



GOVERNMENT OF BERMUDA

The Ministry of Finance

Ministry of Finance Headquarters

Ministerial Statement
To the Senate

By

Senator Vance Campbell
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Public Register of Beneficial Ownership

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Madam President, the purpose of this Ministerial Statement is to provide the Senate with a progress report regarding matters related to public access to beneficial ownership information for companies.

Madam President, Bermuda has a strong reputation for high levels of transparency in business practices as well as high levels of compliance in international cooperation. Today, legal and beneficial ownership information for companies is currently recorded and disclosed in Bermuda via a company's share register; through information given to the Bermuda Monetary Authority and the Registrar of Companies; and under certain

disclosure obligations which apply to listed companies. Other requirements to collect beneficial ownership information are set out under Bermuda's anti-money laundering and counter terrorism financing framework, as well as the tax information exchange framework. The results of previous regulatory, tax and anti-money laundering and anti-terrorism financing assessments have demonstrated the quality of the elements of the framework.

Madam President, presently, there are no global standards that require public registers of beneficial ownership information for companies to be adopted. However, as with all external risks, it is often necessary for the country's business to be managed in some way between the development of international standards and standards set down by key trading partners and international bodies. In such cases it is common for the Government of Bermuda to respond to the risk posed by the introduction or pending introduction of new standards.

Madam President, the background to the public register access to beneficial ownership policy is a seemingly unending series of events, each of which has had a meaningful impact on Bermuda. I fully accept that it is important for the Government of the day to own this matter completely. It is also important for Senators to have a full knowledge and understanding of Bermuda's history in this area.

Madam President, policy analysis is a process, and improving it needs to be approached with the same discipline as any other process. There needs to be a comprehensive understanding of the matter at hand and a clear

understanding of how it is performing. Accordingly, **Madam President**, Senators will be aware that, on this matter, various policy responses have been made by different Governments of Bermuda to different external parties at different points in time, as the threats have evolved over time.

Madam President, I set out below a summary of the public access to beneficial ownership information policy decision track starting from the 2013 Bermuda G7 (formerly G8) Beneficial Ownership Action Plan and ending with the EU Council Conclusions on the revised EU list of non-cooperative jurisdictions, dated 18th February, 2020. None of this information is meant to imply that Governments of the day did not make the right choice for Bermuda. Instead it will demonstrate that Bermuda did not choose to wait for a crisis to appear before altering course.

- **2013 - The Bermuda G7 (formerly G8) Beneficial Ownership Action Plan)**

Madam President, under the Bermuda G7 Plan, the then Government of Bermuda committed to review and update mechanisms for domestic and international cooperation in compliance with international standards, including in relation to the timely and effective exchange of beneficial ownership.

The statement was published on 31st July, 2013.

- **2014 - The G20 High Level Principles on Beneficial Ownership Transparency (“the G20 Principles”)**

Madam President, there was no requirement to give a new commitment, as Principle 4 of the G20 Principles did not impose a requirement on countries to put in place public registers of beneficial ownership for companies. The G20 Principles remain unchanged.

- **2016 - The Exchange of Notes between the Government of the United Kingdom and the Government of Bermuda in respect of the sharing of beneficial ownership information**

The Exchange of Notes requires the participants to hold adequate, accurate and current beneficial ownership information for corporate and legal entities on a secure central database and or similarly effective arrangement.

Paragraph 7 of the Technical Protocol to the Exchange of Notes requires the designated point of contact (the Bermuda Monetary Authority) to provide the information within 24 hours of the submission of a request for information unless it is notified that the request for information is urgent, in which case the Authority is required to provide the information sought of it within 1 hour.

Madam President, the Exchange of Notes was signed on **9th April, 2016**. The requirement to put in place a public register of beneficial

ownership for companies was addressed by the Exchange of Notes at that time.

- **2016 - (Commitment Letter) - A commitment to exchange beneficial ownership information on an automatic basis with the rest of the world**

Bermuda's commitment is set down in correspondence issued by the Government of Bermuda to the Chancellor of the Exchequer dated 9th May, 2016. The Commitment Letter outlines the Government's commitment to enter into an Agreement with the relevant parties to exchange beneficial ownership information on an automatic basis, subject to certain conditions, including the adoption of global standards.

This commitment letter was signed within 45 days of the UK Exchange of Notes mentioned earlier, ahead of the May 2016 UK Anti-Corruption Summit.

- **2018 - Commitment Letter / (Government of Bermuda to the Chair of the EU Code of Conduct (Business Taxation) Group)**

In 2018, the present Government sent correspondence to the EU, as part of the communication related to the EU's requirements being imposed on low tax jurisdictions, which includes the following:

- Bermuda will work with the EU to achieve its objective on beneficial ownership.
- Bermuda will work with the EU to implement a beneficial ownership regime in a time frame similar to the time frame given to the EU Member States to implement the 5th Anti-Money Laundering Directive.
- Bermuda is keen to work with the EU in the examination of all options that may be of interest to the EU, including the current agreement for exchange of beneficial ownership information between the UK and its Crown Dependencies and Overseas Territories.

This correspondence was signed on **28th December, 2018**.

Madam, President, in 2019 and again in Q1 2020, in relation to listing decisions in the area of tax compliance, the Council of the EU reaffirmed its commitment to address matters related to beneficial ownership and reiterated its invitation to the Code of Conduct Group to finalise discussions in this area.

Madam President, the underlying problem that some are facing, at least from the policy response perspective, is that there may not be a clear understanding that the class and nature of threats that we are facing has continued to change. That is a natural human tendency.

Madam President, further to the above, the issue of public access to beneficial ownership information for companies is also addressed by the UK

Sanctions and Anti-Money Laundering Act 2018 (“the UK Act”) which compels the Overseas Territories (“the OTs”) to establish public registers of beneficial ownership information for companies by 2023.

Madam President, Senators would be aware that the Government of Bermuda published the Bermuda commitment on 12th July, 2020 while the Crown Dependencies and the Cayman Islands published their commitments on 19th June, 2019 and 8th October, 2019, respectively. It also should be noted that all other Overseas Territories, except the British Virgin Islands, have committed to greater transparency by announcing they will establish publicly accessible registers of company beneficial ownership.

Madam President, given the complexities related to the ongoing developments surrounding this issue, there have been ongoing discussions within Cabinet. As a result, it was agreed that there would be, in the first instance, consultation with key stakeholders on this matter. Accordingly, the Ministry of Finance met with certain members of the financial services and intermediation sectors on the 6th November, 2019 to brief them on the latest developments with regard to public access to beneficial ownership. Also discussed at this meeting were options for consideration in relation to an appropriate public communique, consistent with the Bermuda brand, once it was determined that Bermuda should put in place a publicly accessible register of beneficial ownership.

Follow up discussions were held in April of this year and I can advise that the general consensus of the majority of stakeholders was that Government should make an appropriate commitment in line with the other jurisdictions.

Madam President, building on the strength and positive impact on Bermuda's reputation and Bermuda's 70-year beneficial ownership information framework, the objective of our Statement is to make the companies central register of beneficial ownership information accessible to the public and to further underpin our commitment to ensure that Bermuda remains a jurisdiction of choice for quality and compliant business. The fact that Bermuda has had a central register for such an extended period, when even now it is not part of the global standard, demonstrates that we have always been committed to leading by example in relation to transparency and by actively engaging with our international partners in respect of beneficial ownership and transparency. We will continue to work with international bodies and other jurisdictions in respect of standards relating to corporate transparency and information exchange mechanisms; and sharing information on Bermuda's approach and experiences.

Madam, President, failure to acknowledge that there is more than one way to successfully execute a policy response, is not the Bermuda way. Executing policy successfully requires tough, often uncomfortable, choices based on clear principles. As with each of the commitments and/or the agreements discussed earlier, Senators should be aware that this policy was designed with all of Bermuda in mind. Therefore, the commitment made appropriately reflects the requirements that the EU has already imposed on its own members and on which action is already required.

Madam President, bearing in mind the threats that we currently face, this decision allows the Government to focus on key issues that underpin this decision.

Madam President, we are here because this is where we need to be as a top-tier, high quality jurisdiction, ever mindful of the changing landscape. We must now start the work necessary to create the legislative, institutional and operational framework that is sufficiently robust, appropriate and contains all the necessary checks and balances. Accordingly, in the coming weeks the Ministry will meet with our colleagues at the Bermuda Monetary Authority and the Registrar of Companies as we move forward with this important initiative. We are aware that this issue has various levels of complexity and will require further consultation with our industry partners in order to set the framework for public access to beneficial ownership for companies.

Madam President, in closing, I would like to thank all of those persons within the Ministry of Finance, Registrar of Companies, Bermuda Monetary Authority and our industry partners who have assisted with this matter.

Thank you, **Madam President**.