enforcement authorities all of their adequate, accurate and current beneficial ownership information contained on the Virgin Islands Platform on corporate and legal entities incorporated in the Virgin Islands.

## **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 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 incorporate 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 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 the 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 the Virgin Islands 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**

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.

### **Definitions of the Terms used in the Exchange of Letters 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 7(v) of this Protocol,

“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.

“the Virgin Islands Platform” means such an electronic platform as the Virgin Islands develops to access and provide beneficial ownership information.

“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 the:

Virgin Islands, the Financial Investigation Agency; and

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 7(ii) 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 agencies and tax authorities can obtain corporate and legal entities beneficial ownership information which 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.**

**Request or details:**

<b>Name:</b>		<b>Competent Authority*:</b>	
<b>Telephone:</b>		<b>Email:</b>	

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

<b>URN</b>	
<b>Operation / Case Ref:</b>	
<b>Jurisdiction for Request:</b>	
<b>Date and Time of Submission:</b>	
<b>Authorising Officer Grade/Rank:</b>	
<b>Urgent I 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:**

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Accurate and current beneficial ownership information on all legal person named in this request;</li><li>2. Identification of the beneficial owner of any named company;</li><li>3. Identification of all other legal persons in which the beneficial owner has an interest as well as the names of other individuals with interest in those legal person.</li></ol> |
|---|

**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 Registration:</b>	
<b>Company address(es):</b>			

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



**SCHEDULE 2**

(Sections 2, 13(7)(b))

Part I - Designated countries	Part II – Designated law enforcement authorities	Part III – Relevant agreement
United Kingdom	National Crime Agency - Financial Intelligence Unit	Exchange of Notes between the Government of the United Kingdom and the Government of the Virgin Islands dated 8th April, 2016

**SCHEDULE 3**

(Section 13(3))

**OATH OF CONFIDENTIALITY**

I, \_\_\_\_\_, being a (insert post of the employee) of (insert name of agency) solemnly swear / affirm\* that I shall keep confidential all information which comes to my knowledge in my capacity as a designated person and I shall not divulge such information except as authorised by and in accordance with law.

So help me God! (omit if affirming)

Sworn / Affirmed before me, a Magistrate / Additional Magistrate / Registrar of the High Court / Justice of the Peace\* this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Name of person swearing / affirming)

\_\_\_\_\_  
(Magistrate / Additional Magistrate/  
Registrar of the High Court/  
Justice of the Peace)\*

\* Delete as appropriate

Passed by the House of Assembly this 12<sup>th</sup> day of May, 2017.

(Sgd.) Ingrid Moses-Scatliffe,  
Speaker.

(Sgd.) Joann Vanterpool,  
Deputy Clerk of the House of Assembly.