

Company's register of people with significant control (PSCs)





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Most UK companies and LLPs are required to find out and record details of the individuals or legal entities that have significant beneficial ownership or control over them. The information must be recorded in the company's register of people with significant control (PSC register) as part of its statutory books.

This note reflects the regime following 26 June 2017; PSC register filings are now “event driven filings” with Companies House and AIM companies are now no longer exempt.

1. Introduction

This note concentrates on what companies incorporated and registered in England and Wales must do to comply with the PSC regime. The requirements for LLPs are similar, as are the requirements for Societates Europaeae, unregistered companies, Scottish partnerships and companies incorporated in other parts of the UK. To keep this note relevant to most readers we have not extended it to companies which have opted to keep their PSC registers at Companies House.

2. Companies which do not have to have a PSC register

The following UK companies are not required to keep a PSC register:

- companies with voting shares admitted to trading on an EEA regulated market (such as the London Stock Exchange Main Market); and
- companies which have voting shares admitted to trading on other specified markets in Israel, Japan, Switzerland and the US.

Those companies are all subject to other rules that require them to disclose their owners/controllers.

Even though UK-incorporated AIM companies are also subject to other rules that require them to disclose their owners/controllers, namely the provisions of AIM Rule 17 and chapter 5 of the Financial Conduct Authority's Disclosure Guidance and Transparency Rules sourcebook (DTR5), AIM companies must also comply with these PSC rules.

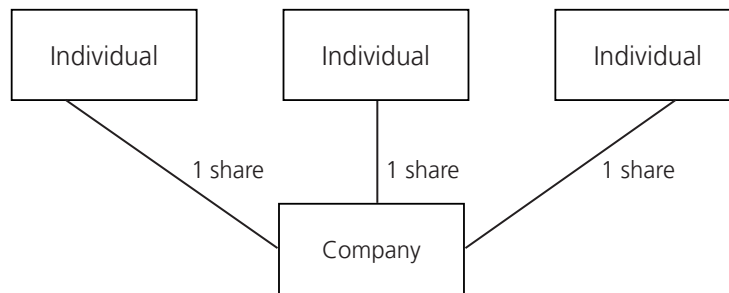
3. Who or what is a PSC? The five conditions for “significant control”

The PSC register of a company must contain particulars of each individual or legal entity (a corporate body or firm that is a legal person) who or which meets one or more of the following conditions for significant control in relation to the company:

- directly or indirectly holds more than 25% of the shares (**condition 1**);
- directly or indirectly holds more than 25% of the voting rights (**condition 2**);
- directly or indirectly holds the right to appoint or remove a majority of the directors (**condition 3**);
- has the right to exercise, or actually exercises, significant influence or control over the company (**condition 4**); or
- has the right to exercise, or actually exercises, significant influence or control over the activities of a trust or firm, which is not a legal entity, but of which the trustees or members would themselves meet any of conditions 1 to 4 in relation to the company (**condition 5**).



For **example**, if a company has three individual shareholders directly holding equal numbers of its shares, each of them is a PSC of the company. They each hold more than 25% of the shares so condition 1 is triggered. Particulars of each of them must be entered in the company's PSC register.



We explain below in more detail the expressions used in those conditions.

4. Meanings of “holding shares or rights indirectly”, “majority stake” and “through”

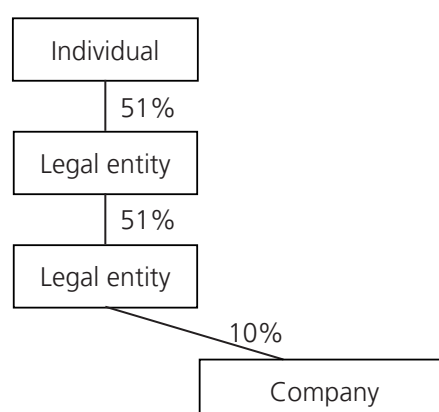
For these purposes, an individual or legal entity **holds a share or right indirectly** if he/she/it has a “majority stake” in a legal entity which directly holds the share or right in question or which is part of a chain in which each legal entity (other than the last legal entity which directly holds the share or right in question) has a majority stake in the next.

Majority stake has a similar meaning to the “parent undertaking” and “subsidiary undertaking” relationship of section 1162 Companies Act 2006.

The individual or legal entity with the indirect majority stake holding is said to hold the share or right **through** the legal entity or entities in the chain.

In the following **example**, the individual is said to hold indirectly 10% of the shares of the company through the legal entities. Legal entity 1 holds indirectly 10% of the shares of the company through legal entity 2.

In this **example** neither the individual nor either of the legal entities has significant control of the company on the above definitions. Their holdings, indirect or direct, are less than 25%; assuming there is no other individual or legal entity with significant control of the company, the company's PSC register will or should contain wording to the effect that it has no PSCs (using the official wording explained below).





5. Meaning of “registrable” and “RRLE”?

To have his/her particulars in a company's PSC register, the individual with significant control must be “registrable” in relation to the company.

A registrable individual for these purposes is defined in the legislation as a **registrable person**.

To have its particulars in a company's PSC register, the legal entity must be a “relevant legal entity” and it must also be “registrable” (an **RRLE**) in relation to the company.

We describe below what makes an individual or legal entity registrable in relation to a company, taking RRLEs first.

6. Legal entities with significant control, relevant, registrable

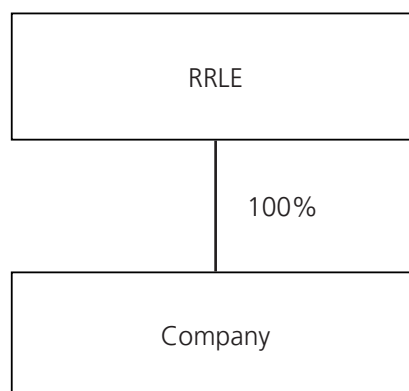
A **relevant legal entity** in relation to a company is a legal entity that (a) has significant control over the company and (b) is a legal entity which:

- is a UK company or LLP; or
- has voting shares admitted to trading on an EEA regulated market (such as the London Stock Exchange Main Market); or
- has voting shares admitted to trading on other specified markets in Israel, Japan, Switzerland and the US.

Note that the second and third of those categories of relevant legal entity are not restricted to UK companies or LLPs.

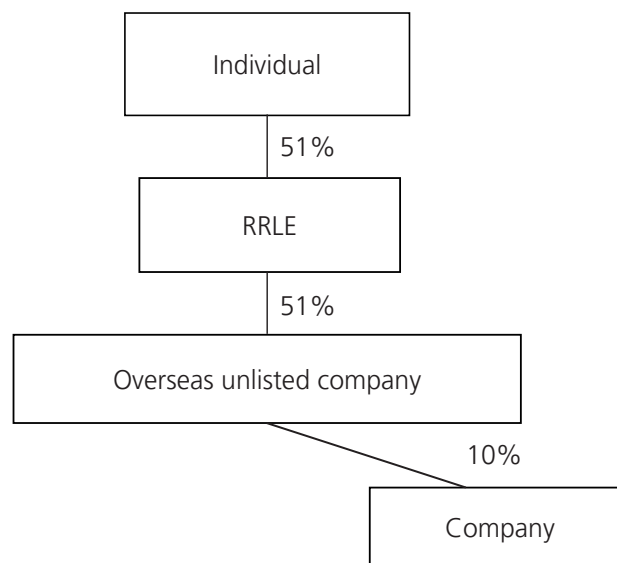
A relevant legal entity is **registrable** in relation to a company if it is the first relevant legal entity in the company's indirect majority stake holding chain, starting with the company.

An **example** of an RRLE is the company's immediate UK holding company.





In the following **example**, the first legal entity up the chain from the company is the overseas unlisted company. It has significant control over the company but it is not a **relevant** legal entity as it does not meet any of the above requirements for being one. The next legal entity up the ownership chain is a UK private company. It has significant control over the company by its indirect majority stake holding in the company. It is a relevant legal entity in relation to the company. As it is the first relevant legal entity up the chain, it is an RRLE and its particulars must be entered in the company's PSC register:



7. Meaning of “registrable” and “non-registrable” individual with significant control

Even where there is an individual with significant control at the top of the company's indirect majority stake holding chain, if (as in the above **example**) the chain includes at least one relevant legal entity, the particulars of that individual must not be entered in the company's PSC register. The individual in that case is **non-registrable** in relation to the company. Only the particulars of the RRLE in relation to the company must be entered in the company's PSC register.

The individual with significant control is **registrable** in relation to the company, and its particulars must be entered in the company's PSC register, if there is no relevant legal entity in the indirect majority stake holding chain between the individual and the company, or if there is no chain and the individual has direct significant control.

In the above **example**, the particulars of the individual must be entered in the RRLE's PSC register as it is registrable in relation to the RRLE.

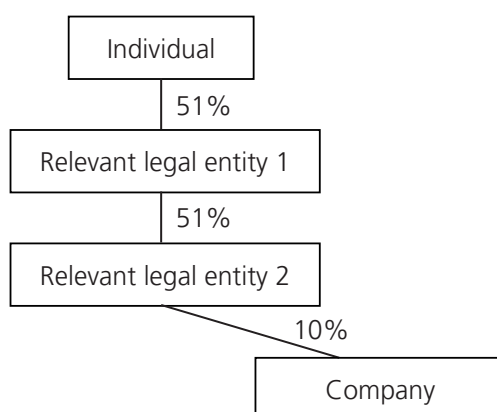
8. Chain of PSC registers

This regime works on the basis that there is, or can be, a chain of PSC registers in groups of companies.

In the following **example** the individual has significant control of the company through two relevant legal entities in the indirect majority stake holding chain. His/her particulars must not be entered in the company's PSC register, or the PSC register of legal entity 2, but must be entered in the PSC register of relevant legal entity 1. He/she is registrable in relation to relevant legal entity 1.



The particulars of relevant legal entity 1 must be entered in the PSC register of relevant legal entity 2, because relevant legal entity 1 is an RRLE in relation to relevant legal entity 2. And the particulars of relevant legal entity 2 must be entered in the company's PSC register, because relevant legal entity 2 is an RRLE in relation to the company.



This system of registrable and non-registrable individuals with significant control and relevant legal entities prevents duplication as it prevents all the PSC registers in an indirect majority stakeholding significant control chain containing the details of all those above it in the chain.

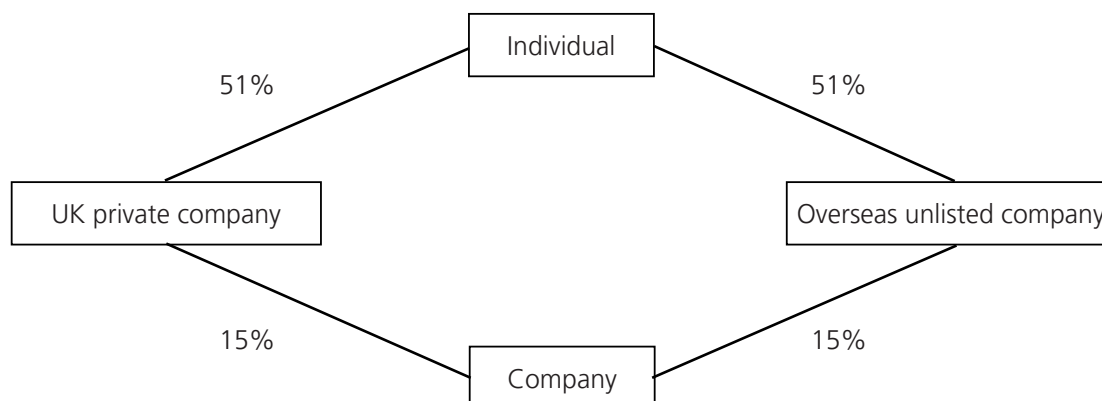
To find out who or what, if any, the ultimate individual with significant control is in relation to a company that is part of a chain, you'd have to search in the PSC registers of each of the relevant legal entities in the chain.

9. Another illustration

In the **example** below, the individual has significant control over the company through the two legal entities, because the total of its indirect holdings in the company is more than 25%. The particulars of the individual will be entered in the company's PSC register, because there is no relevant legal entity in relation to it.

Neither of the legal entities is a relevant legal entity in relation to the company because its holding in the company is less than 25%. So their particulars will not be entered in the company's PSC register. (The overseas unlisted company is also not one of the types of companies listed above that qualify it as a relevant legal entity.)

The particulars of the individual will also be entered in the PSC register of the UK private company, because the UK private company is required to keep a PSC register and the individual has direct significant control of it.





10. Meaning of “significant influence” or “control”

As to what is “significant influence” or “control” for the purposes of conditions 4 and 5, the Government’s statutory guidance gives a non-exhaustive explanation. What is clear is that if a person tries to avoid being a registrable person or RRLE by setting up a complex structure of legal entities that does not meet conditions 1 to 3, they may well be caught under either of conditions 4 or 5 because of the wide meaning of those expressions.

11. Is that it? Afraid not

In most of our above examples and illustrations, the relevant PSC register contains the particulars of only one registrable person or RRLE. A PSC register could contain entries for more than one registrable person or RRLE, depending on the shareholding or control structure of the company.

In addition, the presence of a trust or firm (such as a limited partnership) in the company’s shareholding or control structure introduces more questions as to who or what is registrable in relation to the company.

What must the company do?

- The company must take reasonable steps to find out if there is anyone who or which is a registrable person or RRLE in relation to it, and identify him/her/it.
It must send a notice to anyone whom it knows or has reasonable cause to believe to be a registrable person or an RRLE in relation to it and ask them to supply and/or confirm their particulars within one month from the date of the notice.
If a legal entity that is not a relevant legal entity (such as an overseas unlisted company) has significant control by its direct holding in the company, the company must investigate the shareholding/control chain of that legal entity to see if there is a person with a majority stake in it (or further up the majority stake chain) who or which would be either a registrable person or an RRLE in relation to the company.
“Reasonable steps” may include the company taking enforcement action by freezing its shares, as mentioned below.
The company does not have to take steps or give notice if it has already been informed of the registrable person’s or RRLE’s status and has been supplied with all his/her/its required particulars and, in the case of the individual, that information and particulars were provided by him/her or with his/her knowledge.
- The company must **record** the “required particulars” of any registrable person or RRLE in relation to it in its PSC register but only after the individual’s particulars have been confirmed by the individual or with his/her knowledge; or in the case of an RRLE once the company becomes aware of its status as such.
Where for some reason the required particulars cannot be provided, certain other statements will need to be made in the PSC register, explaining why the information is not available, using the “official wording” (explained below). The PSC register can never be blank.
- The company has 14 days to enter the required particulars of the registrable person or RRLE in its PSC register after it has received all the information and in the case of the individual it is confirmed.
- If those particulars change, the company has 14 days to enter in its PSC register the details and date of the change after it has received all that information and in the case of the individual they are confirmed.
- If the company knows or has reasonable cause to believe that any particulars of a registrable person or RRLE in its PSC register have changed, it must give notice to the person or RRLE as soon as reasonably practicable and in any event within 14 days. But this does not apply if the company has already been informed of the change and in the case of the individual that information was provided by him/her or with his/her knowledge.
- After the company makes any changes to its PSC register, it has 14 days to file with Companies House the details and date of the change.



12. Register to be kept available for public inspection

A company must keep its PSC register available for inspection by any person without charge at its registered office or single alternative inspection location (SAIL). Anyone may request a copy of the register for which the company may charge a fee of £12. The company may apply to the court on the grounds that the inspection or copy is not sought for a proper purpose.

13. Required particulars

The required particulars of an individual that must be confirmed and entered in the PSC register are:

- name; date of birth; nationality; service address;
- country, state or part of the UK where he/she usually lives;
- usual residential address (protected, not publicly available);
- the date he/she became a registrable person in relation to the company;
- which conditions for being a registrable person are met:
 - for conditions 1 and 2 this must include the level of their shares and voting rights, within the following categories:
 - over 25% up to and including 50%;
 - more than 50% and less than 75%; or
 - 75% or more.
 - The company is only required to identify whether a registrable person meets condition 4 if he/ she does not exercise control through any of conditions 1 to 3; and
- whether an application has been made for his/her information to be protected from public disclosure (on the grounds that he/she may be at risk of violence or intimidation as a result of being on the register).

The required particulars of a RRLE are similar but do not include protected information to be kept from public view.

14. Official wording for the PSC register entries

The required particulars must be entered in the PSC register using the prescribed official wording. There is also official wording which must be used for a company having no registrable person or RRLE, and for the progressive stages of a company's investigation as to its registrable persons or RRLEs. All entries must be dated.

For companies this official wording is set out in The Register of People with Significant Control Regulations 2016 (SI 2016/339) and the Government's Guidance for registered and unregistered companies, SEs, LLPs and eligible Scottish partnerships.

15. Duty to inform the company

If, after one month, a registrable person or RRLE has not been entered in the company's PSC register and they have not received a notice from the company, they have a further period of one month within which they must notify the company of their status and provide their required particulars.



16. What if we don't comply?

➤ **Criminal offences**

This regime imposes criminal sanctions on persons (both individuals and legal entities) who do not discharge their statutory duties and on the directors and secretaries of companies, designated members of LLPs and officers of legal entities in default.

➤ **Freezing shares**

Companies have rights to impose restrictions on shares or rights held by a person who does not respond to the company's notices, after implementing enforcement procedures involving serving "warning" and "restrictions" notices.

17. Statutory regime:

- Part 21A and schedule 1A and 1B Companies Act 2006
- The Register of People with Significant Control Regulations 2016
- The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016

18. Guidance

Government guidance is available via this link:

<https://www.gov.uk/government/organisations/companies-house>

Contact details

If you would like any more information about these matters or any other aspect of corporate law, please contact your usual Lewis Silkin LLP contact or:



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