



The PSC Register: A New Requirement for UK Companies

04 February 2016

From 6 April 2016, all unlisted UK companies must disclose their beneficial owners. The Small Business, Enterprise and Employment Act 2015 introduced provisions into the Companies Act for the creation of a register of persons with significant control over companies ("**PSCs**"). The intention is to increase transparency around the beneficial ownership to establish an open business environment and possibly to assist the tackling of illegal activities such as money laundering, tax evasion and terrorism funding.

Who is affected?

The new requirements apply to unlisted UK companies, and also Limited Liability Partnerships ("**LLPs**") and Societas Europaea.

What must be done by when?

By 6 April 2016 such companies and LLPs must keep a PSC register with their statutory books and after 30 June 2016 this information must be annually filed with Companies House in a document which replaces the Annual Return.

Who is a PSC?

A PSC is someone who:

- 1 has direct or indirect ownership of more than 25% of the shares in the company;
- 2 has direct or indirect control of more than 25% of the voting rights in the company;
- 3 has direct or indirect right to appoint or remove a majority of the board of directors;
- 4 actually exercises or has the right to exercise significant influence or control over a company; and/or
- 5 actually exercises or has the right to exercise significant influence or control over activities of a trust or firm which is not a legal entity, which in turn satisfies any of the first four conditions over the company.

UK entities (and possibly others) which fulfil at least one of these conditions are relevant legal entities ("**RLEs**") and are themselves under the same disclosure obligations must also be recorded on the register.

Possibility (iv), in particular, above may cause issues for lenders, depending upon their controls and powers.

What information to include?

PSCs are required to provide for registration their name, service address, usual residential address, nationality, date of birth, date of becoming a PSC, the nature of their control over the company and any restrictions on disclosing their particulars.

Registrable RLEs are required to provide for registration their name, registered or principal office address, legal form and governing law, date of becoming registrable, the nature of their control over the company and, if applicable, the register it appears in and its registration number.

A protection regime exists to restrict publicly accessible information on PSCs. Residential addresses must not be available on the publicly accessible register or company/LLP register, and are only accessible by specified public authorities and credit reference agencies. Dates of birth are only shown on the company/LLP register, unless it has elected to keep PSC information solely on the central register. If people feel that disclosure of their information places them or someone they live with at serious risk of violence or intimidation, they can apply for further protection.

What happens if you don't comply?

Failure by a company (i.e. its directors) to comply with their obligations both to seek to establish ownership and register information is a criminal offence punishable by imprisonment and/or a fine.

PSCs and registrable RLEs who fail to supply or update information and who fail to comply with notices from a company relating to a PSC register may also have committed a criminal offence.

Where is it kept and who can view it?

A company must keep a PSC register available for public inspection at its registered office or other specified address. Information from its PSC register will also be held at Companies House on a publicly accessible central register. Private companies and LLPs, however, can elect that the information should only be held at Companies House. Information at Companies House will only need to be updated annually except if the company elects to keep information only at Companies House, in which case it must be kept continually up to date.

Next Steps

Companies, PSCs and RLEs should start preparing to comply with these obligations by preparing a register and sending out the appropriate notices to possible PSCs and RLEs. Where there are concerns about the new requirements, specialist advice is needed.

P.S. In March 2016, the Government announced proposals to extend this regime to overseas companies which either owned property in the UK or wished to tender for public procurement contracts.

22 March 2016

For further advice please contact Jonathan Gatward, Head of Corporate by email or on 020 7465 4300 at Payne Hicks Beach.
