

Doing Business in Jamaica: Corporate Structures

Various corporate structures exist, including sole trader, partnerships, and corporations.

Sole Trader: In this structure, an individual conducts business either under their own name or using a distinct trading name, necessitating registration under the Registration of Business Names Act if employing a non-personal trading name. The major drawback of sole trader status lies in the individual's unlimited liability, making them personally accountable for all business liabilities. Additionally, borrowing challenges arise, as lenders typically prefer dealing with corporations to avoid complexities associated with personal succession and estate issues tied to individual ownership.

Partnerships: Partnerships involve two or more individuals collaborating for profit. While providing an advantage over sole trader status by limiting partners' liability to their contributions, a downside emerges as aggrieved parties can sue all partners. Partners who settle claims might then seek indemnity against non-contributing partners. Some professions, like lawyers and accountants, necessitate operating as partnerships. Though not currently mandatory, obtaining a partnership agreement is considered good practice for order and liability. An impending statute will allow individuals to incorporate as limited liability corporations or partnerships.

Corporations: A company, deemed a legal entity, is established under the Companies Act, 2004. Company formation requires only one shareholder who can also serve as the sole director. The key advantage lies in shareholders' limited liability, restricted to their contributions. Unlike partnerships, only shareholders' contributions are susceptible to attachment during winding up. Shares in Jamaica are no longer issued at par value.

Companies can be private or public, offering diverse options for capital raising, such as share capital, rights issues from existing shareholders, and support from commercial lenders. Companies are favored by lenders due to their lack of succession issues and the ability to offer security like debentures over their assets.

Companies, mandated to register under the Companies Act, must adhere to regulatory requirements for registered address, secretary, and ultimate beneficial ownership. These new mandates align Jamaica with Financial Action Task Force recommendations and global standards in combatting money laundering, terrorism, and the proliferation of weapons of mass destruction.