

GUIDANCE NOTES ON COMPLYING WITH BENEFICIAL OWNERSHIP OBLIGATIONS IN THE CAYMAN ISLANDS

An overview of the Cayman Islands Beneficial Ownership Guidance Notes

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Introduction

The Cayman Islands Competent Authority for Beneficial Ownership (the **Competent Authority**) published Guidance Notes on Complying with Beneficial Ownership Obligations in the Cayman Islands on 26 July 2022¹ (the **Guidance Notes**). The Guidance Notes provide guidelines that should be adopted by companies, LLCs and LLPs that are in scope for the provision of beneficial ownership information under the Cayman Islands Beneficial Ownership legislative framework² (the **BO Regime**).

Objective of the BO Regime. The objective of the BO Regime is to preserve transparency and strengthen the cooperation and information sharing between international law enforcement agencies and competent authorities in line with international standards in order to combat money laundering, tax evasion and terrorist financing and ensure the Cayman Islands maintains its position as a premier financial center.

Overview of the BO Regime. Unless an exemption applies, all ordinary resident companies, ordinary non-resident companies, exempted companies, LLCs and LLPs incorporated or registered in the Cayman Islands (**In-Scope Entities**)³ are required establish and maintain a beneficial ownership register (**BOR**)

with either their corporate service provider (**CSP**) or directly with the Registrar of Companies (**ROC**). In-Scope Entities that qualify for an exemption⁴ from the requirement to establish and maintain a BOR must file evidence of their exemption (**Written Confirmation of Exemption**).

The required particulars on beneficial owners and relevant legal entities (**Beneficial Owners**) set out in the BOR may be shared with international regulatory, enforcement and tax authorities in accordance with legislation, agreements, treaties and memoranda of understanding agreed between the Cayman Islands and other jurisdictions.

The Multi-Pronged Approach

The BO Regime is based on a multi-pronged approach whereby different parties must perform specific roles, as highlighted in the Guidance Notes:

- *In-Scope Entity.* must (i) take necessary measures to identify Beneficial Owners, (ii) hold up-to-date and accurate information on Beneficial Owners, (iii) identify relevant changes in beneficial ownership information, and (iv) provide all beneficial ownership information to its CSP (or ROC);

¹ The full text of the Guidance Notes is available here: [Guidance Notes on Complying with Beneficial Ownership Obligations in the Cayman Islands \(ciregistry.ky\)](https://www.ciregistry.ky/Guidance%20Notes%20on%20Complying%20with%20Beneficial%20Ownership%20Obligations%20in%20the%20Cayman%20Islands).

² The *Companies Act (2022 Revision)*, the *Limited Liability Companies Act (2021 Revision)*, the *Limited Liability Partnership Act (2021 Revision)* and the **BO Regulations** made up of the *Beneficial Ownership (Companies) Regulations (2022 Revision)*, the *Beneficial Ownership (Limited Liability Companies) Regulations (as revised)* and

the *Beneficial Ownership (Limited Liability Partnership) Regulations (2022 Revision)*.

³ The BO Regime does not currently apply to Cayman Islands trusts, other forms of partnerships or foreign registered companies.

⁴ There are a wide range of exemptions currently available. Please contact the members of our regulatory team below or your usual Appleby contact for more information.

- **CSP** must (i) assist with establishing the BOR, (ii) obtain and hold current beneficial ownership information, (iii) verify the information is correct, (iv) continually monitor the information to ensure it is current, (v) where the information is no longer current or valid, notify the In-Scope Entity and request that updated information be provided **within one month**, and (vi) deposit the BOR to the centralized electronic platform (**Platform**) maintained by the Competent Authority on a periodic basis⁵, usually monthly; and
- **Competent Authority**: must (i) ensure the security of the Platform, (ii) respond to lawful requests for information, (iii) monitor for breaches of the BO Regime and escalate suspected breaches to ROC for enforcement, and (iv) provide technical support and training.
- a Beneficial Owner's required particulars change;⁸
- the government issued identification document for a Beneficial Owner, such as a passport, has expired;⁹
- the In-Scope Entity has reason to believe that a change has occurred; and
- through ongoing monitoring, the CSP becomes aware that a change has occurred.

Relevant Changes Identified by the CSP. Where the CSP identifies a relevant change, it is required to notify the In-Scope Entity of the change and request that it be provided with updated information **within one month**. The In-Scope Entity must then serve notice on the relevant beneficial owner requesting confirmation of the change and updated information and particulars.

If the In-Scope Entity fails to provide updated information or a reasonable explanation prior to expiration of the one-month deadline, the CSP should reasonably be able to form an opinion that the In-Scope Entity has failed to provide the required particulars and the CSP should issue a restrictions notice.

Identifying Beneficial Owners

The Guidance Notes set out the beneficial ownership test (**BO Test**) to be applied for companies, LLCs and LLPs and provide recommendations for identifying beneficial owners and relevant legal entities under the BO Test.⁶

Identifying Relevant Changes

When it becomes aware of a relevant change with respect to a Beneficial Owner or has reasonable cause to believe that a change has occurred, each In-Scope Entity has a duty to give notice to the Beneficial Owner as soon as reasonably practicable requesting confirmation of the change and updated particulars and documentation.⁷

Relevant Changes. Pursuant to the Guidance Notes, relevant changes should be identified where:

Entities in Liquidation

Liquidator Appointed. Where a liquidator is appointed (whether court-appointed or a voluntary liquidator) and the liquidator takes responsibility for the registered office of the In-Scope Entity, the liquidator has the responsibility for depositing the BOR on the Platform. Where a voluntary liquidator is appointed and the registered office of the In-Scope Entity remains with the CSP, the CSP will continue to have the responsibility for depositing the BOR on the Platform.

⁵ See Appendix 1 to the Guidance Notes on filing periods.

⁶ Please contact the members of our regulatory team below or your usual Appleby contact for more information on how the BO Test applies to your In-Scope Entity.

⁷ Section 255(1) of the *Companies Act (2022 Revision)*, section 81(1) of the *Limited Liability Companies Act (2021 Revision)*, and section 62(1) of the *Limited Liability Partnership Act (2021 Revision)*.

⁸ According to the Guidance Notes, there is an expectation that the beneficial owner should proactively provide updated particulars to the In-Scope Entity.

⁹ This relevant change was clarified by new legislation enacted on 10 June 2022 in the *Companies (Amendment of section 254) Regulations, 2022*, the *Limited Liability Companies (Amendment of section 80) Regulations, 2022* and the *Limited Liability Partnership (Amendment of section 61) Regulations, 2022*.

CIMA Registration or Licensing Exemption. An In-Scope Entity using the CIMA ¹⁰ registration or licensing exemption from the requirement to establish and maintain a BOR may continue to use that exemption until it has been deregistered from CIMA and CIMA has provided the In-Scope Entity with a certificate of deregistration ¹¹. Following deregistration from CIMA, the In-Scope Entity will be required to establish and maintain a BOR unless another exemption applies and, if so, prepare and file a new Written Confirmation of Exemption.

Death of a Beneficial Owner

If a beneficial owner dies, the In-Scope Entity and the CSP may continue to provide the expired information on the BOR until there has been a change in beneficial ownership. Pursuant to the Guidance Notes, it is expected that the In-Scope Entity or the CSP should be able to provide the Competent Authority with evidence of death upon request in order to substantiate the expired information on the BOR.

Requests for Additional Information

The Competent Authority has the power to request additional information and/or documentation in relation to any Beneficial Owner for the purpose of carrying out its functions.

Administrative Fine Process

The ROC has the power to impose administrative fines for breaches under the BO Regime. More information on administrative fines, including the procedure for imposing a fine and appeals, can be found in the Beneficial Ownership Enforcement Manual¹².

Further Information

If you have any questions regarding the Beneficial Ownership Guidance Notes or would like assistance with your Beneficial Ownership compliance obligations, please reach out to any of the persons below or to your usual Appleby contact.

KEY CONTACTS



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¹⁰ CIMA means the Cayman Islands Monetary Authority.

¹¹ Or, in the case of a licensed entity, CIMA has accepted and confirmed the surrender of the licence.

¹² The full text of the Beneficial Ownership Enforcement Manual is available here: [Monetary Penalties for Breaches of \(ciregistry.ky\)](https://www.appleby.com/monetary-penalties-for-breaches-of-ciregistry.ky).