

The Hong Kong Companies (Amendment) Ordinance 2018

## Keeping of Significant Controllers Register

February 27, 2018

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The Companies (Amendment) Ordinance 2018 (the “Amendment Ordinance”) introduces new requirements on the keeping of significant controllers’ registers by companies with effect from March 1, 2018.

The Companies Ordinance (Cap. 622) is amended to require a company incorporated in Hong Kong to obtain and maintain up-to-date beneficial ownership information, by way of keeping a Significant Controllers Register (“SCR”), in order to fulfil Hong Kong’s international obligations for enhancing transparency of corporate beneficial ownership. The SCR should be open for inspection by law enforcement officers upon demand.

The Amendment Ordinance requires a company to keep a SCR in either the English or Chinese language, containing required particulars of its significant controllers (including registrable person and/or registrable legal entity). The SCR should be kept at the company’s registered office or a prescribed place in Hong Kong.

Under the Amendment Ordinance, a company incorporated in Hong Kong is required:

- to identify persons who have significant control over the company (“significant controllers”); and
- to maintain a SCR to be accessible by law enforcement officers.

### Who is a Significant Controller?

A significant controller includes:

- a registrable person who is a natural person
- a registrable legal entity which is a shareholder of the company that has significant control over the company

A person has significant control over a company, if one or more of the following conditions are met:

- a. The person holds, directly or indirectly, more than 25% of the issued shares in the company or, if the company does not have a share capital, the person holds, directly or indirectly, a right to share in more than 25% of the capital or profits of the company;
- b. The person holds, directly or indirectly, more than 25% of the voting rights of the company;
- c. The person holds, directly or indirectly, the right to appoint or remove majority of the board of directors of the company;
- d. The person has the right to exercise, or actually exercises, significant influence or control over the company; or
- e. The person 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, but whose trustees or members satisfy any of the four conditions above in relation to the company.

## **Designated Representative**

The Amendment Ordinance also requires a company to designate a representative to serve as a contact point for providing information about the SCR and related assistance to law enforcement officers. The designated representative must be either a shareholder, director or an employee of the company who is a natural person resident in Hong Kong; or an accounting professional, a legal professional or a person licensed to carry on a business as trust or company service provider.

The particulars of the designated representative including the name and contact details should also be entered into the SCR.

## **What are the consequences for failing to comply with the obligations under the Amendment Ordinance?**

Failure to comply with the obligations under the Amendment Ordinance is a criminal offence. The company and every responsible person of the company are liable to a fine at level 4 (i.e. HK\$25,000). Where applicable, there is a further daily fine of HK\$700.

For detailed information, please refer to the following website of the Companies Registry relating to the Significant Controllers Register:

[https://www.cr.gov.hk/en/scr/publications\\_index.htm](https://www.cr.gov.hk/en/scr/publications_index.htm)