



KPMG in the Channel Islands

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The PSC Register

The move towards an increased culture of transparency within the finance sector and beyond has been evident globally over the past few years. Continuing this trend, the UK now require that information must be made available regarding the ultimate decision makers of certain non-listed UK entities.

Since 6 April 2016 UK companies, not traded on a recognised stock exchange, have to keep a publicly available register of its Persons exercising Significant Influence or Control ("PSC"). This information will be held at Companies House from 30 June 2016. Anyone will be able to access the information which will be freely available from Companies House and from the company.

Compliance with the PSC Register legislation is mandatory and failure to do so is an offence, by both the company and the PSC, which may result in a fine or imprisonment.

Who will the PSC Register apply to?

The PSC Register will apply to individuals with interests in non-traded UK companies or LLPs satisfying any one or more of the following criteria:

- Directly or indirectly hold more than 25% of shares or voting rights in a company or LLP
- Directly or indirectly hold the right to appoint or remove a majority of the board of directors of a company or management of a LLP
- Actually exercises, or has the right to exercise, significant influence or control over a company or LLP
- Actually exercises, or has the right to exercise, significant influence or control over the activities of a trust or firm that would itself satisfy any of the four conditions above if it were an individual

What is the meaning of Significant Influence or Control?

Draft statutory guidance considers the meaning of "significant influence or control" and sets out some examples. The right to exercise "significant influence or control" includes absolute decision rights or veto rights over decisions relating to the running of the business (business plan, nature of the business, borrowing, appointing or removing CEO etc.). The guidance does not apply where these rights are in relation to certain fundamental matters to protect minority interests.

Whether such rights are actually exercised does not have any bearing when considering whether an individual has the right to exercise significant influence or control.



Significant Influence or Control in the case of trusts

An individual connected to a trust that has an interest in a UK company or LLP which meets any one or more of the criteria noted above, will be considered to be a PSC if they exercise, or has the right to exercise, significant influence or control over the activities of the trust. Trustees are excluded from this definition.

An individual is considered to have the right to exercise significant influence or control over the activities of the trust if they have the right to:

- Appoint or remove trustees
- Direct the distribution of funds or assets
- Direct investment decisions of the trust
- Amend the trust deed
- Revoke the trust

What information will be disclosed?

The following details will be disclosed on the PSC Register on individuals deemed to have significant influence or control:

- Name
- Service address
- Country of residence
- Nationality
- Date on which the individual became subject to registration as a PSC
- Nature of the individual's control
- Date of birth – only the month and year will be publicly available
- Residential address – not publicly available but available on request to certain public authorities and credit reference agencies
- Details of any restrictions on using or disclosing the individual's details

What are the implications for Guernsey?

From a Guernsey perspective, any individual who exercises (or has the right to exercise) significant influence or control over a UK company or LLP will have their details included on the new PSC register. It will therefore be necessary to look through Guernsey companies, trusts and partnerships in order to identify ultimate control. In the case of a trust, the names of anyone who has significant influence or control over the trust would be included on the register. For a partnership, it will be necessary to identify partners and look through corporate partners.

Further measures anticipated in respect of property ownership

In May 2016 David Cameron announced measures which meant that any foreign company that owns UK property will need to be included on a public register of beneficial ownership. The measures do not appear to be limited to residential property and appear similar in concept to the PSC. The measures are likely to have significant impact on families and businesses who value confidentiality as one of their key drivers for utilising a corporate vehicle for property ownership.

The details involved are yet to be announced and the rationale for the register being public, rather than available to the necessary authorities, is not clear. Clearly, once implemented, these measures will impact a significant number of Guernsey structures.



Should you wish to discuss the PSC Register further to understand the implications for your business, please contact one of our experts.



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