

ADVISORY
Industry Information

Updates to the Cayman Islands Beneficial Ownership Regime

10 March 2020

The Cayman Islands beneficial ownership regime (“Regime”), which came into force on 1 July 2017, has been revised by amending legislation which partially came into force on 19 February 2020.

The Regime requires Cayman Islands companies (“Companies”), limited liability partnerships (“LLPs”) and limited liability companies (“LLCs”) to establish and maintain beneficial ownership registers unless they are exempt. Please see our [previous advisory](#) for further details in relation to the Regime.

The amending legislation introduces an obligation for corporate services providers (“CSPs”), enhances the powers of the competent authority and refines the ownership percentage thresholds.

The Companies (Amendment) Law, 2020 (the “Amendment”) amends the Companies Law (2020 Revision) (the “Companies Law”) with the intention of improving the effectiveness of the Regime and facilitating compliance.

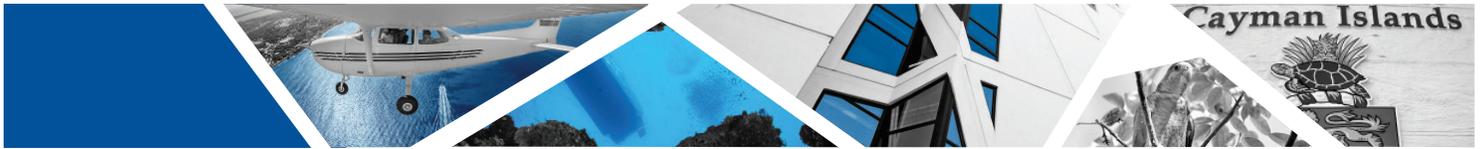
Responsibility for keeping registers

Prior to the Amendment, it was the statutory duty of a Company to establish and maintain a beneficial ownership register, in that a Company was required to engage its CSP to assist it with this task (albeit ordinary resident Companies also have the option of engaging the Registrar to assist instead.)

Pursuant to the Amendment, however, there is now a new direct statutory requirement on a CSP, where engaged to provide registered office services, to keep the beneficial ownership register of the Company to which it provides such services.

As CSPs already establish and maintain beneficial ownership registers for their client Companies in practice, there will be little or no material impact. In particular, it remains the Company’s responsibility to provide its CSP with written confirmation of any specific exemption it claims or, if not claiming an exemption, to identify its individual “beneficial owners” or “relevant legal entities” and provide the required particulars to its CSP. The Amendment does not require a CSP to take these steps on behalf of a client Company.

However, the Amendment means that a CSP is now liable to commit an offence if it knowingly and wilfully fails to keep a client Company’s register. As such, CSPs may not wish to provide registered office services to any client Company which does not cooperate adequately to enable the CSP to comply with its obligation to keep that Company’s beneficial ownership register.



Limits on searches that may be executed

The Amendment also streamlines the process for the Cayman Islands competent authority, namely the Ministry for Financial Services, to search beneficial ownership registers. It remains the case that the competent authority can only conduct a search of a given Company's beneficial ownership register upon a lawful request by specified Cayman Islands or UK law enforcement authorities. However, now the competent authority may execute a search of the beneficial ownership register of a Company for the purpose of verifying the accuracy of the information provided by the Company. It continues to be the case that Companies' beneficial ownership registers will not be open to public inspection.

Request for additional information

The competent authority may now request by notice in writing, additional information from a Company or CSP for the purposes of carrying out its functions under the Regime. A Company or CSP receiving such a notice must comply within the time period and in the manner specified in the request or face a penalty of CI\$500 (approximately US\$600). If the competent authority is satisfied that the Company was knowingly and wilfully authorised or permitted to default, it shall incur an additional penalty of CI\$1,000 (approximately US\$1,200) plus CI\$100 for every day it remains in default.

Ownership thresholds

Additional amendments still to come into force, at a date not yet specified, clarify that the threshold for determining beneficial ownership is 25% or more (instead of more than 25%) and that the threshold for determining whether a Company is a subsidiary is 75% or more (instead of more than 75%).

LLPs and LLCs

The provisions of the Amendment are replicated correspondingly in the Limited Liability Companies (Amendment) Law, 2020 and the Limited Liability Partnership (Amendment) Law, 2020 respectively.

Timing

The Amendment and corresponding Limited Liability Companies (Amendment) Law, 2020 were brought into force on 19 February 2020 pursuant to the Companies (Amendment) Law, 2020 (Commencement) Order, 2020 and the Limited Liability Companies (Amendment) Law, 2020 (Commencement) Order, 2020 respectively, save for the ownership threshold amendments which have not yet been brought into force.

There is no corresponding commencement order for the Limited Liability Partnership (Amendment) Law, which is not yet in force.

Contacts

Walkers has a detailed understanding of the beneficial ownership legislation including the recent amendments and is providing assistance to clients with all aspects. Please do not hesitate to contact our Regulatory & Risk Advisory practice group, or your usual Walkers contact, should you have any questions.

Legal Services



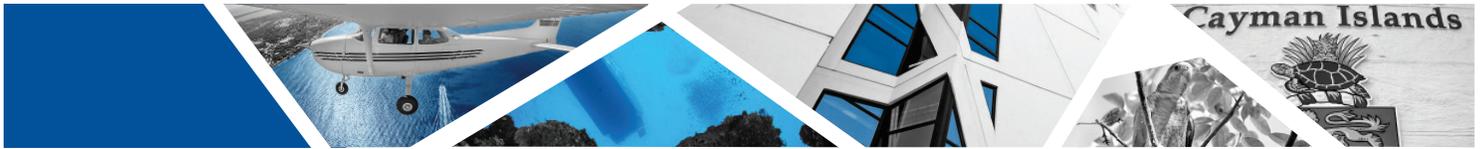
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