

CAYMAN ISLANDS



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**THE LIMITED LIABILITY COMPANIES (AMENDMENT) LAW, 2017
(LAW 3 OF 2017)**

**THE BENEFICIAL OWNERSHIP (LIMITED LIABILITY COMPANIES)
REGULATIONS, 2017**

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**THE BENEFICIAL OWNERSHIP (LIMITED LIABILITY COMPANIES)
REGULATIONS, 2017**

The Cabinet, in exercise of the powers conferred by section 106 of the Limited Liability Companies Law, 2016, makes the following Regulations -

1. (1) These Regulations may be cited as the Beneficial Ownership (Limited Liability Companies) Regulations, 2017. Citation and commencement

(2) These Regulations shall come into force immediately after the Limited Liability Companies (Amendment) Law, 2017 comes into force. (Law 3 of 2017)

PART 1 - PRELIMINARY

2. In these Regulations - Definitions

“arrangement” includes -

- (a) a scheme, agreement or understanding, whether or not it is legally enforceable; and
- (b) a convention, custom or practice of any kind,

but something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, the time it has been in existence or otherwise);

“joint arrangement” means an arrangement between the holders of LLC interests (or rights) that they will exercise all or substantially all the rights conferred by their respective LLC interests (or rights) jointly in a way that is pre-determined by the arrangement;

“limited liability company” means a limited liability company to which Part 12 of the Law applies;

“limited partner” means -

(2013 Revision)
(Law 5 of 2014)

- (a) a limited partner in a limited partnership registered under the Partnerships Law (2013 Revision) or the Exempted Limited Partnership Law, 2014, other than one who takes part in the management of the partnership business; or
- (b) an individual or a legal entity who is a foreign limited partner and participates in limited partnership arrangements established under the law of a country or territory outside the Islands;

“voting rights” -

- (a) means rights to vote at general meetings of the limited liability company or legal entity in question, including rights that arise only in certain circumstances; and
- (b) in relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights, shall be read as a reference to rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a limited liability company; and

“withdrawal notice” means a notice issued by a limited liability company under section 99 of the Law that withdraws a restrictions notice.

PART 2 - ADDITIONAL MATTERS TO BE NOTED IN BENEFICIAL OWNERSHIP REGISTER

Duty of limited liability company to provide additional matters to corporate services provider

3. (1) A limited liability company shall provide in writing to a corporate services provider the additional matters required to be noted by this Part.

(2) Where any additional matter noted in a limited liability company’s beneficial ownership register in accordance with regulation 4, 5, 6 or 7 ceases to be true, the limited liability company shall, within one month of becoming aware of that fact -

- (a) update its beneficial ownership register to reflect any new information received regarding the additional matter, once that information is confirmed; or
- (b) note in its beneficial ownership register -
 - (i) that the additional matter has ceased to be true; and
 - (ii) the date on which the additional matter ceased to be true.

Additional matters where there is no registrable beneficial owner or relevant legal entity

4. (1) This regulation applies where a limited liability company knows or has reasonable cause to believe that there is no registrable beneficial owner or relevant legal entity in relation to the limited liability company.

(2) The limited liability company shall note in its beneficial ownership register the words “no registrable person identified” to show that -

- (a) the limited liability company knows or has reasonable cause to believe that there is no registrable beneficial owner or relevant legal entity in relation to it; or
- (b) the limited liability company has taken reasonable steps to identify all beneficial owners and relevant legal entities and has not, in the course of taking such steps, been able to identify any registrable person.

5. (1) This regulation applies where -

- (a) a limited liability company has identified a registrable person in relation to it; and
- (b) all the required particulars of that person have not yet been confirmed for the purposes of section 79 of the Law.

Additional matters where an identified registrable person's particulars are not confirmed

(2) The limited liability company shall note in its beneficial ownership register the words "confirmations pending" to show that the limited liability company has identified a registrable person in relation to the limited liability company but that all the required particulars of that person have not yet been confirmed.

6. (1) This regulation applies where a limited liability company -

- (a) is not required to place a note in its beneficial ownership register by regulation 4, or 5;
- (b) has not entered, and is not required to enter, the required particulars of any registrable person or registrable relevant legal entity in its beneficial ownership register; and
- (c) has not yet completed taking reasonable steps to find out if there is anyone who is a registrable person.

Additional matters where a limited liability company's investigations are ongoing

(2) The limited liability company shall note in its beneficial ownership register the words "enquiries pending" to show that it is still in the process of taking reasonable steps to find out if there is anyone who is a registrable person in relation to the limited liability company.

7. (1) This regulation applies where a limited liability company has issued a restrictions notice.

Additional matters where a limited liability company has issued a restrictions notice

(2) The limited liability company shall note in its beneficial ownership register the words "restrictions notice issued" and the date of issue of the notice to show that it has issued the restrictions notice.

(3) Where the limited liability company withdraws a restrictions notice under section 99 of the Law, the limited liability company shall note in its beneficial ownership register -

- (a) the words “restrictions notice withdrawn” to show that it has withdrawn the restrictions notice by giving a withdrawal notice; and
- (b) the date specified in the withdrawal notice as the date on which the withdrawal notice was given.

(4) Where a court makes an order under section 96 of the Law directing that a relevant interest in the limited liability company cease to be subject to restrictions, the limited liability company shall note in its beneficial ownership register -

- (a) the words “restrictions ceased by court order” to show that the court has made an order under section 96 of the Law directing that a relevant interest in the limited liability company cease to be subject to restrictions; and
- (b) the date on which the court’s order takes effect.

PART 3 - RESTRICTIONS NOTICES

Content of a restrictions notice

8. A restrictions notice shall -

- (a) specify the date on which it is issued;
- (b) identify the addressee’s relevant interest in the limited liability company by reference to the shares or right in question;
- (c) explain the effect of the notice;
- (d) state that, by virtue of the notice, certain acts or failures to act may constitute an offence; and
- (e) state that an aggrieved person may apply to the court for an order directing that the relevant interest cease to be subject to restrictions.

Withdrawal of a restrictions notice

9. Where a limited liability company is required to withdraw a restrictions notice under section 99 of the Law, the withdrawal notice shall -

- (a) be given before the end of the period of fourteen days beginning with the day on which the limited liability company is required to withdraw the restrictions notice under that section;
- (b) specify the date on which the withdrawal notice is given;
- (c) identify the addressee’s relevant interest in the limited liability company by reference to the shares or right in question; and
- (d) state that the relevant interest is no longer subject to restrictions.

PART 4 - INTERPRETATION: HOLDING AN INTEREST IN A
LIMITED LIABILITY COMPANY DIRECTLY OR
INDIRECTLY

10. For the purposes of determining whether a person meets the specified conditions for beneficial ownership under section 73 or 74 of the Law or is a registrable person under section 77 of the Law, this Part specifies the circumstances in which - Application of Part 4
- (a) a person (“V”) is to be regarded as directly holding an interest in a limited liability company (“W”); and
 - (b) an interest held by V in W is to be regarded as held indirectly through a legal entity.
11. (1) V holds an interest in limited liability company W directly if - Holding an interest in a limited liability company directly
- (a) V holds an LLC interest in W directly;
 - (b) V holds, directly, voting rights in W;
 - (c) V holds, directly, the right to appoint or remove a manager of W;
 - (d) V has the right to exercise, or actually exercises, significant influence or control directly over W; or
 - (e) paragraph (2) is satisfied.
- (2) This paragraph is satisfied where -
- (a) 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) hold an interest in W in a way mentioned in regulation (1)(a) to (d); and
 - (b) V has the right to exercise, or actually exercises, significant influence or control directly over the activities of that trust, [partnership or other entity](#).
12. (1) This regulation applies where V - Holding an interest in a limited liability company indirectly through a legal entity
- (a) holds an interest in limited liability company W by virtue of indirectly holding an LLC interest in W; and
 - (b) does so by virtue of having a majority stake as described in regulation 13(3) in -
 - (i) a legal entity (“L”) which holds the LLC interest directly; or
 - (ii) a legal entity that is part of a chain of legal entities such as is described in regulation 13(1)(b) or (2)(b) that includes L.
- (2) Where this regulation applies, V holds the interest in W -
- (a) through L; and
 - (b) through each other legal entity in the chain mentioned in paragraph (1)(b)(ii).

- LLC interests held indirectly
13. (1) A person holds an LLC interest indirectly if the person has a majority stake in a legal entity and that entity -
- (a) holds the LLC interest in question; or
 - (b) is part of a chain of legal entities -
 - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain; and
 - (ii) the last of which holds the LLC interest.
- (2) A person holds a right indirectly if the person has a majority stake in a legal entity and that entity -
- (a) holds that right; or
 - (b) is part of a chain of legal entities -
 - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain; and
 - (ii) the last of which holds that right.
- (3) For these purposes, A has a majority stake in B if -
- (a) A holds a majority of the voting rights in B;
 - (b) A is a member of B and has the right to appoint or remove a majority of the managers of B;
 - (c) A is a member of B and controls alone, pursuant to a joint agreement with other members, a majority of the voting rights in B; or
 - (d) A has the right to exercise, or actually exercises, dominant direct influence or control over B.

PART 5 - INTERPRETATION OF MISCELLANEOUS TERMS
AND RULES RESPECTING THE HOLDING OF LLC
INTERESTS AND RIGHTS AND RESPECTING LIMITED
PARTNERS

Application of Part 5

14. This Part applies for the purposes of determining whether a person meets the specified conditions for beneficial ownership under section 73 or 74 of the Law or holds a relevant interest for the purposes of the provisions respecting restrictions notices under Part 12 of the Law.

Joint interests and arrangements

15. (1) If two or more persons each hold an LLC interest jointly, each of them is treated as holding that LLC interest.

(2) If LLC interests held by a person and LLC interests held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined LLC interests of both of them.

Voting rights

16. (1) A reference to the voting rights in a legal entity is to the rights conferred on the persons holding LLC interests to vote at general meetings of the entity on all or substantially all matters.

(2) In relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights, a reference to exercising voting rights in the entity shall be read as a reference to exercising rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a limited liability company.

17. In applying this Part, the voting rights in a legal entity shall be reduced by any rights held by the entity itself.

Voting rights in a legal entity

18. A reference to the right to appoint or remove a majority of the managers of a legal entity is to the right to appoint or remove managers holding a majority of the voting rights at meetings of the managers on all or substantially all matters.

Rights to appoint or remove managers

19. (1) Where a person controls a right, the right is to be treated for the purposes of these Regulations as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

Rights treated as held by person who controls their exercise

(2) Where a relevant interest is treated under this regulation as held by a person other than the person who in fact holds the interest, both the holder and the other person shall be regarded as having the relevant interest.

(3) A person controls a right if, by virtue of any arrangement between that person and others, the right is exercisable only -

- (a) by that person;
- (b) in accordance with that person's directions or instructions; or
- (c) with that person's consent or concurrence.

20. (1) Rights that are exercisable only in certain circumstances shall be taken into account only -

Rights exercisable only in certain circumstances etc.

- (a) when the circumstances have arisen, and for so long as they continue to subsist; or
- (b) when the circumstances are within the control of the person having the rights.

(2) Notwithstanding paragraph (1), rights that are exercisable by an administrator or by creditors while a legal entity is in insolvency proceedings shall not be taken into account even while the entity is in those proceedings.

(3) Rights that are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.

Rights attached to LLC interests held by way of security

21. Rights attached to LLC interests held by way of security provided by a person shall be treated as held by that person -

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realizing it, the rights are exercisable only in accordance with that person's instructions; and
- (b) where the LLC interests are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realizing it, the rights are exercisable only in that person's interests.

Certain limited partners

22. (1) An individual or a legal entity does not meet the specified conditions for being a beneficial owner or a relevant legal entity in relation to a limited liability company by virtue only of being a limited partner.

(2) An individual or a legal entity does not meet the specified conditions in section 73(3) of the Law in relation to a limited liability company (or to the extent they may otherwise apply to such legal entity by virtue of section 74(3) of the Law) by virtue only of, directly or indirectly holding an LLC interest in or in relation to a limited partner which (in its capacity as such) would meet the condition if it were an individual.

(3) Paragraphs (1) and (2) do not apply for the purposes of determining under section 73(5) of the Law (to the extent such section would apply to such legal entity by virtue of section 74(3) of the Law) whether the members of a partnership or other entity meet the conditions in section 73(3) or (4) of the Law (to the extent such section would apply to such legal entity by virtue of section 74(3) of the Law) in their capacity as such.

Made in Cabinet the 23rd day of March, 2017.

Kim Bullings

Clerk of the Cabinet.