

Changes to the Cayman Islands beneficial ownership regime – what you need to know

UPDATE

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This Update provides a summary of key changes which are being introduced to the Cayman Islands beneficial ownership regime in order to comply with evolving international standards.

Introduction

The Cayman Islands beneficial ownership regime is to be consolidated into the Beneficial Ownership Transparency Act, 2023 (the **Act**), replacing the previous legislation which was found in multiple pieces of entity-specific legislation. The Act is not yet in force and the existing legislation will remain in place until the Act is formally commenced. The Act allows for different commencement dates for different provisions within the Act, as part of a phased approach to full implementation.

The key changes to the Cayman Islands' beneficial ownership regime are summarised below. These developments are driven by the continuing evolution of the underlying international standards, namely the FATF 40 Recommendations and associated Guidance.

Scope of the beneficial ownership regime

The current beneficial ownership legislation applies to companies, limited liability companies (LLCs) and limited liability partnerships (LLPs). However, the Act will introduce a new definition of **legal persons** who are required to comply with the beneficial ownership regime, and which will include:

- companies, foundation companies, LLCs and LLPs; and
- limited partnerships and exempted limited partnerships¹.

A legal person will need to comply with the obligation to identify and provide certain required information (or **required particulars**) relating to its beneficial owners unless an alternative route to compliance is available.

Alternative routes to compliance

The Act provides alternative routes to compliance for certain categories of legal person, which will replace the 'exemptions' to maintaining a beneficial ownership register under the current regime.

The alternative routes to compliance will be available to the categories of legal persons identified in the table below, which will have to provide their corporate services provider in the Cayman Islands with:

- written confirmation of the category into which they fall; and
- the required particulars specific to the relevant category of legal person, as specified in the table below.

¹ Not including foreign companies registered in the Cayman Islands under the Companies Act (as revised) (the **Companies Act**), foreign entities as defined in section 2 of the Limited Liability Companies Act (as revised) or foreign LLPs as defined in section 39(21) of the Limited Liability Partnership Act (as revised).

	Category of legal person	Required particulars
(a)	A legal person listed on the Cayman Islands Stock Exchange or an approved stock exchange ² , or a subsidiary ³ of such a listed entity	Name and jurisdiction of stock exchange and, where applicable, details of relationship to the listed entity
(b)	A legal person licensed under a regulatory law ⁴	Identification of the regulatory law under which the legal person is licensed
(c)	An investment fund registered under the Mutual Funds Act (as amended) (the Mutual Funds Act) or the Private Funds Act (as amended) (the Private Funds Act)	The contact details of a licensed fund administrator or other person licensed or registered under a regulatory law (BO PPOC)

Regulated investment funds

Regulated investment funds will need to appoint a beneficial ownership principal point of contact (**BO PPOC**) who is responsible for responding to any request for beneficial ownership information received from the competent authority in relation to that legal person.

As noted in the table above, a BO PPOC must be either:

- a fund administrator which is licensed under the Mutual Funds Act; or
- another contact person located within the Cayman Islands who is licensed or registered under a regulatory law,

and will be required to provide the requested beneficial ownership information to the competent authority within 24 hours of a request being made, or such other timeframe as may be stipulated in the request.

SIBA registered persons

'Registered persons' under the Securities Investment Business Act (as revised) will not have an alternative route to compliance under the Act and will therefore be required to maintain a beneficial ownership register as and when the relevant provisions of the Act are brought into force.

Key changes to the beneficial ownership regime

Other than the extension of the scope of the beneficial ownership regime, the following key changes will also be implemented by the Act:

'Beneficial owner' definition

An individual person will be a **beneficial owner** if any of the following conditions specified in the definition are met:

- If the individual ultimately owns or controls (directly or indirectly) 25% or more of the shares, surplus property, voting rights or partnership interests in the relevant entity.
- If the individual otherwise exercises ultimate effective control⁵ over the management of the entity.
- The individual is identified as exercising control of the entity through other means, including as a senior managing official⁶, where there is no individual who exerts ownership or control pursuant to (a) or (b).

² As listed at Schedule 4 to the Companies Act.

³ A legal person will be a **subsidiary** of a listed entity if (a) the listed entity holds 75% or more of the shares or voting rights in the subsidiary legal person, (b) the listed entity exercises ultimate effective control over the subsidiary legal person, or (c) the listed entity controls the subsidiary legal person by other means.

⁴ The definition of **regulatory law** includes the Banks and Trust Companies Act (as amended), the Companies Management Act (as amended), the Insurance Act (as amended), the Mutual Funds Act (as amended), the Private Funds Act (as amended) and the Securities Investment Business Act (as amended).

⁵ **Ultimate effective control** is defined as including ownership or control exercised through a chain of ownership or by means of control other than direct control.

⁶ The term **senior managing official** includes a director or a chief executive officer of the legal person. In this regard, the FATF requires that, where no natural person is identified as a beneficial owner, the natural person who holds the position of senior managing official should be identified and recorded as holding this position (FATF Guidance on Transparency and Beneficial Ownership (Recommendations 24 & 25), paragraph 32).

Additional required particulars

The required particulars which must be obtained in relation to beneficial owners and reportable legal entities (referred to as 'relevant legal entities' under the current beneficial ownership regime) will be as follows:

	Current requirements	Additional required particulars
Beneficial owner	Full legal name Residential address Address for services of notices Date of birth Identification number, country of issue and dates of issue and expiry of an unexpired passport, driver's licence or other government-issued photographic identity document The dates on which the person became and ceased to be a beneficial owner	Nationality Nature in which the individual owns or exercises control of the legal person
Reportable legal entity	Corporate or firm name Registered or principal office Legal form and the governing law If applicable, the register of companies in which it is entered and registration number The dates on which the entity became and ceased to be a relevant legal entity	Nature in which the reportable legal entity owns or exercises control of the legal person The register in which it is entered and registration number

Verification obligation

Under the Act, a legal person without an alternative route to compliance will be required to provide the above required particulars relating to its registrable persons (ie, its beneficial owners and reportable legal entities) to the corporate service provider (**CSP**) which maintains that entity's beneficial ownership register in the Cayman Islands.

The CSP will be required to:

- review those required particulars; and
- take reasonable measures to verify the identity of the registrable persons using information from reliable sources,⁷

to be satisfied that they are adequate, accurate and current prior to entering them in the relevant beneficial ownership register.

Access to beneficial ownership information

Access to beneficial ownership information may be requested by a larger number of bodies under the Act, including:

- the Royal Cayman Islands Police Service;
- the Financial Reporting Authority;
- the Cayman Islands Monetary Authority;
- the Anti-Corruption Commission;
- the Tax Information Authority;
- the Maritime Authority of the Cayman Islands;

⁷ **Reliable sources** means independent source documents or information issued by a government entity, a licensed financial institution or similar originator/issuer of information that is well known and considered reputable.

- the Civil Aviation Authority of the Cayman Islands;
- the Registrar of Lands;
- a licensed financial institution; and
- a designated non-financial business or profession under the Anti-Money Laundering Regulations (2023 Revision).

The competent authority may charge prescribed fees for access to beneficial ownership information.

The Cabinet may, in the future and subject to an affirmative resolution in the Parliament of the Cayman Islands, make regulations empowering the competent authority to provide certain beneficial ownership information to members of the public.

Guidance

We understand that the Ministry of Financial Services and Commerce is actively preparing supplementary regulations and guidance to accompany the Act, which will be subject industry stakeholder consultation once prepared.

How can we help?

For assistance in understanding your legal obligations under the Act, or to query whether Mourant Governance Services (Cayman) Limited can provide BO PPoC services for a legal person, please reach out to your usual Mourant contact or to one of the named contacts below.

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