



Trust and transparency: an overview of the PSC register.

From 6 April 2016 most UK companies and LLPs will have an obligation to set up and maintain a register of individuals or legal entities which shows who has significant control over the company or LLP. This measure has been introduced by the Small Business, Enterprise and Employment Act 2015 to increase corporate transparency by creating a full picture of both the legal and beneficial ownership of businesses, with the aim of combatting tax evasion, money laundering and the financing of terrorist activities.

The requirement applies to all companies and LLPs with the exception of:

- companies that are subject to Chapter 5 of the Financial Conduct Authority's Disclosure and Transparency Rules (DTR 5); and
- companies with voting shares admitted to trading on a regulated market in the UK or European Economic Area (other than the UK) or on certain specified markets in Switzerland, the USA, Japan and Israel.

Failure to comply with the new legal requirements is a criminal offence punishable by a fine or up to two years imprisonment.

COMPANY REQUIREMENTS

Companies will be required to identify individuals and legal entities who:

- have direct or indirect ownership of more than 25% of their shares;
- hold more than 25% of voting rights at general meetings;
- hold the right to appoint or remove a majority of the board of directors;
- actually exercise or have the right to exercise significant influence or control; or
- actually exercise or have the right to exercise significant influence or control over any trust or firm, which is not a legal

Guidance on the register of people with significant control

entity, which has significant control (under one of the four conditions above) over the company.

The PSC register must include details of any individual who qualifies as a 'person with significant control' (PSC) and each 'relevant legal entity' (RLE) that qualifies as a PSC and is registrable in relation to the company or LLP. It should be noted that an RLE is an entity which is a legal person which is itself required to keep a PSC register or satisfy the disclosure requirements elsewhere. It is only registrable if it is the first RLE in a company's ownership chain.

Companies must take reasonable steps to identify their PSCs and formally confirm their details before entering on the register.

The register will be open to public inspection and, from 30 June 2016, the information will have to be filed with Companies House as part of the new Annual Confirmation Statement (formerly the Annual Return). The residential address and day element of the date of birth will be suppressed for individuals.

The information on a company's PSC register must be kept up-to-date and confirmed annually to Companies House.

From 6 April 2016, a company or LLP must always have information on its PSC register about the company's PSCs (or RLEs) or the company's status in searching for its PSCs (or RLEs).

Above all, the PSC register must never be blank. If the required information is not yet known and cannot be confirmed, this fact must be entered on the PSC register on 6 April 2016 when the PSC requirements come into force. The following wording should be used: *"The company has not yet completed taking reasonable steps to find out if there is anyone who is a registrable person or registrable relevant legal entity in relation to the company."*



When a company cannot obtain information about its PSCs, the PSC register must make this clear.



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Once a PSC has been identified, the company must obtain, confirm and enter the following details on the PSC register:

- name;
- date of birth;
- nationality;
- country, state or part of the UK where the PSC usually lives;
- service address;
- usual residential address;
- the date the individual became a PSC in relation to the company – this will be 6 April 2016 for existing companies completing a PSC register for the first time;
- which of the five conditions for being a PSC the individual meets with quantification where relevant – the official wording must be used; and
- any restrictions on disclosing the PSC's information that are in place – the official wording must be used.

The company must confirm information about a PSC before it is entered on the PSC register. Information can be treated as confirmed if:

- the PSC has supplied the company with the information;
- the information was provided to the company with the knowledge of the PSC;
- the company asked the PSC to confirm that the information was correct and they replied that it was; or
- the company holds previously confirmed information and has no reason to believe it has changed.

If the company has identified a PSC but cannot confirm their details this must be noted on the register. The register should state that: *"The company had identified a registrable person in relation to the company but all the required particulars of that person have not been confirmed."*

The requirements apply whether the company has a PSC or not. If the company has taken all reasonable steps to identify any PSCs or RLEs, and is confident that there are no individuals or legal entities which meet any of the conditions for registration in relation to the company, this must be entered on the PSC Register. In this case

the register should state that: *"The company knows or has reasonable cause to believe that there is no registrable person or registrable relevant legal entity in relation to the company."*

When a company cannot obtain information about its PSCs the PSC register must make this clear. If the company has been unable to identify its PSCs, even after it has taken all reasonable steps, the register should state that: *"The company knows or has reasonable cause to believe that there is a registrable person in relation to the company but it has not identified that registrable person."*

If the company has sought new PSC information and the person has not replied, the register should state that: *"The company has given a notice under section 709D of the Act which has not been complied with."*

The Department for Business, Innovation and Skills has produced guidance on the PSC requirements for companies and LLPs. This guidance is available by visiting:

www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships

THE NEXT STEP

It is imperative that you have a PSC register set up from 6 April, which must include information on your PSCs or your status in identifying any PSCs and the relevant information. The guidance that explains the law and intends to help you comply with it is over 80 pages long. We therefore recommend that you seek professional advice in order to ensure your register is accurate and compliant, particularly if your circumstances are complex.

We can assist you with the whole process, from sourcing the relevant information and ensuring correct wording through to submitting the register with Companies House on your behalf.

If you would like further information and advice on the above, or are considering outsourcing your company secretarial duties, please contact our company secretarial specialists at your nearest location using our contact form on our website at: www.uhy-uk.com/contact-us