

## Cayman Islands: Actions Required on Register of Beneficial Ownership

### Frequently Asked Questions (FAQs)

#### 1) In-Scope Companies

In-Scope Entities are required to take *reasonable* steps to identify:

- (a) any individual who is a beneficial owner of the company; and
- (b) identify all relevant individual and/or legal entities that exist in relation to the company.

Companies should commence taking the necessary steps to identify, obtain and hold information about their beneficial owners and relevant legal entities.

The company should contact any persons they know or have reasonable cause to believe are beneficial owners or relevant legal entities under the Law requesting the required information. Such persons are required to respond to a request within one (1) month, and failure to do so may be a criminal offense.

Similarly, those individuals or legal entities which are aware that they are registrable persons in relation to a company but, have no reason to believe they have been entered in such company's RBO are under a proactive obligation to disclose their details to the In-Scope Entity within one (1) month, and failure to do so may be a criminal offense.

For the purpose of identifying individuals who are beneficial owners and relevant legal entities, a company is entitled to rely, without further enquiry, on the response of a person (or legal entity, in the case of relevant legal entities) to a notice in writing sent in good faith by the company, unless the company has reason to believe that the response is misleading or false.

The Company must provide their CSP with required particulars on beneficial owners from which the RBO is compiled.

#### 2) Out-of-Scope Companies and information required in the written confirmation of exemption

If the company falls within an exemption (that meets the following criteria) it must provide its CSP with written confirmation of the relevant exemption applicable, which must identify the grounds for the exemption and provide certain additional information per below:

- a) listed on the Cayman Islands Stock Exchange or an approved stock exchange in Schedule 4 – pages 157 & 158 of the Companies Law (as revised);

*Required info:*

- *the name of the stock exchange*

- b) registered or holding a license under a “regulatory law” (other than a company registered as an excluded person under section 5(4) of the Securities Investment Business Law (2015 Revision));

*Required info:*

- *not required to provide any information*

- c) managed, arranged, administered, operated or promoted by an "approved person<sup>1</sup>" 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;

*Required info:*

- *the name of the approved person*
- *the name of the regulator or stock exchange that is relevant to the approved person*
- *the name of the jurisdiction in which that regulator or stock exchange is established*

- d) is regulated in a jurisdiction approved by the Cayman Islands Anti-Money Laundering Steering Group;

*Required info:*

- *the name of the relevant regulator*
- *the name of the jurisdiction in which that regulator is established*

- e) a general partner of any special purpose vehicle, private equity fund, collective investment scheme or investment fund that is registered or holds a licence under a Cayman Islands regulatory law or is managed, arranged, administered, operated or promoted by an "approved person<sup>1</sup>";

- I. where the vehicle, fund or scheme is registered or holds a licence under a regulatory law:*

*Required info:*

- *the name of the partnership*

- II. where the vehicle, fund, or scheme is managed, arranged, administered or operated by an approved person:*

*Required info:*

- *the name of the partnership*
- *the name of the approved person*
- *the name of the regulator or stock exchange that is relevant to the approved person*
- *the name of the jurisdiction in which that regulator or stock exchange is established*
- *The written confirmation of the exemption need only name one partnership if the general partner is a general partner of more than one partnership which qualifies for the exemption.*

- f) holds, directly, a legal or beneficial interest in the shares of a legal entity that is licensed in the Cayman Islands where the conditions of such licence include full disclosure of the legal and beneficial owners of the licensee;

*Required info:*

- *the name of the relevant legal entity or parent entities holding a licence under the relevant law*

- g) a subsidiary<sup>2</sup> of any of the above.

*Required info:*

- *the name of every legal entity*
- *the name of the ultimate parent or parents in each chain of exempted legal entities*

### 3) How to identify beneficial owners

Beneficial ownership is determined differently to the standard Cayman Anti-Money Laundering Regulations.

In the Laws, a beneficial owner:

- (a) *is any individual* who holds:
  - (i) directly or indirectly holds *more than 25%* of the *shares* in a company;
  - (ii) directly or indirectly holds *more than 25%* of the *voting rights* in a company;
  - (iii) the *right, directly or indirectly*, to appoint or remove a majority of the board of directors of the company; or
- (b) if no individual meets the criteria in (a), *is the individual* (if any) who has the absolute and unconditional right to exercise, or actually exercises, *significant influence or control* over the In-Scope Company, other than solely in the capacity of a director (or manager if an LLC), professional advisor or professional manager; or
- (c) if no individual meets the criteria in (a) or (b) above, *is the individual* (if any) who has the absolute and unconditional right to exercise or actually exercises significant influence or control over the trustees of a trust or members of another legal vehicle that is not a legal person (such as general partnership) that, in their capacity as such, meet one of the criteria in (a) or (b) above in relation to an In-Scope Company, other than solely in the capacity of a director (or manager in the case of an LLC), professional advisor or professional manager.

Each "**relevant legal entity**" also has to be identified. A "relevant legal entity", in relation to a company, is a legal entity that incorporated, formed or registered (including by way of continuation or as a foreign company) in the Cayman Islands and would be a beneficial owner of the company if it were an individual.

### 4) What details are contained in the RBO?

Each In-Scope Company has to ensure that details of any beneficial owner(s) and any registrable relevant legal entity(s) (together "**registrable persons**") are entered in the company's RBO. If a company does not have any registrable persons, then a nil return will be entered in the company's RBO.

The information required to be contained in the RBO is:

- (a) For a registerable individual - Full legal name, residential address (and address for service if different), birth date, passport or driver's licence or other government ID identifying number, country of issue, date of issue and expiry of the document and the date on which he or she became Company or ceased to be a registerable legal entity to the company in question.
- (b) For a registrable relevant legal entity - 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 it became or ceased to be a registrable person in relation to the company in question.
- (c) The Company is also required to inform their CSP of any changes once they are aware of a change with respect to registrable persons.