



# Ultimate Beneficial Owner (UBO) Guidance document

## Definition

Ultimate Beneficial Owner (UBO) refers to the natural person(s) who ultimately owns or controls a company and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a company or arrangement.

References above to “ultimately owns or controls” and “ultimate effective control” refer to situations in which ownership/control is exercised through a chain of ownership, or by means of control other than direct control.

A UBO will be:

- any person who owns or **controls** (in each case whether directly or indirectly), including through bearer share holdings or by other means, more than 25% of the shares or voting rights in the company; or
- any person who **controls** the company, or
- any person who exercises **control** over the management of the company.

“**control**” here means any person who:

- holds, directly or indirectly, more than 25% of the company’s shares;
- holds, directly or indirectly, more than 25% of the voting rights in the company; or
- holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company;
- holds, directly or indirectly, more than 25% of the voting rights in the conduct and management of the company

## Beneficial Ownership

The concept of beneficial ownership of a company goes further than the strict legal definition, to include the concept of ultimate (actual) ownership and control. That is:

- they go beyond just the (natural or legal) persons who are legally (on paper) associated with the company;
- they extend to the natural (not legal) persons who actually own and are entitled to take advantage of capital or assets of the company (UBOs); and
- they extend to those natural persons who exert effective control over the company, whether or not those natural persons occupy formal positions within the company.

For example, if a company is legally owned by a second company (according to its corporate registration information), the UBOs are actually the natural persons who are behind that second company or ultimate company in any extended chain of ownership, and those who are controlling it (if different). This process of investigating multiple layers of ownership to discover the natural persons who are the true UBOs or controllers is often described as “lifting (or piercing) the corporate veil”.

Likewise, persons listed in the corporate registration information as holding controlling positions within the company, but who are actually acting on behalf of someone else, cannot be considered UBO's because they are ultimately being used by someone else to exercise effective control over the company.

Whether it is evident or not that a person may be acting as a front man for others, companies must ask appropriate questions of the person(s) they believe to be the UBO(s) or controller(s) to try to establish whether they are actually the true UBO(s) or controller(s).

## How to determine the beneficial owner ?

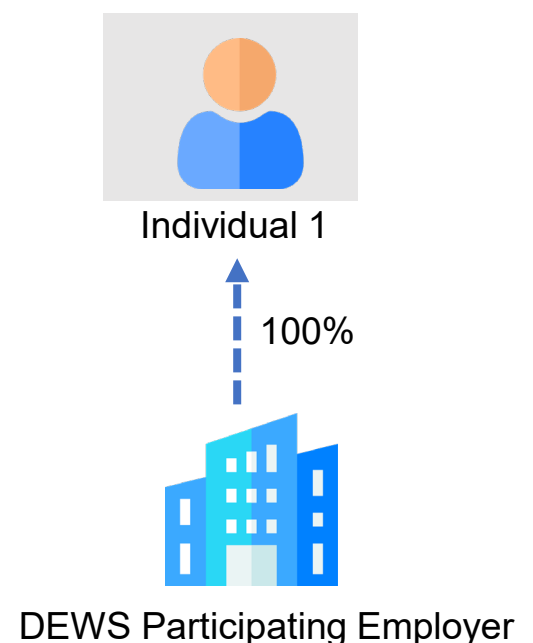
### **Test 1: The ownership test**

The ownership test is to identify the individual who ultimately owns the company, herein referenced as ‘DEWS Participating Employer’.

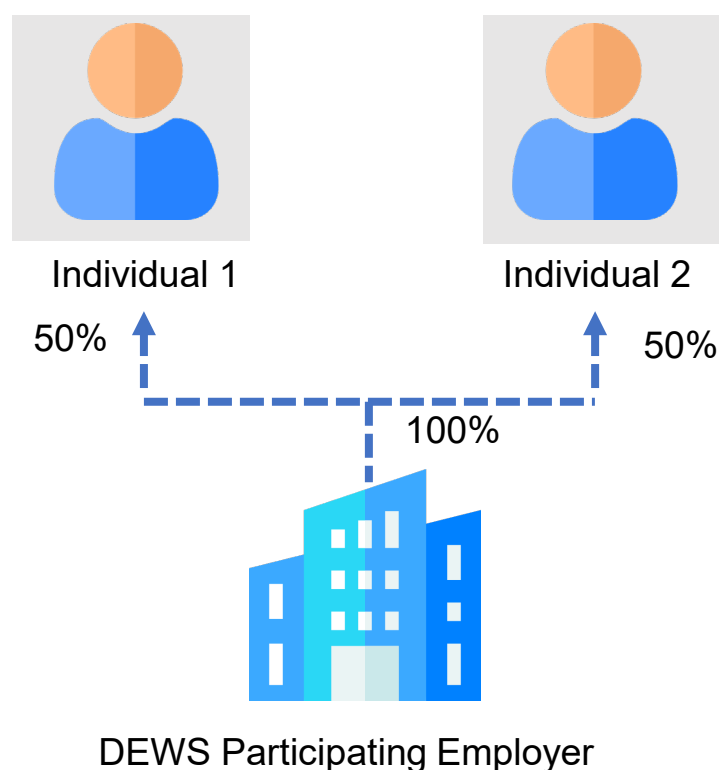
To help you identify the registrable beneficial owners, please refer to the illustration below. Registrable beneficial owners are identified through grey boxes.

#### **Direct ownership**

In this example, Individual 1 owns 100% of the DEWS Participating Employer. He is the beneficial owner.



In this example, Individual 1 and Individual 2 are direct owners of the DEWS Participating Employer. Both individuals are the beneficial owners.



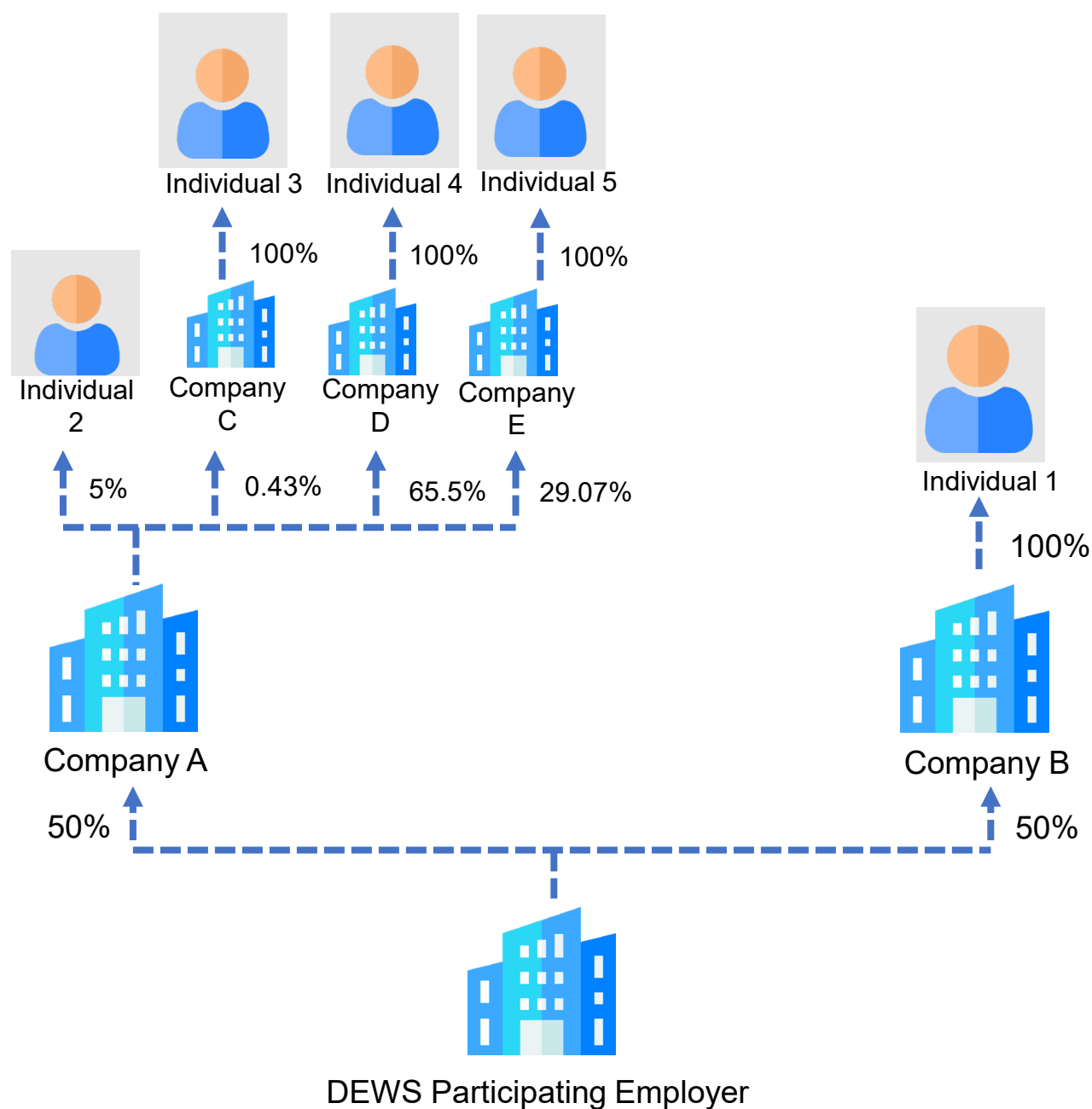
### Indirect ownership

In this example, Individual 1 is the indirect owner and beneficial owner of the DEWS Participating Employer.



### Multiple indirect ownership

In the below example, there are multiple levels of indirect ownership. The two beneficial owners are clearly marked in grey boxes. In this case, Individual 4 has a 32.75% interest in the DEWS Participating Employer ( $50\% \times 65.5\% = 32.75\%$ ) and Individual 1 has a 50% interest in the DEWS Participating Employer. Individuals 2, 3 and 5 do not hold a large enough interest to be considered as beneficial owners.



If no registrable person can be identified under Test 1, Test 2 below also needs to be considered.

## Test 2: The control test

This test requires the identification of an individual or corporate that ultimately controls the company by means other than ownership. For example, by a person, that holds more than 25% of the voting rights of the company but the exercise of such voting rights is controlled by another. The latter person is a beneficial owner in respect of that company.

It is important to note that if, in relation to the company, there are individuals who satisfy Test 2 in addition to individual / corporate beneficial owners that satisfy Test 1, then all are registrable in respect of that company.

## Test 3: The management test

This test only applies if no registrable owners have been identified under Test 1 or Test 2 and stipulates that all natural persons who hold the position of a senior managing official (decision-making authority) of the DEWS participating employer will be registrable as a beneficial owner.