

Changing the company can be accomplished in several ways as well, ranging from simple to highly complicated. The most popular include:

- » merging the company into another company from a non-blacklisted country;
- » selling the company to another company from a non-blacklisted country;
- » selling the assets of the company to another company from a non-blacklisted country;
- » settling a lawsuit by transferring the assets of the company to another company from a non-blacklisted country;
- » creating a parallel company with the exact same name as the original company but in a non-blacklisted country;

The client's country and circumstances will dictate which approach is most effective.



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SWIFT SOLUTIONS



Blacklisted Companies

Companies from Blacklisted Countries

In an increasing effort at tax collection, many countries have changed their laws and policies so that they treat companies from “tax havens” or so-called “blacklisted countries” far more harshly than companies from other countries not on their blacklist. At the very least, the identity of the “beneficial owner” of the company is being required prior to permitting any transaction.

Companies that have been used to hold assets, investments or bank accounts for decades are now a problem for their owners. Either they cannot repatriate the assets, or they have assets at home that are under scrutiny and even attack because they are owned by a company from a blacklisted country. Such problems can delay crucial investment plans or even financially cripple the owners. In many cases disclosure of the beneficial owner would result in fines, criminal prosecution or even forfeiture of the asset.

There are many ways in which these draconian punishments can be circumvented, but almost all of them are based on one or both of these actions:

- » change the ownership of the company; and/or
- » change the company.

There are at least three simple but effective ways to **change the ownership of the company** without adversely affecting the right of the beneficial owner to use and benefit from the assets held by the company. These include:

- » transfer the company ownership to a private interest foundation; or
- » transfer the company ownership to a trust structure; or
- » transfer the company to Nominee Owners.

Private Interest Foundations are very popular in Civil Law countries because they are entities created and operating under civil law. They are also very popular in Latin America because one of the very best places to form a private interest foundation is Panamá, where Spanish is the legal language. The biggest drawback to this strategy, is that Panamá is a

known tax haven. In some cases, the client may have simply added another blacklisted country to the problem.

Trust structures are less well known in civil law countries because they are common law entities largely unrecognized by civil law. In addition, every common law country is English speaking. As such, this solution has been less favored in Latin America. However, trusts offer advantages previously overlooked, such as:

- » tax-free trusts can be organized in non-tax haven countries;
- » trust documents can usually be written in any major language; and,
- » the formation and operations of trusts can be done privately in many places with no registration of the trust or its actions.

Transferring the company to Nominee Owners is often the simplest and most effective means of accomplishing desired goals. This can be done with a simple private nominee agreement between the beneficial owner and the nominee. This agreement is usually backed up by a “**Transfer-in-blank**” of the registered share certificate.

On the back of the share certificate issued to the Nominee Owner is a Share Transfer Form; the nominee owner should sign the transfer form where indicated, but leave both the name of the person to whom the share is to be transferred and date blank. The Nominee Owner’s share certificate with the “**Transfer-in-blank**” is then held by the beneficial owner for safekeeping. Thus, at any time, and without the nominee owner’s knowledge or consent, the beneficial owner can transfer the shares to anyone he desires by simply filling in the blank name and date.

One important point: **the nominee owner of a company needs to be both credible and outside the country** where the real owner or the asset in question is domiciled. If this is not done, the nominee owner will not pass government scrutiny and nothing will have been accomplished.

The **SWIFT Financial Group** can provide credible beneficial owners in a variety of countries both nearby and across the globe.