



NEW REQUIREMENTS FOR REGISTER OF SIGNIFICANT CONTROLLERS FOR HONG KONG COMPANIES

The Companies (Amendment) Ordinance 2018 (the “Amendment Ordinance”) introduces new requirements on the keeping of significant controllers register (“SCR”) by companies. It came into effect from 1 March 2018. The new regime would require all Hong Kong companies to obtain and maintain up-to-date beneficial ownership information in a SCR in accordance with the requirements of the Amendment Ordinance.

These changes are introduced to enhance the transparency of corporate beneficial ownership to fulfill Hong Kong’s international obligations following recommendations by the Financial Action Task Force on combating money laundering and terrorist financing, of which Hong Kong is a member. The new rules will not only clarify opaque corporate structures but also impact and require companies incorporated in Hong Kong to obtain and maintain up-to-date beneficial ownership information by keeping a SCR. It is applicable to all companies formed and registered under the Companies Ordinance including companies limited by shares, companies limited by guarantee and unlimited companies.

1. **A significant controller can be:**

- A registrable person who is a natural person that has significant control over the company; and
- A registrable legal entity who is a member of the company and has significant control over the company.

2. **A person (or entity) has significant control over a company if one of the following conditions are met:**

- The person holds, directly or indirectly, more than 25% of the issued shares in the company or, if the company does not have a share capital, the person holds, directly or indirectly, a right to share in more than 25% of the capital or profits of the company;
- The person holds, directly or indirectly, more than 25% of the voting rights of the company;
- The person holds, directly or indirectly, the right to appoint or remove a majority of the board of directors of the company;
- The person has the right to exercise, or actually exercises, significant influence or control over the company;
- The person has the right to exercise, or actually exercises, significant influence or control over the activities of a trust or a firm that is not a legal person, but whose trustees or members satisfy any of the first four conditions in relation to the company.

3. **The information required for a significant controller is:**

- For a registrable person: name, correspondence address, identity card number (if the person does not have an identity card, the number and issuing country of the passport);
- For a registrable legal entity (e.g. a company): name, legal form, registration number, place of incorporation (governing law) and address of registered office;
- Date of becoming a significant controller; and
- Nature of control over the company.

4. **Where a SCR should be kept:**

The SCR can be kept at the registered office of the company or any other place in Hong Kong. In cases where the SCR is kept at a place other than the registered office, the company is obliged to inform the Company's Registry within 15 days. A SCR must contain the required particulars as well as the contact details of the designated representative of the company. The register should be open for inspection by law enforcement officers upon demand.

5. **Penalties for failure to comply:**

Failure to comply with the SCR obligation is a criminal offence, with both the company and every responsible person of the company potentially liable for a fine at level 4 (i.e. HK\$25,000) and possible additional daily fine of HK\$700.

If any person knowingly or recklessly makes a statement which is misleading, false or deceptive in any material particular in the SCR, or if he knowingly or recklessly makes a statement or provides any information that is misleading, false or deceptive in a material particular in the reply to a company's notice, he commits an offence and is liable on conviction on indictment to a fine of HK\$300,000 and imprisonment for two years, or on summary conviction to a fine at level 6 (i.e., HK\$100,000) and imprisonment for 6 months.

If you wish to understand more on the new requirements, please feel free to approach:

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