THE NEW CHANGES INTRODUCED BY THE **2023** AMENDMENT TO THE **PARTNERSHIP LAW**



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INTRODUCTION

An amendment to the Law N° 008/2021 of 16/02/2021 governing partnerships was published on 30th March, 2023 in the Official Gazette n° Special Bis of 30/03/2023 for purposes of introducing certain changes that were not existing in the current Partnership Law which was itself published on 17th February, 2021 in the Official Gazette n° Special of 17/02/2021.

The newly published Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships therefore introduces new provisions that did not exist in the Law N° 008/2021 of 16/02/2021 governing partnerships, in particular provisions relating to the registration and disclosure of information relating to the beneficial ownership of partnerships.

The introduction of provisions requiring the registration and disclosure of information relating to the beneficial ownership of partnerships is generally for purposes of ensuring transparency in the business transactions of the beneficial owners in order to prevent them from operating in secrecy. This is also in furtherance of the global need to identify ultimate beneficial owners of corporations and partnerships whilst improving financial transparency in order to curb tax evasion and the commission of economic crimes including corruption, money laundering, and the financing of terrorism or proliferation of weapons of mass destruction.

Premised on the above, this article therefore is intended to highlight the new changes introduced in the Partnership Law by the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships, specifically relating to the registration and disclosure of information relating to the beneficial ownership of partnerships.

I. CHANGES INTRODUCED BY THE 2023 AMENDMENT TO THE PARTNERSHIP LAW.

This chapter sets out and highlights the changes that have been introduced in the Partnership Law by the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships as highlighted below:

i. Definitions relating to beneficial ownership and competent authority.

The Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships under its *Article 1*[1] has introduced a number of definitions relating to beneficial ownership and competent authority that did not exist in the Partnership Law.

[1] See *Article 1 of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships*

The definitions introduced by the amendment to the Partnership Law thus include the following; The amendment to the Partnership Law under *Article 1 (3°)* provides the definition of an internal register of beneficial owners which is defined as:

"a register owned and kept by a partnership that exists in either paper or electronic form where the information related to its beneficial owners and other particulars provided for under this Law in relation to such beneficial owners are kept." [2]

The above provision was absent in the Partnership Law and has been introduced in the amendment to the Partnership Law in order to provide clear explanation of what constitutes an internal register of beneficial owners.

Another change that has been introduced by the amendment to the Partnership Law is the definition of a central register of beneficial owners which has been defined under *Article 1 (5°)* of the law to mean:

"a repository of information held by partnerships in respect of their beneficial owners and which exists in either paper or electronic form and is kept by the Registrar General." [3]

The above provision was also absent in the Partnership Law and has been introduced in the amendment to the Partnership Law in order to provide clear explanation of what constitutes a central register of beneficial owners.

A more important change that has been introduced by the amendment to the Partnership Law is the definition of a beneficial owner. A beneficial owner [4] has therefore been defined under *Article 1 (9°)* of the amendment to the Partnership Law to including:

a) a natural person who ultimately owns a legal entity or arrangement;
b) a natural person who ultimately controls a legal entity or arrangement;
c) a natural person on whose behalf a partnership-related transaction is being conducted;
d) a natural person who exercises ultimate effective control of a legal entity or arrangement;

Besides the above definitions relating to beneficial ownership, other definitions that have been introduced in the amendment to the Partnership Law include the definition of competent authority and the definition of the supervisory authority. According to *Article 1 (20°)* of the amendment to the Partnership Law, competent authority is defined to mean:

[2] See *Article 1 (3°)of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships*
[3] See *Article 1 (5°)of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships*
[4] See *Article 1 (9°)of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships*

an organ in charge of combating corruption, money laundering, the financing of terrorism or proliferation of weapons of mass destruction, which may, among other organs, be:

a. the organ in charge of financial intelligence;
b. the organ in charge of investigation;
c. the organ in charge of prosecution;
d. the organ in charge of taxation;
e. the organ in charge of receiving reports on cross-border transportation of currency and bearer negotiable instruments;
f. the organ whose competence includes seizing, freezing and confiscating offence-related property;
g. the supervisory authority;

The supervisory authority has on the other hand been defined under *Article 1 (20°)* of the amendment to the Partnership Law to mean *"the competent authority responsible for regulating, supervising, controlling or monitoring the functioning of reporting persons".*

The above definitions as highlighted are therefore among the few changes that have been introduced by the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships to provide guidance on who a beneficial owner is and to stipulate the difference between an internal register of beneficial owners and a central register of beneficial owners.

ii. Conditions for being considered as a beneficial owner of a partnership.

The Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships under its *Article 2* has inserted *Article 4 bis* in the Law N° 008/2021 of 16/02/2021 governing partnerships which sets out the conditions required to be a beneficial owner of a partnership [5]. Therefore pursuant to *Article 2* of the amendment to the Partnership Law, a natural person whether acting alone or jointly with others is considered to be a beneficial owner of a partnership where he fulfills the following conditions:

1° to have, directly or indirectly, a capital contribution or voting rights in a partnership up to the required threshold;

2° to exercise, directly or indirectly, a significant influence or control over the partnership management;

3° to act in his or her capacity in case of a general partnership.

However, in circumstances where a legal person/ legal entity is a partner in a partnership, the beneficial owner of such a partnership through such a legal person is the

[5] See *Article 2 of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships*

one determined in accordance with relevant Laws to be the beneficial owner and not the legal person/ legal entity itself.

iii. Requirement to provide information on the beneficial owners of a partnership.

The Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships under its *Article 3* has amended Article 12 of the Law N° 008/2021 of 16/02/2021 governing partnerships to introduce the requirement of submitting a declaration containing information on all the beneficial owners of a partnership under *Article 12 (9°)*.

The above-mentioned requirement was absent in the Law N° 008/2021 of 16/02/2021 governing partnerships and has thus been introduced by the amendment to the Partnership Law in a bid to ensure that the information on beneficial owners of a partnership is provided to the Registrar General prior to registration of a partnership.

iv. Requirement to keep the internal register of beneficial owners.

The Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships under its *Article 4* has amended *Article 22* of the Law N° 008/2021 of 16/02/2021 governing partnerships to introduce the requirement of keeping the internal register of beneficial owners of a partnership amongst other books, records and information that is required to be kept by partnerships for a period of 10 years which was not a requirement in the Partnership Law [6].

The provision is inserted under *Article 22 (3°)* of the Law N° 008/2021 of 16/02/2021 governing partnerships.

v. Keeping a record of actions taken.

Under *Article 5* of Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships, a new provision has been introduced in the Law N° 008/2021 of 16/02/2021 governing partnerships by inserting *Article 22 bis* which establishes the requirement to record actions taken by a partnership by stipulating as follows;

"A partnership must keep a record that indicates;

1° the particulars of a person to whom its notice of request for information on a beneficial owner was given;

2° the person's interest in the partnership;

3° the date on which the person requested to

[6] See *Article 4 of law N°018/2023 of 30/03/2023 amending law N°008/2021 of 16/02/2021 governing partnerships*

provide information on a beneficial owner received the notice of request;

4° the date on which the person requested to provide information on the beneficial owner complied with the request specified in the notice;

5° the date on which a restriction, if any, was imposed on such a person for failure to comply with the notice of request;

6° the date on which a restriction, if any, was lifted as a result of such a person complying with the notice of request".[7]

The above provision was not existent in the Partnership Law and has thus been introduced by the amendment to the Partnership Law to ensure that partnerships keep a record of all actions that have been taken.

vi. Establishment of a central register of beneficial owners and persons entitled to have access to information therein.

Pursuant to *Article 6* of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships, a new provision worded as *Article 23* bis has been introduced in the Partnership Law regarding the establishment of a central register of beneficial owners and persons entitled to have access to information therein.

Premised on the above, this article states that "*the registrar general shall have the obligation to establish and keep the central register of beneficial owners of partnerships in any form.*"

However, as the provision further states, "*the register has to be kept in such a form that makes it possible to inspect the information contained therein and make a copy of such information in eligible form.*"

Adding on that, the register general has been entitled with the power to verify the accuracy of the beneficial owner's information submitted by the partnerships and to require information and documents that enable the verification of accuracy of such information.



[7] See *article 5 of law N° 018/2023 of 30/03/2023 amending law N°008/2021 of 16/02/2021 governing partnerships*

However, it should be noted that the competent authority has the right to access information it needs that may be contained in the central register of owners.[8]

vii. Establishment of an internal register of beneficial owners.

The Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships under its *Article 7* has introduced a new provision worded as *Article 23* Ter which regards the establishment of the internal register of beneficial owners. The new article states that; "*A partnership, whether formed in Rwanda or abroad, establishes an internal register of beneficial owners. A partnership whether formed in Rwanda or abroad, must:*

1° have and update information in respect of the partnership's beneficial owners;

2° record information in the internal register of beneficial owners;

3° keep at its registered office in Rwanda the internal register of beneficial owners and supporting documents related to information contained therein and submit a copy thereof to the Registrar General;

4° update the internal register of beneficial owners whenever there is any change in the particulars of beneficial owners within seven (7) days of the day of occurrence of the change;

5° notify the Registrar General of the changes made to the internal register of its beneficial owners within ten (10) working days of the occurrence of such changes;

6° retain information in respect of a person for the duration of his or her being a beneficial owner, and for a period of ten (10) years from the date he or she ceases to be a beneficial owner." [9]

The above provision was not existent in the Partnership Law and has thus been introduced by the amendment to the law to ensure the keeping of an internal register that provides information in respect of the partnership's beneficial owners.

viii. Contents of the internal register of beneficial owners

A new provision worded as *Article 23* quarter which provides the details of information to be included in the internal register of beneficial owners has been added in the Partnership Law.

This article outlines the details of information to be contained in the internal register of beneficial owners as follows;

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[8] Idem, *article 6*
[9] See *article 7 of law n°018/2023 of 30/03/2023 amending lawN°008/2021 of 16/02/2021 governing partnerships.*

1° the names, national identity card number or passport number, date of birth, nationality, residential, postal and email addresses, telephone number, business address and taxpayer identification number of each beneficial owner;

2° the nature and extent of the interest held, or the nature and extent of the control exercised over the partnership by each beneficial owner, if any;

3° the date on which the natural person became, or ceased to be a beneficial owner of the partnership, the date he or she has increased or reduced his or her beneficial interest in the partnership. [10]

The above provision was not existent in the Partnership Law and has thus been introduced by the amendment to the law to establish the content of information that should be included in the internal register of beneficial owners.

ix. Power to require information on beneficial owner and suspension of interest for failure to provide such information.

The Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships under its *Article 9* has introduced a new provision worded as *Article 23 Quiqueis* regarding the power granted to partnerships to request information to be included in the register of beneficial owners from the beneficial owners and the power to suspend their rights in case of the beneficial owner's default to provide the information required from them or give misleading and false information. However, partnerships have also been granted the power to request information from any other person in case they believe the person knows or have reasonable grounds to believe that the person knows the identity of a beneficial owner or knows the identity of someone likely to have that knowledge.

The provision in particular states that;

"A partnership gives written notice to a person whom it knows or has reasonable grounds to believe to be a beneficial owner, requiring that person to:

1° confirm whether or not he or she is a beneficial owner of the partnership;

2° confirm or correct any particulars concerning him or her that are included in the notice, and provide any information that is missing, if necessary."

Where a partnership gives notice to a person referred to in Paragraph One of this provision requiring him or her to provide his or her

[10] Idem, *article 8*

prescribed particulars for inclusion in the internal register of beneficial owners, but that person fails to do so within thirty (30) days of the date of receipt of the notice, or provides false or misleading information, the partnership restricts such a person from exercising his or her rights in the partnership as further stated in the provision requiring that person to:

1° state whether or not he or she knows the identity of a beneficial owner of the partnership or knows the identity of any person likely to have that knowledge;

2° if so, to provide the particulars of such a person.

A person who receives a notice from a partnership to provide particulars of its beneficial owner provides said information to the partnership within thirty (30) days of the date of receipt of the notice.

Where a partnership gives notice to a person referred to in Paragraph One of this Article requiring him or her to provide his or her prescribed particulars for inclusion in the internal register of beneficial owners, but that person fails to do so within thirty (30) days of the date of receipt of the notice, or provides false or misleading information, the partnership restricts such a person from exercising his or her rights in the partnership.[11]

x. Duty of a beneficial owner to notify changes.

Pursuant to *Article 10* of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships, a new provision has been inserted in the Law N° 008/2021 of 16/02/2021 governing partnerships worded as *Article 27 bis* imposing a duty on beneficial owners to notify to partnerships the changes made to the acquisition, increment or reduction in their beneficial interest in the partnerships.

To wit, *Article 27 bis* stipulates that:

"*A beneficial owner who acquires, increases his or her beneficial interest in the partnership shall notify those changes to the partnership within ten (10) working days of the date of occurrence of the changes.*"

The provision under paragraph 2 further requires beneficial owners who cease to be beneficial owners or who have changes in their particulars in the internal register of beneficial owners to notify the partnership within 10 working days from the date on which such changes occur by stipulating that:

"A beneficial owner who ceases to be a beneficial owner or who has changes on his or her particulars in the internal register of beneficial owners notifies the partnership

[11] Idem, *article 9*

within ten (10) working days from the date on which he or she ceases to be a beneficial owner or from the date of occurrence of changes in his or her particulars in the internal register of beneficial owners".[12]

The above provision was not existent in the Partnership Law and has thus been introduced by the amendment to the law to impose a duty on beneficial owners to notify partnerships on changes in their beneficial ownership in the partnerships.

xi. General partnership's accounting and records.

Article 12 of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships has introduced an additional requirement under Article 45 of the Partnership Law, whereby partners are required to ensure the retention of accounting records together with the supporting documents for information therein in relation to the transactions relating to the general partnership in which they are involved and to ensure that such records are retained properly within 10 years from the day following the last day of the year to which they relate.[13]

Moreover, the amendment establishes a requirement for partnerships to submit to the Registrar General along with the financial records a statement confirming that the information held by a partnership on its partners and beneficial owners is both up to date and accurate in the form prescribed by the registrar general's instructions.[14]

xii. Financial statements.

Article 13 of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships has introduced an additional requirement under Article 83 of the Partnership Law requiring partnerships to submit to the Registrar General along with the financial statements a statement confirming that the information held by a partnership on its partners and beneficial owners is both up to date and accurate in the form prescribed by the registrar general's instructions.[15]

xiii. Financial statements of a limited liability partnership.

The Law N° 018/2023 of 30/03/2023 amending the Law N° 008/2021 of 16/02/2021 governing partnerships under its Article 14 has inserted Article 103 bis in the Partnership Law which establishes an obligation on limited liability partnerships to retain their financial statements for a period of 10 years.



[12] Idem, *article 10*
[13] Idem, *article 12*
[14] Idem, *article 12*
[15] See *article 13 of the Law N° 018/2023 of 30/03/2023 amending Law N° 008/2021 of 16/02/2021 governing partnerships*

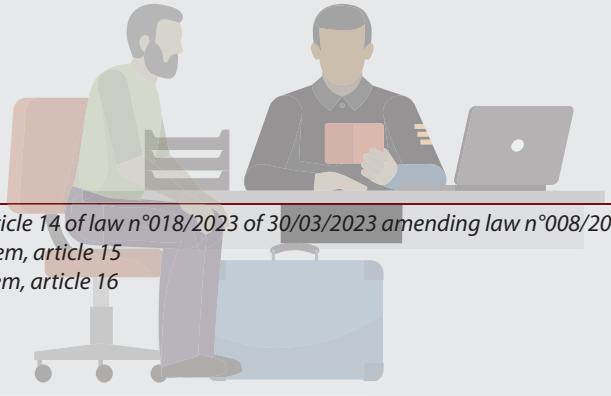
The article stipulates that the partner, manager or any person acting as a compliance officer of a limited liability partnership has to ensure that;

1° accounting records and supporting documents for information therein in connection with the transactions affecting the partnership are retained properly for ten (10) years from the day following the last day of the year to which they relate;

2° records of the partnership are made available, on request, to any partner.

Furthermore, the article stipulates that; A partner, manager or person acting as compliance officer of a limited liability partnership ensures that within six (6) months after the accounting date, financial statements that comply with generally accepted accounting principles and dated and signed on behalf of the partners are submitted to the Registrar General.

And the financial statements mentioned above are submitted together with a statement in the form prescribed by the Registrar General confirming that information held by a partnership on its partners and beneficial owners is up-to-date and accurate.[16]



xiv. Registered office of a foreign partnership .

Article 15 of the Law N° 018/2023 of 30/03/2023 amending the Law N° 008/2021 of 16/02/2021 governing partnerships has introduced more obligations with regard to compliance whereby currently the foreign partnership is required to keep the internal register of beneficial owners, books of accounts together with the supporting documents related to the information therein, and a document containing particulars of all partners and their interest in the partnership to their registered office.[17]

xv. Annual financial statements of a foreign partnership .

Article 122 of the amended Partnership Law of 2021 has been also slightly altered whereby the financial statements submitted by the foreign partnership to the registrar general shall be submitted together with the supporting documents for information therein in connection to the partnership business.

Adding on that, it's now a requirement to submit a statement in a form as prescribed by the registrar general confirming that the information held by a partnership on its owner is both update and accurate.[18] Note that the above requirement was not included in the modified law.

[16] *Article 14 of law n°018/2023 of 30/03/2023 amending law n°008/2021 of 16/02/2021 governing partnerships.*
[17] *Idem, article 15*
[18] *Idem, article 16*

xvi. Cessation of business in Rwanda.

Article 123 of the amended law regarding the procedure and formalities that should be fulfilled in case the foreign partnership ceases its activities has been modified.

Pursuant to article 17 of the new amending law in its last two paragraphs whereby currently a foreign partnership that ceases to carry on its business in Rwanda transmits to the registrar general the books and documents stated in article 15 of the same law within 30 days from the date on which he or she is notified by the foreign partnership of cessation of its business and the registrar general has to retain them for 10 years counted from the day of transmission of such books and documents to him or her while in the repealed law when a foreign partnership decided to cease its operations its obligation to submit documents to the registrar ceased on the same day.

The second alteration made in article 123 of the amended law is that the registrar general shall on strike out the name of the foreign partnership from the register of partnerships following the fulfillment of the obligation to submit the particulars of its partners and beneficial owners, accounting records and supporting documents for information therein in connection with the financial year preceding the cessation of its business.[19]

xvii. Removal of a partnership from the register of partnership.

Further new addition has also been made in article 129 of law n0 008/2021 of 216/02/2021 governing partnership in which a new paragraph has been added stipulating that the registrar general shall strike out the name of the foreign partnership only if it has submitted the particulars of its partners and beneficial owners as well as accounting records and supporting documents for information therein in connection with the financial year proceeding the cessation of its business. [20]

xviii. Failure to disclose information, maintain or submit books and documents of a partnership.

Pursuant to article 19 of the Law N° 018/2023 of 30/03/2023 amending the Law N° 008/2021 of 16/02/2021 governing partnerships, a new article has been inserted worded as "article 138 bis "regarding failure to disclose information, maintain or submit books and documents of a partnership.

The new law has established a penalty to a partner, manager of a partnership or a person acting as compliance officer who fails to:

1° disclose information of a partnership to the competent authority;

[19] Idem, *article 17*

[20] *Article 18, law n°018/2023 of 30/03/2023 amending law n°008/2021 of 16/02/2021 governing partnerships.*

2° maintain books or documents;

3° submit to the Registrar General books or documents;

In case of failure to disclose the required information, the person who fails to disclose such information commits an offence and is liable to an administrative fine of not less than two million Rwandan francs (FRW 2,000,000) but not more than five million Rwandan francs (5,000,000 FRW)".[21]

xix. Provision to a partnership of false or misleading information on the beneficial owner.

The new amending law following the insertion of a new article titled "*article 140 bis*" has also introduced a penalty to a person who intentionally provides false or misleading information to the partnership in relation to a notice given by the partnership requiring him or her to provide particulars of its beneficial owner because by doing so he or she commits an offence under the law on partnership [22] whereby Upon conviction, he or she is liable to an imprisonment for a term not less than three (3) years but not more than five (5) years and a fine of not less than five million Rwandan francs (FRW 5,000,000) but not more than ten million Rwandan francs (FRW 10,000,000)".[23]

CONCLUSION

In conclusion, it suffices to note that the major reason as to why an amendment was made to the Law N° 008/2021 of 16/02/2021 governing partnerships is to ensure the transparency in the ownership and business transactions of partnerships in order to prevent them from operating in secrecy and to in turn identify ultimate beneficial owners of corporations and partnerships whilst improving financial transparency. For this purpose, the amendment to the Partnership law has introduced provisions that require and which make mandatory the registration and disclosure of information relating to the beneficial ownership of partnerships prior to their registration as well as for already existing partnerships.

The new changes introduced in the Partnership Law will thus help to foster financial transparency in order to curb corporate vices such as tax evasion and the commission of economic crimes including corruption, money laundering, and the financing of terrorism or proliferation of weapons of mass destruction.

[21] Idem, *art 19*
[21] Idem, *art 20*
[23] ibidem

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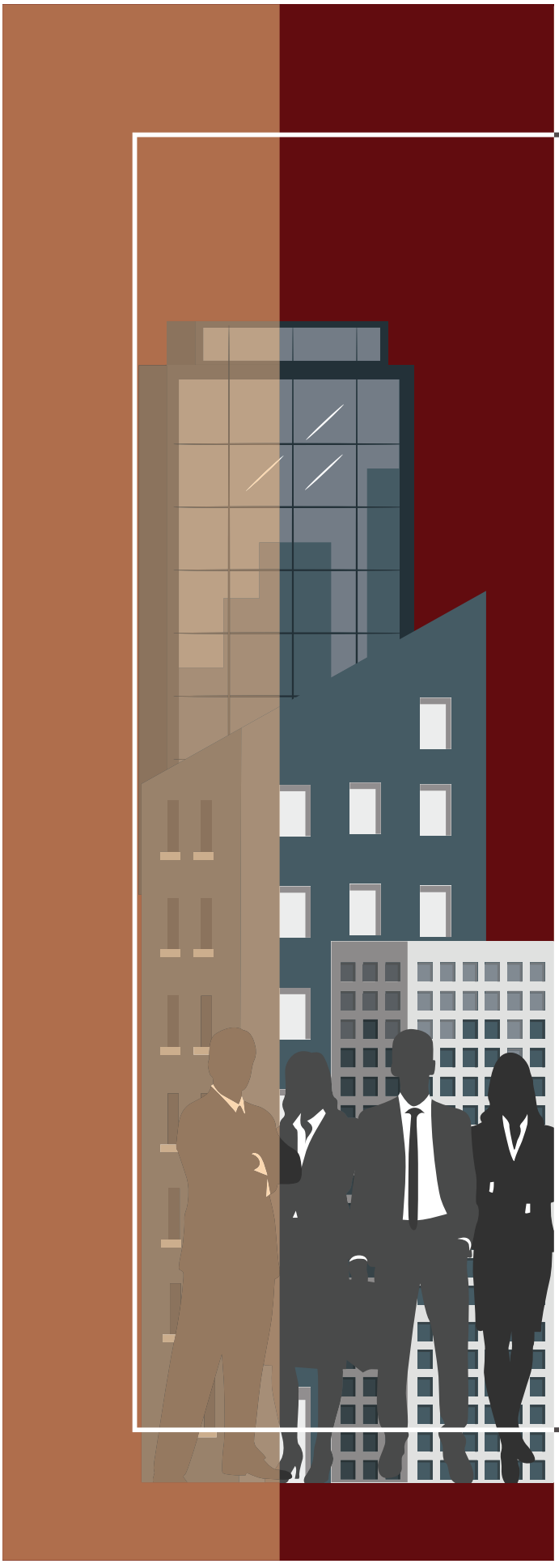
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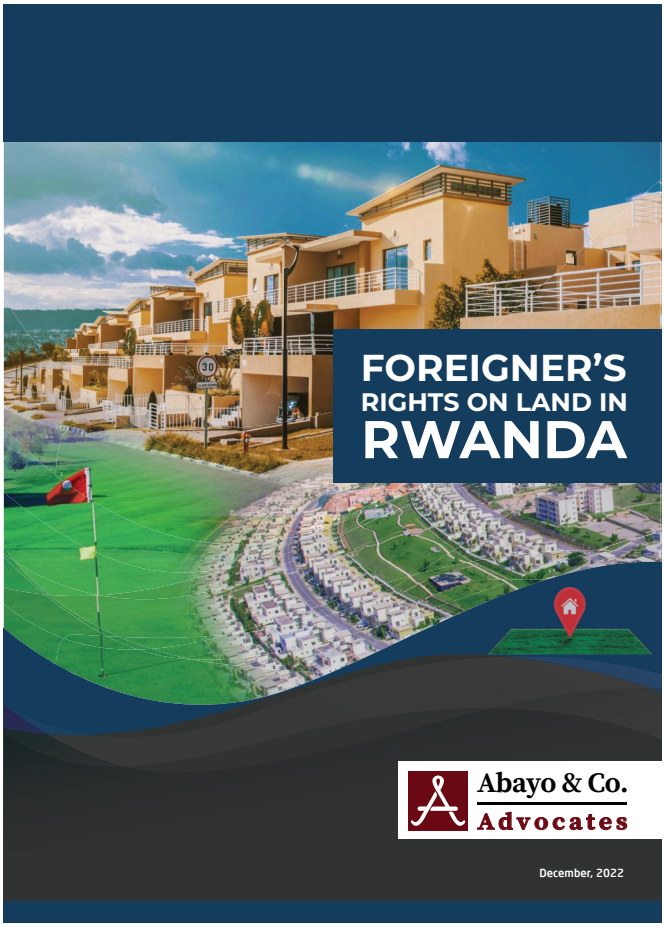


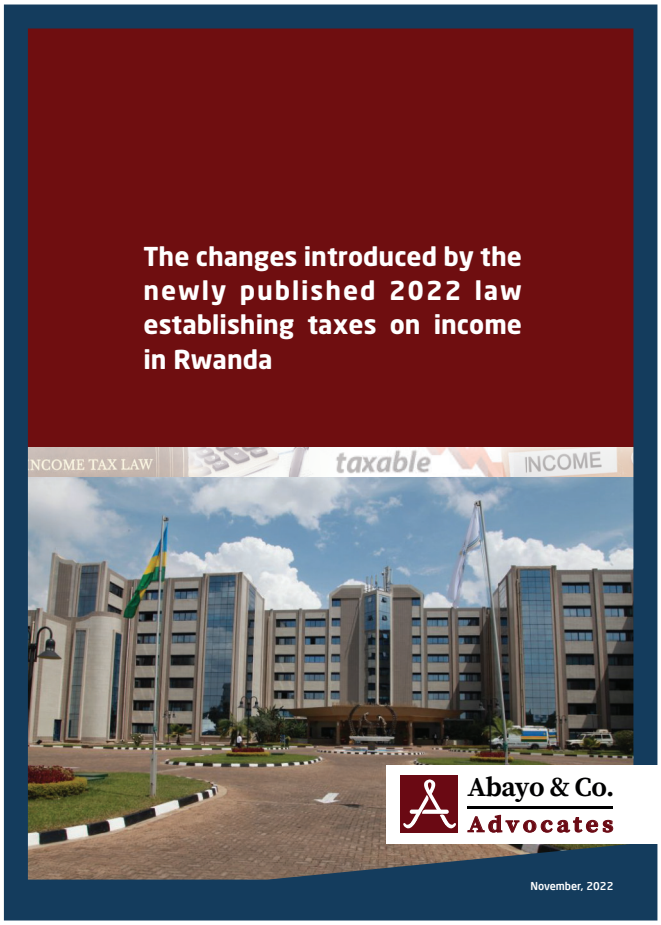
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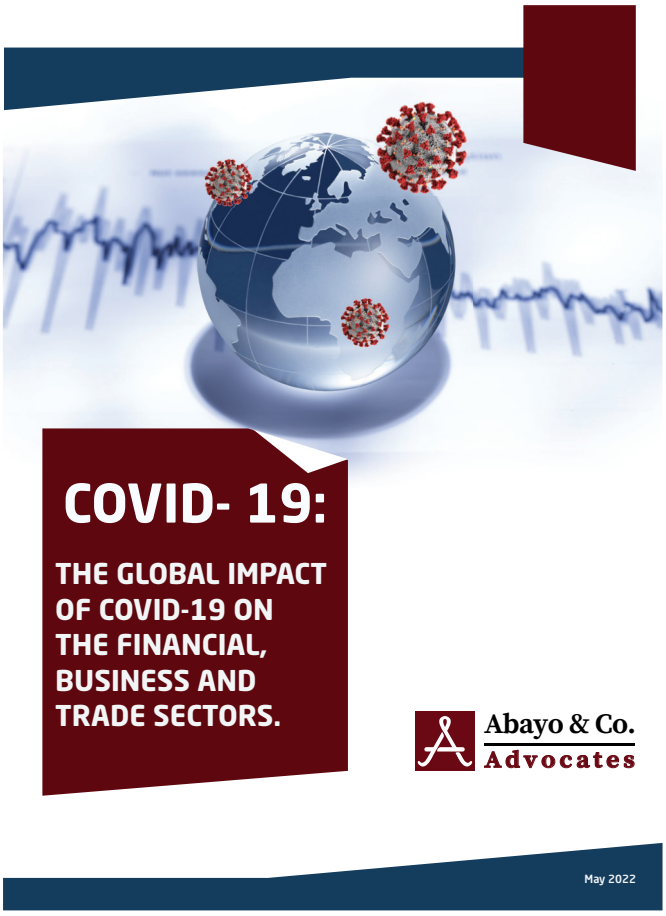
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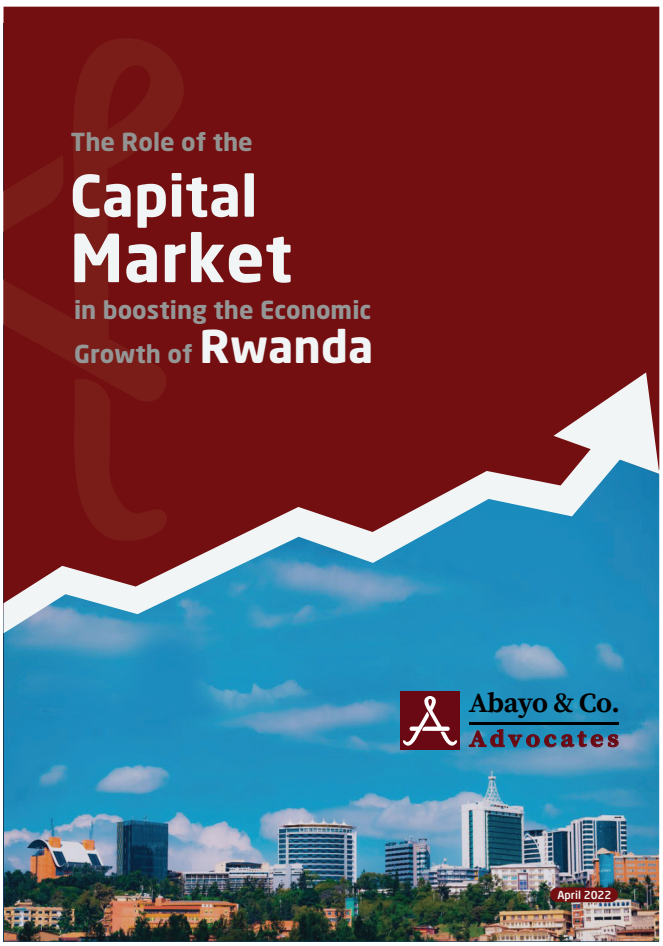
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