

Guidance Note: People with Significant Control

1. Introduction

This guidance note is a brief summary of the requirements that came into force on 6th April 2016. From this date, UK companies and LLPs have had to collect and keep information about people who have significant control over them in a register known as the Register of People with Significant Control (PSC).

This note does not intend to replace the Government's guidance on PSC registers. The Government's guidance is comprehensive, explains the law and has been specifically designed for designated members of LLPs. You can find this guidance [here](#).

This note is intended as a guide to help you with the implementation of the requirements for maintaining and updating the PSC register.

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y points for our customers dealing with on-going commitments related to the PSC register.

2. Updates to the PSC Register

4th Anti-Money Laundering Regulations

Changes have been made to the PSC regime as part of the 4th Anti-Money Laundering Regulations 2017. This note has been updated to reflect the changes. The implementation of the 4th AMLD is designed to increase the transparency of corporate structures and as a result of this the PSC register regime has been brought in line with it. These changes are set out in the Information and Communications Regulations 2017 (2017 Regulations).

The PSC regime has been tightened in light of 4MLD. For most SME businesses, the filing procedure for changes and PSC updates annually via Companies House (within 14 days) with Companies House central register of beneficial ownership is discussed in more detail in the 2017 Regulations.

5th Anti-Money Laundering Regulations

On 10th January 2020, the 5th Anti-Money Laundering and Terrorist Financing Regulations 2019 came into effect.

5MLD requires that an entity, for example, credit institutions, auditors, accountants, legal professionals, trust providers, etc., must carry out due diligence on new business relationship with a company, LLP, partnership or

Money Laundering Regulations

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der 5MLD (known as an obliged entity), for example, credit institutions, auditors, accountants, legal professionals, trust providers, etc., must carry out due diligence on new business relationship with a company, LLP, partnership or

If as part of this data gathering exercise an obliged entity finds on the register a discrepancy that it obtains through its own due diligence on an LLP, that obliged entity is required to tell Companies House about this discrepancy.

Note that a beneficial owner is not the same as a PSC. The requirement to report a beneficial owner is not the same as a PSC. Discrepancy is all about the interpretation of the intention of the reporting entity. It is on clear factual errors and not on an error with the date of birth or the name of a PSC's name.

Discrepancies should be reported on a periodic basis is not the register as quickly as possible using the following link:

<https://www.smartsurvey.co.uk/>

These changes have wide implications for the PSC entity itself and the companies that complete a picture of PSCs.

3. Background to the Small Business, Enterprise and Employment Act 2015 (SBEA)

The SBEA completed its implementation of company law is concerned with the PSC regime.

The most significant requirements of the Limited Liability Partnership Regulations 2009 that have control over them.

The aim of requiring companies to keep a PSC register is to increase transparency about the ownership of companies so as to tackle tax evasion, money laundering and terrorism more generally.

The broad framework of the PSC regime was inserted by the SBEA.

A PSC register cannot be kept by companies, LLPs, their directors (or partners in the case of LLPs) is a criminal offence and/or a fine.

This note largely deals with the PSC regime for LLPs, see point 16 below.

4. Who does the PSC regime apply to?

The PSC regime applies to

any discrepancy is found between what the company has reported (i.e the public PSC register) and what the beneficial ownership of a company or LLP has. Tell Companies House about this discrepancy.

Discrepancy does not have the same definition as a beneficial owner. The Companies Act 2006 definition of a PSC is not the same as a PSC, but the UK government's intention is to be reported and the focus is on clear factual errors and not on a simple spelling error.

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This note largely deals with the PSC regime for LLPs, see point 16 below.

- UK incorporated companies and companies
- UK Societates Europaeae
- UK LLPs;
- UK unregistered companies under the Companies Act 2006 or a special company law regime
- Scottish Partnership or Scottish Limited Partnership as of 24th July 2009
- companies whose shares are not listed on a regulated market or Exchange Growth Market

s or guarantee, including dormant
s;
er 2020)¹;

UK unregistered companies were not initially subject to the provisions of the Act of 26th June 2017, extended by the Finance Act 2019.

SPs, SLPs as well as unre
market, such as AIM are l
advice should be sought in

5. Who is exempt from the

From 26th June 2017, the f

- UK companies with market or other material Significant Control Switzerland, USA, Japan

Overseas entities operating
not subject to the regime.

6. What are the key features

Companies will have to:

- keep a register of the information
- take reasonable steps to ensure the register is accurate;
- enter the required information in the register;
- provide the information in the register to the relevant authorities;
- continuously monitor the information in the register when it is required to be updated at a specified timescale.

Prior to 26th June 2017, c
via the CS01 confirmation
possibility that an entity's c
have been at significant va

¹ Note that following the UK's exit from the EU, alternative arrangements before this date, will have more details.

Consequently, changes with effect from 26th June 2017, a relevant entity:

- who knows or has become aware of a change to their PSC information, or
- becoming aware of a change to their PSC information, or
- to confirm that change has occurred, asking the PSC to send a notice “as soon as possible” that the details of any person being confirmed by a PSC, update of the change to ensure that the information in an entity’s own PSC register.

Forms PSC01 to PSC09 (and the corresponding LL PSC01 to LL PSC 09), need to be used to notify CH of changes. It is expected that these changes will improve the accuracy and date both on an individual and the central public register at CH.

Failure to notify CH within the required time is an offence.

7. Who is a person with significant influence?

A PSC **must** be an individual who meets one or more of the following five conditions (PSC Conditions):

- directly or indirectly holds the shares of the company;
- directly or indirectly holds the voting rights of the company;
- directly or indirectly holds the right to appoint or remove the majority of the directors of the board;
- otherwise has the right to exercise, significant influence or control; and/or
- holds the rights to exercise, significant influence or control over the activities of the company which would itself satisfy any of the above conditions if it were an individual.

Since individuals can be identified indirectly, it is important to consider where they hold their interests around indirect ownership.

8. What is a relevant legal entity?

Given that a PSC is by definition a legal entity, where some or all of its shares are held by a legal entity, the company must be registered in the PSC Register, if in relation to the company it is both relevant and a legal entity (RLE).

A legal entity is relevant if it meets one or more of the PSC Conditions and is registered in the PSC Register, holds its own PSC register, and is admitted to trading on a regulated market in the UK or European Union (other than the UK) or on specified

markets in Switzerland, US

Therefore, where a PSC is a registrable RLE that is entered to the registrable RLE's PSC register, it may exist further up the chain. This will not become cluttered with details. Some helpful illustrations of when an RLE is registrable in relation to the RLE in a company's ownership chain.

Therefore, a company's PSC register contains details of individuals only, not of RLEs.

9. Compiling the PSC Register

A company must take reasonable steps to determine whether any individual or legal entity meets the conditions for being a registrable RLE in relation to the company, and if so, who they are. The company, and if so, who they are. The company, and if so, who they are. The company, and if so, who they are.

The Government's guidance provides principles and examples of activities which are likely to constitute having significant influence or control. A company must have regard to this guidance when considering whether it meets the condition of exercising significant influence or control.

A PSC register cannot be used to enter this information on your PSC register and keep it up to date.

As stated above, new information must be entered on a company's PSC register within 14 days and filed with Companies House within a further 14 days.

10. Significant influence or control

PSC Conditions 4 & 5 refer to "significant influence or control". Therefore, how does a company decide whether it has significant influence or control?

The Government has issued guidance on the meaning of significant influence and control which a company must have regard to. A company must have regard to this guidance when considering whether it meets the condition of exercising significant influence or control.

The guidance is not exhaustive. It provides principles and examples of activities which are likely to constitute having significant influence or control. For example, the guidance provides principles and examples of activities which are likely to constitute having significant influence or control. For example, the guidance provides principles and examples of activities which are likely to constitute having significant influence or control.

11. Serving of Notices

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company should typically take in order to identify its PSCs. The list is not definitive or exhaustive. The Government's guidance provides principles and examples of activities which are likely to constitute having significant influence or control.

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within the legislation on registrable
the company themselves if he/she/it
/ have not received a notice from

le on its PSC register must be sends the appropriate notices to can be included within its PSC information when PSC details change E notices).

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practices. We also provide template letters with additional wording to make it more personal and relevant for a recipient who otherwise

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D or 790E notice. A company may or does not respond, warning them of restrictions placed on their interests. With, the company may issue a government guidance goes through when deciding whether to restrict or failing to respond. For example, responding to a notice, but a long

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from 26th June 2017 that entities
entity's own PSC register and the
the latest information, even if this
days of a response deadline.

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PSC register is set out in section

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, this date will be 6th April 2016.

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to credit reference agencies and

certain public authorities. A company that has secured PSC information to

CH has also been able to disclose information to financial institutions.

Some companies may choose to keep their PSC information on their own register at CH. In this case all the information will be available to the public. Information that otherwise appear in a company's

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In exceptional circumstances, a company may apply for suppressing all information relating to PSCs or preventing the information from being shared with credit reference agencies. This is only in 'exceptional circumstances' means where there is a serious risk of violence or other harm. The Government's guidance sets out more information in Annex 1 about when a company can be followed if a company feels their PSCs need protection

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14. Companies keeping the information on their own register at CH

From 30th June 2016, private companies can choose to keep their PSC register at CH instead of their own. Companies who choose to do this will need to give notice to the Registrar of Companies. If no-one objects can a company elect to keep their PSC register at CH. The election is reversible should company decide to keep their PSC register themselves.

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15. Nominee, joint and indirect

Companies will need to consider how their PSCs are held (jointly or are subject to arrangements). The Government's guidance provides information on several common arrangements that companies will need to consider.

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16. LLPs

Annex 4 of the Government's guidance addresses the PSC regime as it applies to LLPs. The requirements are:

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- directly or indirectly holds more than 25% of the surplus assets on a winding up;
- directly or indirectly holds more than 25% of the voting rights;
- directly or indirectly appoints or removes the majority of those involved in management;
- otherwise has the right to appoint or remove the majority of those involved in management; or
- holds the rights to control over the activities of the LLP which would itself satisfy any of the above conditions if it were an individual.

more than 25% of the surplus assets on a winding up; the voting rights; appoint or remove the majority of those involved in management; or otherwise has the right to appoint or remove the majority of those involved in management; or holds the rights to control over the activities of the LLP which would itself satisfy any of the above conditions if it were an individual.

As with companies, there is no requirement for an LLP to have a PSC. However, the most important document that should be reviewed in ascertaining whether the above conditions are met is the LLP agreement that an LLP is likely to have.

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registrable RLE's, or an unregistrable RLE, must never be empty. The name of an LLP must use on its register the reporting requirements of the Regulations to update their own PSC register.

17. Conclusion

For many companies & LLPs, identifying PSCs and registrable RLEs should be relatively straightforward. For companies with complex shareholding structures, this note is intended to give companies (& LLPs) a brief overview of the requirements. Companies (& LLPs) reading this note should seek legal advice as required. The requirements of the Regulations mean that LLPs are under a significant obligation to monitor and keep on top of the current status of their PSC register.

Companies (& LLPs) must ensure that the PSC register is up to date, on the LLP's PSC register. It must include the official wording that the company is also subject to the enhanced reporting requirements of the 2017 Regulations, both to the Registrar and to notify CH.

For companies (& LLPs) with complex shareholding structures, identifying PSCs and registrable RLEs can be significantly more time consuming. This note is intended to give companies and administrators of SMEs a brief overview of the requirements, however it is essential that companies (& LLPs) seek legal advice and seek legal advice as required. The requirements of the Regulations will also mean companies and LLPs must monitor and keep on top of the current status of their PSC register.