Commercial

Register of Persons with Significant Control

UK limited companies and partnerships should be aware of new requirements which came into force on 6th April 2016 to report and maintain a register of people with significant control (PSC's). PSC's include those with the ability to influence key company policies and strategic decisions, appoint management team members and approve financial activities. The purpose of the PSC register is to inform the public about which individuals are the ultimate beneficial owners and the controlling interests over UK companies and LLPs. It is expected that the rules will assist in fighting against such crimes as tax evasion, money laundering and terrorist financing. Recent events such as the leaked "Panama Papers" indicate that these concerns are valid as high-profile individuals have attempted to conceal their ownership interests through offshore accounts and complex corporate structures.

From 30th June 2016 onwards, all unlisted companies and registered limited partnerships (LLP's) formed in the United Kingdom will have to file PSC information with Companies House upon incorporation or if already incorporated then simultaneously with the annual confirmation statement (which will replace the annual return filing requirement).
The four main requirements under the new rules are to (1) **identify** people with significant control (PSC's), (2) **record** their information, (3) **report** the information about PSC's to Companies House, and (4) **maintain and update** the company's register on an ongoing basis and provide a confirmation statement to Companies House. The requirements apply to all UK companies except those which are listed and therefore already subject to the disclosure obligations of the FCA's Disclosure and Transparency Rules (or an equivalent regime from a listing elsewhere). Unlisted subsidiaries of these exempt companies are still themselves subject to the PSC reporting regime.

A company's failure to provide the required information accurately or to comply with notices to update its PSC register can constitute criminal offences. The penalties can include fines in addition to a prison sentence of up to two years for persons involved. Criminal liability can apply to the company itself, directors and the company secretary.
Who or what entities are considered PSC's? Besides majority shareholders (greater than 25%) with strong voting rights and key executives who handle the day-to-day management, PSC's also include persons who own significant company assets. There may also be indirect PSC's through a chain of legal entities. Directors are not categorised as PSC's if their responsibilities stay within the customary directorial functions. PSC's are normally individuals but the PSC register may include companies that are "relevant" and "registrable". "Relevant" legal entities are those meeting a condition under the PSC regime that must maintain a PSC register or listed companies subject to transparency obligations for shareholdings under the FCA disclosure rules or overseas equivalents. The concept of "registrable" is intended to avoid multiple registrations in a chain of companies and includes only the entity subject to the PSC regime which is directly above the company in question. This excludes all entities further up the chain.

As described above the new PSC regime is fairly complex and requires an in-depth evaluation in order to ensure compliance. In addition as noted the penalties for violations are quite severe. It is therefore important for companies to obtain expert advice and retain professionals to complete the appropriate statements and filings for Companies House. Should you require assistance in this area please refer to our Commercial Law team at 3HR who can advise accordingly.

Carol Kilgore
Solicitor/ Head of Commercial
E: carol.kilgore@3hrcs.com

3HR Corporate Solicitors Ltd is a Solicitors Practice, authorised and regulated by the Solicitors Regulation Authority, No: 597935. The registered office of 3HR Corporate Solicitors Limited is New Broad Street House, 35 New Broad Street, London EC2M 1NH, registered in England and Wales no: 08198795
VAT Registration No: 163-5744-93 Tel: 0207 194 8140 Web: www.3hrcs.com