

CONYERS

A photograph of a modern glass skyscraper with a grid-like facade, reflecting the sky and surrounding environment. The building is partially obscured by a semi-transparent blue overlay containing text. The foreground shows a paved plaza with geometric patterns and a few small, cylindrical metal bollards.

Cayman Islands: Beneficial Ownership Register Requirements

Preface

This publication has been prepared for the assistance of those legal persons that are required to establish and maintain a beneficial ownership register in the Cayman Islands. It deals primarily with the requirements of the Beneficial Ownership Transparency Act, 2023. This publication is not intended to be exhaustive but rather to provide an overview which we hope will be of use to our clients. We recommend that our clients and prospective clients seek legal advice in the Cayman Islands on their legal obligations in connection with the beneficial ownership regime.

Conyers

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1. INTRODUCTION

The Beneficial Ownership Transparency Act, 2023 (the “**Act**”) and the Beneficial Ownership Transparency Regulations, 2024 (“**Regulations**”), imposes obligations on corporate service providers (each a “**CSP**”) of certain Cayman Islands “legal persons” to maintain beneficial ownership registers at their registered offices and for the information contained in such registers to be uploaded to the competent authority for beneficial ownership, the General Registry (the “**Competent Authority**”) via its Corporate Administration Platform (“**CAP**”) system. The information is encrypted upon submission and further encrypted upon receipt. The data is then deleted from CAP and goes to a non-internet facing, offline server only accessible or searchable by or on behalf of the Competent Authority. The principal purpose of the Act and Regulations are to make beneficial ownership information normally held by CSPs readily accessible in response to proper and lawful requests from specified law enforcement agencies and regulatory bodies¹ and not to materially expand existing requirements for such information². The registers are not currently publicly accessible.

2. WHO MUST COMPLY?

The provisions of the Act relating to the preparation, updating and filing of beneficial ownership registers (a “**Register**”) apply to every company (other than those designated as section 80 companies), limited liability company, limited liability partnership, limited partnership, foundation company and exempted limited partnership, incorporated, registered or registered by way of continuation in the Cayman Islands unless the relevant entity can satisfy an ‘alternative route to compliance’ (“**ARTC**”) as set out in section 12(1)(a) to (d) of the Act, being:

- (a) listed or a subsidiary of a listed legal person on the Cayman Islands Stock Exchange or another approved stock exchange³;
- (b) licensed under a Cayman Islands regulatory law⁴;
- (c) a fund registered under the Private Funds Act or the Mutual Funds Act;
- (d) exempted by the Cabinet by virtue of the Act.

A legal person that is permitted to avail of an ARTC avoiding the need to maintain a beneficial ownership register is required to provide its CSP with written confirmation of the relevant ARTC. The legal person should also provide instructions to the CSP to file the written confirmation together with the required particulars in respect the relevant ARTC with the Competent Authority. The CSP is then required to

¹ The Competent Authority may provide access to information in the search platform to, amongst others, the Royal Cayman Islands Police Service, the Cayman Islands Monetary Authority, the Tax Information Authority and bodies with responsibility for monitoring compliance with money laundering regulations, and licensed financial institutions (see section 7 below).

² Under, for example, the Cayman Islands prevention and detection of money laundering, terrorism financing and proliferation financing regime.

³ As listed in Schedule 4 of the Companies Act.

⁴ Currently comprising the Banks and Trust Companies Act, Buildings Societies Act, Companies Management Act, Cooperative Societies Act, Insurance Act, Money Services Act, Mutual Funds Act, Securities Investment Business Act, Development Bank Act, Private Funds Act and the Virtual Asset (Service Providers) Act.

provide the Competent Authority with all relevant information from the written confirmation. The legal person is required to notify the CSP within thirty days of becoming aware of any changes to the written confirmation.

Steps involved where a legal person is permitted to avail of an ARTC are as follows:

- (a) Legal persons that are licensed with CIMA under a regulatory law such as insurance companies may file confirmation of their regulated status (note this will not include Securities Investment Business Registered Persons or Virtual Asset Service Provider Registrants);
- (b) Entities that are listed on the Cayman Islands Stock Exchange or an approved stock exchange, or are subsidiaries of a listed entity may file confirmation of their (or their parent's) listed status; and
- (c) CIMA registered private funds and mutual funds, have the option of appointing an eligible 'contact person' that will be required to provide the beneficial ownership information within 24 hours of a request being made. Eligible contact persons are limited to CIMA licensed fund administrators or other entities licensed or registered with CIMA for providing beneficial ownership information, such as the legal persons registered office service provider.

Please note that all ARTCs are optional and some legal persons may prefer to maintain a Register.

3. ESTABLISHING A BENEFICIAL OWNERSHIP REGISTER

Unless a legal person is permitted to avail of an ARTC for one of the reasons listed above, the CSP of each legal person to which the Act applies has an obligation to establish and maintain a register of the legal person's Register to be kept at the legal person's registered office. Each legal person is required to identify any individuals who are beneficial owners and all reportable legal entities⁵ in relation to the legal person.

For the purposes of identifying individuals who are beneficial owners or reportable legal entities, a legal person can consider the required particulars to have been confirmed if the individual, the reportable legal entity or legal person to whom the relevant particulars relate supplied or confirmed the required particulars, another person supplied or confirmed the required particulars (with consent), or the required particulars were included in a statement of initial significant control delivered to the Registrar by subscribers or partners wishing to form a legal person. The notice shall require the recipient to state, within thirty days of receipt, whether or not they should be included in the beneficial ownership register of the legal person and to confirm or correct any particulars that are included in the notice.

⁵ A reportable legal entity in relation to a legal person means another legal person other than a foreign company, foreign entity or a foreign limited partnership that if it were an individual would be a beneficial owner of the first mentioned legal person.

4. WHO IS A REGISTRABLE BENEFICIAL OWNER?

All registrable beneficial owners must be entered on the Register. Registrable beneficial owners fall into two categories, individual beneficial owners and reportable legal entities.

4.1. Individual Beneficial Owner

An individual is a registrable beneficial owner of a legal person if they meet one of the following specified conditions:

- (a) they ultimately own or control, directly or indirectly, twenty-five per cent or more of the shares, voting rights or partnership interests in the legal person;
- (b) they otherwise exercise ultimate effective control over the management of the legal person; or;
- (c) they exercise control of the legal person through other means, including as a senior managing official⁶, where there is no individual who exerts control under (a) or (b).

An individual meeting the conditions of a beneficial owner will not be considered a beneficial owner if operating in the capacity of a professional advisor⁷ or professional manager⁸.

4.2. Reportable Legal Entity

A reportable legal entity in relation to the legal person means another legal person, other than a foreign company, foreign entity or foreign limited partnership, that if it were an individual would be a beneficial owner of the first mentioned legal person.

5. NOTICE TO BE PROVIDED TO REGISTRABLE BENEFICIAL OWNERS

Legal persons are required to give notice in writing to beneficial owners and reportable legal entities to request that the recipient of the notice state whether or not they are registrable beneficial owners and if they are, to confirm or correct any required particulars that are included in the notice and supply any required particulars that are missing from the notice within thirty days from the date of receipt of the notice.

⁶ "Senior managing official" includes a director or a chief executive officer of the legal person (s4(4)(c)).

⁷ "Professional advisor" includes a lawyer, accountant or financial advisor providing advice or direction in a professional capacity (s4(4)(a)).

⁸ "Professional manager" includes a liquidator, receiver or restructuring officer exercising a statutory function (s4(4)(b)).

6. INFORMATION TO BE ENTERED ON THE REGISTER

6.1. Information on Registrable Beneficial Owners - Individual Beneficial Owner

Once enquires are concluded, required particulars of an individual beneficial owner⁹ are:

- (a) full legal name;
- (b) residential address;
- (c) an address for service of notices under the Act;
- (d) date of birth;
- (e) nationality;
- (f) information identifying the individual from the individual's unexpired and valid passport, driver's licence or other government issued document including (i) identifying number; (ii) country of issue; and (iii) date of issue and of expiry;
- (g) nature in which the individual owns or exercises control of the legal person; and
- (h) the date on which the individual became or ceased to be a registrable beneficial owner in relation to the legal person.

Where no registrable beneficial owners are identified, the particulars of a Senior Managing Official must be provided.

6.2. Information on Registrable Beneficial Owners - Reportable Legal Entity

The required particulars of a reportable legal entity that is registrable are:

- (a) corporate or firm name;
- (b) registered or principal office;
- (c) the legal form of the entity and the law by which it is governed;
- (d) the nature of the reportable legal entity's ownership or its exercise of control of the legal person;
- (e) the register in which it is entered and its registration number in that register; and
- (f) the date on which it became or ceased to be a registrable beneficial owner in relation to the legal person.

⁹ Certain governmental bodies, international organisations and local authorities are deemed to be individuals under the Act details of which are out of the scope of this publication.

6.3. Duty to Establish and Maintain Register

The legal person's CSP is required to establish and maintain the register with adequate, accurate and current beneficial ownership information in the form of required particulars. Ordinary resident companies without a CSP must establish and maintain their own register.

6.4. Changes to the Information in the Register

If the legal person becomes aware of a relevant change with respect to a registrable beneficial owner whose required particulars are entered in its Register, the legal person is required to give notice to the registrable beneficial owner, as soon as reasonably practicable (no later than thirty days) after it learns of the change or first has reasonable cause to believe that the change has occurred, requesting confirmation of the change. If the person to whom the notice is sent confirms the change, the legal person is required to record the details of the change and instruct the CSP to enter in the company's Register in the prescribed form and manner:

- (a) the details of the relevant change confirmed by the legal person;
- (b) the date on which the change was made; and
- (c) whether there are further alterations to be made.

6.5. Corporate Services Providers to Review Particulars

CSPs are required to review the required particulars provided by legal persons and take reasonable measures to verify the identity of beneficial owners and reportable legal entities using information obtained from reliable sources so as to be satisfied that the required particulars are accurate and current before being entered into the legal person's beneficial ownership register. For these purposes, required particulars should be validated against data from "reliable sources" meaning independent source documents or information issued by a government entity, a licensed financial institution or similar originator or issuer of information that is well known and considered reputable.

6.6. Retention on the Register

Where an individual or a reportable legal entity is no longer a registrable beneficial owner of a legal person, the CSP should remove the entry from the Register but retain the records for a further five years.

7. ACCESSING THE REGISTER

7.1. Competent Authority

The Competent Authority shall execute a search of the company's Register if formally requested to do so by a senior official designated by name or position by the Minister of Financial Services representing one of the following Cayman Islands bodies where such search is proper and lawfully made for any purpose under the legislation governing the affairs or responsibilities of the body:

- (a) the Royal Cayman Islands Police Service;
- (b) the Financial Reporting Authority;

- (c) the Anti-Corruption Commission;
- (d) the Cayman Islands Monetary Authority;
- (e) the Tax Information Authority;
- (f) the Maritime Authority;
- (g) the Civil Aviation Authority;
- (h) the Registrar of Lands;
- (i) an entity undertaking procurement in accordance with the Procurement Act;
- (j) any other body which is –
 - (i) assigned responsibility for monitoring compliance with money laundering regulations;
 - (ii) a licensed financial institution; or
 - (iii) a designated non-financial business or profession under regulation 55A of the Anti-Money Laundering Regulations).

The Competent Authority may also provide information, access or execute a search of a Register for the purposes of performing its functions under the Act, assisting with the prevention and detection of crime, furthering the interest of national security, enabling the bodies listed above to fulfil statutory obligations with respect to international cooperation and in preparation of statistical reports.

The legislation provides that subject to a future affirmative resolution of Parliament, individual beneficial owner information may be made available to the public including –

- (a) name;
- (b) country of residence;
- (c) nationality;
- (d) month and/or year of birth;
- (e) nature of control; and

For a reportable legal entity –

- (a) name;
- (b) registered office;
- (c) legal form;
- (d) registration number; and

- (e) nature of control.

7.2. Legitimate Interest Access

Under the Beneficial Ownership Transparency (Legitimate Interest Access) Regulations, 2024 (the “**Legitimate Interest Access Regulations**”), the Cayman Islands Registrar (the “**Registrar**”) may provide access to the information on the beneficial ownership search platform in relation to a legal person to a member of the public (an “**Applicant**”), provided that the Applicant:

- (a) is a person engaged in journalism or bona fide academic research;
- (b) is acting on behalf of a civil society organisation whose purpose includes the prevention or combating of money-laundering, its predicate offences or terrorism financing; or
- (c) is seeking that information in the context of a potential or actual business relationship or transaction with the legal person about whom that information is sought; and
- (d) has a legitimate interest in that information for the purpose of preventing, detecting, investigating, combating or prosecuting money laundering or its predicate offences or terrorist financing.

To make an application, the Applicant must submit evidence to the satisfaction of the Registrar of the Applicant’s identity (and where relevant, credentials) and establishing the criteria above has been met. Applications may only be submitted in respect of a specific named legal person (or more than one legal person where the legal persons are connected). Legitimate Interest Access searches of the Beneficial Ownership Register must be specific and can only be conducted on the name of the Legal Person. No applications for searches are permitted on the basis of an individual’s name.

The Registrar has the power to refuse an application if it is not satisfied that a legitimate interest has been established. The Registrar is required to keep records of all applications submitted and decisions made for a period of six years.

If an application is approved, the information that may be accessed for an individual beneficial owner or senior managing official (excluding minors) is as follows:

- (i) Name;
- (ii) Country of residence;
- (iii) Nationality;
- (iv) Month or year of birth or both; and
- (v) The mechanism of control they have over the Legal Person.

In respect of a reportable legal entity, the following information may be accessed:

- (i) Name;

- (ii) Registered office;
- (iii) Legal form;
- (iv) Registration number; and
- (v) The mechanism of control they have over the Legal Person.

For a deemed beneficial owner, the following information may be accessed:

- (i) Name;
- (ii) Registered office;
- (iii) Legal form; and
- (iv) The mechanism of control they have over the Legal Person.

If the mechanism of control is through ownership of shares, the individual's percentage ownership will not be accessible.

7.3. Access Restriction

The Beneficial Ownership Transparency (Access Restriction) Regulations, 2024 (the “**Access Restriction Regulations**”), which will supplement the Beneficial Ownership regime in the Cayman Islands, establish a framework for beneficial owners and senior managing officials of in-scope Cayman Islands entities to apply to the Registrar to protect their information from being disclosed under the Legitimate Interest Access Regulations.

An individual may apply for access to be restricted under the Access Restriction Regulations. However, these Regulations set a very high threshold, limited to situations where there would be a serious risk of kidnapping, extortion, violence, intimidation or any similar danger or serious harm.

The Access Restriction Regulations set out the framework for a beneficial owner or senior managing official to apply to the Registrar for protection from their information being disclosed under the Legitimate Interest Access Regulations where they believe that their association with the Legal Person, if disclosed, will place them, or an individual living with them, at serious risk of:

- (i) Kidnapping;
- (ii) Extortion;
- (iii) Violence;
- (iv) Intimidation; or
- (v) Other similar danger or serious harm.

A person that lives in the same household as a beneficial owner or senior managing official is also eligible to apply for protection from disclosure if they also believe disclosure would place them in the above harm.

An application for protection from disclosure can be submitted as soon as the Legal Person is established in the jurisdiction, or any time thereafter. Applications can now be made for existing legal persons.

A copy of the information needed for the application form can be found at Schedule 1 of the Access Regulations. Submissions must be provided with supporting documentation and a prescribed fee.

Currently, the forms need to be requested by email to BO-AR@gov.ky. A separate application form must be submitted in respect of each individual and in respect of each Legal Person that an individual is associated with. Where the beneficial owner or senior managing official intends to submit their own application, the form will be made available to the individual via a shared file platform. Where someone else, such as legal counsel, is going to be submitting the application, a Third Party Authorisation Form is required to be signed by the individual before the application form is made available to the delegated third party. If granted, protection from disclosure will only prevent those seeking access under the Legitimate Interest Access Regulations. Cayman Islands law enforcement authorities, government agencies, financial institutions and Designated Non-Financial Businesses and Professions will continue to have access to all beneficial ownership information, regardless of whether or not the individual has obtained protection under the Access Restrictions Regulations.

The entire application process, in particular in respect of sharing evidence and information, will be conducted via the shared file platform to ensure that sensitive data is appropriately secure and protected.

If an application meets the requirements, an initial protection from disclosure will be put in place in respect of the individual. This initial protection will begin on the date that the Registrar is satisfied and confirms that the application (including receipt of fee payment and submission of all forms) is complete. Once an application has been processed and approved, a full protection will be provided and will be in place for a period of three years from the date of the decision.

Where an application is successful and protection from disclosure is put in place, such protection may be revoked in circumstances where the Registrar becomes aware of information that if known at the time of the application would have resulted in it being refused or if the original Applicant:

- (i) has previously served or is now serving a sentence of imprisonment exceeding five years;
- (ii) is convicted of an offence involving dishonesty; or
- (iii) is or has been subject to any UK sanctions extended to the Cayman Islands.

The Registrar will notify the individual and permit them to make representations in advance of any proposed revocation of protection from disclosure.

8. OFFENCES

Significant penalties apply for non-compliance with the Act. Administrative fines may be imposed by the Registrar for prescribed breaches of the Act, with additional fines for continuing breaches. Criminal penalties may also apply. A legal person that knowingly and wilfully fails to establish or maintain a

Register or fails to fulfil its duties in relation to identifying beneficial owners and reportable legal entities, notifying registrable beneficial owners, disclosing beneficial ownership and keeping the Register up to date, shall be liable on summary conviction to a fine for each contravention. A fine applies to a second or subsequent offence.

Where a legal person is guilty of an offence under the Act, and it is proved that the offence was committed with the consent or connivance of, or was attributable to wilful default on the part of a manager, director, member or other officer concerned in the management of the legal person, the manager, director, member or other officer is guilty of the same offence and liable to the same penalty as the legal person.

9. RESTRICTIONS NOTICES

It should be noted that if a CSP is of the opinion that a legal person has failed to provide it with the required details of its registrable beneficial owners or changes in respect of the same, or has otherwise, without reasonable excuse, made a false or misleading statement concerning a required particular, the CSP is required to issue a notice of its opinion. The legal person then has thirty days to respond.

If the legal person fails to provide the outstanding information or provide a justification or correction of a statement identified in the notice, the CSP is empowered to issue a restrictions notice, subject to certain considerations set out in the Act. A copy of any restrictions notice issued shall be forwarded to the Competent Authority within 14 days of issue.

A restrictions notice, once issued, has the following consequences:

- (a) any transfer or agreement to transfer the relevant interest is void;
- (b) no rights are exercisable in respect of the relevant interest;
- (c) no relevant interests may be issued in respect of the relevant interest or in pursuance of an offer made to the interest holder;
- (d) except in the case of a liquidation, no payment may be made of sums due from the legal person in respect of the interest whether in respect of capital or otherwise; and
- (e) other than in a liquidation, an agreement to transfer a right to be issued shares in respect of the interest, or a right to receive payment of any sums due from the legal person in respect of the interest will be void.

This publication should not be construed as legal advice and is not intended to be relied upon in relation to any specific matter. It deals in broad terms only and is intended merely to provide a brief overview and give general information.