

THE POSITION OF AN AFFECTED COMPANY NEEDS TO BE CLARIFIED WHEN IT COMES TO A PRIVATE COMPANY.

The rule for affected companies is that they need not file their Beneficial Ownership (BO) registers if they are listed. Therefore subsidiaries of a listed company need not file BO Registers.

What about a private company that views itself as a regulated company simply because the MOI says its regulated. Does this make it affected in terms of the rules. My view is that this is the case if the MOI says so it's an affected company, but must file the BO register.

There is another method that a private company can become affected when there is a Fundamental transaction when certain conditions are met. If a private company believes that it is an affected company and does not file I consider it to be wrong.

Or where there is a ***fundamental transaction*** in a private company where within the last 2 years 10% of shares has been sold to an outsider i.e. who is an ***unrelated party***. In this case the company only becomes affected if there is a fundamental transaction, i.e. in terms of s112 s113 and s114. The fundamental transaction is in effect a affected transaction simply om order to take the transaction to the take-over regulation panel. If there is no fundamental transaction, it's not an affected company and beneficial ownership should be filed. Even if its affected it should file. It can only be regulated when a fundamental transaction takes place. Even if there is a fundamental transaction which is an effected transaction this is only for the purposes of taken this to the Take Over Regulation panel.

The purpose of being regulated is to ensure fairness as far as outsiders are concerned.

With this rule in place there should be very few private affected companies.