

New register of Beneficial Ownership - People with Significant Control

UK Companies will be required to maintain a PSC Register ("Register") from April 2016 and from June 2016 they will be required to file the information at Companies House which is when the register will become fully operational.

The Small Business, Enterprise and Employment Act 2015 ("Act"), which received Royal Assent in March 2015, sets out the requirements and procedures that are necessary for companies to register all such beneficial interests.

The aim of the Register is to:

- oblige UK companies to know who owns and controls them by requiring that companies obtain and hold adequate, accurate and current information on their beneficial ownership;
- require companies to report beneficial ownership information to a central register. For the UK this will be Companies House. This information will be adequate, accurate and current, and accessible to domestic competent authorities. Following a consultation, the UK has committed to make the Register publicly accessible and is expected to become operational in June 2016;
- ensure trustees of express trusts obtain and hold adequate, accurate and current beneficial ownership information for their trusts, including the settlor(s), trustee(s) and beneficiaries;
- hold in a central register the beneficial ownership information of trusts that generate tax consequences in the UK. Domestic competent authorities will be able to access this information.

Who is a 'person with significant control'?

An individual with significant control will meet at least one of the following five conditions:

- directly or indirectly **hold more than 25% of the nominal share capital**; or
- directly or indirectly **control more than 25% of the votes at general meetings**; or
- directly or indirectly be able to **control the appointment or removal of a majority of the board**; or
- actually exercise, or have the right to exercise, **significant influence or control** over the company; or

- actually exercise or have the right to exercise **significant influence or control** over any trust or firm (which is not a legal entity) which has **significant control** (under one of the four conditions above) over the company.

What does a company need to do?

A company has the duty to take reasonable steps to find out if anyone is a registrable person or registrable relevant legal entity in relation to it and to identify them if this is the case. A company does this by giving notice to anyone whom it knows or has reasonable cause to believe to be a registrable person or a registrable relevant legal entity in relation to it. The notice, if addressed to an individual, must require the addressee to state whether or not he or she is a registrable person in relation to the company.

Failure by an individual or legal entity to respond to a company's enquiries will give the company the ability (without a court order) to disenfranchise, and impose other restrictions on, any shares held by them.

Once this has been done, an officer of the company is required to:

1. Identify the people with significant control ("PSC") over the company and confirm their information;
2. Record the details of the PSC on the company's register (which is usually held at the company's registered office);
3. Provide this information to Companies House as part of the new Confirmation Statement (formerly called the Annual Return); and
4. Update the information on the company's register when it changes, and update the information at Companies House when you make your next Confirmation Statement.

How will the Register be available to the public?

The Register will need to be kept at the company's registered office (or other inspection address) and be available for public inspection in the same way as for the register of members. The information on the Register will also need to be confirmed to Companies House at least every 12 months and will be held by it on a publically searchable database. In addition, from June 2016 companies will be able to elect to keep their Register at Companies House. Companies will also be required to provide copies of the Register to any person on request.

For further information on any of the issues raised in this Briefing Note, please contact a member of the Rooks Rider Solicitors Corporate and Wealth Planning Teams.



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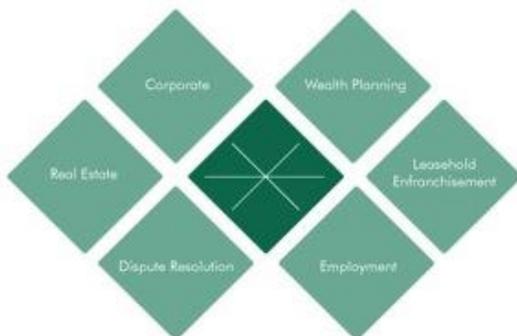
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