

# Summary guide for Companies, Limited Liability Companies, and Limited Liability Partnerships – Providing Beneficial Ownership Information to the Centralised Platform

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## About this guide

1. This guide provides a brief introduction for companies<sup>1</sup>, limited liability companies, and limited liability partnerships to the centralised platform for beneficial ownership information. In this guide, references to a company also include Limited Liability Company (“LLC”) and Limited Liability Partnership (“LLP”). This guide sets out scenarios where the requirements apply to some simple company structures, for illustrative purposes only.
2. The companies subject to alternative regulatory oversight are exempt from the requirement to maintain a beneficial ownership register and fall outside the scope of this guide. Additional information on the exemption of companies, LLCs and LLPs is available in their respective legislation.

## The centralised platform

3. The Cayman Islands currently employs a system whereby regulated corporate services providers (“CSPs”) collect and maintain beneficial ownership information of legal persons in the jurisdiction. This information can be shared with international regulatory, enforcement and tax authorities in accordance with agreements, treaties, and memorandums of understanding agreed between the Cayman Islands and other jurisdictions. This system is seen as a key strength.
4. The centralised platform is a development of this system and will improve the speed with which beneficial ownership information can be accessed locally and shared with other respective competent authorities that have requested information through appropriate mechanisms without notifying CSPs or the legal entity that a request for information has been received.

## Company requirements

5. The company is required to:
  - **Identify** the individuals or relevant legal entities (on which see further below) who are registrable persons, in accordance with Part XVIIIA of the Companies Law (2018

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<sup>1</sup> Companies include foundation, exempt, ordinary, special economic zone, and segregated portfolio company.

Revision) (the “**Law**”); Part 12 of the Limited Liability Companies ((2018 Revision) (the “**LLC Law**”); Part 8 of the Limited Liability Partnership (Amendment) Law, 2018 (collectively, the “**Relevant Laws**”),

- **Record** the details of the registrable persons;
- **Provide** this information in writing to its CSP or the Registrar of Companies (the “**Registrar**”), as the case may be (for further details on the role of the Registrar see paragraph 16), to enter into the company’s beneficial ownership register; and
- **Update** the particulars of the company’s registrable persons when changes have been confirmed, and send in writing the updated information to the CSP or Registrar, as the case may be, to update the company’s beneficial ownership register.

### Identifying registrable beneficial owners:

6. A registrable person includes an individual who meets one or more of the following conditions:

Condition:	What you need to consider:
(i) An individual who holds, <b>directly or indirectly</b> , 25% or more of the shares in the company	Review your company’s register of members and identify shareholdings of 25% or more.
(ii) An individual who holds, <b>directly or indirectly</b> , 25% or more of the voting rights in the company.	Review your company’s register of members, articles of association, and identify people with voting rights (often attached to shares) 25% or more.
(iii) An individual who holds, <b>directly or indirectly</b> , the right to appoint or remove the majority of the board of directors of the company.	Look at your company’s constitution, including articles of association, and identify whether anyone has this right. For example if there is only one director and someone has the right to appoint them, then they would meet this condition.
(iv) An individual who has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over the company through the ownership structure or interests outlined in (i) – (iii) above, other than solely in the capacity of a director, professional advisor or professional manager.	You would consider this where an individual <b>does not meet one of conditions (i) to (iii)</b> but does exercise ‘significant influence or control’ over the company. Look at your company’s constitution, including articles of association, and identify whether anyone has this right. Consider whether anyone exercises significant influence or control in practice. For example, do the directors act on the instructions of a particular individual acting other than solely in the capacity of a director, professional advisor or professional manager.

(v) If no individual meets the conditions of (i) through (iv) above but 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) meet one of those conditions and *if* someone has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over the activities of that trust (or partnership or other entity), other than solely in the capacity of a director, professional advisor or professional manager, then they will be a beneficial owner.

Look at your company's constitution and structure, including articles of association and any other formal or informal governing arrangement, and identify whether there is a trust (or other entity that, under the law by which it is governed is not a legal person) in the ownership structure that may have influence or control over a company. For example if there is only one director and the trust has the right to appoint them, then the trustees of the trust would meet this condition.

## Identifying registrable relevant legal entities:

7. A registrable relevant legal entity is a legal entity that meets the following condition:

Condition:	What you need to consider:
(iv) A relevant legal entity (“RLE”) as defined by the Relevant Laws is a legal entity that is incorporated, formed or registered in the Cayman Islands under the law of the Cayman Islands and would be a beneficial owner of the company if it were an individual.	The Cayman Islands legal entity will be a registrable RLE if it <b>directly</b> holds an interest in the company or meets one or more of (i) to (v) above conditions directly in respect of that company and would be a beneficial owner if it were an individual.

### Application:

8. Conditions (i) to (iii) set out in paragraph 6 might be met directly or indirectly. A condition is met indirectly where an individual holds their rights through, for example, another company.

9. These conditions may also be met under a number of less typical circumstances. For example, where there are agreements between individuals to vote or exercise rights jointly and the total combined value of the shares or rights 25% or more.

10. If a company does not know the identity of its beneficial owners or RLEs, the company must take reasonable steps to identify them on its beneficial ownership register. Details of what this might involve are set out in the regulations.

#### Example 1:

In figure 1, Company A is a Cayman company owned by a brother and sister. They both have equal ownership and voting rights in the company. This means they each meet:

- Condition (i) – They own 25% or more of the shares; and
- Condition (ii) – They hold 25% or more of the voting rights.

Both siblings are considered beneficial owners and must be entered on the company’s beneficial ownership register (see paragraphs 10 through 11 for information to be recorded on the register).

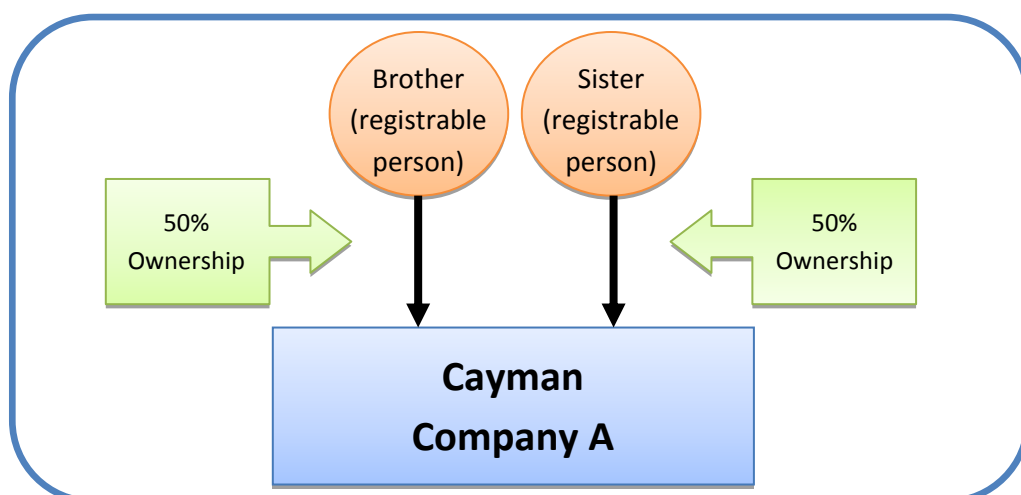


Figure 1

**Example 2:**

Figure 2 below helps explain what should appear on each of the respective company's beneficial ownership register in relation to the scenarios provided.

- Scenario 1 - Company A is a Cayman company wholly owned by Company B, a Cayman company. Company B is wholly owned by a Cayman company, Company C. Company C is subsequently owned 100% by a natural person. As the first RLE in Company A's ownership chain, Company B is registrable and should be placed on the beneficial ownership register of Company A. As the ultimate beneficial owner of Company A, natural Person 1 should also be placed on the beneficial ownership register of Company A.
- Scenario 2 – Cayman Company B is wholly owned by registered foreign Company C. As the first RLE in Company B's ownership chain, registered foreign Company C is registrable and should be placed on the beneficial ownership register of Company B. As the ultimate beneficial owner of Companies A, B, and C, natural Person 1 should be placed on the beneficial ownership register of Company B and on the register of Company A. Although registered as a foreign company, Company C is not required to maintain a beneficial ownership register in the Cayman Islands as it is not a Cayman Islands company.

Scenario 3 - Company A is a Cayman company wholly owned by Company B, a registered

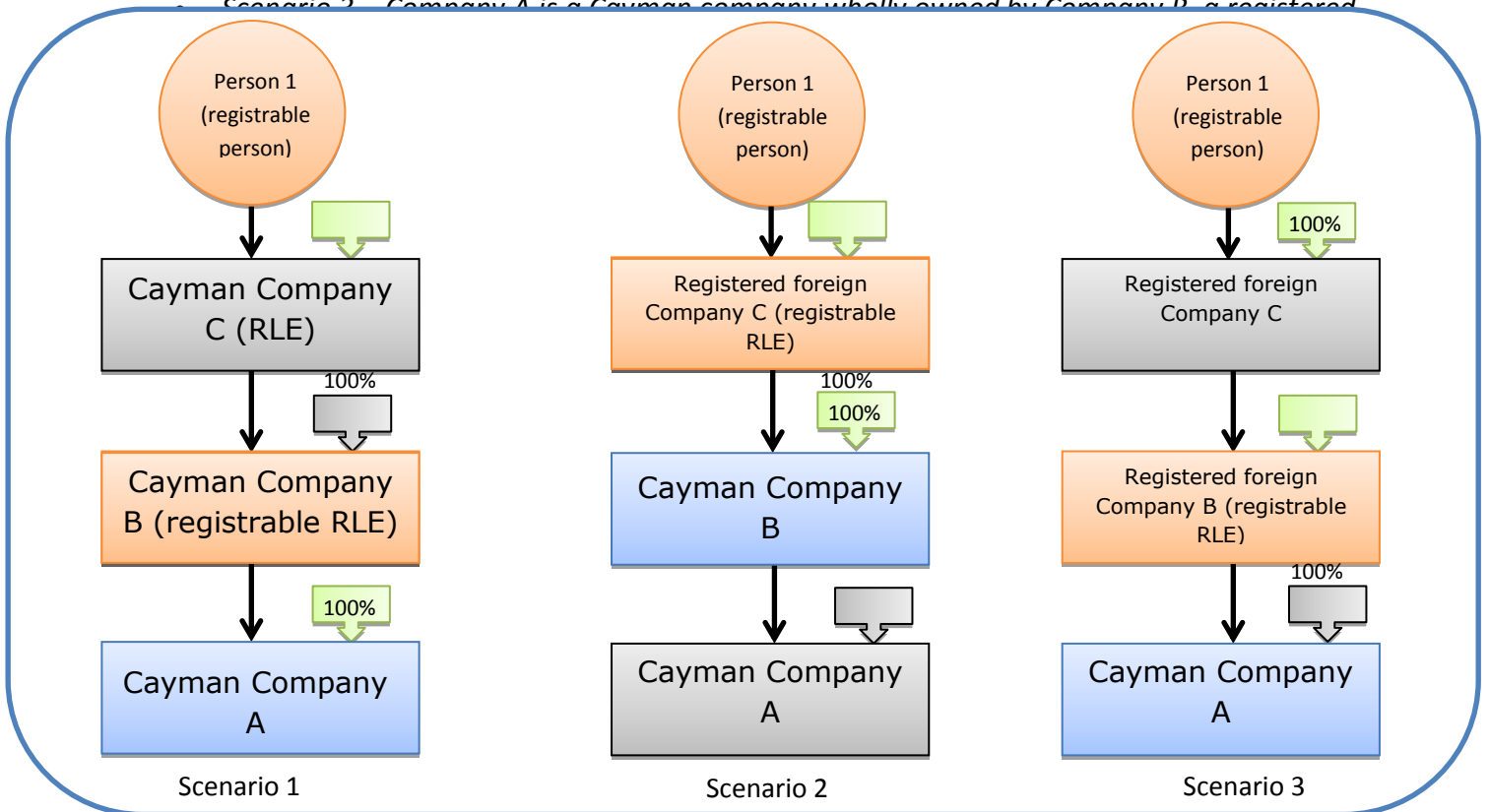


Figure 2

**Example 3:**

In figure 3, Person 2, a natural person, holds 25% of the shares in Company A, directly, and indirectly holds the remaining 75% of the shares via Companies B and C. In this instance both the

natural person and Company B should be recorded on the beneficial ownership register of Company A.

\*Note: In this scenario Person 2 is required by the Relevant Laws, within 30 days of knowing they are a registrable person, to: a) notify the company of the person's status as a registrable person in relation to the company; b) state the date, to the best of the person's knowledge, on which the person acquired that status; and c) give the company the required particulars.

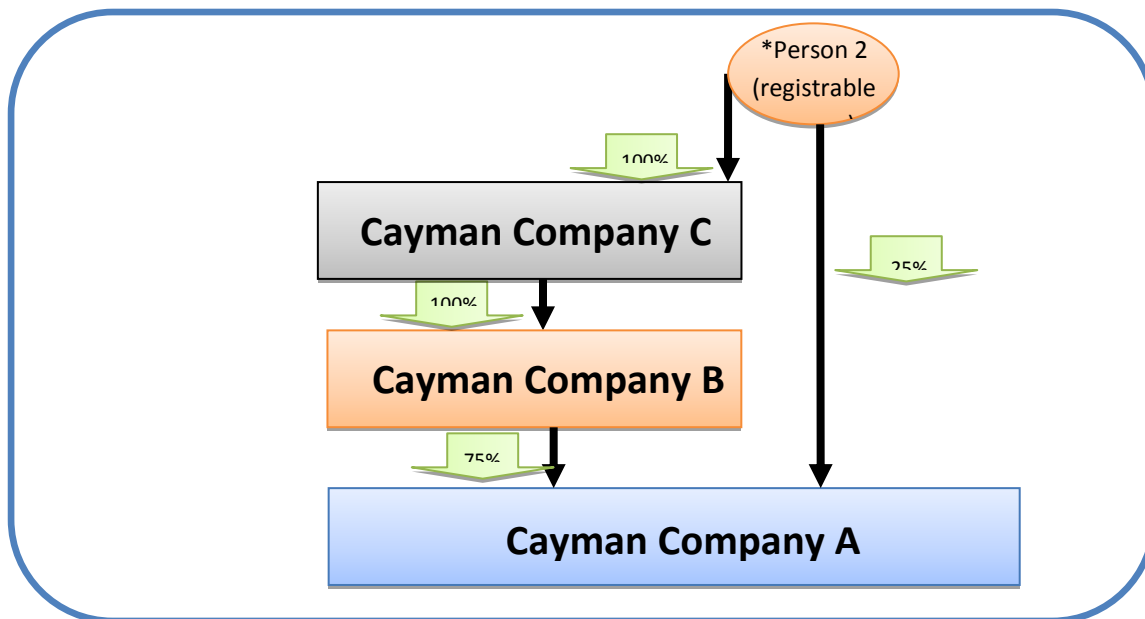


Figure 3

### Information you need to record on the beneficial ownership register:

11. The particulars of an individual that is a registrable person to be entered into the beneficial ownership register of a respective company are:

- full legal name;
- residential address and, if different, an address for service of notices under this Law;
- date of birth;
- information identifying the individual from their passport, driver's licence or other government-issued *photo* document, including –
  - i. identifying number;
  - ii. country of issue; and
  - iii. date of issue and expiry.
- the date on which the individual became or ceased to be a registrable person in relation to the company in question.

12. The particulars of a RLE that is a registrable person are to be entered into the beneficial ownership register of a respective company are:

- corporate or firm name;
- registered or principal office;
- the legal form of the entity and the law by which it is governed;
- if applicable, the register of companies in which it is entered and the registration number in that register; and
- the date on which it became or ceased to be a registrable person in relation to the company in question.

## Obtaining the information

13. A company is required to take reasonable steps to contact its beneficial owners, confirm the information for the register, and provide in writing to its CSP or to the Registrar the required particulars outlined in paragraphs 11 through 12 of this guide.
14. A company shall give notice to a registrable person as soon as reasonably practicable after the company learns of a change or has reasonable cause to believe a change has occurred as it relates to the registrable person's particulars in the company's beneficial ownership register.

## Recording the information:

15. A company's beneficial ownership register should contain the information listed in paragraph 11 through 12 of this guide for each beneficial owner of the company. The **beneficial ownership register** of a company can never be blank and must be recorded at its CSP or the Registrar, as the case may be.

## Providing the information to Corporate Service Providers and/or General Registry:

16. Companies shall provide the information in writing on the particulars of respective registrable persons to their respective CSPs or to the Registrar, as the case may be. It should be noted that in accordance with the provisions of the Relevant Laws **only** Ordinary Resident Companies are permitted to engage the Registrar to assist them to establish and maintain their beneficial ownership registers. Ordinary resident companies may engage a CSP to provide this service.
17. All other types of companies (i.e. exempted companies, ordinary non-resident companies, limited liability companies, and companies registered as special economic zone companies under the Special Economic Zones Law ( 2017 Revision)) are required by the Relevant Laws to engage a CSP to assist them to establish and maintain their beneficial ownership registers.

## Updating the information:

18. Information on the company's beneficial ownership register must be kept up to date.
19. The company must notify its CSP or the Registrar of any confirmed changes to the particulars of the company's registrable persons and instruct the CSP or the Registrar to enter in the company's beneficial ownership register the following:
  - the details of the relevant change confirmed by the company;
  - the date on which the change was made; and
  - whether there are further alterations to be made.

## What happens if the information requirements are not met?

20. If a company fails to comply, the CSP or the Registrar, as the case may be, shall give notice of the CSP's or Registrar's opinion to the company and the company shall within one month of receipt of

the notice reply with the missing particulars or a justification or correction with respect to information in the notice.

21. If the company does not comply with paragraph 20 above, the company shall:

- issue a restrictions notice to the registrable persons whose particulars are missing with regard to the shares or other relevant interest of such registrable persons in the company; and
- Send a copy of the notice to the Registrar within two weeks of issuing the restriction notice.

22. The contents of a restriction notice shall be as follows:

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

23. The effect of a restrictions notice with respect to a relevant interest is as follows -

- (a) any transfer or agreement to transfer the interest is void;
- (b) no rights are exercisable in respect of the interest;
- no shares may be issued 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 company in respect of the interest, whether in respect of capital or otherwise; and
- (e) other than in a liquidation, an agreement to transfer any of the following associated rights in relation to the relevant interest is void -
  - (i) a right to be issued with any shares issued in respect of the relevant interest; or
  - (ii) a right to receive payment of any sums due from the company in respect of the relevant interest

## Sanctions

24. A person commits an offence who, knowing that a relevant interest is subject to restrictions -

- (a) Exercises or purports to exercise any right to dispose of the relevant interest;
- (b) Exercises or purports to exercise any right to dispose of any right to be issued with the relevant interest; or
- (c) Votes in respect of the relevant interest (whether as holder of the interest or as proxy) or appoints a proxy to vote in respect of the relevant interest.
- (d) A person who commits an offence under this section is liable on summary conviction to a fine of five thousand dollars.**



## Offences

25. A company that knowingly and willfully contravenes section 247(1), 248(1), 252, 253(1) or (1A) or 255(2) or knowingly and willfully fails to issue a notice as required by section 249, 255 or 256(3) commits an offence and is liable on summary conviction for each such contravention -

(a) to a fine of twenty-five thousand dollars (\$25,000.00); and

(b) if the offence is a continuing one, to a fine of five hundred dollars for each day or part of a day during which the offence continues, up to a maximum of twenty-five thousand dollars.

275. (1) A person to whom a notice under section 249 or 255 is addressed commits an offence if the person -

(a) knowingly and willfully fails to comply with the notice; or

(b) in purported compliance with the notice -

(i) makes a statement that the person knows to be false in a material particular; or

(ii) recklessly makes a statement that is false in a material particular.

(2) A person does not commit an offence under subsection (1)(a) if the person proves that the requirement to give information was frivolous or vexatious.

(3) A person guilty of an offence under this section is liable -

(a) On conviction on indictment, to imprisonment for a term of two years or a fine of ten thousand dollars, or to both;

(b) On summary conviction to imprisonment for a term of twelve months or a fine of five thousand dollars, or to both.

276. (1) A person commits an offence if the person -

(a) knowingly and willfully fails to comply with a duty under section 250 or 257 within the time required by that section; or

(b) in purported compliance with such a duty -

(i) makes a statement that the person knows to be false in a material particular; or

(ii) recklessly makes a statement that is false in a material particular.

(2) A person guilty of an offence under this section is liable -

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine of ten thousand dollars, or to both;

(b) on summary conviction to imprisonment for a term of twelve months or to a fine of five thousand dollars, or to both.