

Statutory Document No. 2017/0179



Beneficial Ownership Act 2017

**BENEFICIAL OWNERSHIP (NOMINATED OFFICER
EXEMPTION) (CLASS 4 REGULATED ACTIVITY)
ORDER 2017**

Approved by Tynwald: 21 June 2017

Coming into Operation: in accordance with article 2

The Treasury makes the following Order under section 6(5) of the Beneficial Ownership Act 2017.

1 Title

This Order is the Beneficial Ownership (Nominated Officer Exemption)(Class 4 Regulated Activity) Order 2017.

2 Commencement

This Order comes into operation the day after it is approved by Tynwald¹.

3 Interpretation

In this Order —

“**the Act**” means the Beneficial Ownership Act 2017;

“**Class 4 regulated activity**” means the regulated activity of corporate services within the meaning of the Regulated Activities Order 2011²; and

“**CSP**” means a company which is licensed by the Isle of Man Financial Services Authority under section 7 of the Financial Services Act 2008 to carry on Class 4 regulated activity.

¹ As required by section 6(8) of the Beneficial Ownership Act 2017.

² SD0884/11, which has been amended in relation to Class 4 Corporate Services by SD882/10, SD0373/2013 and SD2016/0099.

4 Exemption from requirement to have a nominated officer

- (1) Subject to paragraphs (4) and (5), the requirement to have a nominated officer under section 6 of the Act does not apply to a legal entity to which the Act applies which is in receipt of corporate services constituting Class 4 regulated activity provided by a CSP.
- (2) To give effect to the exemption referred to in paragraph (1), the Act is modified as specified in article 5.
- (3) A CSP that undertakes any role or responsibility for which a nominated officer is responsible under the Act on behalf of an incorporated cell company, undertakes that role or responsibility for each of its incorporated cells.
- (4) The exemption referred to in paragraph (1) ends when the legal entity ceases to be in receipt of corporate services constituting Class 4 regulated activity provided by a CSP and in which case article 6(1) applies.
- (5) Nothing in this Order precludes a legal entity from appointing a nominated officer and in which case the exemption and modifications provided for in this Order do not apply.

5 Modification of certain provisions of the Act in relation to a legal entity exempt from the requirement to have a nominated officer

In relation to a legal entity referred to in article 4, the Act is modified as follows —

- (a) section 6 (requirement to have a nominated officer) does not apply;
- (b) section 7(2) does not apply;
- (c) section 8(1)(a) and (c) do not apply;
- (d) section 45 (savings) does not apply;
- (e) for section 7(1) (notice of appointment of nominated officer), substitute —

(1) In the case of a legal entity which is exempt from the requirement to have a nominated officer, the CSP which is to undertake on behalf of that entity, any role or responsibility for which a nominated officer is responsible, must give notice to the Department of Economic Development within one month of the date on which the Department issues the enrolment code —

- (a) confirming receipt from the Department of the enrolment code and requesting activation of that code; and
- (b) specifying the names of any legal entity listed in the client list for which the CSP does not undertake any role or

responsibility for which a nominated officer is responsible under the Act.

(1A) For the purposes of subsection (1) —

“**enrolment code**” means the unique identification provided by the Department by which the CSP can access the Database; and

“**client list**” means the list of legal entities provided by the Department to a CSP specifying the legal entities for which the Department believes the CSP undertakes or will undertake any role or responsibility for which a nominated officer is responsible under the Act. ~~22~~;

(f) for section 7(4)(c), substitute —

~~23~~(c) in relation to a legal entity coming into existence after this section comes into operation and which is exempt from the requirement to have a nominated officer, the appointment of a CSP. ~~22~~;

(g) after section 7(10), add —

~~23~~(11) For the purposes of this section, “**CSP**” means a company which is licensed by the Isle of Man Financial Services Authority under section 7 of the *Financial Services Act 2008* to carry on the regulated activity of corporate services within the meaning of the Regulated Activities Order 2011. ~~22~~; and

(h) other than in —

- (i) the definition of “nominated officer” in the Act; and
- (ii) the provisions referred to in paragraphs (e) and (f),

the references to “nominated officer” are to be read as references to the CSP providing the corporate services constituting Class 4 regulated activity to the legal entity and cognate expressions are to be construed accordingly.

6 Consequential Provision

- (1) Where article 4(4) (a legal entity which ceases to be exempt from the requirement to have a nominated officer) applies, the legal entity must appoint a nominated officer and give notice of that appointment to the Department of Economic Development within one month of becoming subject to section 6 (requirement to have a nominated officer).
- (2) Where article 4(5) (a legal entity which is exempt from the requirement to appoint a nominated officer appoints a nominated officer) applies, the legal entity must give notice of that appointment to the Department of Economic Development within one month of the appointment.
- (3) In the case of a legal entity to which an exemption referred to in article 4(1) applies, the Department of Economic Development may use any

information in its possession or control to ascertain the identity of the CSP by which any role or responsibility for which a nominated officer is responsible under the Act, should be undertaken.

- (4) Until the Department of Economic Development receives notice from the legal entity or the CSP of an event referred to in article 4(4), the CSP identified by the Department under article 6(3) is the CSP which must undertake any role or responsibility for which a nominated officer is responsible under the Act in relation to that legal entity.

MADE

17 May 2017



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order exempts legal entities which receive corporate services from companies licensed by the Isle of Man Financial Services Authority to undertake the regulated activity of Class 4 (Corporate Services), from the requirement to have a nominated officer and makes consequential modifications to the application of the remainder of the Beneficial Ownership Act 2017.

The Order also provides that in order to ascertain the identity of a CSP by which certain roles and responsibilities should be undertaken on behalf of a legal entity which is exempt from the requirement to have a nominated officer, the Department of Economic Development may use any information in its possession or control.

The CSP identified by the Department is deemed to be the CSP for the legal entity, by which the roles and responsibilities for which a nominated officer is responsible under the Act will be undertaken and to which the Department will issue a code by which the CSP can access the Database.