



Hong Kong

August 2017

## COMPANIES (AMENDMENT) BILL 2017 INTRODUCES SIGNIFICANT CONTROLLERS REGISTER

The Companies (Amendment) Bill 2017<sup>1</sup> (**Bill**) was published in the Gazette on 23 June 2017, together with the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 (**AML and CTF Bill**). Please see our newsletter on the AML and CTF Bill<sup>2</sup> for further information.

The Bill follows the Financial Services and the Treasury Bureau's (**FSTB**) April 2017 consultation conclusions<sup>3</sup> to its public consultation<sup>4</sup> on "Enhancing Transparency of Beneficial Ownership of Hong Kong Companies". Under the Bill, companies incorporated in Hong Kong will be required to disclose their significant controllers (beneficial owners), so as to enhance transparency, and prevent fraud, money laundering and terrorist financing. This follows the implementation of similar requirements in the UK in June 2016 and Singapore in March 2017.

There is a debate as to whether disclosure of beneficial ownership of private companies should be made available to the public, as in the UK, or only to government authorities, as

in Singapore. As a result of submissions made during the consultation process, the FSTB has decided to restrict access to beneficial ownership information to competent authorities, instead of its initial view that such information should be made public.

Importantly, the disclosure requirements will only apply to Hong Kong-incorporated private companies, and not to Registered Non-Hong Kong companies or Hong Kong listed companies.

Under the Bill, companies will be required to identify their significant controllers. There will be no proactive obligation on persons who have significant control to disclose their interests to the company, albeit that they will be required to respond to notices by the company. The company will also be under an obligation to keep a Significant Controllers Register. Notably, only the first legal entity in the chain of ownership, and the natural person or specified entity, which satisfy the definition of significant control, will be registrable, and thus included in the register. The Bill does not include the creation of a central registry of beneficial owners of Hong Kong companies maintained by the Hong Kong authorities.

### Introduction

The Bill contains a new statutory requirement for companies incorporated in Hong Kong to maintain a "Significant Controllers Register", which will contain accurate, adequate and up-to-date significant controller information.

1 [http://www.cr.gov.hk/en/publications/docs/GN20170623\\_2405-e.pdf](http://www.cr.gov.hk/en/publications/docs/GN20170623_2405-e.pdf)

2 <https://www.charltonslaw.com/aml-and-counter-terrorist-financing-bill-2017/>

3 Financial Services and the Treasury Bureau, "Consultations on Legislative Proposals to Enhance Anti-Money Laundering and Counter-Terrorist Financing Regulation in Hong Kong" Consultation Conclusions, 13 April 2017 [http://www.fstb.gov.hk/fsb/ppr/consult/doc/conclu\\_eaml\\_etbo\\_e.pdf](http://www.fstb.gov.hk/fsb/ppr/consult/doc/conclu_eaml_etbo_e.pdf).

4 Financial Services and the Treasury Bureau, "Enhancing Transparency of Beneficial Ownership of Hong Kong Companies" Public Consultation, 6 January 2017 [http://www.fstb.gov.hk/fsb/ppr/consult/doc/consult\\_etbo\\_e.pdf](http://www.fstb.gov.hk/fsb/ppr/consult/doc/consult_etbo_e.pdf).

The Bill arises out of growing concerns over the misuse of companies, including the use of complex company ownership structures to conceal proceeds of crime, facilitate money laundering, tax evasion, corruption and terrorist financing. The new amendments aim to eradicate some of the difficulties law enforcement bodies face in investigating the identity of known or suspected criminals who conceal the purpose of financial transactions, or the source or application of hidden funds. Another reason for enacting a transparency of beneficial ownership requirement is to comply with the Financial Action Task Force's (FATF) international standards on combating money laundering and terrorist financing (FATF Recommendations). Hong Kong is a member of FATF and will be subject to a mutual evaluation in 2018 by other FATF members to determine the extent of its compliance with the FATF Recommendations and the effectiveness of Hong Kong's implementation. The Hong Kong Government is concerned that Hong Kong's overall rating in the next mutual evaluation will suffer unless it implements beneficial ownership disclosure legislation as a priority. Recent meetings of the G20 Finance Ministers in 2016 also paid specific attention to promoting transparency of beneficial ownership, and requested the FATF and the Global Forum of the OECD to improve implementation on the initiative.

## Hong Kong's Present Regime

The Companies Ordinance (Cap. 622) requires a company incorporated in Hong Kong to disclose information on its members, directors and company secretaries. A company is not required to ascertain, keep or file information about beneficial owners or its ultimate beneficial owners except in the case of a listed corporation which is required to keep a register of individuals or entities owning 5% or more interests in any class of voting shares (including any beneficial owner of such interests) under Part XV of the Securities and Futures Ordinance (Cap. 571) (SFO).

## Conceptual Framework

Hong Kong is an open, trusted and competitive place to invest and do business. The proposed company ownership transparency regime requirements are designed to increase trust in Hong Kong business by promoting corporate accountability, and preventing financial crimes. But any new regulatory system should ensure that the compliance costs and burden are minimised in order that Hong Kong companies remain competitive globally. The most important reason why Hong Kong should enact the proposed regime is that it is a member of FATF, and it is expected to comply with the FATF

Recommendations, albeit that they are not legally binding. FATF Recommendation 24 requires jurisdictions to put in place mechanisms to ensure adequate, accurate timely information on the beneficial ownership and control of legal persons which can be accessed in a timely fashion by competent authorities.

## Scope of Application

Under the Bill, the Companies Ordinance will be amended by including a new requirement for companies incorporated in Hong Kong to keep a register of its significant controllers (Significant Controllers Register). It will not apply to foreign companies that carry on business in Hong Kong, which are required to be registered with the Companies Registry. While Singaporean law is extended to such foreign companies, the British Government rejected such an extension, although current proposals will require disclosure of beneficial ownership by foreign companies in cases where they are investing in property or bidding for government contracts.<sup>5</sup> The FSTB, in its consultation paper, was of the view that Registered Non-Hong Kong Companies may be subject to disclosure requirements in their jurisdiction of incorporation, and if they are subject to the Hong Kong regime, they may be deterred from doing business in Hong Kong because of concerns of regulatory overlap.

The Bill provides for an exemption for listed companies, as they are already subject to a regulatory regime in respect of Disclosure of Interests under Part XV of the SFO. Further, the Financial Secretary will be empowered to exempt a type of company or class of companies.

Unlike the UK, there is no specific provision to empower the Executive to exempt individuals or legal entities from compliance for 'special reasons', for example, personal safety.

## Significant Control over a Company

The Bill refers to the concept of significant controller of a company rather than to the notion of a beneficial owner as denoted FATF Recommendations. Under the Bill, a person has significant control over a company if it meets one of the following five conditions, which are modelled on the UK law:

- a) directly or indirectly holds (i) more than 25% of the issued shares (where the company has a share capital); and (ii) a right or rights to share in

<sup>5</sup> UK Government, Press Release "PM hosts major summit as part of global drive to expose, punish and drive out corruption", 12 May 2016 <https://www.gov.uk/government/news/pm-announces-new-global-commitments-to-expose-punish-and-drive-out-corruption>.

more than 25% of the capital or, depending on the circumstances, profits of the company (where the company does not have a share capital);

- b) directly or indirectly holds more than 25% of the voting rights in the company;
- c) directly or indirectly holds the right to appoint or remove a majority of directors of the company;
- d) has the right to exercise, or actually exercises, significant influence or control over the company; or
- e) 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 under the law governing the trust or firm, and whose trustees or members satisfy any of the first four conditions above (in their capacity as such).

The Registrar may issue guidelines in relation to conditions (d) and (e) when determining whether a person has the right to exercise, or actually exercises, significant influence or control over the company. The need for clarification as to the meaning of the conditions was raised during the consultation process by a number of respondents.

### Significant Controllers Register

A company will be under a duty to keep a Significant Controllers Register, containing specified particulars of significant controllers (i.e. registrable persons and registrable legal entities).

A registrable person of a company is a natural person or specified entity that has significant control over the company, unless the natural person or specified entity has significant control over the company only because:

- the person or entity holds or has rights or shares in the company through a registrable legal entity of the company, and this registrable legal entity has any of its shares listed on a recognized stock market; or
- the person or entity holds or has rights or shares in the company through a chain of legal entities with the last one in the chain being a registrable legal entity of the company, and this registrable legal entity has any of its shares listed on a recognized stock market.

A specified entity is defined as a corporate sole, a government of a country or territory (or part of a country or territory), an international organization whose members include two or more countries or territories (or their government), or a local authority or local government in a country or territory.

A registrable legal entity of a company is a legal entity that is a member of the company and has significant control over the company. This means that a registrable legal entity is only a legal entity at the tier immediately above the company, that is a member of the company. The FSTB noted that it is more appropriate to require disclosure only at the first tier, as the main objective is to identify the ultimate beneficial owners, and not each vehicle through which they exercise control.

Each company will be required to keep a Significant Controllers Register, even if it does not have a significant controller. This is in addition to the registers of members, directors and company secretaries as required by the Companies Ordinance. The register must be kept in English or Chinese. The Significant Controllers Register must contain particulars of each person (natural person, specified entity and legal entity) that the company knows to be a significant controller:

- a) the name of the natural person or entity (including any former name or alias of the natural person);
- b) the natural person's correspondence address (excluding post office box number) or the address of the specified entity's principal office;
- c) in relation to a legal entity which is a company, the company's registration number and the address of its registered office;
- d) in relation to a legal entity which is not a company:
  - (i) (if applicable) its registration number (or the equivalent) in the place of its incorporation or formation; and (ii) the address of its registered or principal office;
- e) in relation to a natural person, the number of the identity card, or the number and issuing country of any passport;
- f) in relation to a specified entity or legal entity, the entity's legal form, and the law that governs it;

- g) the date on which the natural person or specified entity became a registrable person, or the date on which the legal entity became a registrable legal entity; and
- h) the nature of the natural person's or entity's control over the company.

In addition, where there is a registrable change, details of the change and the date on which the change occurs must be entered into the Significant Controllers Register. A registrable change occurs when a person ceases to be a significant controller or another change results in particulars entered into the register being incorrect or incomplete.

Particulars of a registrable person (including registrable changes) must be confirmed by the registrable person, or by another person with that registrable person's knowledge, prior to being entered into the register. Particulars of registrable persons must be entered within seven days of confirmation. Particulars of a registrable legal entity (including registrable changes) must be entered within seven days after the particular comes to the notice of the company.

Companies will be required to enter into the Significant Controllers Register details of a person(s) designated as its representative to provide assistance in relation to the register to officers of the Companies Registry and law enforcement officers. The designated representative may be either (i) a natural person resident in Hong Kong who is a director, employee or member of the company; or (ii) an accounting professional, a legal representative, or a TCSP licensee, as defined by section 1 of Part 2 of Schedule 1 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (**AMLO**).

### **Company's Duty to Investigate and Obtain Information**

Under the Bill, companies will be required to take reasonable steps to ascertain whether there is any significant controller of the company, and to identify such controllers.

The company will be required to give a written notice to a person that the company knows, or has reasonable cause to believe, to: (i) be a significant controller of the company; or (ii) know the identity of another person who is a significant controller of the company. Notice must be given within seven days after the company first knows or first has reasonable cause to believe that the person is or knows the identity of

a significant controller of the company. A notice given to a person that the company knows, or has reasonable cause to believe, to be a significant controller of the company must require the addressee to confirm whether it is a registrable legal person/registrable legal entity, confirm, correct or provide its particulars, state whether the addressee knows the identity of another person who is a significant controller and provide the particulars of such other person that are known to the addressee. A notice given to a person that the company knows, or has reasonable cause to believe, to know the identity of another person who is a significant controller of the company must require the addressee to confirm whether it knows the identity of another person who is a significant controller and provide the particulars of such other person that are known to the addressee. The addressee is given one month from the date of the notice to comply with requirements. There is an exception where the company has already been informed of the status as a registrable person/registrable legal entity and the required particulars have been provided to the company.

The company will also be under a duty to keep information in the Significant Controllers Register up-to-date. The company must give a notice within seven days where it knows, or has reasonable cause to believe, that there is a registrable change in relation to a person. The addressee has one month to comply with the requirements, subject to limited exceptions.

The most significant exception to the notice requirements is where legal professional privilege applies. In complying with a notice, a person will not be required to provide any information to the company that the person would on grounds of legal professional privilege be entitled to refuse to give or provide in legal proceedings.

A company will be under a duty to identify registrable persons and registrable legal entities. There will be no obligation on registrable persons and registrable legal entities to proactively identify themselves as significant controllers of a company. This may be contrasted with the UK's transparency legislation, which imposes a duty on both individuals and legal entities with significant control of private companies to notify the company of their interests.<sup>6</sup> It may also be compared with Hong Kong's SFO which imposes obligations on 'substantial shareholders' to disclose their interests to the Hong Kong Stock Exchange and to the listed company, but does not impose any obligation on the company itself to identify such shareholders. Although some respondents to the public consultation suggested that

<sup>6</sup> Small Business, Enterprise and Employment Act 2015 (UK) Schedule 3 s 790G.

a statutory duty should be imposed on beneficial owners to proactively identify themselves to the company, the FSTB considered that this would impose an onerous burden on persons forming, owning or controlling companies, and would raise questions of enforcement for persons residing outside of Hong Kong.

### Inspection of Significant Controllers Register

Companies will be required to keep their Significant Controllers Register at their registered office or a prescribed place. A company will be required to notify the Registrar the place where the register is kept and any change to that place within 15 days of the change.

A company must, on demand made by an officer of the Companies Registry or a law enforcement officer, make its Significant Controllers Register available for inspection by the officer at the place at which the register is kept, and permit the officer to make a copy of the register.

A person whose name is entered into the Significant Controllers Register will have a right to inspect the register (without charge) and be provided with a copy of the register, or part of it (on payment of a prescribed fee).

The FSTB proposed in its public consultation that the register maintained by the company be available for public inspection, and that any member of the company or person on the register may inspect the register without charge, while other members of the public may inspect the register for a fee, at the company's registered office or any other place in Hong Kong determined by the company. The vast majority of respondents were of the opinion that the register should be made available to competent authorities only. The FSTB agreed that the register should be accessible only to competent authorities, since this was consistent with the FATF requirements and international practice, and is justifiable on privacy grounds.

In response to the suggestion that a confidential register should be filed with the Companies Registry via an annual return, the FSTB decided not to adopt a central register, as is the case in the UK, but will monitor international developments to determine whether it needs to reconsider this issue.

### Record-Keeping Requirement

Where a person ceases to be a significant controller of a company, all entries relating to the person in the Significant Controllers Register may be destroyed after six years from

the date on which such person ceased to be registrable. This requirement to maintain records for six years is consistent with the AMLO requirements.

### Sanctions for Non-compliance and False Statement

The Bill provides for criminal sanctions against a company and every responsible person for non-compliance with the requirements for the keeping of a Significant Controllers Register, including the entering of required particulars. The maximum penalty is a fine at level 4 (HKD25,000) and a further daily fine of HKD700.

Where a company breaches its duty to investigate and obtain information in relation to significant controllers, the company and every responsible person commits an offence, and each is liable to a fine at level 4 (HKD25,000).

The Bill also provides for criminal sanctions against a company and every responsible person for non-compliance with the requirement for making available the Significant Controllers Register for inspection. The maximum penalty for such non-compliance is a fine at level 4 (HKD25,000).

In addition, any person who knowingly or recklessly makes in the Significant Controllers Register a statement which is misleading, false or deceptive in any material particular, commits an offence under section 895 of the Companies Ordinance. Such person may be liable on conviction on indictment to a fine of HKD300,000 and to imprisonment for two years; or on summary conviction to a fine at level 6 (maximum of HKD100,000) and to imprisonment for six months.

Under the Bill, where a company issues a notice to a person, the addressee of the notice has a statutory obligation to comply with the notice, including confirming the relevant required particulars. There is a maximum penalty of a fine at level 4 (HKD25,000) on the addressee, and (where the addressee is a legal entity) every related person of the entity, for non-compliance with the notice requirements. There is a statutory defence where the notice is frivolous or vexatious.

The Bill provides that a person who in purported compliance with a notice, knowingly or recklessly makes a statement or provides any information that is misleading, false or deceptive in a material particular, commits an offence, and is liable on conviction on indictment to a fine of HKD300,000 and to imprisonment for 2 years; or on summary conviction to a fine at level 6 (HKD100,000) and to imprisonment for 6 months.

Further, any person who knowingly or recklessly makes, in a document replying to a company's notice, a statement which is misleading, false or deceptive in any material particular, may be in violation of section 895 of the Companies Ordinance and may be subject to the same sanctions as discussed above.

The FSTB invited comments in its public consultation as to whether there should be additional sanctions for non-compliance by addressees of a notice, such as restricting any participation rights (e.g. voting rights) or pecuniary rights (e.g. dividend rights) of a notice addressee who fails to respond to a notice. The FSTB decided that a company should not be given the power to impose these additional controversial sanctions. Thus, the Bill, in contrast to the UK legislation, does not include any provision giving companies the power to impose restrictions on participation rights.

### Power of Court to Order Rectification of Register

Under the Bill, an interested party may apply to the court for rectification of the Significant Controllers Register, where a person whose name, without sufficient cause, is entered in or omitted from the register; or a default is made or an unnecessary delay takes place in entering in the register the fact that a person has ceased to be a significant controller of the company. In response to such application, the court may refuse the application, or order rectification including payment of damages sustained by any aggrieved person.

### Other Developments and Trends

Authorities may face difficulties tracing the ultimate beneficial owner where the beneficial owner is a legal person incorporated outside of Hong Kong. Where the foreign jurisdiction does not have a beneficial ownership register which is open to public inspection, Hong Kong authorities may seek beneficial ownership information through a mutual legal assistance in criminal matters treaty or under a tax information exchange agreement, to which Hong Kong is a party. However, where the foreign jurisdiction does not have such register or there is no mutual assistance agreement, authorities would face difficulties in tracing the ultimate beneficial owner.

There is a worldwide trend for countries to enact domestic laws increasing disclosure of beneficial ownership of legal entities, such as companies, and in some cases, legal arrangements such as trusts. The UK enacted legislation creating a central public register of beneficial ownership of companies incorporated in the UK in 2015, which became effective in 2016. Singapore has amended its Companies Act to require

Singaporean companies and foreign companies registered in Singapore to maintain registers of beneficial ownership/controllers. The registers of beneficial owners/controllers are available to the registrar and law enforcement authorities upon request, but not the public. Australia is currently considering whether to enact new laws to enhance the transparency of beneficial ownership of companies.

Under the European Union's Fourth Anti-Money Laundering Directive,<sup>7</sup> member states must ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including details of the beneficial interests held. Beneficial ownership information must be held in a central register in each member state. There is no requirement under the directive for the information to be publicly available, but some member states, such as the UK, have created a public central register. Member states are required to ensure that this information should be provided to the competent authorities and the financial intelligence units of other member states in a timely manner. Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with this directive by 26 June 2017.

The 'Big 5' of Europe (UK, Germany, France Italy and Spain) have initiated an agreement which would allow the automatic sharing of information on the ultimate beneficial owners of companies between tax and law enforcement agencies from these countries.<sup>8</sup> The agreement also envisages the exchange of information in relation to trusts.

Over fifty jurisdictions may have committed to a new global system for the exchange of beneficial ownership information on a reciprocal basis, including the Big 5, certain British Overseas Territories and Crown Dependencies (in particular, Anguilla, Bermuda, the British Virgin Islands (**BVI**), the Cayman Islands, Gibraltar, Guernsey, the Isle of Man, Jersey, Montserrat, and the Turks and Caicos Islands), as well as other jurisdictions,

<sup>7</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L0849&from=EN>.

<sup>8</sup> UK Government, "UK leads European calls for G20 action on beneficial ownership" 14 April 2016 <https://www.gov.uk/government/news/uk-leads-european-calls-for-g20-action-on-beneficial-ownership>.

including Ireland, Luxembourg and Mauritius.<sup>9</sup>

Certain British Overseas Territories and Crown Dependencies, including Jersey, Guernsey, Isle of Man, Anguilla, Bermuda, Gibraltar, the BVI, the Cayman Islands and the Turks and Caicos Islands have made commitments concerning beneficial ownership disclosure through separate Exchange of Notes with the UK.<sup>10</sup> The bilateral commitments with the UK include the maintenance of adequate, accurate and current beneficial ownership information for corporate and legal entities incorporated in their own jurisdictions, which must be held in a secure central electronic database or similarly effective arrangement, as well as the exchange of such information.

Under Cayman Islands Anti-Money laundering laws, there is a system for the collection, maintenance and verification of beneficial ownership of companies through licensed and regulated corporate service providers (**CSPs**). In order to improve the CSP system, in April 2017, Cayman Islands passed legislation<sup>11</sup> allowing for the creation of a centralised platform which provides access to and the sharing of beneficial ownership information. This legislation came into force on 1 July 2017. The centralised platform is accessible to law enforcement authorities in the Cayman Islands, and to UK authorities under an agreement with the UK<sup>12</sup> signed in April 2016. Under this new system, limited liability companies (**LLCs**) (unless exempt) are required to take reasonable steps to identify individual beneficial owners and “relevant legal entities” (legal entities incorporated, formed or registered in the Cayman Islands under the laws of the Cayman Islands, which would be beneficial owners if they were individuals). An

individual is a beneficial owner if he holds, directly or indirectly, an interest representing a right to share in over 25% of the capital (or profits) of the LLC or an interest representing over 25% of the voting rights in the LLC or the right to appoint or remove a majority of the managers. LLCs are also required to keep a beneficial ownership register at their registered office, and engage a CSP to establish and maintain such register. LLCs should provide CSPs with the required particulars of registrable persons (individual beneficial owners and certain relevant legal entities) and instruct CSPs to enter the particulars in the beneficial ownership register. The Cayman Islands has rejected the idea that the beneficial ownership information should be made available to the public.<sup>13</sup>

The provisions of the BVI’s Beneficial Ownership Secure Search System Act 2017 came into force on 30 June 2017 so as to give effect to the Exchange of Notes between the BVI and the UK.<sup>14</sup> The act establishes an electronic system to be maintained by the Financial Investigation Agency so as to provide access to information contained in RA databases. Registered agents are under a duty to establish and maintain an RA database for each relevant corporate and legal entity, in which they are required to enter the particulars of prescribed information, including details of each beneficial owner. Beneficial owners include natural persons who ultimately own or control 25% or more of the shares or voting rights, or who otherwise exercise control over the management of the company. Registered agents must take reasonable steps to identify beneficial owners, and corporate and legal entities are required to identify and notify registered agents of beneficial owners. Beneficial ownership information must be kept up to date. Persons designated by the Minister are required to execute a search of the Beneficial Ownership Secure Search System if requested by a senior officer of a specified authority. Currently, the UK’s National Crime Agency – Financial Intelligence Unit is the only foreign authority who can request the BVI authorities to undertake a search of the Beneficial Ownership Secure Search system. For more information about the new BVI legislation, please see our newsletter “BVI Beneficial Ownership Secure Search System Act 2017”.<sup>15</sup>

9 UK Government HM Treasury, “Statement on the initiative for the systematic sharing of beneficial ownership information”, 14 December 2016 <https://www.gov.uk/government/publications/beneficial-ownership-countries-that-have-pledged-to-exchange-information/countries-committed-to-sharing-beneficial-ownership-information> and UK Government, Press Release “PM hosts major summit as part of global drive to expose, punish and drive out corruption”, 12 May 2016

10 UK Government, “Beneficial ownership: UK Overseas Territories and Crown Dependencies”, 6 December 2016 <https://www.gov.uk/government/collections/beneficial-ownership-uk-overseas-territories-and-crown-dependencies>.

11 The Companies (Amendment) Law, 2017, The Limited Liability Companies (Amendment) Law, 2017 and The Companies Management (Amendment) Law, 2017.

12 Exchange of Notes between the Government of the United Kingdom and the Government of the Cayman Islands in respect of the sharing of beneficial ownership information, 8 April 2016 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/624228/The\\_Cayman\\_Islands\\_-\\_Sharing\\_beneficial\\_ownership\\_information.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/624228/The_Cayman_Islands_-_Sharing_beneficial_ownership_information.pdf).

13 Financial Times, “Cayman Islands says offshore register is ‘pointless’”, 12 May 2016 <https://www.ft.com/content/100a2e4c-16bd-11e6-9d98-00386a18e39d>.

14 Exchange of Notes between the Government of the United Kingdom and the Government of the Virgin Islands in respect of the sharing of beneficial ownership information, 8 April 2016 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/624227/The\\_British\\_Virgin\\_Islands\\_-\\_Sharing\\_beneficial\\_ownership\\_information.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/624227/The_British_Virgin_Islands_-_Sharing_beneficial_ownership_information.pdf).

15 <https://www.charltonslaw.com/bvi-beneficial-ownership-secure-search-system-act-2017/>

Bermuda has a long history of requiring the reporting of beneficial owners to the government authorities, with the Companies Act 1981 and the Exchange Control Act 1972 imposing requirements to identify the beneficial owners of companies.<sup>16</sup> There has been a strengthening of beneficial ownership requirements in order to combat money laundering and improve international co-operation. Under the Corporate Service Providers Business Act 2012 and associated regulations, a corporate services provider is under a statutory obligation to obtain and maintain beneficial ownership for companies which are their clients. The beneficial ownership obligation includes all persons in the chain of ownership. Although Bermuda maintains a central government record of company ownership, which may be available to foreign law enforcement authorities on request, it has rejected the idea that beneficial ownership information should be made available to the public. Bermuda is reviewing its beneficial ownership disclosure laws.<sup>17</sup>

**Note: The above information is for informational purposes only. Charltons is only qualified to advise on Hong Kong law. Charltons is not qualified to advise on the laws of other jurisdictions, including the UK, Singapore, Cayman Islands, BVI and Bermuda, and the above information is based on Charltons' understanding of the position in these jurisdictions only. Specific advice should be sought from lawyers practising in these jurisdictions in relation to any specific situation.**

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16 Government of Bermuda, "Bermuda's G8 Beneficial Ownership Action Plan", 28 November 2014 <http://www.bermudasun.org/FTP/pdf/130730%20-%20Cabinet%20Office%20-%20G8%20Action%20Plan.pdf>.

17 Ministry of Finance and Ministry of Economic Development with the Bermuda Monetary Authority, "Proposed Revisions to Beneficial Ownership Disclosures" Consultation Paper, 5 May 2017 <http://www.bma.bm/document-centre/consultation-papers/TRUST%20II/Consultation%20Paper%20on%20Proposed%20Revisions%20to%20Beneficial%20Ownership%20Disclosures.pdf>.



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**Hong Kong Office**

Dominion Centre

12th Floor

43-59 Queen's Road East

Hong Kong

**Tel:** + (852) 2905 7888

**Fax:** + (852) 2854 9596

[www.charltonslaw.com](http://www.charltonslaw.com)