

New Register of Beneficial Ownership

On 25th June 2014 the UK Government published the Small Business Enterprise and Employment Bill which contains the primary legislation concerning the new disclosure and transparency rules to which UK companies will be subject.

The draft rules introduce changes to the requirements for due diligence and, in particular, to the regulation of trusts by EU member states. Probably the most controversial of the new rules is the obligation of member states to set up public central registers listing information on the ultimate beneficial owners of various legal arrangements including, trusts, companies and foundations. This will include companies limited by guarantee and LLP's and will apply to existing as well as new corporate entities.

Information on individuals who ultimately own or control more than 25% of a company's shares or its voting rights, or who otherwise exercise control over a company or its management, will need to be obtained and held by the company, and in the UK, be provided to Companies House.

Where more than 25% of a company's shares or voting rights are held through a trust, or where a trust arrangement provides individual(s) with control over the company or its management, the trustee(s) or any individuals who control the activities of the trust should be recorded as the beneficial owner of the company. In most cases this will require only the trustee(s) to be registered. In some, it might be another individual, such as the beneficiary, settlor, protector or any other controller of the trust. The Government explained that they do not want to disclose the identity of individuals who may ultimately benefit from the trust arrangement but who do not have any control or ownership of the company itself – for example, children.

What is required?

Companies will be required to maintain a register of beneficial owners which will include the beneficial owner(s) full name, nationality, birth date, residential and business address and a description of how the ownership or control is exercised. The register will be kept available for public inspection with the exception of residential addresses and full dates of birth. Companies must up-date their register of beneficial owners if they know, or might reasonably be expected to know, that a change in beneficial ownership has occurred. Beneficial owners will also be under an obligation to inform the company of any changes.

Companies will be required to provide an initial statement of beneficial ownership on incorporation and will then be required to confirm that the information held at Companies House is correct at least once every 12 months and to detail all the changes that have occurred.

The regulations are being introduced in an effort to combat the widely acknowledged view that anonymous shell companies and other corporate vehicles are commonly used to conceal the proceeds of crime and tax evasion. These new rules are a further step to tighten up the current anti-money laundering rules in the EU and to provide more accountability and transparency in respect of those people who own and control corporate entities.

The central registers will be interconnected throughout Europe so that any individual can access this information, subject to identifying themselves via an on-line registration process.

Public concerns

Concerns have inevitably been raised over privacy and security. Up until now, such information has remained private and no EU member state has allowed such information to be disseminated publicly on the basis that trusts may be used to hold money for family members and/or estate planning purposes.

If you would like to find out more about how the new register of beneficial ownership might affect you then please contact Rooks Rider Solicitors LLP.

For further information or to discuss any of the issues raised in this briefing note, please contact a member of the Rooks Rider Solicitors team:



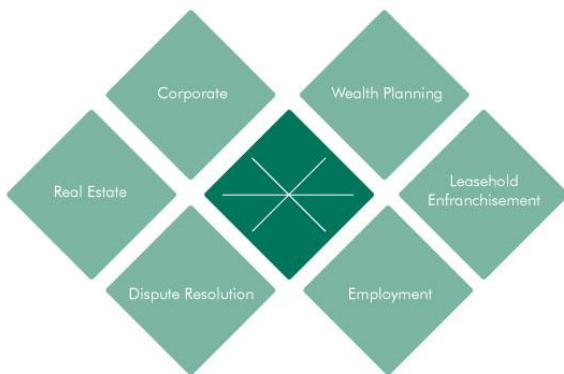
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