

## Mozambique - [English] AML Regulations 2023

### Article 13

#### **(Criteria for identification of effective beneficiaries)**

1. The following persons are considered to be the effective beneficiaries of collective investment undertakings and corporate entities, as long as they are not joint-stock companies approved for trading on the regulated market, subject to information disclosure requirements in keeping with domestic rules or subject to equivalent international rules in order to ensure sufficient transparency of information concerning ownership:

- a) the person or persons who, in the final analysis, hold(s):
  - i. ownership or control, direct or indirect, of a sufficient percentage of units of participation or ownership in circulation at such a collective investment undertaking;
  - ii. ownership or control, direct or indirect, of a sufficient percentage of shares or rights to vote or to participate in the capital of such an entity.
- c) the natural person or persons who exercise control through other means over this collective investment undertaking or over this entity;
- d) the natural person or persons who hold(s) senior management positions if, after exhausting all possible means, and as long as there are no grounds for suspicion:
  - i. no person has been identified who fits the definitions set forth in the foregoing sub-paragraphs;
  - ii. there should persist any doubts as to whether the person or persons are indeed the effective beneficiaries.

2. For purposes of ascertaining status as an effective beneficiary, when the client is a corporate entity or collective investment undertaking as indicated in the foregoing item, the entities subject to obligation:

- a) holding by a natural person of shares representing more than 10% of the client's company stock or units of participation or ownership in circulation shall be considered an indication of direct ownership;
- b) holding of shares representing more than 10% of the client's company stock or units of participation or ownership in circulation shall be considered an indication of indirect ownership by:
  - i. a corporate entity that is under the control of one or several natural persons;
  - ii. several corporate entities that are under the control of the same natural person or persons;
- d) the existence is ascertained of any other indicators of control or of other circumstances that could indicate control by other means.

3. The following are considered effective beneficiaries of fiduciary funds (*trusts*):

- a) the founder (*settlor*) or founders (*settlers*);
- b) the fiduciary administrator or administrators (*trustees*) of fiduciary funds;
- c) the curator or curators, if applicable;

d) the beneficiaries or, if the latter have not yet been determined, the category of persons in whose principal interest the fiduciary fund (*trust*) was set up or who conduct its activities;

e) any other natural person who holds final control of the fiduciary fund (trust) through direct or indirect participation, or by other means.

4. In the case of juridical persons of a non-corporate character, such as foundations, or legal arrangements without juridical personality of a character analogous to fiduciary funds (*trusts*), effective beneficiaries are considered to be the natural person or persons with positions equivalent or similar to those stated in the foregoing item.

5. Without impairment to what is set forth in the foregoing Item 2 of this Article, pension funds are subject to rules concerning effective beneficiaries if they finance, exclusively or not, pension plans whose participants or beneficiaries are members of the administrative bodies of the respective associates, considering, in such cases, that the effective beneficiaries are those participants and beneficiaries.

6. What is set forth in the foregoing item shall only apply when at least 10% of the pension fund is engaged in financing the former liabilities of the participants and beneficiaries referred to therein, or the value of their individual accounts.

7. What is set forth in Item 5 of this Article shall also apply to collective membership contracts in open pension funds, in cases where the value of membership for financing the respective former liabilities, or the value of their individual accounts, represents at least 10% of the value of the units of participation in the fund.

8. Any participants or beneficiaries of individual membership in an open pension fund who individually holds at least 10% of the value of the units of participation in such a fund are also considered effective beneficiaries.

9. In the cases set forth in the foregoing item, it is incumbent upon the entity managing the pension fund to comply with obligations to provide information to the entities subject to obligation concerning effective beneficiaries, and to provide the entity managing the fund with the elements necessary to such end, using as a reference the elements in the last approved fiscal year.

#### Article 14

##### **(Effective beneficiaries of juridical persons)**

1. The entities referred to in sub-paragraphs a) to e), of Article 2, of the Regulations for the Registration of Legal Entities, approved by Decree-Law No. 1/2006, of May 3, must, in an appropriate format, keep information up to date concerning:

a) identification of the owners of participation in capital and in voting rights of the juridical person, in an amount equal to or greater than 10%;

b) identification of the owners of the management bodies, attorneys and representatives;

c) documents substantiating the information indicated in the foregoing sub-paragraphs, such as minutes, certificates of registration or other documentation in the entity's possession.

2. The information indicated in the foregoing item must be made immediately available to judicial authorities, the Prosecutor-General's Office of the Republic, and oversight authorities, as well as to the GIFiM.