

Comment on...

Persons of Significant Control (PSC) Register

What is the PSC Register?

The Persons of Significant Control (PSC) Register was introduced by the Government to give a full picture of the legal and beneficial ownership of UK businesses. Its main aim is to encourage transparency, help combat tax evasion, money laundering and terrorist financing. Most UK companies, including companies limited by guarantee, and LLPs are now required to maintain a register.

Who is affected by the new rules?

The rules apply to:

- All UK companies (except those that are subject to the Financial Conduct Authority's Disclosure and Transparency Rules)
- LLPs
- UK registered Societates Europaeae

When are the new rules in place?

The entities subject to the new rules are required to maintain a PSC Register from 6 April 2016 (also from 6 April 2016, a company's PSC Register must be completed – it cannot be blank). From 30 June 2016 the affected companies will be required to include the information in their confirmation statement, which will replace the annual return at Companies House.

What information is recorded in the Register?

A range of information is held in the Register including:

- Personal information – name, service address, nationality, date of birth, usual residential address
- Details of the nature of the control exercised – where a company has identified a PSC the information in the Register must have one or more of the prescribed statements to outline which of the five conditions of significant control, the PSC meets. The statements are complicated and should be discussed with your advisor.
- Status of investigations – the regulations also provide that where a definitive position as to ultimate control has not yet been determined, or where disenfranchisement provisions have been invoked, the Register must include certain statements confirming the steps that have been taken to identify a person who should be registered, or relevant legal entities and the position in relation to any restriction notices issued.

How to ascertain who is an individual with “significant control”?

An individual with significant control will meet at least one of the following criteria:

- Directly or indirectly hold more than 25% of the nominal share capital
- Directly or indirectly control more than 25% of the nominal share capital
- Directly or indirectly be able to control the appointment or removal of a majority of the board
- Actually exercise, or have the right to exercise, significant influence or control over the company
- Actually exercise or have the right to exercise significant influence or control over any trust of firm (which is not a legal entity) which has significant control (under one of the above four conditions) over the company

There is further detailed information contained in the guidance accompanying the Register on who can be identified as a person with significant influence or control in LLPs and companies. For clarification, please speak to your advisor.

How often should the PSC register be maintained?

The information held on the PSC register will need to be confirmed to Companies House at least every 12 months and will be held on a database that can be accessed by the public. Additionally, from June 2016 companies will be able to elect to keep their PSC Register at Companies House.

What safeguards and issues could there be with the new system?

The register will hold personal details about individuals that is available to the public, to help protect these individuals, who may otherwise be at risk by unscrupulous sources a number of safeguards are in place to maintain an element of privacy. The main issue foreseen with the new regime is the development of internal controls that will be required to enable companies to compile and maintain their PSC register. All companies should act now to check if they are affected and ensure that the new legislation is understood.

What happens to companies who do not comply?

Every company has a duty to take reasonable steps to find out if an individual or legal entity should be registered. Failure by an individual or legal entity to respond to a company's enquiries will give the company the ability without a court order, to disenfranchise and impose other restrictions on any shares owned. After being issued with “warning notices” or “restriction notices”, there are criminal penalties for non-compliance.