1. **Identifying and verifying the identity details of the beneficial owners**

For the purpose of the PMLFTR, within the context of trusts, the term beneficial owner covers:

1. the settlor;
2. the trustee or trustees;
3. the protector, members of a supervisory council, guardian or enforcer, where applicable;
4. the beneficiaries or the class of beneficiaries, as may be applicable; and
5. any other natural person exercising ultimate control over the trust by means of direct or indirect ownership, or by other means (refer to Section 4.2.2.2).

Subject persons should not confuse the term “beneficial owners” with the “beneficiaries” of the trust since the latter term covers exclusively those persons who can benefit from the structure (whether actually or potentially), while for AML/CFT purposes the beneficial owners are all the persons indicated in (a) to (e) above. Moreover, it is equally important to note that there may be instances where one or more of the beneficial owners referred to above may not result from the trust instrument itself (e.g., the settlor may not be named in a unilateral declaration of trust, beneficiaries may be named by the settlor in a written instrument other than the trust instrument itself). However, these would still have to be identified and their identity verified as set out hereunder.

To the extent that all beneficial owners are individuals, the subject person has to ensure that the trustee discloses the identity of the beneficial owners by providing the personal details listed in Section 4.3.1(i). The subject person must then verify their identity by applying any of the verification of identity measures set out in Section 4.3.1(ii) that may be the most appropriate in the specific circumstances of the case.

When any of the persons indicated in (a) to (d) above are body corporates, bodies of persons or legal arrangements, the subject person has to identify and verify the identify of the beneficial owners of the said body corporate, bodies of persons or legal arrangements as set out in Section 4.3.2.1 to Section 4.3.2.5 as may be applicable. Should it result that a corporate trustee is subject to licensing to carry out its activities, or is otherwise subject to similar fit and proper requirements, the subject person is not obliged to identify the beneficial owners of the corporate trustee given that the corporate trustee would be acting in his professional capacity and would not be controlling a trust in which it has a personal interest.

###### Figure 2 – Beneficial owner through direct and indirect ownership of a sufficient percentage of shares. Including indirect ownership through a trust.

**Company Z**

**30%**

**Trust Y**

**100%**

**– Natural persons not required to be identified as a beneficial owner**

**– Legal persons / Trust**

**– Natural persons required to be identified as a beneficial owner**

**Company W**

**18%**

**Company V**

**Company X**

**52%**

In Figure 2 subject persons are required to identify the beneficial owners of Company V (the Customer). The natural persons who ultimately own 25% plus one or more of the shares in Company V, directly or indirectly, are Persons 1, 3 and 4 – directly in the case of Person 1 and indirectly in the case of Persons 3 and 4.

**At the first layer**, Natural Person 1 holds 30% of the shares in Company V and therefore qualifies as a beneficial owner for the purposes of the PMLFTR.

**At the second layer,** only Natural Person 3 holds a sufficient percentage of shares (i.e., 26% of the shares in Company V indirectly through Company X) to be considered a beneficial owner. Natural Person 2 ultimately holds 10.4% of the shares in Company V and therefore does not hold a sufficient percentage of shares to be considered a beneficial owner.

**At the third layer,** Natural Person 4 qualifies as a beneficial owner for the purposes of the PMLFTR since he ultimately owns 33.6% of the shares in Company V – being the only beneficiary of Trust Y, he/she is considered to own 18% of the shares in Company V through Trust Y and Company W, and 15.6% of the shares in Company V through Company Z and Company X.

***NOTE:***

Whenever the shares in a body corporate (the customer) are held in trust, the subject person is not expected to identify and verify all of the beneficial owners of the trust (i.e. the parties indicated in paragraph (b) of the definition of beneficial owner provided for in the PMLFTR) as the beneficial owners of the said shares.

Given that the customer would here be the body corporate and not the trust itself, determination of the beneficial ownership of the shares and of the body corporate itself requires that the subject person:

1. identifies who is the beneficiary of the trust; and
2. considers whether the said benefit, together with any other direct or indirect interest that individual may have within the body corporate, is sufficient to meet the conditions at law to be considered as a beneficial owner of the said body corporate.