

# REGULATORY UPDATE

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## COMPLIANCE REQUIREMENTS

### FOR PERSONS WITH SIGNIFICANT CONTROL

#### INTRODUCTION

By virtue of the Corporate Affairs Commission (“CAC”) Circular[1] dated 9th September, 2022, the CAC announced its intention to commence the enforcement of the PSC Regulations 2022 and mandated limited liability companies, Limited Liability Partnerships and other corporate entities to ensure prompt compliance with the requirements of registration of Persons with Significant Control (“PSC”).

According to the provisions of Section 868 of the Companies and Allied Matters Act, 2020 (“CAMA 2020”), and Regulation 14 of the Persons with Significant Control Regulations, 2022 a PSC is any individual holding at least 5% of the shares, interests or voting rights in a limited liability company or Limited Liability Partnership (“LLP”). Also, anyone who has the ability to direct or influence the management, operations, finances, financial policies and the structure of a company or LLP or derive significant benefits from the LLP or company would be considered a PSC.

#### REGULATORY COMPLIANCE REQUIREMENTS FOR PSC

Further to attaining the status of a PSC, the individual is required to formally notify the company or LLP[2] in writing, within seven (7) days of assuming the status of PSC. Upon receipt of the PSC notification, the company or LLP is required to notify the Corporate Affairs Commission (“CAC”) within one (1) month of receiving the details from the concerned individual. In public companies, a person who personally or through his nominee holds shares or rights that qualify him as a PSC, must disclose such details to the company within fourteen (14) days and the company shall in turn notify the CAC within fourteen (14) days of receiving the notification[3].

Other instances where a PSC must be disclosed to the CAC by the company or LLP includes:

1. When a new company or LLP is formed;
2. When filing an annual return;
3. When there are changes in particulars of control;
4. When notifying the CAC for foreign exempted company or LLP; and
5. When a foreign exempted company or LLP files for annual returns[4].

Alongside the requirement to notify the CAC of the change in PSC, the company or LLP is required to undertake the underlisted actions in compliance with the requirements of CAMA and the PSC Regulations:

1. Enter the details of PSC against the name(s) of the relevant shareholder(s) in the register of members[5].

2. Notify the CAC, within 14 days of receipt of notification, that a shareholder has ceased to be a PSC[6].
3. Maintain a register of persons with significant control[7].
4. Full disclosure of the status of a PSC who is a Politically Exposed Person (PEP).

#### SANCTIONS FOR NON-COMPLIANCE

Defaulting companies or LLP will be liable to the following sanctions:

- Their status in the Central PSC Register maintained by the CAC and all relevant online portals of the CAC will be tagged as “Inactive”.
- Upon conviction by the court, fines are imposed on defaulting entities for false declarations, and officials are liable to be sentenced to two years imprisonment.

1. [Notification of Particulars of Persons with Significant Control \(“PSC”\) to the Commission by Companies and Limited Liability Partnerships](#)

2. [Sections 119 and 791 of CAMA 2020](#)

3. [Section 120 of CAMA 2020](#)

4. [Section G4 of the PSC Regulations 2022](#)

5. [Section 4 of the PSC Regulations 2022](#)

6. [Section 121 of CAMA 2020](#)

7. [Section 122 of CAMA 2020 and Section 4 \(3\) of the PSC Regulations 2022](#)



- The CAC may withhold approval for any post registration or annual returns filings of the company or LLP, until the necessary information is provided[8].
- Imposition of administrative fine(s), against the respective entities, by the CAC for each day of default,
- Non-issuance of Letters of Good Standing to defaulting entity(ies)
- The defaulting PSC is liable to imprisonment for two years for non-submission of the required PSC details to the company or LLP.

### **CONCLUSION AND RECOMMENDATIONS**

The CAC is currently carrying out an enforcement drive to confirm the extent of compliance with the requirements of the law and impose the necessary sanctions on defaulters.

In the light of the above, we recommend that companies and LLPs endeavour to undertake the requisite PSC filings at the CAC to ensure they are in compliance and avoid the attendant penalty for default.

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8. Section 12 of the PSC Regulations 2022

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