

The Government has published proposals for a new central registry of beneficial interests in shares to be held at Companies House and made available to the public. In this article we report on the latest developments in this area, and bring you news of other changes in the pipe-line for UK companies.

The proposed new central registry of beneficial ownership

In July this year, the Government published a proposal that companies be required to obtain and file with Companies House information about the beneficial ownership of their shares. A beneficial owner for these purposes would be an individual with an interest in more than 25% of the company's shares or voting rights, or a person who otherwise exercises control over how the company is run.

The proposal is contained in the Government's discussion paper, "Transparency and Trust: Enhancing the transparency of UK company ownership and increasing trust in UK business" (the "Discussion Paper"), and forms part of its drive to enhance corporate transparency as a means of reducing tax evasion and corruption.

What are the latest developments?

In a press release of 31 October 2013, the Government subsequently announced that it intends to open the new central registry of beneficial interests to the public. There had originally been some suggestion that access to the register would be restricted to certain law enforcement and tax agencies. Confirmation of other details of the new regime is awaited.

Which companies will be affected by the new regime?

Its impact will be felt mainly by private companies incorporated in the UK. It is likely (but not yet certain) that the following types of companies will be exempt from the new rules:

- overseas companies registered in the UK under the overseas company regime;
- foreign companies operating in the UK;
- companies listed on the Main Market of the London Stock Exchange, given that they are already subject to stringent ownership disclosure requirements; and
- for the same reason, UK companies whose shares are admitted to trading on AIM.

The Government is considering whether to add other categories of companies (including, for example, charitable companies) to the list of exempt companies.

Will there be any exemptions from public disclosure of beneficial interests in companies included in the new regime?

There are likely to be some limited exemptions, for example, where it is necessary to protect individuals whose safety might otherwise be compromised.

Will the new regime apply to limited liability partnerships?

The position is not yet clear – the Government is still reviewing this question.

What reaction has there been to the proposed new regime?

Commentators have expressed concern that it will put the UK at a competitive disadvantage, as well as adding a further administrative burden on UK companies, without necessarily proving an effective deterrent against the misuse of companies by persons engaged in criminal activities.

What are the next steps?

The Government will publish a formal response to the Discussion Paper in early 2014, with more details of the proposed new requirement, and aims to introduce the new regime before the current Parliament ends in 2015. It is currently anticipated that a modified version of Part 22 of the Companies Act 2006 will be extended to private companies. Part 22 provides a mechanism for public companies, if they so choose, to identify individuals with an interest in their shares. Companies would be required to retain certain information about their beneficial owners, while the central registry of beneficial owners to be held at Companies House would contain only the names, and details of the interests, of the various beneficial owners of the companies concerned and would be open to the public.

Are there any other changes in the pipe-line?

Yes: as part of the Discussion Paper, the Government proposes, among other things, to ban corporate directors entirely¹, and to require directors who have acted fraudulently or negligently to personally compensate those who have suffered because of their actions. In separate initiatives, the Government is also proposing to simplify and improve the rules on company and business names, and to simplify the process for filing certain information with Companies House.

We will keep you updated when we have more news about the proposals mentioned in this article.

How Squire Sanders Can Help

In the meantime, we would be pleased to answer any questions you may have in relation to this article or to discuss any aspect of the proposals in more detail.

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¹ At present, the use of corporate directors is restricted by the requirement that every company must have at least one natural person on its board of directors: section 155 of the Companies Act 2006.