Secretarial focus: new rules on transparency

The Fourth Money Laundering Directive was implemented in the UK in June 2017.

Alice Faure Walker
Consultant
T: 020 7551 7813
a.faurewalker@bwbllp.com

Alice joined the Charity & Social Enterprise department in 2000, and was a partner with the firm before moving to a role combining client work with more general professional support. She has particular experience of constitutional issues, charity secretarial practice and charity legacies.

Alice Faure Walker looks at some of the implications for charities and social enterprises

A variety of international initiatives aimed at tackling money laundering and tax avoidance have been implemented in the UK in recent years. The Fourth Money Laundering Directive has, among other things, meant changes to the provisions on people with significant control in the Companies Act 2006, and to the reporting requirements for some trusts.

People with significant control

Charities and social enterprises which are structured as companies, or which have companies in their group structure, such as wholly-owned trading subsidiaries, will be familiar with the people with significant control (or PSC) rules which were introduced in April 2016. They must now get to grips with some changes to the regime:

- The list of companies that need to keep PSC registers has changed. Companies listed on AIM or the NEX Exchange Growth Market, for example, are now within the scope of the PSC rules. In addition, corporate organisations regarded as 'unregistered companies' under the Companies Act 2006 are also now subject to the PSC regime: this group may include some Royal Charter bodies. This means:
  - The companies and Royal Charter bodies which have been brought within the scope of the PSC regime now need to keep a PSC register, investigate whether they have PSCs and give Companies House details of their PSCs, in the same way as companies which have been subject to the PSC rules since last year.
  - The companies and Royal Charter bodies which are now within the scope of the PSC rules are also now eligible to be named in the PSC register of other companies, if they have significant influence or control of those companies within the meaning of the PSC legislation. This means that companies which have AIM or NEX Exchange Growth Market companies or Royal Charter bodies which are unregistered companies in their chain of control will need to check whether their PSC register needs changing.
- Any changes to a company's PSC register must now be made within 14 days of the change (where the change relates to an individual those details must first be confirmed which means, broadly, that the individual must be aware that the change is being made).
- Changes to a company's PSC register must now be notified to Companies House within 14 days of the change on forms PSC01 to PSC09. Previously the change only needed to be notified on the company's confirmation statement (i.e. at least annually).

Charitable incorporated organisations (CIOs), community benefit societies and charitable unincorporated associations are not affected by the new rules and do not need to keep PSC registers.

Find out more
More information on the PSC requirements is available at **https://www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships**

Charitable trusts

The Fourth Money Laundering Directive also has implications for charitable trusts. Most charitable trusts now need to keep information about their 'beneficial owners', such as their trustees and settlors, to hand, including dates of birth and national insurance numbers. When a trustee of a charitable trust forms a business relationship with a 'relevant person' (which might include a bank, accountant or lawyer) they must disclose that they are acting as trustee and in certain circumstances they will be required to identify their beneficial owners. Trusts which are liable for UK tax are required to register and file beneficial ownership information with HMRC, but charitable trusts will only be affected by this rule in the unlikely event that they become subject to UK tax.