

# Guidance Note

---

Cayman Islands Beneficial Ownership Regime

# Guidance Note

## Cayman Islands Beneficial Ownership Regime

### Introduction

The new beneficial ownership regime of the Cayman Islands (the “**Regime**”) came into force on 31 July 2024; however it will not be enforced until 1 January 2025.

The Regime is now set out in the Beneficial Ownership Transparency Act, 2023 (the “**BO Act**”). The Regime applies to all Cayman Islands ‘Legal Persons’, which includes Cayman Islands exempted companies, limited liability companies, ordinary resident companies, ordinary non-resident companies, limited liability partnerships, exempted limited partnerships and foundation companies, and any other legal person that may be prescribed in the regulations (“**Legal Persons**”).

All Legal Persons are required under the BO Act to maintain a beneficial ownership register (“**BoR**”) (“**In-Scope Entities**”), unless they are exempt or are eligible for compliance with an alternative route as stated by the BO Act (“**Out-of-scope Entities**”). This Guidance Note will explain further below those alternative routes to compliance.

Non-Cayman Islands entities (including those registered as foreign persons in the Cayman Islands, typically to act as a general partner of an ELP) and certain other categories of Legal Person, are exempted from this requirement under the BO Act.

The registered office (“**RO**”) of each entity maintains the BoR and uploads the relevant information via the Corporate Administration Platform System (“**CAPS**”) to the Cayman Islands Register of Companies (“**RoC**”). The BoR is not publicly available and may only be accessed by RoC. The purpose of the Regime is to enable RoC to provide access to information contained on a BoR in response to lawful requests made by stipulated government authorities and law enforcement agencies. The overriding objective of the Regime is to ensure transparency of the beneficial ownership of Cayman Islands registered entities.

### Beneficial Ownership Register Particulars

**BoR.** All In-Scope Entities must establish and maintain a BoR, subject to certain exceptions, at their registered office in the Cayman Islands. Each entity is required to take reasonable steps to identify all “beneficial owners” and “relevant legal entities” of the In-Scope Entity as detailed further below. The BoR must contain the required particulars as set out in the relevant legislation.

**Individual Registrable Beneficial Owners.** The required particulars on the BoR for individual registrable beneficial owners are: (a) full legal name; (b) residential address and, if different, an address for service of notices under the legislation; (c) date of birth; (d) information identifying the individual from their passport, driver’s licence or other government issued documentation including (i) identifying number; (ii) country of issue; (iii) nationality (iv) date of issue and of expiry; (e) the date on which the individual became or ceased to be a registrable beneficial owner in relation to the entity; (f) other nationalities; and (g) mechanisms of control.

For Deemed Beneficial Owners (as noted further below), the required particulars are (a) principal office address; (b) the legal form of the Deemed Beneficial Owners; (c) the nature of the Deemed Beneficial Owner’s ownership or its exercise of control of the Legal Person;



## Cayman Islands Beneficial Ownership Regime

(d) name and telephone number and email address of an individual contact person within the Deemed Beneficial Owner.

**Reportable Legal Entities.** The required particulars on the BoR for registrable beneficial owners who are reportable legal entities are: (a) corporate or firm name; (b) registered or principal office; (c) the legal form of the entity and the law by which it is governed; (d) if applicable, the register in which it is entered and its registration number in that register; and (e) the date on which it became or ceased to be a registrable beneficial owner in relation to the entity.

**BoR must contain information.** An entity's BoR must never be blank. Additional specified matters are required to be noted on the BoR where the entity knows or has reasonable cause to believe that there is no registrable beneficial owners in relation to the entity; has not yet completed taking reasonable steps to find out if there is anyone who is a registrable beneficial owner; and has identified a registrable beneficial owner in relation to it and all the required particulars of that person have not yet been confirmed.

**Changes to BoR.** If an entity becomes aware of a relevant change with respect to a registrable beneficial owner whose required particulars are entered in its BoR, the entity is required to give notice to the registrable beneficial owner, as soon as reasonably practicable after it learns of the change or first has reasonable cause to believe that the change has occurred, requesting confirmation of the change. If the person to whom the notice is sent confirms the change, the entity is required to record the details of the change and instruct its registered office to enter in the entity's BoR the details of the relevant change, the date on which the change was made, and whether, there are further alterations to be made.

## Registrable Beneficial Owner

A registrable beneficial owner in relation to an entity is: (a) an individual whom the entity identifies as a beneficial owner (in accordance with the following paragraph(s)) of the entity; (b) a reportable legal entity identified by the entity (in accordance with the foregoing paragraph) of the entity that – (i) holds an interest in the entity or meets one or more of the specified conditions directly in respect of that entity; and (ii) through which any beneficial owner or relevant legal entity indirectly owns an interest in the entity.

Entities are required to give notice in writing to beneficial owners and relevant legal entities to request that the recipient of the notice state whether or not they are registrable beneficial owners and if they are, to confirm or correct any required particulars that are included in the notice and supply any required particulars that are missing from the notice within one month from the date of receipt of the notice.

## Identifying Individual Registrable Beneficial Owners

The BO Act defines “registrable beneficial owner” in relation to a Legal Person as, a beneficial owner of a Legal Person who is an individual (including a Deemed Beneficial Owner which is further defined below) who meets any of the following conditions:

- (a) the individual ultimately owns or controls, whether through direct or indirect ownership or control, 25% or more of the shares<sup>1</sup>, voting rights or partnership interests in the Legal Person;
- (b) the individual otherwise exercises ultimate effective control<sup>2</sup> over the management of the Legal Person; or



## Cayman Islands Beneficial Ownership Regime

<sup>1</sup> Holding “shares” in a Legal Person includes holding a right to share in the capital or, as applicable, profits of that Legal Person and is not limited to shares issued by Legal Persons with share capital.

<sup>2</sup> The BO Act defines “ultimate effective control” to include ownership or control exercised through a chain of ownership or by means of control other than direct control.

- (c) the individual is identified as exercising control of the Legal Person through other means.

It is important to note that an individual that meets one or more of the specified conditions above is considered a beneficial owner except where that individual operates solely in the capacity of a “professional advisor or professional manager”<sup>3</sup>.

The BO Act further defines an “individual” to also include certain “deemed” beneficial owners and this includes a corporation sole, a government or government department of a country or territory or a part of a country or territory, an international organisation whose members include two or more countries or territories (or their governments), and public authorities (a “**Deemed Beneficial Owner**”). These special categories of Deemed Beneficial Owners have their own required particulars and differ from the typical natural person that may be a registrable beneficial owner.

For trust arrangements, ownership of a Legal Person should be looked at through which individual or entity has ultimate effective control over the activities of the trust and consideration given to the basic conditions noted above for registrable beneficial owners of Legal Persons.

## Identifying Reportable Legal Entities

The BO Act defines a Reportable Legal Entity in relation to ownership of a Legal Person as an entity which:

- (a) directly holds 25% or more of the shares, voting rights or partnership interests in a Legal Person;
- (b) otherwise exercise ultimate effective control over the management of the Legal Person; or
- (c) is an entity through which any beneficial owner or reportable legal entity indirectly holds a “relevant interest” in the Legal Person.

## Alternative Routes to Compliance

If a Legal Person is eligible to utilize an alternative route to compliance under the BO Act, it will be required to provide certain written confirmations to its RO and particulars in lieu of establishing a BoR.

The alternative routes to compliance available to a Legal Person under the BO Act are:

- (a) **listed, or is a subsidiary of a listed entity, on the Cayman Islands Stock Exchange or an approved stock exchange (such as the Hong Kong Stock Exchange, London Stock Exchange New York Stock Exchange)**

A Legal Person falling under this category is to provide their RO with confirmation that it is listed, or that it is a subsidiary of a listed entity, on the Cayman Islands Stock exchange or an approved stock exchange. Details should include the name and jurisdiction of the stock exchange.

Under this particular alternative route to compliance, a “subsidiary” of a listed entity means if:



## Cayman Islands Beneficial Ownership Regime

<sup>3</sup> Under the BO Act, a “professional advisor” includes a lawyer, account or financial advisor who provides advice or direction in a professional capacity. A “professional manager” includes a liquidator, receiver, or a restructuring officer who exercises a statutory function.

- (a) The listed entity holds 75% or more of the shares or voting rights in the Legal Person which is the subsidiary;
- (b) The listed entity exercises ultimate effective control over the Legal Person which is the subsidiary; or
- (c) The listed entity controls the Legal Person which is the subsidiary by other means.

**(b) licensed under a Cayman Islands regulatory law;**

Previously, entities licensed or registered under a Cayman Islands regulatory law were exempt from beneficial ownership requirements. The BO Act now offers an alternative route to compliance for those only licensed under a Cayman Islands regulatory. For example, if an entity is registered under the Securities Investment Business Act (As Revised) (“SIBA”), but has not obtained a licence under SIBA, it will not be able to take advantage of this alternative route and will be required to maintain a BoR.

The current Cayman Islands regulatory laws captured under this alternative route are:

- (i) Banks and Trust Companies Act (2020 Revision);
- (ii) Building Societies Act (2020 Revision);
- (iii) Companies Management Act (2018 Revision);
- (iv) Cooperative Societies Act (2020 Revision);
- (v) Development Bank Act (2018 Revision);
- (vi) Insurance Act, 2010;
- (vii) Money Services Act (2020 Revision);
- (viii) Mutual Funds Act (2020 Revision);
- (ix) Private Funds Act (2020 Revision);
- (x) Securities Investment Business Act (2020 Revision); and
- (xi) Virtual Asset (Service Providers) Act, 2020.

This does not apply to Legal Persons that are a subsidiary of a licence holder.

**(c) a fund registered under the Private Funds Act (As Revised) or the Mutual Funds Act (As Revised);**

A Legal Person which is a fund registered under the Private Funds Act (As Revised) or the Mutual Funds Act (As Revised) may elect to either establish and maintain a BoR, and comply with all the required for doing so under the BO Act, or it may elect to name an “**Authorised Contact**” instead of maintaining a BoR.

Any Cayman Islands RO, licensed fund administrator or another appropriately licensed Cayman Islands service provider can act as an entity’s Authorised Contact. Stuarts is able to act for any registered funds in respect of which it acts as the RO for.

This does not apply to Legal Persons that are a subsidiary of a fund registered under either act.

**(d) otherwise exempted by Cabinet.**

There are no current exempted categories of Legal Persons which have been specifically exempted by the Cayman Islands Cabinet.



## Cayman Islands Beneficial Ownership Regime

## Penalties

**Entity Penalties.** There are significant penalties which apply for non-compliance with the Regime. An entity which commits a prescribed breach of the BO Act, such as knowingly and wilfully fails to establish or maintain a BoR or fails to fulfil its duties in relation to identifying beneficial owners and relevant legal entities, notifying registrable beneficial owners, disclosing beneficial ownership and keeping the register up to date, shall be liable on summary conviction to a fine of US\$6,100 for an initial breach. A fine of US\$1,220 applies for every month that the breach continues

**Restrictions Notice.** The corporate services provider may serve a 'restrictions notice' on a person who has a relevant interest in an entity if such person does not comply with the request for information within one month of receipt of the notice or provide a valid reason to justify their failure to comply (provided that the interest is not subject to a security interest granted to a third party who is not affiliated with the person). The effect of a restrictions notice on the relevant interest in the entity is: (a) any transfer or agreement to transfer the interest is void; (b) no rights are exercisable in respect of the interest; (c) no shares or additional rights may be issued or granted in respect of the interest or in pursuance of an offer made to the interest-holder; (d) except in a liquidation, no payment may be made of sums due from the entity in respect of the interest, whether for capital or otherwise; (e) other than in a liquidation, an agreement to transfer (i) a right to be issued with any shares issued or to be granted additional rights in respect of the relevant interest or (ii) a right to receive payment of any sums due from the entity in respect of the relevant interest, is void. In the event a restrictions notice is issued then failure to act or other certain actions may constitute an offence.

## Access to the BoR

An entity's BoR is not publicly available. Only RoC is able to access the information contained on the BoR. RoC may search a BoR if formally requested to do so by the Financial Intelligence Unit, Financial Reporting Authority, the Customs and Border Control Service, the Anti-Corruption Commission, the Cayman Islands Monetary Authority, the Tax Information Authority and any Competent Authority as defined under the Proceeds of Crime Act (Revised). To date only the United Kingdom Government is recognised as a Competent Authority.

## Compliance

All Legal Persons are obligated to determine if they are an In-Scope Entity or an Out-of-scope Entity. If an entity is an In-Scope Entity it must accurately complete a BoR (eg identify its beneficial owners, relevant legal entities and determine who are registrable beneficial owners) and file this with its registered office. Alternatively, in the event they are an Out-of-scope Entity, the entity must identify which alternative route of compliance applies and provide written confirmation of the same to its corporate services provider.

Any Legal Person which were required to maintain a BoR in the previous regime will continue to do so, however these Legal Persons should review their beneficial ownership analysis to confirm that they are compliant with the new requirements of the BO Act, including the collection of any additional required particulars of registrable beneficial owners.

Any Legal Person, such as exempted limited partnerships, limited partnerships and foundation companies, which were previously not subject to the old BO Regime but are now captured by the BO Act and the new BO Regime must conduct a beneficial ownership analysis and establish whether a BoR must be maintained or an alternative route of compliance is available to the Legal Person to rely on. This must be established by 1 January 2025.



## Cayman Islands Beneficial Ownership Regime

## Guidance

This publication is for general guidance and is not intended to be a substitute for specific legal advice. Specialist advice should be sought about specific circumstances. If you would like further information, please contact:

### Chris Humphries

Managing Director and Head of Funds

Tel: +1 (345) 814-7911

[chris.humphries@stuartslaw.com](mailto:chris.humphries@stuartslaw.com)

### Jonathan McLean

Partner and Head of Banking & Regulatory

Tel: +1 (345) 814-7930

[jon.mclean@stuartslaw.com](mailto:jon.mclean@stuartslaw.com)

### Megan Wright

Partner and Head of Corporate

Tel: +1 (345) 814-7904

[megan.wright@stuartslaw.com](mailto:megan.wright@stuartslaw.com)

### Joseph Bates

Associate

Tel: +1 (345) 814-7934

[joseph.bates@stuartslaw.com](mailto:joseph.bates@stuartslaw.com)

Stuarts Humphries is a leading Cayman Islands legal practice with international reach. Offering a full range of corporate and commercial legal advice together with a constant client focus, our experienced attorneys assist our clients on their most significant and challenging commercial transactions, structures, liabilities and obligations.

Our proven track record in advising leading international Law Firms, Investment Managers, Investment Companies and High-Net-Worth individuals is a result of the deep understanding of our markets.

At Stuarts we build and maintain enduring relationships with our clients through the combined legal expertise and business acumen of our practice groups and by providing outstanding service.

3rd Floor Kensington House,  
69 Dr. Roy's Drive  
P.O. Box 2510, Grand Cayman,  
KY1-1104, Cayman Islands

Tel: +1 (345) 949-3344  
[info@stuartslaw.com](mailto:info@stuartslaw.com)

Fax: +1 (345) 949-2888  
[stuartslaw.com](http://stuartslaw.com)



## Cayman Islands Beneficial Ownership Regime