

Section 56(2) thus sets out seven situations in which a person is to be regarded as having a beneficial interest in a security of a public company. The first is where the security is held *nomine officii*<sup>237</sup> by a person on behalf of another and the others are those envisaged in s 56(2)(a) to (f).

It will be recognised that in none of the circumstances envisaged by s 56(2)(a) to (f) is disclosure in terms of s 56(3) necessary. This is because s 56(3) only requires disclosure by the registered holder of the securities where that holder does not have a beneficial interest in all the securities held by that person, and in all the situations in s 56(2)(a) to (f) the registered holder *does* have a beneficial interest. By way of illustration:

- Section 56(2)(a) says that if A and B are married in community of property and A is the registered holder of securities of company Y and has a beneficial interest in the securities held, then B also has a beneficial interest in those securities. No disclosure of B's beneficial interest is required by A because A has a beneficial interest in the securities.
- Section 56(2)(b) says that if X's minor child has a beneficial interest in and is the registered holder of a security, X also has a beneficial interest in that security. No disclosure is required by the minor child because disclosure in terms of s 56(3) is only required by a non-beneficial interest holder.
- Section 56(2)(c) says that if company X and company Y have an agreement relating to a beneficial interest in a security of company Z and company Y is the registered shareholder of, and a beneficial interest holder in, company Z, then both company X and company Y have a beneficial interest in company Z. Therefore, no disclosure of company X's beneficial interest is required by company Y.
- Section 56(2)(d) says that if a company is the registered holder of and has a beneficial interest in a security, then the company's holding company also has a beneficial interest in that security. As both the holding and subsidiary companies have a beneficial interest, no disclosure is required in terms of s 56(3).
- Section 56(2)(e) says that if company X controls the majority of the voting rights at general meetings of company Y and company Y is the registered shareholder of, and has a beneficial interest in, a security of company Z, then company X and company Y both have beneficial interests in the security. Therefore no disclosure of company X's beneficial interest in the security by company Y is required.
- Section 56(2)(f) says that if company Y's directors act in accordance with company X's directions and company Y is the registered shareholder of, and has a beneficial interest in, a security of company Z, then company X and company Y both have beneficial interests in the security. Therefore no disclosure of company X's beneficial interest is required by company Y.

It is difficult to understand why in these circumstances no disclosure is required. In all these circumstances the holder of the beneficial interest in the shares who is not the registered shareholder has or could have control over the registered

<sup>237</sup> For example, where shares are held by a trustee of an insolvent estate.