

Are you ready for changes to the PSC regime?



Christina Sinclair

christina.sinclair@shepwedd.com

Walter Blake

walter.blake@shepwedd.com

In order to comply with the Fourth Money Laundering Directive, the current PSC regime will shortly be undergoing some significant changes. Our corporate team have highlighted some of the upcoming changes to the regime to help corporate entities review what steps they should be taking to comply with these updates.

Background

As a result of the requirement for the UK, like all EU member states, to implement the Fourth Money Laundering Directive (EU 2015/849) (Directive) by 26 June 2017, we will shortly see changes to the current persons with significant control (PSC) regime.

Despite the fact that 26 June is now only a few days away, details of the final changes still have to be confirmed due to the 'purdah' period before the recent general election. We are currently awaiting a written ministerial statement from the Department of Business, Energy and Industrial Strategy (BEIS) to confirm the final position together with details of the relevant legislative changes.

Whilst we are waiting for this confirmation, we nevertheless have a general idea of what the new PSC regime will look like and this briefing note is intended to give an overview of some of the key anticipated changes.

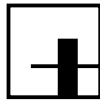
Key changes at a glance

Assuming that the anticipated ministerial statement from BEIS and draft regulations will not significantly contradict a recent Companies House press release, the key changes to the current PSC regime are that:

- Scottish limited partnerships and certain Scottish general partnerships will fall within the scope of the PSC regime and, from 24 July 2017, these entities will be required to register and update PSC information at Companies House;
- From 26 June 2017, certain companies who are currently exempt from the PSC regime because they are already subject to equivalent transparency and disclosure rules will no longer be exempt and will need to comply with the PSC regime (this may include companies listed on AIM and the NEX Exchange (previously ISDX Growth Market); and
- Entities subject to the PSC regime will be required to update their registered PSC information at Companies House within 28 days of changes occurring and updates to this information will no longer be made on a confirmation statement.

New entities will fall within the scope of the PSC regime

Since 6 April 2016 under the current PSC regime, most companies, limited liability partnerships and Societas Europae are required to maintain a PSC register.



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One of the significant changes required in order to comply with the Directive is to extend the range of entities in the UK that will fall within the scope of the PSC regime following the implementation of the Directive.

The following entities are now considered by BEIS to be required to comply with the PSC regime:

- Scottish limited partnerships;
- Scottish general partnerships, when each of its partners is a legal entity;
- Unregistered companies subject to the Unregistered Companies Regulations 2009; and
- European Co-operative Society, Open Ended Investment Companies and Investment Companies with Variable Capital.

A recent Companies House press release confirmed that in order for Scottish limited partnerships and certain Scottish general partnerships to comply with the PSC regime, they will have to register their PSC information at Companies House. As the relevant regulations have not yet been published, it remains to be seen how these requirements will be implemented (particularly for Scottish general partnerships which, to date, have not been required to file any information at Companies House).

The announcement by Companies House suggests that for both Scottish limited partnerships and Scottish general partnerships, an annual confirmation that the registered PSC information is correct will be required and any changes to that information will need to be notified to Companies House within 14 days. PSC information will be required as part of an application to register a new Scottish limited partnership from 24 July 2017.

The regulations will set out the relevant conditions for a person to be considered to be a PSC of a Scottish limited partnership or Scottish general partnership but we anticipate that these conditions will be broadly similar to the current conditions for LLPs.

Further details on the extension of the UK PSC regime to include Scottish limited partnerships and certain Scottish general partnerships can be found in the S+W article "Changing regulatory landscape for Scottish partnerships" [available here](#).

Changes to existing exemptions – AIM and NEX Exchange Market companies

The current UK PSC regime contains an exemption for entities which are already subject to other disclosure and transparency requirements.

This exempts companies that are subject to Chapter

5 of the Financial Conduct Authority's Disclosure and Transparency Rules (DTR) which includes UK companies listed on the main market of the LSE, AIM and the NEX Exchange Market. There is also an exemption for companies with voting shares admitted to trading on a regulated market in another EEA state or on certain specified markets in Japan, Switzerland, Israel and the USA (a full list of which is contained in Schedule 1 of the Register of People with Significant Control Regulations 2016 (2016 Regulations)).

The Directive contains a similar exemption for entities listed on a regulated market (and so companies listed on the main market of the London Stock Exchange will remain exempt) but does not contain an equivalent exemption for companies listed on a prescribed market. This means companies listed on markets such as AIM and the NEX Exchange Market may be required to comply with the PSC regime.

Companies House announced that from 26 June 2017, the current exemption for companies that are subject to Chapter 5 of the DTR will change and consequently certain previously exempt companies (which will likely include those listed in AIM and the NEX Exchange Market) may need to provide PSC information to Companies House. The announcement confirms that companies trading on an EEA specified market or a specified market set out in Schedule 1 of the 2016 Regulations will remain exempt.

Updating requirements at Companies House will change

Under the existing UK PSC regime, unless an entity elects to hold and maintain its PSC register at Companies House, there is only a requirement to provide the necessary PSC information at the point of incorporation and on an annual basis as part of its confirmation statement.

However, the Directive requires the PSC information held at Companies House to be 'current'. In order to meet this objective Companies House announced that from 26 June 2017 companies will no longer be able to update PSC information on a confirmation statement but will instead need to notify Companies House of any changes within 28 days using Forms PSC01 to PSC09 (and the company must update its own PSC register within 14 days of any change).

The announcement by Companies House does not refer to LLPs but it seems logical that they will be obliged to update their PSC information at Companies House on a similar basis.

Interestingly, Companies House has indicated that Scottish limited partnerships and Scottish general partnerships will need to update Companies House within 14 days of any change to the registered beneficial



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ownership information, rather than 28 days.

Action to be taken

Until the draft legislation to effect the changes to the UK PSC regime have been published and the promised BEIS statement has been issued we have relatively few concrete details of what the new regime will look like. In particular, it will be helpful to have confirmation on whether or not companies listed on prescribed markets like AIM will fall within the scope of the UK PSC regime.

What is clear is that Scottish limited partnerships and certain Scottish general partnerships will fall within the scope of the new PSC regime.

Given the relatively short time period before Companies House anticipates these changes coming into effect it would be worthwhile considering at this stage whether you will be affected by the change and the information which is likely to be required as a result.

We expect that all entities within the scope of the new expanded UK PSC regime will be required to update Companies House shortly after any changes to the registered PSC information occur and it may be useful to consider any internal processes you should put in place to ensure these timescales can be met.

We will issue a further update once the draft regulations and BEIS statement have been published. In the meantime, for further information or specific advice please get in touch with your usual contact at Shepherd and Wedderburn.

This note is intended to reflect the position as at 16 June 2017. It is intended to give a brief overview of some of the key changes to the UK PSC regime. It is not exhaustive and does not constitute legal advice.

Key contacts



Walter Blake

Partner

T +44 (0)20 7429 4933

M +44 (0)778 987 8400

E walter.blake@shepwedd.com



Christina Sinclair

Senior PSL

T +44 (0)131 473 5193

M +44 (0)770 360 7008

E christina.sinclair@shepwedd.com