

PEOPLE WITH SIGNIFICANT CONTROL

A Quick Guide to the PSC Register

June 2017

Which entities have to keep a PSC Register?

An entity's PSC Register should contain details of any individuals (PSCs) or registrable relevant legal entities (RLEs) that have significant control over it (or details of the entity's investigations into whether it has any PSCs or RLEs). The following entities have to keep a PSC Register:

- most UK companies (see below);
- UK LLPs;
- Societates Europaeae; and
- 'active' Scottish limited partnerships and general Scottish partnerships where all the partners are corporate bodies*.

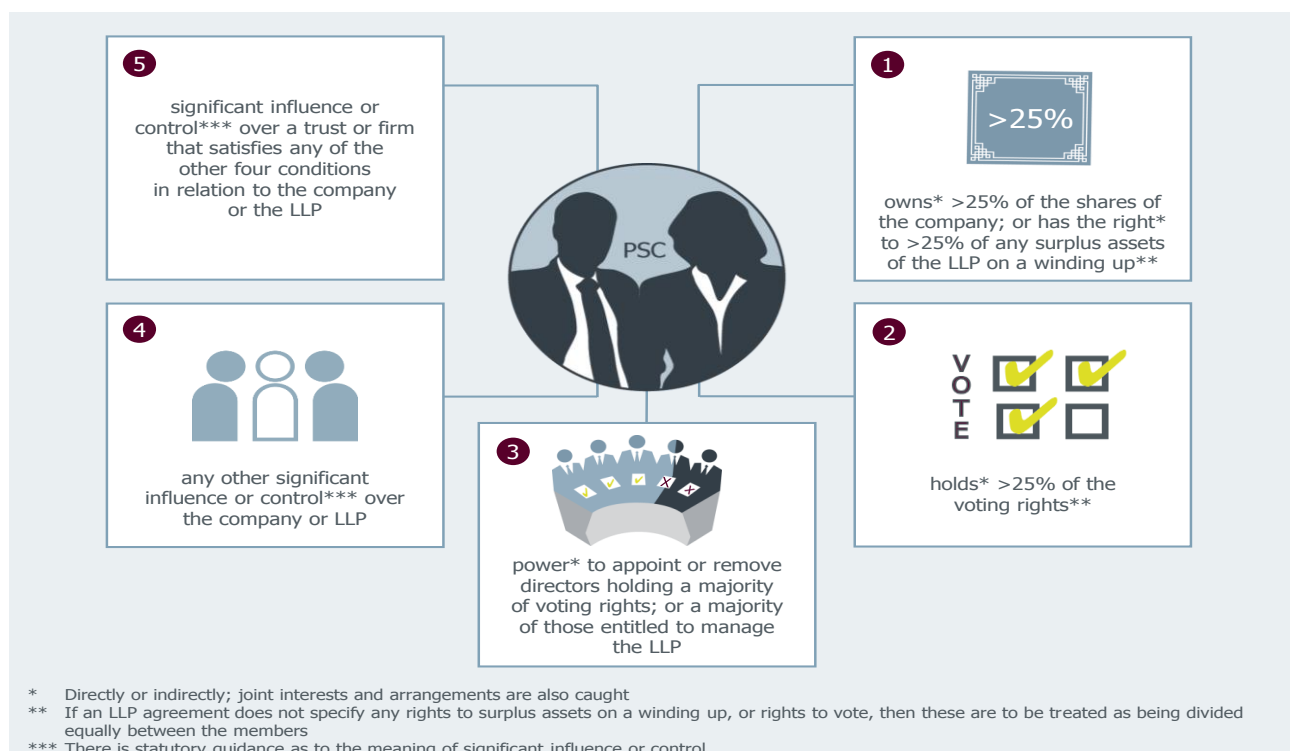
Companies (but not their UK subsidiaries) are exempt from keeping a PSC Register if:

- they have shares admitted to trading on a regulated market in the EEA*;
- they have shares admitted to trading on certain other prescribed markets in the USA, Japan, Israel and Switzerland.

This guidance includes changes that have been announced to take effect in June/July 2017 to implement the EU Fourth Anti-Money Laundering Directive: these are marked with an asterisk and detailed at the end. However, the relevant regulations have yet to be published and for the time being this guidance focuses on the position of Companies and LLPs.

Who is a PSC?

A PSC is an individual who meets any one or more of the following 5 conditions:



What is a Relevant Legal Entity (RLE)?

An RLE is:

- a legal entity – ie a body corporate or firm that is a legal person;
- that would qualify as a PSC if it were an individual; and
- that is subject to its own disclosure requirements (ie it has its own PSC Register or is subject to equivalent disclosure requirements, eg it has shares admitted to trading on a regulated market in the EEA).

When is a PSC/RLE registrable?

A PSC or RLE is registrable unless they only have control indirectly through an RLE or a chain of legal entities, at least one of which is an RLE.

So, if a PSC or RLE holds control in any other way they will be registrable; and if they hold control through an RLE (or a chain of legal entities which includes an RLE) they will be still be registrable if they also hold a direct interest.

What indirect interests count?

A person holds an indirect interest in a company or LLP if that person has a 'majority stake' in a legal entity and that legal entity either:

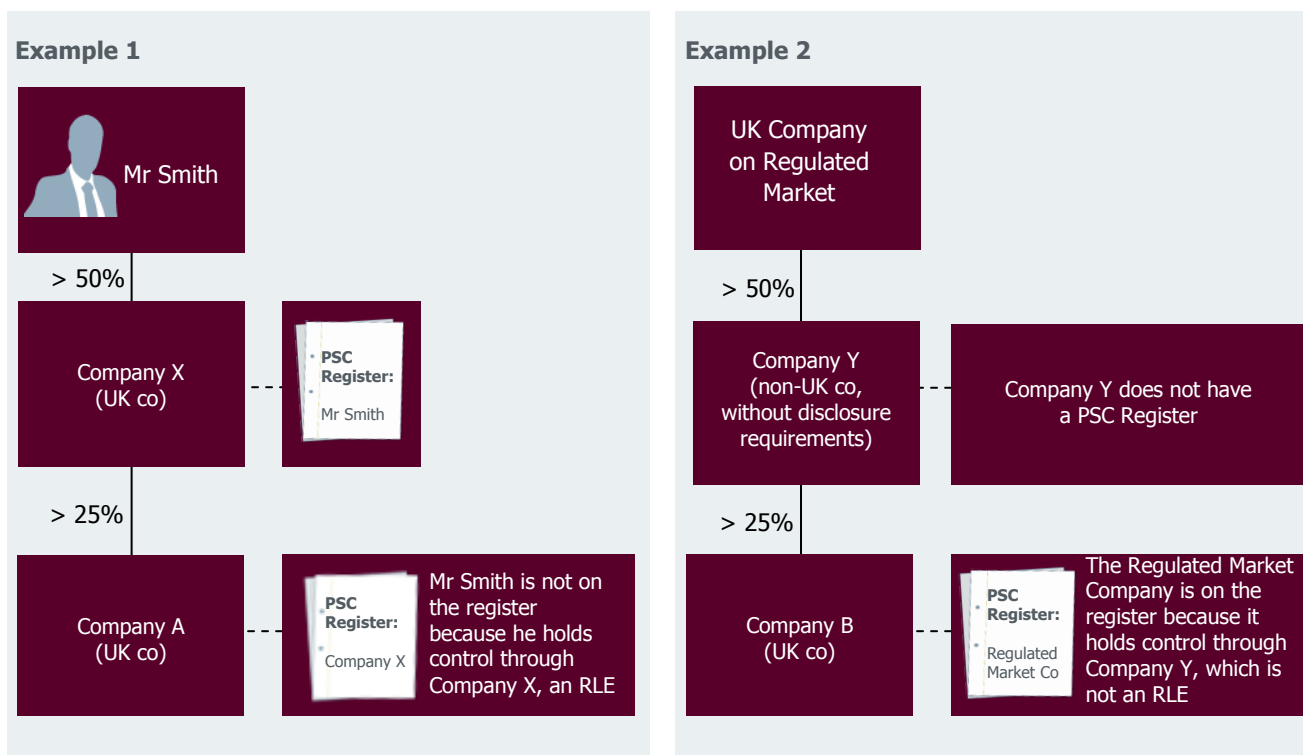
- holds the shares in the company or rights in the LLP directly; or
- is part of a chain of legal entities, each of which has a majority stake in the entity immediately below it, except for the last one which holds the shares in the company or rights in the LLP.

Broadly, a person holds a majority stake in an entity if that person holds (or controls by agreement with other members) a majority of the voting rights in it, or has the right to appoint or remove directors (or members of an equivalent management body) holding a majority of the voting rights, or can exercise dominant influence or control over it.

How far do you look up an ownership chain?

Where control is held indirectly, the company/LLP need only enter in its PSC Register the first RLE (if any) above it in the chain of ownership. Any ultimate PSC/RLE will then be identifiable from that RLE's PSC Register or, if there is another RLE above it, a PSC Register further up the chain (or, in each case from disclosure requirements equivalent to a PSC Register): see example 1 below.

Where a legal entity in an ownership chain is not an RLE it is necessary to examine the ownership or control of that legal entity (ie you effectively look through it) in order to identify any indirect interests in the company or LLP concerned: see example 2 below.



What steps must be taken to complete the PSC Register?

The company or LLP must take reasonable steps to identify any registrable PSC or RLE and keep the register up to date. As part of those steps:

- it must give notice to someone it knows or has reasonable cause to believe is a registrable PSC or RLE; and
- it may give notice to anyone it knows or has reasonable cause to believe knows the identity of registrable PSC or RLE or knows someone likely to have that knowledge.

What information is required to be kept on the PSC Register?

The register must never be blank - and must be updated within 14 days*.

While the company or LLP is in the process of taking steps to identify whether it has any registrable PSCs or RLEs, the register must say that: "The company/LLP has not yet completed taking reasonable steps to find out if there is anyone who is a registrable person or a registrable relevant legal entity in relation to the company/LLP."

There is also prescribed wording for numerous other situations – for example, where the company or LLP has no registrable PSC or RLE or has an unidentified PSC or has unconfirmed details. The wording is set out in Annex 2 (for companies) and Annex 4 (for LLPs) of the government guidance.

If there is a registrable PSC or RLE, the details required are set out below. But details must only be included when they are complete and, in the case of an individual, after they have been confirmed. Details of a person will be treated as confirmed if they were provided by that person or with that person's knowledge.

PSC	RLE
Name	Corporate or firm name
Date of birth (the day of birth will not be publicly available unless the company has elected to keep its register at Companies House)	N/A
Nationality	Legal form of the entity and governing law
Country/area of residence	N/A
Service Address	Registered or principal office
Usual residential address	The register of companies in which it is entered and registration number
Date on which the person became registrable	Date on which it became registrable
Which of the conditions for being a PSC are met (using the prescribed wording)	Which of the conditions for being an RLE is met (using the prescribed wording)

When recording the nature of control, if condition 1, 2 and/or 3 is satisfied, there is no need to consider whether (or register that) condition 4 is satisfied. But if you satisfy one or more of conditions 1, 2, 3 and 5, you must record each condition that is satisfied.

Personal residential address details will not be generally available to the public. Also, where there is a serious risk of violence or intimidation, protection may be applied for to prevent any information relating to a PSC from being made available. However, in each case, information will be available to public authorities and credit and financial institutions*.

A PSC or RLE's details can only be removed from the register 10 years after the date on which they are no longer registrable.

What are the obligations of a PSC/RLE?

Persons who know or ought to know that they are registrable must notify the company/LLP of their status (ie that they are a PSC or RLE) and provide the required details.

In addition, any person who receives a notice from the company or LLP (because they may be a registrable PSC or RLE, or know the identity of a registrable PSC or RLE, or know someone likely to have that knowledge) must confirm or supply the information requested within a month.

Where is the PSC Register kept?

The register must be kept with the company's or LLP's other registers at its registered office or other nominated place for inspection. Alternatively, the company or LLP may elect to keep the register at the Central Register at Companies House.

Who has access to the register?

The register must be available for public inspection (without charge). Also, the company or LLP must provide a copy of the register within five working days of a request (subject to a charge of no more than £12).

If the company or LLP has elected to keep its register at the Central Register at Companies House, then the register can be accessed from there.

What information must be provided to Companies House?

Details of the information on the register have previously been required to be provided by means of the annual confirmation statement. Going forward, any changes to the register must be notified to Companies House within 14 days of being made*.

If the company or LLP has elected to keep its register at the Central Register at Companies House, then the register must be updated in the same way as if it were held by the company or LLP itself (ie within 14 days of the relevant change*).

What are the sanctions for failure to comply?

Failure to comply with the PSC requirements can amount to a criminal offence punishable by a fine and/or up to two years' imprisonment. Offences include:

- failure by the company/LLP to take reasonable steps to identify any registrable PSC or RLE (and the offence is committed by the company/LLP and every officer/designated member in default);
- failure by a PSC or RLE to comply with a duty to make their status known; and
- failure to comply with a notice from the company/LLP - or knowingly or recklessly making a false statement.

Also, if a person fails to provide information required by a company or LLP in order to complete its PSC Register, the company/LLP may, after serving a warning notice, impose restrictions on the shares/LLP interest in question (as regards voting, transfer and the right to appoint a director or persons entitled to manage the LLP). The company/LLP may also apply to court for an order that the shares/LLP interest be sold.

***What is the impact of Fourth Anti-Money Laundering Directive (AMLD4)?**

This guide includes new rules (marked with an asterisk) which Companies House has announced will be made in order to reflect the requirements of AMLD4.

The regulations to effect these changes have not yet been published and no further details are available at this stage. However, we are currently working on the basis that the announced changes will be brought into force (and this guide will be updated once further information becomes available).

In summary the changes are as follows:

- From 26 June 2017, the DTR5 issuer exemption will no longer apply. It is effectively being replaced by the regulated market exemption (see above). Consequently, UK companies on UK prescribed markets such as AIM and NEX Growth Market will be caught by the PSC rules and will no longer be exempt.
- From 26 June 2017, entities must update their PSC Register within 14 days (instead of just 'as soon as reasonably practicable') - and must notify Companies House within 14 days of changing their register (instead of the previous system of providing updates annually as part of the confirmation statement filing).
- From 24 July 2017, the PSC regime will be extended to 'active' Scottish limited partnerships and general Scottish partnerships where all the partners are bodies corporate.
- The protection of information regime is being changed so that credit and financial institutions, as well as public authorities, will have access to PSC information that is protected from disclosure to the public.