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Global Provider of Integrated Business,  
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Tricor Services (Cayman Islands) Limited

TRICOR CAYMAN

TECH news



## Beneficial Ownership Register in the Cayman Islands

**Tricor clients are advised to take note of the following and to take action where applicable.**

The Cayman Islands Government has recently passed new legislation requiring Cayman Islands companies to maintain a beneficial ownership register which records details of their beneficial owners.

This TechNews sets out a brief introduction of the new requirements and provides some guidance on how to prepare for and comply with the new requirements.

## Beneficial Ownership Register

The Cayman Islands Government has imposed a requirement on Cayman Islands companies to maintain registers of their beneficial owners, with a view to further enhancing the ongoing global tax transparency initiative. The requirements came into force on 1 July 2017 with a transition period of one year during which time companies will not be prosecuted for failing to comply with the new requirements.

This TechNews summarizes the new requirements and actions that Cayman companies need to take to comply with the new requirements.

### A. Who is required to maintain a beneficial ownership register?

Any company incorporated in the Cayman Islands, including any type of ordinary, exempted or limited liability company (each, a **Company**), must maintain a beneficial ownership register (**Register**) unless the Company falls into one of the following exempt categories. For the avoidance of doubt, registered foreign companies and all partnerships and trusts are also exempted.

## Exempt Categories of Company

### 1. Listed / Regulated

The Company is:

- listed on the Cayman Islands Stock Exchange; or
- listed on an approved stock exchange (see Annex 1), including the Hong Kong Stock Exchange; or
- licensed by or registered with the Cayman Islands Monetary Authority.

### 2. Indirectly Regulated

The Company is managed, arranged, administered, operated or promoted as a special purpose vehicle, private equity fund, collective investment scheme or investment fund by a person, or the Subsidiary (as defined below) of a person:

- qualified under any category listed in 1 above; or
- regulated in a "Schedule 3" jurisdiction (see Annex 2).

### 3. Qualified General Partner

The Company is a general partner of an entity qualified under 2 above.

### 4. Qualified Subsidiary

The Company is:

- a subsidiary in which one or more entities qualified under any category listed in 1-3 above hold more than 75% of the equity interests<sup>1</sup> or voting rights<sup>2</sup>, or a right to appoint or remove a majority of the directors/managers (a **Subsidiary**); or
- a subsidiary of a Subsidiary.

### B. What are the obligations of a non-exempt Company?

#### 1. Establish a Register

- The Register must be maintained by the Company's registered office provider (**RO Provider**) at the Company's registered office.

#### 2. Identify Registrable Persons

(see section C below)

- Take reasonable steps to identify Registrable Persons.

<sup>1</sup> References in this guide to a percentage of "equity interests" means, as applicable: (i) a percentage of shares, by reference to paid up value (i.e. par value plus premium); or (ii) the right to a percentage of profits or capital distributions.

<sup>2</sup> References in this guide to voting rights means the right to vote at general meetings of members.

- Send a **Confirmation Notice** to any person it knows or has reasonable cause to believe is a Registrable Person (unless it has already received confirmation) requiring the person to confirm within one month: (i) if the person is a Registrable Person; and (ii) if so, the person's **Particulars** for the Register.
- A Confirmation Notice may also be sent to any member of the Company or any Relevant Legal Entity (see section C below) if the Company knows or has reasonable cause to believe that such member or Relevant Legal Entity knows the identity of a Registrable Person.
- Request further confirmation from a Registrable Person if it becomes aware of any material change or omission in the Particulars recorded in the Register in respect of that person (a **Change Notice**).
- The Company may rely on responses it receives, provided there is no reason to believe they are misleading or false.
- When the Particulars of any Registrable Person are confirmed, notify the RO Provider so that it can update the Register.

### 3. Issue and Withdraw Restrictions Notices

- The Company can (and must in certain circumstances) issue a **Restrictions Notice** to any Registrable Person who fails to comply with its obligations (see section D below). Before issuing a Restrictions Notice, the Company should obtain relevant legal advice on the factors to be considered.
- A Restrictions Notice restricts, among other things, transfers, the exercise of rights and new equity issues in respect of the relevant interest.

- The Company must withdraw any Restrictions Notice within 14 days of receiving the missing Particulars or a valid excuse.

### C. Who is a Registrable Person?

A person is a Registrable Person in respect of a Company if it is an **Individual Beneficial Owner**; or a **Relevant Legal Entity** that (i) holds a direct interest in the Company; and (ii) through which an Individual Beneficial Owner or Relevant Legal Entity holds an indirect interest in the Company (via a chain of majority/controlling interests).

#### 1. **Individual Beneficial Owners** include:

- Individuals who hold, directly or indirectly: (i) more than 25% of the equity interests or voting rights; or (ii) the right to appoint or remove a majority of the directors/managers
- If no individual falls within (a), any individual who has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control by one of the means in (a) (unless as a director, professional advisor or professional manager)
- If no individual falls within (a) or (b), but the trustees of a trust (or the members of a partnership or other entity that, under the law by which it is governed is not a legal person) meet one of the conditions in (a) or (b) in their capacity as such, any individual who has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over the activities of that trust (or partnership or other entity), other than solely in the capacity of a director, professional advisor or professional manager

d) Certain government bodies treated as individuals for this purpose, including: corporations sole, governments and government departments, international organizations comprising countries or their governments, and local authorities or local government bodies

2. **Relevant Legal Entities** include any entity with legal personality that (i) is incorporated, formed or registered in the Cayman Islands (including registered foreign entities); and (ii) would qualify as an Individual Beneficial Owner if an individual.

#### **D. What are the obligations of a Registrable Person?**

1. To respond within one month to any Confirmation Notice or Change Notice with confirmation of its Particulars, unless the information: (i) would be subject to legal professional privilege in proceedings; or (ii) is prohibited by Cayman Islands law from being disclosed.
2. If it becomes aware it is a Registrable Person or that its Particulars have materially changed, but it has not received a Confirmation Notice or Change Notice, as applicable, it must notify the Company within one month.

#### **E. What are the Particulars of a Registrable Person that must be entered in the Register?**

##### **For each Individual Beneficial Owner**

- Full legal name
- Residential address and, if different, address for service of notices
- Date of birth

- Identifying information from passport or other government-issued document (identification number; country of issue; date of issue and of expiry)
- Date they became or ceased to be a Registrable Person

##### **For government bodies treated as individuals**

- Name
- Principal office
- Legal form and governing law
- Date it became or ceased to be a Registrable Person

##### **For each Relevant Legal Entity**

- Corporate or firm name
- Registered or principal office
- Legal form and governing law
- If applicable, the relevant register of companies and registered number
- Date it became or ceased to be a Registrable Person

1. A Registrable Person's name must remain on the Register until 5 years after it ceased to be a Registrable Person.
2. The following specific information must also be entered in the Register:
  - If a Company has no reasonable cause to believe there is any Registrable Person: enter "**no Registrable Person identified**".
  - If a Registrable Person is identified but its particulars not confirmed: enter "**confirmations pending**".

- If there are no entries but the Company has not completed steps to identify if it has any Registrable Person: enter "**enquiries pending**".
- If a Restrictions Notice is issued: enter "**restrictions notice issued**" with the date of issue.
- If a Restrictions Notice is withdrawn: enter "**restrictions notice withdrawn**" with the date withdrawn.
- If restrictions in a Restrictions Notice are lifted by court order: enter "**restrictions ceased by court order**" with the effective date of the order.

#### F. Who can access information in the Register?

RO Providers are required to provide copies of the Registers to the search platform established and maintained by the Financial Services Minister and his designates (the **Competent Authority**). The search platform must be secure and only accessible to and searchable by the Competent Authority. The Competent Authority may only conduct searches in response to a proper and lawful request from certain Cayman Islands regulatory authorities and a jurisdiction that has entered into an agreement with the Government of the Cayman Islands respecting the share of beneficial ownership information.

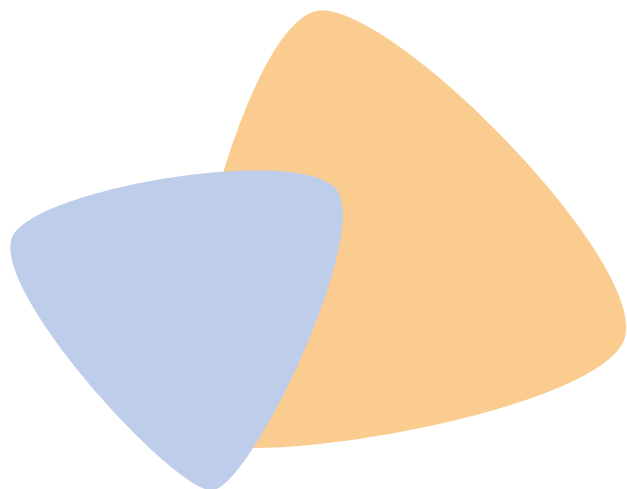
#### G. Offences

Offences will be committed by any Company (and any complicit director, officer, manager or managing member) or Registrable Person that knowingly and wilfully breaches its obligations, as summarized above. Upon conviction a Company would be liable to a fine of up to CI\$50,000 (US\$61,000) and a Registrable Person would be liable to imprisonment for up to two years and/or a fine of CI\$10,000 (US\$12,000).

A person who unlawfully searches or discloses details from a Register also commits an offence and on conviction would be liable to imprisonment for one year and/or a fine of CI\$5,000 (US\$6,000).

#### H. Complex Structures

This TechNews summarizes the statutory and regulatory regime governing beneficial ownership registers to enable the majority of our client Companies to comply with their obligations, but it does not purport to cover every scenario. If your Company has a particularly complex ownership structure or a chain of control that is not clear cut, please approach your usual contact at Tricor for assistance.



## Annex 1 : List of Approved Stock Exchanges

The following stock exchanges are approved by the Cayman Islands Monetary Authority for purposes of the Regulatory Laws pursuant to the Authority's Regulatory Policy – Approved Stock Exchanges.

Amman Stock Exchange	Dusseldorf Stock Exchange	New York Stock Exchange
Athens Exchange	EDX London	New Zealand Exchange
Australian Securities Exchange	Eurex	NYSE Amex
BATS Exchange	Euronext	NYSE Arca
Bayerische Borse AG	Fukuoka Stock Exchange*	NYSE Euronext
Berlin Stock Exchange	Gibraltar Stock Exchange	OMX Nordic Exchanges
Bermuda Stock Exchange	Hong Kong Exchange and Clearing	Osaka Securities Exchange
BM&F Bovespa	Indonesia Stock Exchange	Oslo Axxess
BME Spanish Exchanges	Intercontinental Exchange	Oslo Stock Exchange
BOAG Borsen AG	International Securities Exchange	Philippine Stock Exchange
Bolsa de Comercio de Buenos Aires	Irish Stock Exchange	PLUS Markets
Bolsa de Comercio de Santiago	Istanbul Stock Exchange	Prague Stock Exchange
Bolsa de Valores de Caracas*	JASDAQ	RMX Hannover
Bolsa de Valores de Colombia	Johannesburg Stock Exchange	Saudi Stock Exchange (Tadawul)
Bolsa de Valores de Lima	Korea Stock Exchange	Shanghai Stock Exchange
Bombay Stock Exchange	London Stock Exchange	Shenzhen Stock Exchange
Borsa Italiana SPA	Ljubljana Stock Exchange	Singapore Exchange
Bratislava Stock Exchange	Luxembourg Stock Exchange	Stuttgart Stock Exchange
Bucharest Stock Exchange	Madrid Stock Exchange	SIX Swiss Exchange
Budapest Stock Exchange	Malaysia Stock Exchange	Stock Exchange of Mauritius
Bulgarian Stock Exchange	Malta Stock Exchange	Taiwan Stock Exchange
Cayman Islands Stock Exchange	Mexican Stock Exchange	Tel Aviv Stock Exchange
Channel Islands Stock Exchange*	Montreal Exchange	The Egyptian Exchange
Chicago Board Options Exchange	Moscow Interbank Currency Exchange	The Stock Exchange of Thailand
Chicago Stock Exchange	Nagoya Stock Exchange*	TLX s.p.a.
CME Group	NASDAQ OMX	Tokyo Stock Exchange
Colombo Stock Exchange	NASDAQ OMX BX	Toronto Stock Exchange
Copenhagen Stock Exchange	NASDAQ OMX PHLX	Valencia Stock Exchange
Cyprus Stock Exchange	NASDAQ Stock Market	Vienna Stock Exchange
Czech Stock Exchange	National Stock Exchange (U.S.)	Vilnius Stock Exchange
Deutsche Borse	National Stock Exchange of India	Warsaw Stock Exchange

\* indicates discretionary approval

Note: This list is for illustrative purposes only and is subject to change. To verify whether a stock exchange is approved by the Cayman Islands Monetary Authority, please refer to the Regulatory Policy – Approved Stock Exchanges.

## Annex 2: List of "Schedule 3" Jurisdictions

The following jurisdictions are listed under Schedule 3 of the Money Laundering Regulations (2015 Revision).

Argentina	Isle of Man
Australia	Israel
Austria	Italy
Bahamas	Japan
Bahrain	Jersey
Barbados	Liechtenstein
Belgium	Luxembourg
Bermuda	Malta
Brazil	Mexico
British Virgin Islands	Netherlands
Canada	New Zealand
Cyprus	Norway
Denmark	Panama
Finland	People's Republic of China
France	Portugal
Germany	Singapore
Gibraltar	Spain
Greece	Sweden
Guernsey	Switzerland
Hong Kong	Turkey
Iceland	United Arab Emirates
India	United Kingdom
Ireland	United States of America



## About Tricor

Tricor Group (**Tricor**) is a global provider of integrated Business, Corporate and Investor Services. As a business enabler, Tricor provides outsourced expertise that allows our clients to concentrate on what they do best – Building Business.

Tricor's mission is to be the Business Enabler of Choice.

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