



Legal Updates

Cayman Islands' new beneficial ownership regime is now in effect.

August 2024

The new beneficial ownership regime of the Cayman Islands (the “**New BO Regime**”), which aims to streamline the Cayman Islands’ beneficial ownership framework and to enhance transparency and access to adequate, accurate and current beneficial ownership particulars, became effective on 31 July 2024 when the Beneficial Ownership Transparency Act, 2023 (the “**Act**”) came into force. The Act, together with the Beneficial Ownership Transparency Regulations, 2024 and the Guidance on Complying with Beneficial Ownership Obligations in the Cayman Islands published by the Cayman Islands’ Ministry of Financial Services & Commerce (the “**Ministry**”), form part of the New BO Regime. The New BO Regime is expected to have considerable implications on the compliance obligations of most Cayman entities and their beneficial owners, who are encouraged to contact their usual Cayman attorneys for further guidance and assistance.

We had provided a brief overview of the principal proposed changes or additions to be introduced by the Beneficial Ownership Transparency Bill, 2023 through our legal briefing “[Cayman Islands: Proposed Legislation to expand Cayman Islands’ beneficial ownership framework](#)” published on 20 October 2023. Such principal changes or additions have been adopted in the New BO Regime and we shall repeat such principal changes or additions below as a refresher for all stakeholders affected by the New BO Regime.

Expansion of scope

- The scope of entities covered by the New BO Regime has been significantly expanded by:
 - (a) including limited partnerships and exempted limited partnerships into the definition of “legal person”, hence bringing these partnerships into the scope of the New BO Regime; and
 - (b) removing certain exemptions under the previous beneficial ownership framework, including removal of the exemption for any legal entity registered under a regulatory law such as the Mutual Funds Act (As Revised), the Private Funds Act (As Revised), the Securities Investment Business Act (As Revised) and the Virtual Asset (Service Providers) Act (As Revised).
- For an investment fund registered under the Mutual Funds Act (As Revised) or registered under the Private Funds Act (As Revised), however, the New BO Regime provides that such fund does not have to supply the full required particulars of beneficial owners as mandated in other cases, and instead such fund will only need to provide its corporate services provider with the contact details of a licensed fund administrator or another contact person licensed or registered under a Cayman Islands regulatory law for providing beneficial ownership information located within the Cayman Islands. Within 24 hours of a request being made by the Minister responsible for financial services (the “**Minister**”) (or at any

other time as the Minister may reasonably stipulate), such licensed fund administrator or contact person of the fund shall provide the Minister with the requested beneficial ownership information.

- In light of the above, Cayman entities are suggested to review whether they fall within the expanded scope of the New BO Regime and whether the exemptions which they previously relied upon may no longer be applicable.

Revision of “beneficial owner” definition

- The definition of “*beneficial owner*” has been revised under the New BO Regime in order to align with the concepts and wordings used in that of the Cayman Islands Anti-Money Laundering Regulations (As Revised) (the “**AML Regs**”), such revisions include but are not limited to:
 - (a) replacing “*hold*” with “*ultimately owns or controls*” when describing the 25% threshold in shares, voting rights or partnership interests; and
 - (b) categorising an individual who “*otherwise exercises ultimate effective control over the management*” of a legal person as its beneficial owner.
- By making the definition of “*beneficial owner*” in the New BO Regime and the AML Regs more consistent with each other to certain extent, it should now be easier for relevant stakeholders to interpret and apply these laws and regulations.

Additional beneficial ownership information required

- The New BO Regime expands the scope of required particulars of the relevant beneficial owner by requesting for the nationality and/or the nature of ownership or exercise of control of the relevant beneficial owner. These types of information were not required to be provided in the previous beneficial ownership framework.
- Through expanding the scope of required particulars, the New BO Regime allows for the Minister (and certain specified Cayman Islands authorities and regulated bodies) to access more transparent beneficial ownership information, which may facilitate their identification of money laundering and/or terrorist financing risks.

Provision of leeway to create a public beneficial ownership register

- Currently, the beneficial ownership information provided to the Minister is not available to the public.
- Noting that the Cayman Islands Government made a commitment to the UK Government in 2019 to introduce a public register of beneficial ownership, the New BO Regime grants the Cayman Islands Cabinet the power to, subject to the affirmative resolution by the Cayman Islands Parliament, make regulations empowering the Minister to provide access of certain beneficial ownership information to the public. However, in light of the November 2022 judgment made by the European Court of Justice which held that indiscriminate public access to information on beneficial ownership of legal persons was a disproportionate and serious interference with the fundamental rights to respect for private life and to the protection of personal data, the Ministry emphasised that the Cayman Islands Parliament would only approve any such regulations to be made by the Cayman Islands Cabinet after discussions with the UK and its other overseas territories, as well as Crown Dependencies, relating to “the necessary privacy safeguards” have been concluded.
- As such, so long as the relevant regulations have not been approved by the Cayman Islands Parliament, there will not be a public register of beneficial ownership information under the New BO Regime.

Current status

Though being brought into force on 31 July 2024, the Ministry of Financial Services and Commerce has confirmed that the New BO Regime will not attract any enforcement action against non-compliance until early next year. In addition, until the Ministry notifies that filings under the New BO Regime shall recommence, the requirement to file beneficial ownership information under the previous beneficial ownership framework has been suspended for the time being.

Conclusion

As we have commented in our previous legal briefing, the New BO Regime is a welcomed and keen effort by the Cayman Islands to bring itself in line with the FATF international standards in combating money laundering and terrorist financing, which it is believed will continue to solidify its status as a globally-recognised offshore financial centre. Relevant Cayman entities are encouraged to actively review changes made by the New BO Regime and evaluate its applicability to them before the relevant Cayman authorities carry out any enforcement action early next year.

Prior to the Act coming into effect, Loeb Smith has been providing guidance and advice to clients on how to implement changes to facilitate compliance with the requirements under the New BO Regime. We are fully equipped to assist clients in navigating and ensuring full compliance with the requirements of the New BO Regime, so please do not hesitate to reach out if such needs arise.

This publication is not intended to be a substitute for specific legal advice or a legal opinion. For specific advice on the New BO Regime, please contact your usual Loeb Smith attorney or any of the following:

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