

NOTICE - Register of individuals with significant control

Identifying the actual individuals behind business activities is an important and key component of Canada's anti-money laundering and anti-terrorist financing regime. Manitoba has harmonized its legislation with changes that were made to federal legislation respecting ownership transparency.

The following is a brief and non exhaustive overview of the register requirements. It is recommended that corporations familiarize themselves with all amendments contained within *The Business Registration, Supervision and Ownership Transparency Act* ("The Act"). This document is not a substitute for legal advice and you should consult your legal counsel and/or accountant if you have any questions.

How do I start?

Step 1: Identify if these amendments apply to your corporation.

- These amendments apply to most Manitoba corporations, the only exceptions are as follows:
 1. A reporting issuer under *The Securities Act*;
 2. Corporations listed on a designated stock exchange, as defined in subsection 248(1) of the *Income Tax Act* (Canada);
 3. A loan corporation or a trust corporation, as those terms are defined in section 315 of *The Corporations Act*;
 4. A corporation without share capital.

Note: The register requirements do not apply to extra provincial corporations registered in Manitoba. Extra provincial corporations should however familiarize themselves with the requirements of their home jurisdiction.

Step 2: Identify all individuals with significant control.

- Who is an individual with significant control?

These are individuals who control corporations.

An individual that has any of the following interests or rights, or any combination of them, in respect of a significant number of shares of the corporation are individuals with significant control:

1. Is the registered holder of them,
2. Is the beneficial owner of them, or
3. Has direct or indirect control or direction over them.

And/or

Individuals who have influence, directly or indirectly over a corporation's decision making and direction.

Two or more individuals are each considered to be an individual with significant control over a corporation if, in respect of a significant number of shares of the corporation:

1. An interest or right, or combination of interests or rights, referred to in section 2.1(1)(a) of the Act is held jointly by those individuals; or
2. A right, or combination of rights referred to in section 2.1(1)(a) of the Act, is subject to any agreement or arrangement under which the right or rights are to be exercised jointly or in concert by those individuals

➤ What does a significant number of shares mean?

A significant number of shares of the corporation means:

1. Any number of shares that carry 25% or more of the voting rights attached to all of the corporation's outstanding voting shares; or
2. Any number of shares that is equal to 25% or more of all the corporation's outstanding shares measured by fair market value

➤ What does beneficial ownership mean?

In the *Canada Business Corporations Act*, beneficial ownership is defined as including ownership through any trustee, legal representative, agent or mandatary, or other intermediary.

Note: If you are unable to locate an individual with significant control, it is recommended you outline in your register all the steps you exhausted in attempt to locate that individual(s).

Step 3: Create Your Register

Your register is a document. Examples of different formats include but are not limited to spreadsheets or logbooks. You may choose your own format as long as the required information is contained within. This register must be in place by April 8, 2020. Examples:

Sample Register 1	Excel pdf
Sample Register 2	Excel pdf

➤ What information do I put on the register?

The register includes the following information about all individuals with significant control:

1. The name, date of birth and latest known address ;
2. The jurisdiction of residence for income tax purposes ;
3. The date on which each individual became or ceased to be an individual with significant control, as the case may be;
4. A description of how each individual is an individual with significant control over the corporation, including as applicable, a description of their interests and rights in respect of shares in the corporation; and

5. A description of each step taken in accordance with the requirement to keep the register up to date.

- What are the steps I need to take to keep the register up to date?

At least once during each financial year of a corporation, reasonable steps must be taken to ensure that all individuals with significant control have been identified and the register information is complete, accurate and up to date.

If through this process or any other means a corporation becomes aware of any information in relation to individuals with significant control then that information must be recorded in the register within 15 days of becoming aware of it.

- Where should I keep the register?

At the corporations registered office or any other place in Manitoba designated by the directors. You do not file a copy with the Manitoba Companies Office. Your register is not accessible to the public at this time.

- Who can access the register?

The following people:

1. Shareholder;
2. Creditor;
3. Director Appointed under the Act

- Are there penalties for not complying with these amendments?

Yes. There are newly created offences and penalties that cover a corporation's failure to observe the new provisions. Depending on the offence, the penalties include monetary fines ranging from \$5,000 to \$200,000 and may include a period of imprisonment. It is important to know that the offences cover a variety of situations including entering false information on the register and shareholders withholding information.

You're done, you have created your register!

