

Corporate Commercial

Client Alert

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Conviction for failing to keep significant controllers register on the increase

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On 7 January 2019, the Companies Registry announced that twelve Hong Kong companies were prosecuted for, among other things, failing to keep the significant controllers register at their registered offices, and the companies were fined.

Under the Companies (Amendment) Ordinance 2018 which came into force on 1 March 2018, companies incorporated in Hong Kong (except companies listed on the Hong Kong Stock Exchange) are required to take reasonable steps to ascertain and identify persons who have significant control over the company and maintain a significant controllers register (**SCR**) to be accessible by law enforcement officers.

Consequences for non-compliance

If a company fails to keep a register of its significant controllers, the company and each of its responsible persons commit an offence. Below are the offences and penalties at a glance:

Offence	Penalty
(1) Failure to: <ul style="list-style-type: none"> (i) keep a SCR at the company's registered office or a prescribed place (ii) take reasonable steps to identify the company's significant controllers (iii) enter the required particulars of its significant controllers in the SCR (iv) keep the required particulars in the SCR up-to-date (v) make the SCR available for inspection and taking copies by a law enforcement officer 	<ul style="list-style-type: none"> • Criminal offence • The company and its responsible offices are liable to a fine of HK\$25,000 • Where applicable, a further daily fine of HK\$700
(2) Failure to comply with a notice relating to the SCR issued by a company within one month from the date of the notice	<ul style="list-style-type: none"> • Criminal offence • The notice addressee and every related person (if any) are liable to a fine of HK\$25,000

<p>(3) Knowingly or recklessly:</p> <p>(i) make a statement which is misleading, false or deceptive in any material particular in the SCR</p> <p>(ii) make a statement or provide any information that is misleading, false or deceptive in a material particular in reply to a company's notice</p>	<ul style="list-style-type: none"> • Criminal offence • The person is liable on conviction on indictment to a fine of HK\$300,000 and imprisonment for 2 years; or • On summary conviction, a fine of HK\$100,000 and imprisonment for 6 months
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Key takeaways

Hong Kong incorporated companies (including overseas companies with Hong Kong incorporated subsidiaries) should ensure that they have:

- taken "reasonable steps" to identify the significant controllers of the company;
- kept a SCR containing the required particulars of every significant controller of the company;
- updated the SCR with any changes in the significant controllers' particulars; and
- made the SCR available for inspection by a law enforcement officer on demand.

Want to know more?

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