



BVI Beneficial Ownership Developments

30 June 2017

Legislation has been passed which will require each BVI licensed registered agent to establish and maintain a dedicated database of the BVI companies ("Companies") for which it acts. Partnerships and foreign companies registered in the BVI as foreign companies are not within scope.

The BVI Government is establishing a secure non-public electronic platform which will allow access to each registered agent's database only by a designated person, from a single designated secure location within the BVI. Information will only be shared upon the certified lawful request of specified BVI or UK law enforcement authorities.

What do registered agents need to do?

Each registered agent is required to establish and maintain a dedicated database and enter information obtained by it with respect to each Company. Unless a Company falls within one of the exemptions discussed below, each registered agent "shall take reasonable steps to" identify the "beneficial owners" and "registrable legal entities" of each Company for which it acts. Identification and verification of beneficial owners in accordance with BVI AML/CFT legislation shall be regarded as "all reasonable steps" for these purposes.

There is no need to identify any beneficial owner of a Company who holds his or her interest through a registrable legal entity. In other words, once the registered agent identifies a registrable legal entity there is no need for it to look through it for a beneficial owner.

What do Companies need to do?

Unless the Company falls within one of the exemptions discussed below, it shall identify its beneficial owners and notify the registered agent of such individuals (or of changes) within 15 days. The registered agent must similarly update its database within 15 days.

Who are beneficial owners?

A beneficial owner is the individual who ultimately owns or controls a Company. In the case of a legal person, this means an individual who ultimately owns or controls, whether directly or indirectly, 25% or more of the shares or voting rights in the legal person (except where the legal person's securities are listed on a recognized stock exchange) or who otherwise exercises control over the management of the legal person. Beneficial owners may also include partners who control partnerships and trustees who control trusts.

What are registrable legal entities?

A registrable legal entity is one which would be a beneficial owner if it were an individual and:

- (a) it is exempt (by virtue of falling within one of the exemptions discussed below);
- (b) its securities are listed on a recognised stock exchange;
- (c) it is a financial service licensee;



- (d) it is a foreign regulated person; or
- (e) it is a sovereign state or a wholly owned subsidiary of a sovereign state.

Which Companies are exempt?

A Company is exempt from the requirement to identify its beneficial owners and notify its registered agent of such owners if it is:

- (a) a mutual fund under the Securities and Investment Business Act, 2010 including an approved fund, an incubator fund, a public fund, a professional fund and a private fund;
- (b) a Company the shares of which are listed on a recognised stock exchange;
- (c) a financial services licensee;
- (d) a subsidiary of a Company that falls within (a) or (b) above; or
- (e) exempted by regulations.

Also, a legal entity will be a 'registrable legal entity' if it falls within any of these above exemptions.

How are the requirements enforced?

Registered agents may be subject to robust penalties for breaches of the new requirements.

Next steps

The new legislation, entitled the Beneficial Ownership Secure Search System Act, 2017, is expected to come into force on 30 June 2017.

Walkers can assist with all aspects of the new legislation and has significant experience of advising clients on the impact of beneficial ownership requirements.

For more information please contact any of the Walkers professionals listed below.

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