PSC Register

New rules on the disclosure of UK companies’ owners with significant control.

The Small Business, Enterprise and Employment Act 2015 (SBEE) materially reforms UK company law which will impact on companies of all sizes. Broadly speaking, the changes are aimed at increasing transparency around who controls UK companies and reducing red tape, particularly in relation to the filing requirements for UK companies.

On 6th April 2016 a new PSC Regime will be introduced, requiring unlisted UK Companies to take reasonable steps to identify those people with significant control over them and to record their details in a new statutory register (known as a PSC Register). From June 2016, companies will have to file this information on the public register at Companies House, as part of the new annual confirmation process which will replace the current annual return.

The PSC regime will not apply to UK companies whose voting shares are admitted to trading on the London Stock Exchange, AIM, ISDX Growth Market, other regulated markets in the EEA or specified non-EEA markets (including the New York Stock Exchange and NASDAQ). This will apply to their UK subsidiaries, however.

Who is a PSC?

A "person with significant control" (a “PSC”) is an individual who:-

- Owns or controls more than 25% of an English company's shares or voting rights; or
- Has the right to share in more than 25% of any surplus assets of an English LLP or who ultimately owns or controls more than 25% of members’ rights to vote; or
- Exercises significant influence or control over the company, LLP or its management.

The Government has issued draft statutory guidance on the meaning of “significant influence or control”, which must be referred to. The guidance contains the following:-

- Where a person can direct the activities of a company, this would be indicative of control;
- Where a person can ensure that the company adopts the activities he desires, this would be indicative of significant influence;
- Veto rights over decisions relating to the running of a company's business may constitute a right to exercise significant influence or control. Veto rights, over fundamental matters to protect minority interests will not, usually, do so;
- Shadow directors are likely to have significant influence or control;
- Significant influence or control over a trust or firm which satisfies the PSC conditions is likely to arise when a person has the right to direct or influence its activities.

Details of the Government’s draft statutory guidance can be located via the link at the end of this article.

Who should be registered on the PSC Register?

An individual who satisfies the PSC conditions directly should be registered, however, an individual can satisfy the conditions indirectly, for example, through a chain of companies. In
this instance it will often be details of a legal entity which must be entered on the company’s register, instead of the individual.

**When must a legal entity be registered?**

UK companies, UK LLPs and non-UK Companies with voting shares admitted to trading on certain specified markets will be deemed a “relevant legal entity” (“RLE”) and thus can be entered on a company’s PSC register.

**How are PSCs identified?**

A company must take reasonable steps to identify its PSCs or registrable RLEs. No guidance is given with regards to which steps must be taken however where a company does not already have the information it needs, it must give a formal notice to anyone it knows or believes to be a PSC or registrable RLE asking them to confirm the nature and extent of their interest.

The Government has issued draft non-statutory guidance to help companies understand what actions they should take to satisfy the requirement to take reasonable steps. They include reviewing their constitution, register of members, shareholders’ agreements and statements of capital; considering whether voting patterns suggest some parties may be acting together; and issuing notices to obtain information they require.

The company is also given power to serve a notice requesting information on anyone that knows, or that is suspects may know, the identity of a PSC or registrable RLE.

The PSC must be kept up to date and when a company knows or suspects that the information on the register has changes it must take steps to verify the changes.

There are criminal sanctions for companies and their officers if they fail to comply with these duties and for those who fail to respond to a company’s request for information.

**What goes into the PSC register?**

The following information must be collected by the company and entered on its PSC register:

**For PSCs**

- Full name
- Service address
- Country/state of residence/part of UK where usually lives
- Nationality
- Date of Birth
- Usual residential address (this will not appear on the public record or be open to inspection on the company’s PSC register).
- Details of any current restriction on using or disclosing the PSCs information.

**For RLEs**

- Name
- Registered/principal office address
- Legal form and governing law
- Applicable companies register and registration number
The register must show which of the conditions the PSC or registrable RLE satisfies through the use of prescribed statements. When the ownership or voting control conditions are satisfied, the register must also show the broad extent of the interest by reference to pre-set banks (i.e. over 25% up to 50%; over 50% but less than 75% and 75% or more).

**Access to Information**

A company must keep its PSC Register available for inspection at its registered office or, provided that notifications have been made to Companies House, another inspection address. Any person may inspect a company’s PSC register and request a copy of it, subject to paying a fee of £12.00.

From June 2016, a company will need to file its PSC information at Companies House, where the information will be made available on a central public register.

Whilst the main objective of the SBEE is to improve transparency, the Government recognises some form of protection is required when disclosure of an individual would put the individual at serious risk of violence or intimidation. There are two categories of protection, being; (i) the prevention of a PSC’s residential address being shared with credit reference agencies; and (ii) suppression of all information relating to a PSC.

All PSC information will still be available to law enforcement even when protection is granted.

**Option to keep PSC Register at Companies House**

From June 2016, private companies will be able to keep their PSC register (and certain other statutory registers) at Companies House. If a company does so:-

- It will still need to make its historical PSC register available for inspection;
- A PSC’s full date of birth will be shown at Companies House; and
- It will have to file changes to its PSC information at Companies House in real time (rather than annually).

**How does it apply to LLPs?**

The PSC regime will also apply to UK limited liability partnerships (LLPs) from 6 April 2016, operating in much the same way as it will for companies, but with changes to reflect the different nature and structure of LLPs i.e. the greater 25% ownership condition will be by reference to rights to share in surplus assets on a winding up; the greater 25% voting rights condition will be by reference to matters decided by votes of members; and the board control condition will be by reference to those involved in the management of the LLP.

**What needs to be done?**

- On 6 April 2016, companies subject to the PSC regime must have a PSC register which includes details of identified PSCs and registrable RLEs and/or a statement that they are taking reasonable steps to find out if they have any;

- For companies with complex ownership structures, compliance with the regime may not be straightforward and as such should take preparatory steps to:
  - Review their register of members and any arrangements such as shareholder agreements;
o Make informal enquiries of those they think may be PSCs or registrable RLEs or who may have relevant knowledge; and
o Put in place internal processes and systems to ensure that they can comply with the new PSC regime from April, for example, preparing draft notices to request the necessary information if this has not already been provided;

- Companies with individual PSCs who are not registered shareholders may also wish to warn them their details will soon have to be made available on a publicly accessible register.

**Related Links**

- [Small Business Enterprise and Employment Act 2015](#)
- [Explanatory Notes on Small Business Enterprise and Employment Act 2015](#)
- [Department for Business Innovation & Skills – Guidance on PSC](#)