**Consultation**

In September 2013 the Government of Montserrat published its commitment to implement the Financial Action Task Force Recommendations Nos. 24 and 25 which requires countries to obtain and maintain identification information on the beneficial owners of companies and legal arrangements to ensure transparency of ownership and control of legal entities and the adherence of good corporate governance.

In the publication the Government of Montserrat also made commitment to consult with relevant stakeholders on the need to establish a centralised register of companies’ beneficial ownership information and the level of accessibility that the public should have to the information.  In order that your views are known we attach brief information on the proposal for including beneficial ownership information in the Companies Register and a questionnaire which we would like you to complete and return to us by 15 May 2014.

Dulcie James (Mrs)

Commissioner

Financial Services Commission

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Phoenix House

Brades

Montserrat

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**FINANCIAL SERVICES**

**COMMISSION**

**PROPOSAL FOR ESTABLISHING A CENTRALISED REGISTER OF BENEFICIAL OWNERS OF COMPANIES AND LEGAL ARRANGEMENTS**

Last year the Government of Montserrat published its commitment to implement the Financial Action Task Force standards to obtain and maintain identification information on the beneficial owners of companies and legal arrangements to ensure transparency of ownership, control of registered companies and the adherence of good corporate governance.

As part of this commitment the Government stated that it would introduce provisions in the Companies Act to obtain and hold adequate, accurate and current information on controllers and owners of legal entities and to require incorporators to provide the Companies Registrar at incorporation with details of their companies’ beneficial owners and controllers.

In this matter, consideration is now being given to establishing a centralised register of companies’ beneficial ownership information and to provide accessibility of the information to the public. The register is intended to meet the requirements in Recommendations 24 and 25 of the Financial Action Task Force (FATF) Recommendations which stipulate that countries should maintain identification information on the beneficial owners of companies and legal arrangements.

Under the provisions in the Companies Act, the Companies Registry currently maintain records of names of subscribers/incorporators and directors of companies which are obtained at registration. This information is required to be updated annually when companies file returns in on prescribed forms. However, there is no requirement for a company to provide beneficial ownership information of a shareholder that is a corporate entity.

Also, there is no requirement for companies incorporated under the Limited Liability Company Act, the International Business Companies Act, or Limited Liability Partnership Act to obtain and file beneficial ownership information with the Companies Registrar.

In order to establish a centralised register for recording information on beneficial owners of all legal entities and comply with FATF Recommendations 24 and 25, it is proposed to introduce a revised Companies Act for the incorporation and registration of all legal entities. Provisions in the proposed legislation will require companies to obtain, maintain and file beneficial ownership information with the Companies Registrar. The legislation will also require subscribers of legal entities to provide at incorporation, full identity information of individuals who are beneficial owners of legal entities, where the beneficial owner has more than 25% interest in a legal entity.

We are now seeking your views on the above proposal before making recommendations to the Government of Montserrat concerning the level of accessibility of beneficial ownership information that should be held by companies, the Registrar of Companies and be made available to the public and specified authorities.

To assist in the decision making process we would be grateful if you could complete the attached questionnaire and return it to the Commissioner, Financial Services Commission by e-mail at fscmrat@candw.ms.

We look forward to receiving your response by 15 May 2014.

Dulcie James

Commissioner

Financial Services Commission

Att. Questionnaire on level of Accessibility of Beneficial Ownership Information

**REGISTER OF BENEFICIAL OWNERS OF COMPANIES**

**QUESTIONNAIRE**

**ON**

**LEVEL OF ACCESSIBILITY OF BENEFICIAL OWNERSHIP INFORMATION OF LEGAL ENTITIES**

|  |
| --- |
| **Information to be obtained from Companies registered under the Companies Act** |
| **Please indicate (tick) who should have the information** |
| **Proposed information to be obtained on beneficial ownership\***  | **Information that should be filed at the Companies Registry** | **Information that should be held by the company** | **Information should be held by the company and at the Companies Registry** | **Information that should be made available to the public** | **Information that should be made available only to specified authorities** |
| Full name |  |  |  |  |  |
| Date of birth |  |  |  |  |  |
| Nationality |  |  |  |  |  |
| Country or state of usual residence |  |  |  |  |  |
| Residential address |  |  |  |  |  |
| Service/registered address |  |  |  |  |  |
| Date on which beneficial owner acquired (the beneficial interest and date ceased to hold it) |  |  |  |  |  |
| Details of the beneficial interest and how it is held |  |  |  |  |  |
| Whether companies should be directors of other companies (corporate directors) |  |  |  |  |  |
| *Please make comments if appropriate* |  |

\*Definition of Beneficial ownership –

Where an individual has an interest in more than 25% of the shares or voting rights of a company or who otherwise exercises control over the management of the company.