

FACT SHEET: BENEFICIAL OWNERSHIP

1. Why is it useful to collect beneficial ownership information?

Sometimes legal ownership or control does not give the full picture. The precise definition of a beneficial owner varies according to the nature of the “thing” that is considered to be beneficially owned and usually arises where persons other than the legal owner have rights or influence in relation to the “thing”. There are many innocent reasons why this might arise: a parent might legally own an old car and decide to gift it to one of their children, but don’t legally transfer ownership of the car. The child would be considered the beneficial owner of the car.

But this information gap between legal owners and others can be exploited to hide or disguise the ultimate ownership and control for nefarious purposes. Therefore Governments and others collect beneficial ownership information to improve prevention and detection of economic crimes like fraud, money laundering and tax evasion.

In the context of company beneficial ownership (and for legal entities similar to companies), a beneficial owner is typically defined as any person having a set level of ownership or of influence or control over the decision and actions of the company/legal entity. Beneficial owners of land may include those who may have no legal ownership over the land but derive some benefit from it.

For example, where an overseas entity is registered as the legal owner on the title deed of a property at HM Land Registry, the beneficial owner(s) of the land may be different from the individual(s) who own or control the overseas entity.

For example, where a corporate shareholder (e.g. a company) is provided as the owner of a company at Companies House, the beneficial owner(s) are the individual(s) who own or control the corporate shareholder.

2. What are the beneficial ownership registers kept by Companies House?

In 2016, Companies House set up the People with Significant Control (PSCs) register, which was the first of its kind in the world. This requires UK companies, and other legal entities, to identify who owns and controls them (these are their PSCs), register their details with Companies House, and keep these details up to date. The two main objectives of the PSC register are to provide transparency around the ownership and control of UK corporate structures and to help prevent misuse of UK corporate structures.

In 2022, Companies House set up the Register of Overseas Entities (ROE), which was also the first of its kind in the world. This requires overseas entities who own UK property to identify who their registrable beneficial owners and/or managing officers are, register their details with Companies House, and keep these details up to date. The details that must be provided include the settlors and beneficiaries of trusts if the land is held on trust. The two main objectives of ROE are to help combat money laundering and achieve greater transparency in the UK property market.

3. What makes an individual a PSC of a UK company?

Under Schedule 1A to the Companies Act 2006, if an individual (“X”) meets one or more of the following conditions in relation to a company (“Y”), they must be registered as a PSC in respect of Y:

1. X holds, directly or indirectly, more than 25% of the shares in company Y.
2. X holds, directly or indirectly, more than 25% of the voting rights in company Y.
3. X holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of company Y.
4. X has the right to exercise, or actually exercises, significant influence or control over company Y.
5. The trustees of a trust or the members of a firm that, under the law by which it is governed, is not a legal person meet any of the other specified conditions in relation to company Y, or would do so if they were individuals, and, X has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

4. What makes a person a beneficial owner of an overseas entity?

Under paragraph 6 of Schedule 2 to the Economic Crime (Transparency and Enforcement) Act 2022, a person (“X”) is a beneficial owner of an overseas entity or other legal entity (“Y”) if one or more of the following conditions are met.

1. X holds, directly or indirectly, more than 25% of the shares in Y.
2. X holds, directly or indirectly, more than 25% of the voting rights in Y.
3. X holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of Y.
4. X has the right to exercise, or actually exercises, significant influence or control over Y.
5. The trustees of a trust, or the members of a partnership, unincorporated association or other entity, that is not a legal person under the law by which it is governed meet any of the conditions specified above in relation to Y, and, X has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or entity.

[There will also soon be provisions at paragraph 6A of that Act which deal with nominee arrangements.]

5. Why are the thresholds set at 25%? It would be easy to avoid scrutiny as a PSC by reducing one’s stake/voting rights to 20%

The 25% threshold is in line with global norms set by the Financial Action Task Force for what is considered “significant influence or control”. It was chosen because it fits with existing and long-standing broader elements of UK company law, in particular that those with less than 25% shareholdings, voting or appointment rights will be unlikely to be able to block special resolutions in the entity and therefore could not be said to have significant influence. The government has no current plans to reduce the thresholds and deems it a disproportionate burden to require companies to provide the same amount of information about their minority shareholders as they do their PSCs.

The government recognises that some may deliberately reduce their shareholding in an effort to avoid scrutiny. That is why condition 4 above exists for both registers. Condition 4 ensures that anyone who has a right to exercise, or actually exercises, significant influence or control over a company is still required to be registered, even if they own less than 25% of the shares or have less than 25% of the voting rights.

Failure to declare a person with significant influence or control is a criminal offence and if a court were to find that a person was exercising significant influence or control without disclosing their details, then the person and their company would be at risk of prosecution.

It is also an offence to deliver false information to Companies House and anyone who delivered, or caused to be delivered, such information would be at risk of prosecution.

6. What is to stop a person recording a nominee or family member to circumvent the requirements?

Under paragraph 19 of Schedule 1A to the Companies Act 2006 and under paragraph 19 of Schedule 2 to the Economic Crime (Transparency and Enforcement) Act 2022 (“ECTEA 2022”), a share held by a person as a nominee for another is to be treated as though the shares are held by the true owner (and not by the nominee).

And again, condition 4 of the above definitions effectively ‘looks through’ any nominee arrangement. If the nominee shareholder is simply taking instructions from a third party, that third party may be deemed to be exercising significant influence or control and thus counts as the PSC.

Failure to declare a registrable beneficial owner is a criminal offence and if a court were to find that a person should have been registered, then the person and their company would be at risk of prosecution.

It is also an offence to deliver false information to Companies House and anyone who delivered, or caused to be delivered, such information would be at risk of prosecution.

The Government is aware of concerns that the existing framework is insufficient to deter the misuse of nominees. The Economic Crime and Corporate Transparency Act 2023 (“ECCTA 2023”) created a power for the Secretary of State to make regulations for the purpose of enabling a company to find out who its PSCs are in cases where shares are held by a nominee. This could include, amongst other things: imposing further obligations on companies to find out if they have nominee shareholders and, if so, for whom they are holding shares; or imposing further obligations on nominee shareholders to disclose their status, and for whom they are holding shares. Before making any regulations, the Government will work with relevant stakeholders, and conduct further analysis of the impacts, to ensure any new requirements are effective and not disproportionately burdensome for businesses.

In addition, the government has also amended the ECTEA 2022 for the purpose of the Register of Overseas Entities to ensure that where nominee companies are used to hold land in the UK (often on behalf of a trust), details about the people and the trust behind the nominee will be required to be provided to Companies House.

7. Can legal entities be recorded in a company's PSC register and recorded as a registrable beneficial owner on the Register of Overseas Entities?

The legislation allows a legal entity to be recorded in a company's PSC register, or registered as a registrable beneficial owner in limited circumstances, where the legal entity is deemed to be "subject to its own disclosure requirements". This includes where it is required to keep its own PSC register or it is listed on certain regulated markets, such as those in the UK or EU. This is to minimise duplication of disclosure requirements.

For UK companies, a legal entity can be recorded in the PSC register of a company if it meets the criteria to be a "Registrable Relevant Legal Entity".

For the Register of Overseas Entities, regulations currently deem an overseas legal entity which provides trust services to be "subject to its own disclosure requirements". Where a registrable beneficial owner is a trustee, the overseas entity must provide information to Companies House about the trust and persons connected to it, such as the beneficiaries. This information is not made publicly available but is shareable with HMRC and law enforcement partners. An amendment to the requirements via the ECCTA 2023, once brought into force, will bring all corporate trustees into scope, and the regulation currently in place will be revoked.

This ensures Companies House receives the same information from an overseas entity where an individual trustee is a registrable beneficial owner, as where a legal entity trustee is a registrable beneficial owner.

Without this, the overseas entity trustee would only have to provide beneficial ownership information about itself. It is much more useful to have transparency about the trust and persons connected to it, than transparency over who owns a legal entity trustee, in order to meet the policy intent of the Register of Overseas Entities.

8. What amendments to the scope of beneficial ownership are being made to the Register of Overseas Entities via the ECCTA 2023?

The Register of Overseas Entities was introduced by the ECTEA 2022. The government has amended the ECTEA 2022 via the ECCTA 2023 to ensure that overseas entities are required to record a legal entity trustee as a registrable beneficial owner, whether or not it is "subject to its own disclosure requirements". The relevant provisions will come into force in 2024.

The government has also amended the ECTEA 2022, so that wherever there is a trustee in the chain of ownership of an overseas entity, it is deemed to be a registrable beneficial owner.

For example, an overseas entity required to register may be owned by a UK company, which would meet the criteria to be recorded as a registrable beneficial owner, as it is "subject to its own disclosure requirements". The UK company may in turn be owned by a legal entity trustee. Without the amendment, only the UK company would be required to register as a registrable beneficial owner, which would mean the information about the trust would not need to be disclosed. The relevant provisions will come into force in 2024.

The ECCTA 2022 has been further amended to provide a power for the Secretary of State to expand the description of persons who are registrable beneficial owners further, where the overseas entity is part of a chain of entities that includes a trustee.

These amendments ensure the maximum amount of transparency about the involvement of a legal entity trust in a chain of ownership, given there may be complex arrangements which attempt to circumvent the requirements of the ECCTA 2022.

9. What other measures are being made via the ECCTA 2023 which will make the PSC register and Register of Overseas Entities more effective?

UK Companies

All existing and new PSCs, and “relevant officers” of Registrable Relevant Legal Entities, of UK companies will be required to verify their identities with the Registrar. Failure to maintain a verified status whilst being registered with the registrar, will be a criminal offence. This will make it much harder to register fictitious beneficial owners, which will improve the reliability of the information on the companies register. For more information, [please see this factsheet](#).

The government has introduced four new objectives the Registrar will have to seek to promote when exercising her functions. The objectives are (i) ensuring that any person who is required to deliver document to the registrar does so, (ii) ensuring that documents delivered to the registrar are complete and contain accurate information, (iii) ensuring the records kept by the registrar do not create a false or misleading impression to the public, and (iv) prevent companies and others carrying out unlawful activities or facilitating such activities being carried out by others. The government has equipped the Registrar with powers to support these objectives, including a new power to require additional information and greater data sharing powers. These objectives together with the new powers will make both registers more effective. For more information, [please see this factsheet](#).

The ECCTA 2023 also makes improvements to the PSC framework by requiring companies to collect additional and more useful information; and by improving the mechanisms through which companies collect the information and report it to Companies House. For more information, please see this [fact sheet](#). Register of Overseas Entities

The Registrar may send an overseas entity a notice under her new power to require additional information, to determine whether an overseas entity has complied with obligations and requirements imposed on it. Additional information may be required, if, for example, she receives evidence suggesting a nominee was recorded as the registrable beneficial owner instead of the beneficial owner. If the overseas entity does not provide the requested information in accordance with the notice, the overseas entity will not be treated as a “registered overseas entity”. This means the overseas entity will be restricted from dealing with its land, as it will not be able to transfer title to a purchaser or lessee.

10. When will these measures come into force?

The government is working to implement the reforms as quickly as possible. These amendments will need new guidance and systems development, and some will need secondary legislation.