

Cayman's beneficial ownership register regime

GUIDE

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Introduction

The Cayman Islands legislation requiring certain vehicles to maintain a beneficial ownership register (**BOR**) came into force on 1 July 2017. The legislation applies to companies, limited liability companies (**LLCs**) and limited liability partnerships (**LLPs**) (together referred to here as **in-scope entities**). This Guide looks at the requirements of the BOR regime, the exemptions available and the consequences of failing to maintain a BOR in accordance with the relevant legislation.

What is the BOR?

Subject to the exemptions provided by the beneficial ownership legislation, all in-scope entities are required to maintain a register of adequate, accurate and current beneficial ownership information containing the required particulars of 'registrable persons' in relation to the entity.

Where is the BOR kept?

The BOR must be kept at the registered office of the in-scope entity in the Cayman Islands.

Are BORs public documents?

No, the BORs are not public documents. BOR information may only be searched by certain official bodies as described below in '[Who can access a BOR?](#)'.

Who must establish a BOR?

In-scope entities

Subject to the exemptions described below, the following in-scope entities must comply with the BOR requirements:

- companies incorporated or registered by way of continuation under the Companies Act (2022 Revision) (as amended, the **Companies Act**);
- LLCs formed and registered by way of continuation under the Limited Liability Companies Act (2021 Revision) (as amended, the **LLC Act**); and;
- LLPs formed and registered by way of continuation under the Limited Liability Partnership Act (2021 Revision) (as amended, the **LLP Act**).

Notably, the requirement does not extend to foreign companies registered in the Cayman Islands in accordance with the Companies Act.

Available exemptions

The BOR requirements under the Companies Act, LLC Act and LLP Act (together the **BOR legislation**) do not apply to legal entities, or a subsidiary¹ of one or more legal entities, any of which is:

- (a) listed on the Cayman Islands Stock Exchange or an approved stock exchange set out in Schedule 4 to the Companies Act;
- (b) registered or holding a licence under a Cayman Islands regulatory law²;

¹ For the purposes of beneficial ownership provisions of the BOR legislation, a company, LLC or LLP is a **subsidiary** of one or more legal entities if:

- (a) the legal entities, separately or collectively, hold 75% or more of the shares or voting rights in the underlying company or 75% or more of the LLC/partnership interests with respect to profit sharing, voting rights in or distributions of capital by the underlying LLC;
- (b) each such legal entity is a member of the underlying entity and, separately or collectively, such legal entities have the right to appoint or remove a majority of the board of directors, managers or managing partners (as applicable); or
- (c) it is a subsidiary of one or more legal entities, each of which is itself a subsidiary of an exempted entity.

² The definition of **regulatory law** under the Monetary Authority Act (2020 Revision) includes the Banks and Trust Companies Act (2021 Revision), the Companies Management Act (2021 Revision), the Insurance Act, 2010, the Mutual Funds Act (2021 Revision), the Private Funds Act (2021 Revision) and the Securities Investment Business Act (2020 Revision). This is not an exhaustive list.

- (c) managed, arranged, administered, operated or promoted by an approved person³ as a special purpose vehicle, private equity fund, collective investment scheme or investment fund, including where the vehicle, fund or scheme is a Cayman Islands exempted limited partnership;
- (d) regulated in a jurisdiction designated as having measures to combat money laundering and the financing of terrorism which are equivalent to those of the Cayman Islands;
- (e) a general partner of a vehicle, fund or scheme referred to in (c), which vehicle, fund or scheme:
 - (i) is registered or holds a licence under a Cayman Islands regulatory law; or
 - (ii) is managed, arranged, administered, operated or promoted by an approved person; or
- (f) holding directly a legal or beneficial interest in the shares of a legal entity which holds a licence under the Banks and Trust Companies Act (2021 Revision), the Companies Management Act (2021 Revision), the Insurance Act, 2010, Part III of the Mutual Funds Act (2021 Revision) or the Securities Investment Business Act (2020 Revision); or
- (g) exempted by regulations.

Obligations of exempted entities

An entity that is exempt from the BOR requirements must provide its corporate services provider with:

- written confirmation of the applicable exemption, together with the relevant information to evidence the exemption (such as proof of regulation); and
- instructions to file the written confirmation with the competent authority.

Who are the registrable persons?

As stated above, in-scope entities are required to maintain beneficial ownership information containing the required particulars of registrable persons in relation to the entity. **Registrable persons** will include:

- each individual person who is a 'beneficial owner'; and
- each 'relevant legal entity' identified by the in-scope entity (being a further vehicle rather than an individual person) that directly holds an interest/partnership interest in the relevant in-scope entity and through which a beneficial owner or a further relevant legal entity indirectly owns an interest/partnership interest in the in-scope entity.

An individual person will be a **beneficial owner** in an in-scope entity if that person meets one or more of the following conditions:

- the individual holds, directly or indirectly, 25% or more of the shares in the company or an LLC/partnership interest representing a right to share in 25% or more of the capital or profits of the LLC/LLP (as applicable);
- the individual holds, directly or indirectly, 25% or more of the voting rights in the in-scope entity; or
- the individual holds, directly or indirectly, the right to appoint or remove a majority of the board of directors of the company or a majority of the managers/managing partners of the LLC/LLP (as applicable).

If no natural person meets the above conditions, the beneficial owner will be the person who has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over the entity through the ownership structure or interests described above, but other than solely in the capacity of a director, manager or professional advisor.

³ **Approved person** means a person or a subsidiary of a person that is:

- (a) regulated, registered or holding a licence in the Cayman Islands under a Cayman Islands regulatory law;
- (b) regulated in a jurisdiction designated as having measures to combat money laundering and the financing of terrorism which are equivalent to those of the Cayman Islands; or
- (c) listed on the Cayman Islands Stock Exchange or an approved stock exchange set out in Schedule 4 to the Companies Act.

A **relevant legal entity** in relation to an in-scope entity is a legal entity⁴ that:

- is incorporated, formed or registered (including by way of continuation as a foreign company) in the Cayman Islands under the law of the Cayman Islands; and
- would be a beneficial owner if it were an individual.

What obligations are imposed?

In-scope entities

In-scope entities are required to take reasonable steps to identify: (i) any individual who is a beneficial owner of the entity, and (ii) all relevant legal entities that exist in relation to the entity. To do so, the entity is required⁵ to give written notice to those persons or entities which have been identified as beneficial owners or relevant legal entities and to any persons whom the entity reasonably believes may be a registrable person in relation to it. That notice requires each addressee to respond within one month of receipt, confirming whether the person is a registrable person and, if so, to confirm or correct any of the information required by the BOR.

Duty to keep BOR up to date

Each in-scope entity is also under a duty to keep its BOR up to date and, in particular, to give notice as soon as reasonably practicable to any registrable person where the in-scope entity becomes aware that there has been a 'relevant change' impacting upon the information in the entity's BOR, requesting confirmation of the change.

Under the Companies Act and the Guidance Notes on Complying with Beneficial Ownership Obligations in the Cayman Islands issued on 18 July 2022 (the **Guidance Notes**), a relevant change occurs where:

- a registrable person ceases to be a registrable person in relation to the entity;
- a registrable person's 'required particulars' change (see '[What information must be entered in the BOR in relation to a registrable person?](#)' below, noting that the registrable person should proactively provide these updated particulars to the entity);
- where the government-issued document included within the required particulars has expired;
- the entity has reason to believe that a change has taken place and requests the information from the registrable person; and
- through ongoing monitoring, the relevant entity's corporate services provider (**CSP**) becomes aware of the change and seeks updated information from the entity.

Beneficial owners and relevant legal entities

The beneficial owners and relevant legal entities (together, the registrable persons) are required to provide the in-scope entity with certain information in circumstances where they are aware that they are a registrable person in relation to an entity and that entity has not met its obligations to issue the notice described above or to insert the registrable person's information within the entity's BOR.

Corporate services providers

If the CSP which maintains an entity's BOR (usually the entity's registered office provider) considers that an in-scope entity has failed to comply with certain obligations without reasonable excuse, including to keep its BOR up to date, or has made a statement that is false, misleading or deceptive in a material particular, the CSP is required to give notice to that in-scope entity.

Following receipt of such a notice, the in-scope entity is required to provide the missing information and a justification or correction regarding any statement identified in the notice. If the in-scope entity fails to provide any missing information within one month of receipt of such notice, the CSP shall issue a restrictions notice (see

⁴ **Legal entity** means a company, LLC, LLP or other body that is a legal person under the law by which it is governed.

⁵ No notices are required where a company, LLC or LLP knows who the registrable persons are and has all required information.

'Failure to comply with the BOR legislation' below) to the registrable person(s) whose information is missing, and send a copy of the notice to the competent authority within 2 weeks of issuing it.

What information must be entered in the BOR in relation to a registrable person?

The following 'required particulars' must be entered into the BOR in respect of each registrable person:

Beneficial owner	Relevant legal entity
<ul style="list-style-type: none"> • full legal name; • residential address and, if different, address for service of notices; • date of birth; • the following information from the individual's unexpired and valid passport, driver's licence or other government-issued document: <ul style="list-style-type: none"> ◦ identifying number; ◦ country of issue; and ◦ date of issue and expiry; and • the date on which the individual became or ceased to be a registrable person in relation to the relevant in-scope entity. 	<ul style="list-style-type: none"> • corporate or firm name; • registered or principal office; • the legal form of the entity and the law by which it is governed; • if applicable, the register of companies in which it is entered and its registration number in that register; and • the date on which the individual became or ceased to be a registrable person in relation to the relevant in-scope entity.

Failure to comply with the BOR legislation

Restrictions notices

The CSP of an in-scope entity may send a restrictions notice to a person who has a relevant interest in that entity where:

- the in-scope entity has sent a notice to that person requesting beneficial ownership information or confirmation; and
- the person has not complied with the notice or provided a valid reason for failure to comply with the notice within one month of the date of receipt,

provided that the relevant interest is not subject to a security interest granted to an unaffiliated third party.

A restrictions notice may be withdrawn where the underlying obligation is complied with, there was a valid reason for failure to comply with a notice or the rights of a third party in respect of the relevant interest are being unfairly affected by the restrictions notice.

The effect of a restrictions notice with respect to a relevant interest includes the following:

- any transfer or agreement to transfer the interests is void;
- no rights are exercisable in respect of the interest;
- no shares or LLC interests may be issued in respect of the interest (or, for LLPs, no additional rights may be granted in respect of interest); and
- except in a liquidation,
 - no payment may be made of sums due from the in-scope entity in respect of the interest;
 - an agreement to transfer a right to be issued shares or LLC interests (or, for LLPs, to be granted additional rights in respect of the relevant interest) or a right to receive payment of any sums due from the in-scope entity in respect of the relevant interest, is void.

A CSP of an in-scope entity which issues a restrictions notice may apply to the Grand Court of the Cayman Islands for an order that the interest subject to the restrictions notice be sold. The proceeds of any such sale

must be paid in to the Grand Court for the benefit of those persons beneficially interested in the relevant interest.

Statutory offences and penalties

The BOR legislation includes the following offences and penalties:

Offence	Penalty
Failure of an in-scope entity to establish or maintain a BOR	First offence - US\$30,488 Second or subsequent offence – US\$121,951 Third offence – Court may order the entity be struck from the Register
Failure to comply with notices (including knowingly or recklessly making a statement that is false in a material particular)	On summary conviction: <ul style="list-style-type: none"> • US\$6,098 and/or 12 months' imprisonment On conviction on indictment: <ul style="list-style-type: none"> • First offence – US\$30,488 • Second or subsequent offence – US\$60,976 and/or 2 years' imprisonment
Failure to provide information (including knowingly or recklessly making a statement that is false in a material particular)	On summary conviction: <ul style="list-style-type: none"> • US\$6,098 and/or 12 months' imprisonment On conviction on indictment: <ul style="list-style-type: none"> • First offence – US\$30,488 • Second or subsequent offence – US\$60,976 and/or 2 years' imprisonment
Failure to provide additional information requested by the competent authority	US\$610 and, if the default was knowingly and willfully permitted, a further penalty of US\$1,220 plus a daily default fine of US\$122.
Breach of a restrictions notice	On summary conviction – US\$6,098.

Directors, managers, officers and partners of the in-scope entity may also be liable to the same penalty as the entity or beneficial owner.

Administrative fines

The Registrar of Companies, LLCs and LLPs (the **Registrar**) has the power to impose administrative fines on any person who breaches the beneficial ownership provisions of the BOR legislation. A breach does not have to be an offence under the applicable statute in order for an administrative fine to be imposed.

The initial administrative fine amount would be US\$6,098. A further fine of US\$1,220 is payable for each month that the breach continues, subject to a cap of US\$30,488.

The Registrar may strike an in-scope entity off the Register if an administrative fine remains unpaid for 90 days.

The breaches for which an administrative fine may be imposed include:

- failure of an in-scope entity to take reasonable steps to identify, and to give notice in writing to, any beneficial owners or relevant legal entities of the company/LLC;
- failure of an in-scope entity to keep its beneficial ownership register at the registered office;
- failure of a beneficial owner or relevant legal entity to supply information on their status as a registrable person within one month being aware of the obligation to do so;
- failure of an in-scope entity to provide written confirmation of exemption from the beneficial ownership provisions to the CSP and/or instructions to file the written confirmation with the competent authority;
- failure to give notice of any changes to registrable persons; and

- failure to comply with a restrictions notice.

The full list of breaches for which an administrative fine may be levied can be found in the [Schedule](#) to this Guide.

If at any time the in-scope entity's beneficial ownership register contains the note 'enquiries pending' for an uninterrupted period of 3 months or more, it will be *prima facie* evidence of a breach of the duty to provide details of registrable persons to the CSP (or Registrar, if applicable, for companies).

Who can access a BOR?

The Cayman government has established a centralised electronic beneficial ownership registration platform (the **Platform**) to facilitate the unrestricted mutual exchange of beneficial ownership information between the respective law enforcement and tax authorities of the Cayman Islands and the United Kingdom. CSPs upload the BOR information to the Platform on a monthly basis.

The Platform may be searched by the competent authority for the purposes of verifying the accuracy of the BOR information provided by an in-scope entity. Any other searches of the Register will only be executed by the Competent Authority at the request of a designated senior official representing one of the following bodies:

- the Financial Reporting Authority;
- the Cayman Islands Monetary Authority;
- the Anti-Corruption Commission;
- the Tax Information Authority;
- a financial intelligence unit, such as the Financial Crime Unit of the Royal Cayman Islands Police Service; and
- any other body which is assigned responsibility for monitoring compliance with money laundering regulations under section 4(9) of the Proceeds of Crime Act (2020 Revision).

The competent authority will execute a search where a senior official of the Financial Crime Unit of the Royal Cayman Islands Police Service certifies that it is made in response to a request from a jurisdiction which the Cayman government has entered into an agreement with, for the sharing of beneficial ownership information, as identified in Schedule 6 to the Companies Act. At the time of writing, only the UK is identified in Schedule 6.

The BOR legislation provides that information contained in a BOR is deemed to be confidential for the purposes of the Confidential Information Disclosure Act, 2016 and may only be disclosed in accordance with that law. The fact that a search has been requested or carried out must not be made known to a company, its beneficial owner, or the public, unless the competent authority expressly communicates that fact.

The Companies Act provides that a person who unlawfully conducts a search or unlawfully discloses beneficial ownership information commits an offence and is liable on summary conviction to a fine of US\$6,098 or imprisonment for twelve months, or both. Under the LLC Act and the LLP Act, the fine is US\$12,195 or imprisonment for twelve months, or both.

Contacts

A full list of contacts specialising in the Cayman Islands beneficial ownership regime can be found [here](#).

Schedule

Breaches for which an administrative fine may be imposed

Description of breach	Companies Act section	LLC Act section	LLP Act section
Failure of an in-scope entity to take reasonable steps to identify any beneficial owner of the in-scope entity	247(1)	73(1)	54(1)
Failure of an in-scope entity to take reasonable steps to identify any relevant legal entities that exist in relation to the in-scope entity	248(1)	74(1)	55(1)
Failure of an in-scope entity to give notice in writing to beneficial owners and relevant legal entities identified	249(1)	75(1)	56(1)
Failure of a beneficial owner or relevant legal entity to supply information of status as a registrable person within one month being aware of their status as a registrable person	250(2)	76(2)	56(2)
Failure of an in-scope entity to keep its beneficial ownership register at the registered office	252(1)	78	59
Failure of a CSP engaged for the provision of registered office services to establish and maintain the company's beneficial ownership register	252(2)	-	-
Failure of an ordinary resident company to either engage a corporate service provider or the Registrar to assist the ordinary resident company to establish and maintain the beneficial ownership register	252(3) and 252(3A)	-	-
Failure of an in-scope entity to provide in writing to a CSP or to the Registrar the required particulars of registrable persons once confirmed	253(1)	79(1)	60(1)
Failure of an in-scope entity to provide: (a) written confirmation of exemption to the CSP; or (b) instructions to file the written confirmation with the competent authority	253(1A)	79(1A)	60(2)
Incorrect reporting that a person is a legal entity or a subsidiary to whom the beneficial ownership provisions do not apply	253(1A)(a)(i)	79(1A)(a)(i)	-
Failure of an in-scope entity, after becoming aware of a relevant change with respect to a registrable person, to give notice requesting confirmation of such change to a registrable person as soon as reasonably practicable	255(1)	81(1)	62(1)
Failure of an in-scope entity that receives confirmation of a relevant change to instruct the CSP or the Registrar to enter the change in the beneficial ownership register	255(2)	81(2)	62(2)
Failure of the CSP to give notice to the in-scope entity of its opinion that the in-scope entity has failed to comply with its beneficial ownership obligations (to provide and update the particulars of registrable persons) without reasonable excuse, or has made a statement that is false, deceptive or misleading	256(1)	82(1)	63(1)
Failure of an in-scope entity to provide the CSP or the Registrar with a response to a notice as above	256(2)	82(2)	63(2)
Failure of a CSP to: (a) issue a restrictions notice; and (b) send a copy of the notice to the competent authority within two weeks, where the registrable person does not comply with the obligations to provide missing particulars or correct or justify particulars	256(3)	82(3)	63(3)

Description of breach	Companies Act section	LLC Act section	LLP Act section
Failure of a person to whom the section applies: (a) to notify the in-scope entity of the relevant changes; (b) to state the date the change occurred; and (c) to give the in-scope entity the information needed to update the beneficial ownership register, within one month of the relevant change	257(2)	83(2)	64(3)
Failure of the CSP to regularly deposit beneficial ownership information in such place, such manner and at such intervals as may be prescribed	261(2)	87(2)	68(2)
Failure of an in-scope entity to issue a restrictions notice	-	-	72(1)
Failure of an in-scope entity to act in a manner consistent with the terms of a restrictions notice	266(1)	92(1)	73(1)