

Changes to the UK 'Persons with Significant Control' Regime and Potential Impact on UK Fund Structures

June 30, 2017

Summary

This week, the Fourth Anti-Money Laundering Directive came into force in the UK. Among the changes arising from the transposition of the Directive in the UK has been to broaden the "persons with significant control" (PSC) regime to include Scottish limited partnerships for the first time and also to increase the reporting obligations on those UK companies and UK limited liability partnerships that were already subject to the regime. This briefing summarises some of the key changes to the PSC regime and what fund managers should be considering to ensure that their UK fund structures remain in compliance with the new regime going forward.

What has triggered the changes to the PSC regime?

Since 6 April 2016, UK companies and LLPs have been required to identify persons with significant control (**PSC**) and to publicly disclose their details in a separate PSC register. As part of the UK transposition of the Fourth Anti-Money Laundering Directive (EU 2015/849) on 26 June, 2017, changes to the PSC regime were introduced which will have an impact on some UK fund structures.

What are the key changes?

The two key changes to the UK PSC regime which will likely affect UK fund structures are:

- a) an expansion of the existing PSC regime to cover Scottish limited partnerships (**SLPs**); and
- b) an increase in the requirements on UK companies and LLPs to report changes to their PSCs.

There has also been a change to the PSC regime applicable to AIM listed companies; however, this is not the focus of this briefing.

It should be noted that English limited partnerships are not affected by the recent changes and remain outside of scope of the new PSC regime.

SCOTTISH LIMITED PARTNERSHIP PSC REGIME

What are the requirements of the new Scottish Limited Partnership PSC regime?

The new regime^[1] for SLPs is similar to the one that has been in place for UK companies and UK LLPs. It applies to all SLPs and requires SLPs to deliver information relating to their PSCs to Companies House. Unlike UK companies and UK LLPs, SLPs will not need to keep their own PSC register.

Who is a Person with Significant Control in relation to a Scottish Limited Partnership?

A person who:

- a) holds the right to more than 25% of the SLP's surplus assets on a winding up;
- b) holds more than 25% of voting rights;
- c) holds the right to appoint or remove the majority of the persons who are entitled to take part in the management of the SLP; or
- d) has the right to exercise, or actually exercises, significant influence or control over the SLP.

Applying the above test, PSCs for an SLP would likely include the general partner, any appointed manager, and any limited partner whose interest in the SLP represents more than 25% of total interests. If the PSC is not an individual or a UK company or LLP (such entities being already subject to a PSC regime), it will also be necessary to make further enquiries in order to ascertain the identity of the 'ultimate' PSC.

Are there deadlines for compliance with the new PSC regime?

The Regulations require SLPs which are in existence before 24 July 2017 to deliver to Companies House the details of any PSCs by 7 August 2017 (or if established later, within 14 days of such date).

There will be an ongoing obligation on SLPs to notify Companies House of any changes to their PSCs within 14 days of the changes having been confirmed. SLPs will also be required to deliver an annual confirmation statement to Companies House identifying their PSCs.

NEW REQUIREMENTS FOR UK COMPANIES AND LLPS

Reporting of changes to PSCs throughout the year

Under the changes to the previous regime, UK Companies and LLPs will now be subject to additional notification and reporting deadlines.[\[2\]](#)

Previously, UK companies and UK LLPs were required to send a notice to PSCs asking them to confirm the change "as soon as reasonably practicable" on becoming aware of that change to their PSCs had occurred. The new regime requires that UK companies and UK LLPs now have a deadline of 14 days to send this notice after becoming aware of any such change.

Upon the change being confirmed by the PSCs, the relevant UK company or UK LLP will have to update their PSC register within 14 days of this confirmation. Finally, the relevant UK company or UK LLP will then have to notify Companies House of the changes to their PSC register within 14 days of such changes to the PSC register having been made.

Next Steps

SLPs

Fund managers should take active steps to consider their UK fund structures and identify the use of any SLPs. They will then need to identify any PSCs by analysing their partnership agreements to understand how capital, voting and profit share rights are distributed. Fund managers will then need to ensure that Companies House is notified of the required particulars of any PSCs by the 7 August 2017 deadline and within 14 days of any subsequent changes going forward.

UK Companies and LLPs

UK companies and LLPs should review their existing PSC registers to identify whether any changes have occurred since the confirmation date on their last confirmation statement. If any changes have occurred, the company or LLP will need to file details to Companies House. In circumstances where changes have been made to an entity's PSC register before 26 June 2017 but which have not yet been notified to Companies House, the entity will need to file these changes at Companies House on or before 9 July 2017. UK companies and LLPs should also establish a process to monitor any changes relating to their PSCs in order to ensure that Companies House are notified within 14 days of any change going forward.

[1] The legislation that introduced the new PSC regime for SLPs was The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (<http://www.legislation.gov.uk/ukxi/2017/694/contents/made>)

[2] The legislation that introduced the exiting PSC regime for UK LLPs and UK companies was The Information about People with Significant Control (Amendment) Regulations 2017 (http://www.legislation.gov.uk/ukxi/2017/693/pdfs/ukxi_20170693_en.pdf)

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