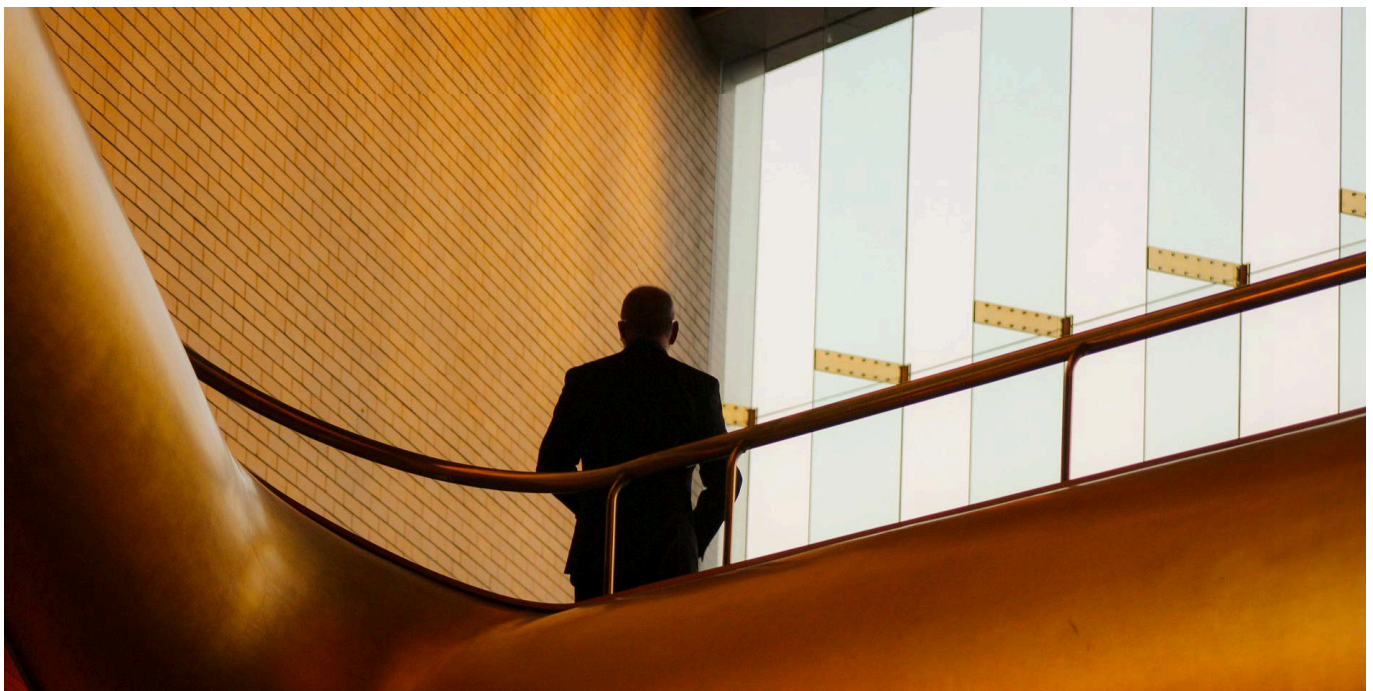


# wts CEE | taxbridge

## Registration of Ultimate Beneficial Owners in Central and Eastern Europe



### CONTENTS

<b>AUSTRIA</b>   Dr. Jürgen Reinold The transparent shareholder	page 3	<b>LITHUANIA</b>   Evaldas Dūdonis, Ieva Krivickaitė Duty to register UBOs now, technical means later	page 13
<b>BULGARIA</b>   Ralitzia Damyanova MAMLA, the new Measures against Money Laundering Act	page 5	<b>POLAND</b>   Ewelina Buczkowska Year of fundamental changes	page 14
<b>CZECH REPUBLIC</b>   Petr Hanka The first one year and a half of the Czech register of beneficial owners	page 7	<b>RUSSIA</b>   Vladislav Donchenko Amendments to the beneficial owner concept	page 16
<b>ESTONIA</b>   Tanel Molok Fine can reach up to EUR 32,000 for legal entities	page 9	<b>SERBIA</b>   Bojan Radojičić Central Register of Real Owners established at the end of 2018	page 18
<b>HUNGARY</b>   dr. Ildikó Szopkóné Horváth Service provider obligation to forward data	page 10	<b>SLOVENIA</b>   Mateja Babič Publicly available information on beneficial owners	page 20
<b>LATVIA</b>   Zane Paeglīte, Alīna Kalviša Latvia widens and strengthens regulations on beneficial owner disclosure	page 11	<b>UKRAINE</b>   Maxim Oleksiyuk, Viktoriia Minets Since end-2018, any amendment to company register requires submission of information on beneficiaries	page 22



Tamás Gyányi  
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*Directive (EU)  
2015/849 of the  
European Parliament  
and of the Council  
of 20 May 2015*

### Dear Readers,

I am pleased to present to you the summer issue of our Tax Bridge, which focuses on new developments with respect to the beneficial owner concept applied in Central and Eastern Europe. We can now see what is happening in some EU countries (Austria, Czech Republic, Estonia, Hungary, Latvia, Lithuania and Poland) as well as third countries like Russia, Serbia and Ukraine.

The data forwarding obligation affecting beneficial owner data is designed to comply with the provisions of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The Directive stipulates that "With a view to enhancing transparency in order to combat the misuse of legal entities, Member States should ensure that beneficial ownership information is stored in a central register located outside the company, in full compliance with Union law. Member States can, for that purpose, use a central database which collects beneficial ownership information, or the business register, or another central register."

Some European countries have already launched this central register, while the non-European countries have their own legislation and specialties too.

Our articles focus not only on the definition of the beneficial owner scheme or the status of central registers. In some countries, a default penalty derived from non-compliance with the registration obligation also has to be taken into consideration, and there are still uncertainties in this context. For example, the Russian beneficial ownership concept, which follows the OECD approach, has already become one of the major mechanisms applied by the Russian tax authorities to counteract tax avoidance schemes, limit capital outflow and raise fiscal revenues in Russia, but the number of uncertain issues related to applying the beneficial ownership concept and negative court practices are also growing.

After reading the articles for the countries, you will probably remember that WiEReG or MAMLA are not magic spells but the name of the beneficial owner register in Austria and the related law in Bulgaria. The trends suggest that the number of strange abbreviations used for such registers is set to increase and all countries will introduce this system.

On behalf of all our regional staff, WTS hopes you will enjoy reading our Tax Bridge.

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*definition*

*default penalty*

*court practices*

*strange abbreviations  
for registers*

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#### Innovative



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Dr. Jürgen Reinold  
Senior Manager

## The transparent shareholder

Author: **Dr. Jürgen Reinold**

Since 15 January 2018, all Austrian legal entities have to report their beneficial owners to a central register according to the Austrian Beneficial Owners Register Act (Wirtschaftliche Eigentümer Registergesetz, WiEReG).

### Who is subject to the Austrian Beneficial Owners Register Act?

The Beneficial Owners Register Act addresses all relevant company structures in Austria, e.g. unlimited liability partnerships (OG), limited liability partnerships (KG), limited liability companies (GmbH), public limited companies (AG), Societas Europaea (SE), (European) cooperatives, insurance companies, private foundations, as well as trusts and trust-like agreements that are administered in Austria. An Austrian branch office of a foreign company is not within the scope of application by the Beneficial Owners Register Act.

The addressed entities have to verify their beneficial owners and their identity. In general, all natural persons who own or control a legal entity are considered to be its beneficial owners and must be registered. With regard to companies, the law provides for three different approaches:

- A natural person directly holds more than 25% of the shares or has a participating interest of more than 25%.
- A natural person exercises control over the management of the company or partnership, meaning that more than 25% of the shares in an Austrian company are held by another legal entity that is controlled directly or indirectly by a natural person; control in this respect is indicated by directly or indirectly holding more than 50% of shares.
- A natural person has sufficient voting rights in the company or partnership, directly or indirectly.

### Exemptions and special provisions

In the case that no beneficial owner according to the above-mentioned parameters can be identified, the top-level management of the company shall be seen as the beneficial owner (subsidiary reporting). The reporting obligation of companies in the case of subsidiary reporting by members of top-level management has to indicate

- whether there are no beneficial owners in the reporting company, or
- whether, after exhaustion of all possibilities, the beneficial owners of the reporting company could not be determined or verified.

There are a few exemptions from the reporting obligation. For example, limited liability companies are exempted from the obligation to transfer information to the registry if all shareholders are natural persons.

Specific provisions exist for foundations (e.g. private foundations according to the Austrian Private Foundations Act or foundations and funds according to the Federal Foundation and Fund Act 2015) and trusts (or agreements similar to a trust) that are domiciled in Austria or are managed from Austria. For private foundations pursuant to the Austrian Private Foundations Act, the following natural persons are defined as beneficial owners:

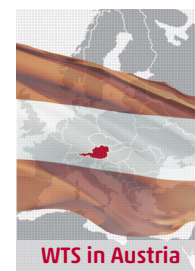
- the founders,
- all potential beneficiaries,
- the group of beneficiaries (abstract notion of potential beneficiaries); if a person in the group of beneficiaries receives a donation amounting to more than EUR 2,000 per calendar year, this person has to be reported for this specific calendar year,
- the members of the foundation's management board,
- all other natural persons who ultimately control the private foundation in some other way.

The term "beneficiary" is determined pursuant to the Austrian Private Foundations Act. If one of the above-mentioned functions is executed by a legal person, the beneficial owners of the legal person have to be identified and reported as those natural persons who ultimately control the private foundation. The private foundation itself has to take the necessary measures in order to fulfil the reporting obligation. Consequently, the members of the foundation's management board – as the responsible body – have to make sure that the beneficial owners are identified and reported.

*continued on the next page*

*all relevant company structures in Austria*

*three different approaches*



*few exemptions*

*limited liability companies if all shareholders are natural persons*

**Which data have to be reported and when?**

*name; place of residence; date and place of birth; nationality and nature and scope of the economic interest*

*Austrian Government's Business Service Portal*

*newly established companies within four weeks of incorporation*

In principle, for every beneficial owner the following data have to be reported: first name and surname; place of residence (where there is no place of residence in Austria, the number and nature of an official photo identification); date and place of birth; nationality and nature and scope of the economic interest. The required data concerning the beneficial owners have to be transmitted electronically via the Austrian Government's Business Service Portal. It must be mentioned that also legal advisers (tax consultant, lawyer and notary) are entitled to undertake the notification. Newly established companies are obliged to register their ultimate beneficial owners within four weeks of incorporation. Moreover, if changes occur regarding registered data, entities are obliged to amend their registration accordingly within four weeks of the first notice. Furthermore all entities are required to obtain adequate, accurate and up-to-date information about their beneficial owners, including economic interest information and to check at least annually whether the beneficial owners reported to the register are still up to date. In other words: the entity has an annual reviewing obligation. The documentation and information required for these obligations must be stored for five years.

**Penalties and access**

In case of non-compliance with registration duties the Austrian tax authorities automatically impose administrative penalties of up to EUR 5,000 by default. The Austrian Beneficial Owners Register Act knows several

severe financial offences, e.g. intentional violations of the reporting requirements, such as failure to make a report or making a false report, are punished as financial offences with penalties ranging up to EUR 200,000 for an intentional violation. A grossly negligent violation of the reporting requirements is sanctioned with a fine of up to EUR 100,000. These penalties primarily address entity representatives (e.g. the managing director). However, legal entities themselves can also be punished.

The Federal Ministry of Finance acts as competent authority for the register. By electronic means, any person may request a public extract from the register bearing an official signature of the registry authority.

*The article is an updated version of the article published in WTS Global Newsletter private Clients & Family Office Services #2/2018.*

*Federal Ministry of Finance acts as competent authority*

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## MAMLA, the new Measures against Money Laundering Act

Author: **Ralitza Damyanova**

On 8 January 2019 the Regulations on the Implementation of the Anti-Money Laundering Act were promulgated in Bulgaria. Publishing these rules rectified an important missing element of the implementation of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (4<sup>th</sup> Anti-Money Laundering Directive).

*new Measures against Money Laundering Act (MAMLA) since 31 March 2018*

The new Measures against Money Laundering Act (MAMLA), promulgated in the State Gazette, issue 27, on 27 March 2018, have been in force in Bulgaria since 31 March 2018. The Act repealed the former Measures against Money Laundering Act and requires all legal entities or other legal formations, established in the Republic of Bulgaria, to disclose their beneficial owners to the Commercial Register and Register of Non-Profit Legal Entities and with the Bulstat Register.

### Exemptions from declaration

*exemptions from this obligation are legal entities directly owned by natural persons*

The only exemptions from this obligation are legal entities which are directly owned by natural persons and where the data of these persons is visible either on the entity's file with the Commercial Register, or on any of the files of entities part of the chain of ownership, e.g. shareholders in a limited liability company (OOD), sole owner of a solely owned limited liability company (EOOD) or a solely owned joint-stock company (EAD).

### Data subject to declaration

In accordance with the statutory declaration under the MAMLA, the following data is subject to reporting:

- Identification data of beneficial owners – natural persons;
- Information on legal entities or other legal formations, which have direct or indirect control; and
- Contact person on measures against money laundering matters. (If a company does not have a director – natural person,

permanently residing on the territory of Bulgaria, the company must appoint a person meeting this requirement, who will be the contact person on the measures against money laundering matters.)

### Definition of beneficial owners

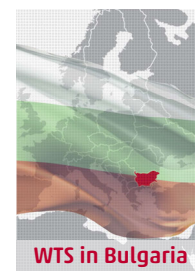
The legal definition of beneficial owners in Bulgaria is introduced in § 2 from the supplemental provisions of the MAMLA and corresponds to the definition provided in the EU Directive. Accordingly, "beneficial owner" is any natural person(s) who ultimately owns or controls the legal entity or another legal formation, and/or the natural person(s) on whose behalf or for whose account a transaction or activity is being conducted, and who meets at least one of the following conditions:

- In the case of corporate legal entities and other legal formations, the beneficial owner is the natural person(s) who directly or indirectly owns a sufficient percentage of the shares or voting rights in such entity or another legal formation, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

Indication of direct ownership is present when a natural person(s) owns at least 25% of the shares in a legal entity or another legal formation.

Indication of indirect ownership is present when at least 25% of the shareholding in the legal entity or another legal formation is held by a corporate entity or another legal formation, which is under the control of the same natural person(s), or by multiple legal entities and/or legal formations, which are under the ultimate control of the same natural person(s).

*continued on the next page*



*"beneficial owner" is any natural person who ultimately owns or controls the legal entity or another legal formation*

*corporate legal entities*

*indication of direct ownership*

*indication of indirect ownership*

*trustee ownership* → In respect of trustee ownership, including trusts, trusteeships and other similar foreign legal formations, established and existing under the legislation of the jurisdictions admitting such forms of trust ownership, the beneficial owner shall be:

- » the founder;
- » the trustee;
- » the protector, if any;
- » the beneficiary or class of beneficiaries, or
- » the principal in whose interest the trust is created or managed when the natural person benefiting from it is yet to be determined;
- » any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means.

*foundations and legal arrangements similar to trusts*

→ In respect of foundations and legal arrangements similar to trusts – the natural person(s) holding equivalent or similar positions to those referred to above.

Any natural person(s) who is/are nominee director(s), secretary(ies), shareholder(s) or owner(s) of the capital of a legal entity or other legal formation shall not be deemed beneficial owner(s), if another beneficial owner is established.

### Sanctions

For non-compliance with the obligation to register the data subject for the declaration by the MAMLA term, a penalty from BGN 500 (roughly EUR 256) to BGN 5,000 (roughly EUR 2,556) shall be imposed in the cases where the breaching party is a natural person. A penalty from BGN 1000 (roughly EUR 511) to BGN 10,000 (roughly EUR 5,112) shall be imposed when the breaching party is a legal entity.

After incurring a penalty for non-compliance with the obligation to register the given data on beneficial owners in Bulgaria, and if the obligated entity does not register within the provided term, another penalty within the above mentioned range shall be imposed on the obligated entity each month until the application for the registration of the data is filed.

*from BGN 1000 (roughly EUR 511) to BGN 10,000 (roughly EUR 5,112) when the breaching party is a legal entity*

*each month until the application*

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## The first one year and a half of the Czech register of beneficial owners

Author: **Petr Hanka**

All legal entities entered in public registers in the Czech Republic, in particular trading companies registered in the commercial register, have a relatively new obligation. With effect from 1 January 2018, information regarding the beneficial owners of legal entities must be registered.

Implementation of this registration is based on the strengthening of the rules to fight both terrorist financing and the legalization of the proceeds from crime (i.e. money laundering), governed at the European level by Directive (EU) No. 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. In the implementation of this Directive, the Czech Republic was to introduce, among other measures, the registration of beneficial owners. In addition, information on trust funds – that have not thus far been registered – was to be recorded.

### Who is considered to be a beneficial owner?

The definition of a beneficial owner is to be found in Act No. 253/2008 Coll., on certain measures against the legalization of proceeds from crime and terrorist financing, as amended.

*individual in a factual or legal position to exercise a decisive influence on a legal entity*

A beneficial owner shall mean an individual who is in a factual or legal position to exercise, directly or indirectly, a decisive influence on a legal entity, a trust fund or other legal structure without legal personality. It is thus assumed that a beneficial owner of a business corporation (such as a limited liability company) is an individual who:

- either alone or jointly with persons acting in concert has more than 25% of the voting rights in this business corporation or a shareholding in the registered capital exceeding 25%;
- either alone or jointly with persons acting in concert controls a person stated above;
- shall receive at least 25% of the profits of this business corporation, or
- is a member of the statutory body, representative of a legal entity in this body or in a position similar to that of a member of the statutory body, unless the business corporation has a beneficial owner or the beneficial owner can be determined according to the points above.

Similarly, more specific rules for determining the beneficial owner have also been laid down for other types of legal entities (such as associations, non-profit organisations, housing associations, foundations and trust funds).

### What information is to be registered?

For practical reasons, registration courts register beneficial owners, the registration being governed by Act No. 304/2013 Coll., on public registers of legal entities and individuals, as amended.

The following information should be entered in the register of beneficial owners: name and present address (or official residential address, if different); date of birth and birth number (if available); nationality and reasons why the person possesses the status of a beneficial owner, i.e.

- information on the share in voting rights (if the status is based on direct participation in a legal entity); or
- information concerning the share in funds to be distributed (if the status of a beneficial owner is based on the fact of being entitled to receive profit); or
- information concerning another fact (if the beneficial owner's status is established otherwise).

### Who has access to the data entered in the register?

The register of beneficial owners is currently not publicly accessible as is the case with public registers (with the exception of the future change to the current legislation of course). Information on beneficial owners is not provided in the form of public extracts from registers.

Only selected entities are granted remote access to information on beneficial owners, including, without limitation:

- courts for purposes of legal proceedings,
- law enforcement authorities for purposes of criminal proceedings,
- tax administrators,
- intelligence services,
- Financial Analysis Office,
- Czech National Bank,
- person obliged under Act No. 253/2008 Coll., on certain measures against the legalization of proceeds from crime and terrorist financing in connection with client identification and control,
- public aid providers, etc.

However, it is worth mentioning that the pending amendment to the abovementioned AML Directive (EU) can and in view of the current negotiations it probably will change the legislation in such a manner

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WTS in the Czech Republic

*name and present address, date of birth and birth number, nationality and reasons why the person possesses the status*

*currently not publicly accessible*

*selected entities are granted remote access*

*will probably be made accessible to the public*

that the register of beneficial owner will be made accessible to the public. Such a change can be expected rather sooner than later, possibly during 2020 or the following year.

#### **When does the obligation to register and to update a pre-existing registration come into force?**

Under the previous legislation, every legal entity was obliged only to keep internal records by which it could identify and verify the identity of the beneficial owner as well as information pertaining to why the person possesses the status of beneficial owner or other reasons why such a person is considered to be a beneficial owner. This obligation applied as long as the person concerned remains the beneficial owner and for at least ten years following the termination of the relationship.

*obligation to keep and update records of information and apply for the entry*

Since 1 January 2018, trust funds and legal entities registered in a public register not only have the obligation to keep and update records of information regarding their beneficial owners but also to apply for the entry of this information in the register of beneficial owners. The application should be filed on the respective form accompanied by documents to verify the information on the beneficial owner. However, the law does not give any specifics regarding these documents. The registration of information is subject to a court fee amounting to CZK 1,000 (roughly EUR 40).

*without undue delay after the decisive circumstance has occurred*

The application for registration must be filed without undue delay after the decisive circumstance has occurred, i.e. from the time the particular individual meets the requirements according to the beneficial owner definition (e.g. new sole shareholder of a company on the closing day of a transaction). The application must be filed by the person authorized to apply for registration in a public register, that is, in principle, the person entered in a public register, such as a specific limited liability company.

The registered information regarding beneficial owners should be regularly updated after the initial registration. If the beneficial owner, or any relevant information, should change then an application for the entry of such a change should be filed immediately after the event has occurred (e.g. change of the address of the sole shareholder of the company). Thus, the obligations of legal entities relating to beneficial owners continue even after the initial entry in the register.

*beneficial owners themselves have no direct obligation*

The beneficial owners themselves have no direct obligation with regard to the legal

regulation of registration, the relevant legal entity or trust fund being responsible for proper registration.

#### **What are the first experiences after one year and a half since the obligation to register came into force?**

As of today (July 2019) the register of information regarding the beneficial owners of legal entities has been in operation for almost one year and a half. The deadline by which trading companies had to comply with the obligation expired on 1 January 2019.

*deadline expired on 1 January 2019*

There have been some indications in recent months how the "obliged entities" – in particular banks – will be dealing with a failure to comply with this obligation. According to the AML Act, those involved have to examine their clients' entries in the register of beneficial owners. If an entry is incorrect or missing, they are obliged to draw to their clients' attention the legal consequences of such a lapse and, in extremis, to terminate their professional relationship.

*legal consequences*

Some banks strictly comply with their obligations and, in some cases, have been prompt to terminate clients' banking arrangements.

This issue is not only relevant to banks, but also to other obliged entities, including financial institutions such as insurance and leasing companies, and also some consultants. However, a bank is usually the first institution to deal with this issue when treating a typical client. Considering the necessity of having a bank account, plus the other services provided by a bank, the unilateral termination of a relationship by a bank usually has considerable implications for the client. The costs incurred as a result of such a situation may be significant.

*a bank is usually the first institution to deal with this issue*

It is therefore highly recommended that each legal entity that has not yet done so has the data of its beneficial owner registered and actively reviews and updates the entry whenever changes occur.

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## Fine can reach up to EUR 32,000 for legal entities

Author: **Tanel Molok**

In Estonia, the obligation to collect and disclose data about ultimate beneficial owners (UBOs) came into force on 1 September 2018. In accordance with the changes in the Money Laundering and Terrorist Financing Prevention Act, all legal entities, with some exceptions, must disclose information about their beneficial owners to the Commercial Register.

### Definition of ultimate beneficial owners

An UBO is a natural person who, taking advantage of their influence, carries out a transaction, act, action, operation or step, or otherwise exercises control over a transaction, act, action, operation or step, or over another person, and in whose interests or favour or on whose account a transaction, act, action, operation or step is carried out.

In the case of companies, the UBO is the natural person who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that person, including through bearer shareholdings, or through control via other means.

**Direct ownership** means that a natural person has 25% plus one share or an ownership interest of more than 25% in a company. **Indirect ownership** means that a company under the control of a natural person holds, or multiple companies that are under the control of the same natural person hold, a shareholding of 25% plus one share or an ownership interest of more than 25% in a company.

### What information needs to be disclosed?

**company** A company must register the following information on their UBOs in the Commercial Register:

- the person's name, ID code and country of the ID code, the date and place of birth if there is no ID code, and country of residence;
- information on the manner in which the person exercises control.

**foundation** A foundation must also submit the list of beneficiaries, which includes each beneficiary's name, ID code and country of the ID code, the date and place of birth if there is no ID code, and country of residence if such persons are specified by name in the articles of association of the foundation.

The following are not obliged to submit information about their UBOs:

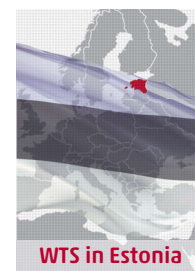
- apartment associations and building associations;
- companies listed on the regulated market to which disclosure rules complying with European Union law or similar international standards are applied;
- foundations where the goal of their economic activities is safekeeping or collecting assets in the interests of the beneficiaries or group of persons specified in the articles of association and that has no other economic activity;
- branches of non-resident companies, since the branch is not a legal entity and the disclosure and reporting of the UBO is managed by the headquarters of the company in its home jurisdiction.

### Access to the information regarding UBOs and penalties for breaches

The information on UBOs of Estonian companies is publicly available at the website of the Estonian Commercial Register:

<https://ariregister.rik.ee/lihtparing/kasusaajad?lang=eng>

Failure to submit information on the beneficial owner, to notify changes in data or intentionally submit false data is punishable by a fine. The fine can be up to EUR 1,200 for natural persons and up to EUR 32,000 for legal entities.



WTS in Estonia

*not obliged to submit information about their UBOs*

*publicly available*

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## Service provider obligation to forward data

Author: **dr. Ildikó Szopkóné Horváth**

When identifying the beneficial owner of an organisation that is a legal entity or an organisation without legal personality, service providers subject to Act LIII of 2017 on the Prevention of Money Laundering and the Financing of Terrorism (new Pmt.) – including, in particular, credit institutions, financial service providers, lawyers, and those performing audit, bookkeeping or tax consultancy activities – not only have to record and check the beneficial owner data defined by law, as has been the case so far. If the relevant law enters into force they must also immediately forward such data to the central register of beneficial owner information, provided that the beneficial owner data is not yet included therein.

### The legal regulation creating the central register of beneficial ownership information has not yet been promulgated

The legal regulation creating the central register of beneficial owner information and setting out the detailed rules for data forwarding has not yet been promulgated, so service providers cannot yet fulfil their data forwarding obligation relating to beneficial owner data.

### Compliance with EU law

The data forwarding obligation affecting beneficial owner data is designed to comply with the provisions of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The Directive stipulates that "With a view to enhancing transparency in order to combat the misuse of legal entities, Member States should ensure that beneficial ownership information is stored in a central register located outside the company, in full compliance with Union law. Member States can, for that purpose, use a central database which collects beneficial ownership information, or the business register, or another central register."

### Which beneficial owner data is affected by the service providers' obligation to forward data?

The service providers' data forwarding obligation will affect the following beneficial owner data:

- surname, first name
- surname, first name at birth

- citizenship
- date and place of birth
- address, or for lack of this, habitual abode
- nature and extent of ownership interest

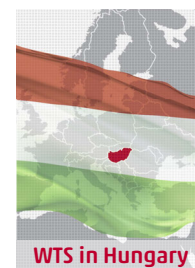
If the beneficial owner qualifies as a politically exposed person, the central register of beneficial ownership information to be created will also include this.

### Those authorised to request data

The following will be authorised to request beneficial ownership information from the central register:

- without any limitations, financial intelligence units, investigating authorities, counter-terrorist agency, national security services, prosecutor's office and courts;
- the service provider's supervisory agency, in the interests of the tasks included in the new Pmt.;
- the service provider, for the purposes of performing the customer due diligence measures;
- to the extent absolutely required for use, third parties, where such third party shall verify the purpose of the data use with a document along with its justified interest in gaining access to the data in relation to the fight against money laundering and terrorist financing.

If the service provider cannot perform the customer due diligence measures, it shall refuse to carry out a transaction through a payment account based on the customer's order, to establish a business relationship, to fulfil a transaction order, or it shall terminate the existing business relationship with the respective customer. In light of this it is important that the customer meets its data reporting obligation accurately and in full, covering the beneficial owner data as well.



*service providers cannot yet fulfil their data forwarding obligation*

*"Member States should ensure that beneficial ownership information is stored in a central register located outside the company"*

*principle of limited disclosure*

*consequences of non-performance of the customer due diligence measures*

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## Latvia widens and strengthens regulations on beneficial owner disclosure

Authors: **Zane Paeglīte, Alīna Kalviša**

Although the obligation to disclose information on beneficial owner (BO) came into force in Latvia on 1 December 2017, and legal entities had to file their notification about the BO with the Company Register (CR) by 1 March 2018, on 1 July 2019 significant amendments to the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing (AML Law) came into force, reinforcing the applicable regulations and widening the rights of the CR. We would like to highlight the most significant aspects of the new additions to the AML Law, as well as remind you about the existing disclosure requirements.

### Who is the BO and who are the subjects of the disclosure obligation?

The AML Law states that a legal entity's BO is a natural person who is the owner of the legal entity or who controls the legal entity, or on whose behalf, for whose benefit or in whose interests a business relationship is established or an individual transaction is executed, and who is at least a natural person, who:

- owns more than 25% of the shares or voting stock in a legal entity through a direct or indirect shareholding, or who
- directly or indirectly controls it.

*owns more than 25%  
of the shares or  
voting stock*

These two points mean that even a person who owns less than 25% of the company's share capital but controls it in some other manner would be considered a BO and must disclose the information. In the context of indirect ownership, the law addresses control (voting rights). In light of the control chain, it must also be taken into account if there are any agreements giving rise to the control rights, or if the chain of control is structured only through the shareholding.

In accordance with the original wording of the AML Law, BO disclosure applied to all legal entities registered with the CR, including private limited and public limited companies, as well as Societas Europaea, and other subjects, plus associations, foundations, cooperatives and others. This excluded subjects that are registered with the CR, but do not have legal entity status (such as branches of foreign entities). However, the recent amendments to the AML law expand this obligation to more subjects, meaning that as of 1 July 2020 foreign entities too will have to disclose information on their BOs – to the CR (in the

*as of 1 July 2020  
foreign entities too*

case of branches and representative offices of foreign entities) or to the State Revenue Service (if a permanent establishment is registered solely with the taxpayer's register).

### Who must report on BOs and determine who the BO is?

The obligation goes both ways – a natural person who believes they have become a BO must immediately notify the legal entity accordingly, while a legal entity must use its own resources and initiative to determine and identify its BO, if the data filed about the BO raises doubt or if data is missing.

A BO must submit (and the legal entity must store) the following information:

- name, surname;
- identity code (if any) and date of birth;
- number and date of issue of personal identification document, country and institution that issued the document;
- nationality;
- country of permanent residence;
- how control over the legal entity is exercised, indicating data about the subject(s) serving as intermediary(-ies) for control, as well as documents proving control.

The AML Law requires BO data to be registered at the CR by a separate application or together with the registration of other changes to the legal entity; likewise, the CR must be informed if the BO remains the same in the case of changes to shareholders or board members. The application to the CR must indicate the BO data outlined above. If the legal entity has exhausted all possible means of identification and has concluded that it is impossible to identify any natural person – BO – and has ruled out any doubt that the legal entity has a BO, this shall also be acknowledged in the application to the CR, stating the reasons.

In the event the BO is a shareholder of a public company and control of the legal entity stems only from the shareholder's status, it is not necessary to provide the CR with information on the BO, but the application should still be submitted, containing this statement. However, according to the current interpretation the CR only permits this exemption if the company itself is listed on the stock exchange or its direct shareholder is a listed company.

*continued on the next page*



*the obligation  
goes both ways*

*how control over  
the legal entity is  
exercised*

*documents proving  
control*

*if BO is a shareholder  
of a public company,  
it is not necessary to  
provide the CR with  
information*

Also, it must be noted that if a legal entity acting as an agent for BO control over the legal entity loses its status in the legal entity, the legal entity must apply to the CR to change the BO or confirm that the BO has not changed, and indicate the shareholder through whom the BO exercises control.

*granted the CR rights in the event of doubt to request the submission of the relevant supporting documents*

The original wording of the AML Law provided that documents proving BO control need not be filed with the CR, but just kept by the legal entity. However, the amendments have granted the CR rights in the event of doubt to request the submission of the relevant supporting documents (e.g. extracts from the foreign commercial registers and population registers, notarised passport copies, etc.), for their review prior to registration of the information provided.

*CR is actively using its newly granted rights*

Although the amendments entered into force recently, experience in various cases shows that the CR is actively using its newly granted rights and requesting the submission of supporting documentation, especially in cases when the application states that it is not possible to determine the BO or that the BO is a shareholder of a public company. Therefore, when planning transactions leading to corporate changes legal entities should take into account that the registration process at the CR might take more time than before, and be prepared to submit the relevant documentation.

#### **Consequences of failure to observe the disclosure obligation**

Legal entities that fail to observe the disclosure obligation (i.e. do not register their BOs): if the obligation is not fulfilled after

receipt of a reminder from the CR, the CR will perform a simplified liquidation procedure in accordance with the Commercial Law.

*CR will perform a simplified liquidation procedure*

Also, sanctions included in the Latvian Administrative Violations Code on failure to submit data or documents to the CR can be applied for failure to disclose, ranging from a warning or penalty of EUR 70 to EUR 700. Likewise, sanctions under the Criminal Law apply for the intentional provision of false data or failure to provide data to a state institution, for which imprisonment for up to two years, community service or a fine can be imposed.

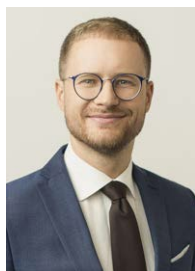
Finally, in the case of companies, the management board may be held liable for losses caused to the company due to non-compliance with disclosure obligations, unless the management board proves that it acted with due diligence.

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## Duty to register UBOs now, technical means later

Authors: **Evaldas Dūdonis, Ieva Krivickaitė**

In accordance with the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (4<sup>th</sup> Anti-Money Laundering Directive) since 1 January 2019, all companies registered in Lithuania must obtain, collect and register information on their ultimate beneficial owners with the Information System on Participants of Legal Entities (JADIS).

Accurate and up-to-date information on ultimate beneficial owners is considered to be a key measure in combating potential misuse of the corporate veil by hiding the true identities of persons behind corporate structure.

However, currently, there are no technical means for companies to register their ultimate beneficial owners with JADIS. Ministry of Justice of Lithuania anticipates the technical means shall be implemented and will be functional by the beginning of 2020.

### Ultimate beneficial owners – persons who own or control the company

Ultimate beneficial owner is deemed to be a natural person who owns or either directly or indirectly controls the company or otherwise exercises control over the company. Direct ownership implies a shareholding of 25% plus one share or an ownership interest of more than 25% in an entity. Indirect ownership occurs when one or more legal entities, under the control of the same natural person, holds 25% plus one share or an ownership interest of more than 25% in another legal entity.

Further, the ultimate beneficial owner of the company is considered to be a natural person who holds the position of senior managing officer in an entity if neither direct nor indirect control has been established or doubts arise as to whether a person identified is the ultimate beneficial owner.

### Ultimate beneficial owners in trusts

In the case of trusts, the ultimate beneficial owner is considered as any of the following:

- the settlor,
- the trustee(s),

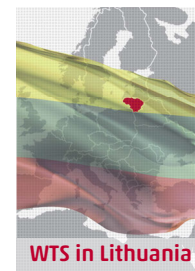
- the protector, if any,
- the beneficiaries or persons in whose main interest the legal arrangement or entity is set up or operates,
- or any other natural person exercising ultimate control over the trust by means of direct or indirect control.

Lastly, in the case of legal entities such as foundations and legal arrangements similar to trusts, the ultimate beneficial owner is the natural person holding equivalent or similar positions to those identified as ultimate beneficial owner in trusts.

### Filing information with JADIS

Information about ultimate beneficial owners must be filed with JADIS by all legal entities having their registered office in Lithuania. By way of derogation, no obligation arises to publish data on JADIS for legal entities whose owner (sole participant or shareholder) is either the state or a municipality. The obligation to file data with JADIS lies with the managing director (CEO) of the undertaking. Any change in the data must be filed with JADIS within ten days.

The sanction for failing to file data about ultimate beneficial owner or for providing incorrect and/or incomplete information varies from EUR 30 to EUR 1,450 and is imposed on the managing director (CEO) of an entity.



WTS in Lithuania

*all legal entities  
having their  
registered office  
in Lithuania*

*change in the data  
must be filed within  
ten days*

*sanction from EUR 30  
to EUR 1,450*

*exercises control  
over the company*

*natural person*

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## Year of fundamental changes

Author: **Ewelina Buczkowska**

The Anti-Money Laundering and Terrorist Financing Act of 1 March 2018 (AML Act) entered into force in Poland as of 13 July 2018, with some exceptions. One of them is the whole chapter regarding the Central Register of Beneficial Owners, which will not apply until 13 October 2019.

### Beneficial owner under AML regulations

The AML Act states that the "beneficial owner" is the natural person who directly or indirectly controls a customer through entitlements, whether arising from factual or legal circumstances, which enable the person to exercise a dominant influence over the activities or conduct of the entity, or the natural person on whose behalf a business relationship is commenced or an ad hoc transaction is conducted.

For AML purposes, the term "beneficial owner" includes:

*controls a customer through entitlements*

*corporate entity other than a company listed on a regulated market*

→ in the case of a corporate entity other than a company listed on a regulated market:

- » a natural person who owns more than 25% of the total number of shares in the corporate entity or owns more than 25% of the total number of votes in the decision-making body of the entity;
- » a natural person who controls a company or companies which fulfil the above-mentioned condition;
- » a natural person who controls the entity by being its parent entity as defined in the Accounting Act; or
- » a natural person who holds the position of a senior managing official if it is verifiably impossible to identify any natural person mentioned above or if there is any doubt as to their identity;

*trust* → in the case of a trust: the settlor, the trustee, the protector, if any, the beneficiary, or any other person exercising control over the trust;

*natural person in business* → in the case of a natural person in business, such natural person shall generally be deemed to be the beneficial owner.

### Central Register of Beneficial Owners for AML purposes

The Central Register of Beneficial Owners will become operational as of 13 October 2019. This will be a public register with free-of-charge access. The following types of business will have to submit data to it:

- registered partnerships,
- limited partnerships,
- partnerships limited by shares,
- limited liability companies,
- joint-stock companies other than public companies.

Partnerships or companies formed on or after 13 October 2019 will have to submit data to the register within seven days of their registration. Existing entities will have to do so until 13 April 2020.

The following disclosures will be made in the register: identification information on the company/partnership (name, legal status, registered office, National Court Register number, tax ID) and on the beneficial owner and board member or partner with authority to represent the entity (first name, surname, citizenship, country of residence, PESEL code or, for those without PESEL, date of birth, size and nature of interest held, beneficial owner's rights).

Failure to submit data to the register on time will be punishable by a fine of up to PLN 1 million (roughly EUR 233,000). Fines will be imposed on the company.

The submission must be made by an authorised representative of the company or partnership, and must also include a representation that the submitted data is true, failing which the person may be held criminally liable for perjury.

### Important term also for MDR purposes

DAC6 has already been implemented in Poland. The MDR reporting obligation entered into force as of 1 January 2019.



*identification information on the company/partnership and on the beneficial owner and board member or partner with authority to represent the entity*

*will be punishable by a fine of up to PLN 1 million (roughly EUR 233,000)*

*identify reportable arrangements for MDR purposes*

The term "beneficial owner" as defined in the AML Act is used to identify reportable arrangements for MDR purposes. A reportable arrangement arises, in particular, whenever it involves a non-transparent legal or beneficial ownership chain with the use of legal persons or unincorporated organisational units, legal arrangements or structures, including where the beneficial owners, as defined in the AML Act, are made unidentifiable.

**Different approach to CIT taxpayers**

The beneficial ownership concept is also used for income tax purposes.

*19% (dividends) or 20% (interest, royalties and remuneration for intangible services)*

In general, revenues of non-residents are taxed at source under the CIT Act at 19% (dividends) or 20% (interest, royalties and remuneration for intangible services).

*by the end of 2018*

To ensure that the exemption or reduced rate under the CIT Act or relevant double tax treaty applies, by the end of 2018 the WHT agent was obliged to receive the following documents from the recipient:

- certificate of tax residence, and
- representation on beneficial ownership (for interest and royalties).

*exercise and prove due diligence*

*extended definition of beneficial owner*

As of 1 January 2019, the WHT agent must also exercise and prove due diligence when verifying if conditions for a reduced rate or exemption are met, in particular by applying the extended definition of beneficial owner, i.e. entity which:

- receives the payment for their own benefit, and
- is not an intermediary, representative or trustee or otherwise required to forward the payment in whole or in part to any other entity, and
- carries out a genuine (substantive) business – in particular the entity has sufficient premises, qualified personnel and equipment; there is proportionality between the scope of activities and those resources; the entity does not constitute a structure that operates without economic reason, performs its basic business functions autonomously including the present managing persons and the agreements concluded are consistent with economic reality, economically justified and not manifestly contrary to the general economic interests of the entity.

For income tax purposes, no register of "beneficial owners" within the meaning of the CIT Act is currently planned. Nevertheless, taxpayers and WHT agents may find other requirements to be a challenge.

The law is silent on how to apply the beneficial owner test and the genuine business (substance) test to certain entities, e.g. partnerships. As the new rules on withholding tax also raise many other doubts, the Ministry of Finance is currently working on tax guidance.

Further amendments to the CIT Act are expected to enter into force on 1 January 2020. When the sum of payments subject to WHT made to a CIT taxpayer during one tax year exceeds PLN 2 million (roughly EUR 466,000), then even if a due diligence is carried out, the WHT agent is in principle obliged to withhold tax from the excess at the standard rate (19% or 20%). It may then be possible to apply for a WHT refund. The CIT Act provides for only two exceptions: a special representation of the Management Board and an exemption opinion.

Since 2019 is a year of fundamental change in the "beneficial ownership" concept and in the AML and tax compliance obligations, it is thus advisable to be up-to-date with the current legal framework and the position of the Polish authorities.

*for income tax purposes, no register of "beneficial owners" within CIT Act is currently planned*

*two exceptions*

*2019 is a year of fundamental change*

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## Amendments to the beneficial owner concept

Author: **Vladislav Donchenko**

The Russian beneficial ownership concept was introduced into Russian tax law in 2015 as a part of BEPS initiatives. Since 2017, foreign companies receiving Russian-sourced income and claiming treaty benefits are obliged to provide the Russian companies paying the income with documentary and economic evidence supporting their beneficial ownership right.

### A complicated area of Russian tax law

The Russian beneficial ownership concept has already become one of the major mechanisms applied by the Russian tax authorities to counteract tax avoidance schemes, limit capital outflow and raise fiscal revenues in Russia. Following the well-established OECD approach, the Russian beneficial ownership concept mainly focuses on limiting access to treaty benefits for conduit companies, which only perform intermediary functions in a cash flow structure and do not conduct any operational activity. However, it should be noted that the Russian beneficial ownership concept is a rather complicated area of Russian tax law that has its own particular features developed in numerous court cases (most of them negative for taxpayers) over the past three years, and which has been clarified in several significant letters issued by the Russian Federal Tax Office and the Ministry of Finance.

### Look-through approach

If the actual recipient of the passive, Russian-sourced income is not the beneficial owner, the Russian Tax Code prescribes the application of the "look-through approach". This approach allows another person (company) to be designated as the beneficial owner in a cash flow structure to claim the treaty benefits according to the double taxation treaty (DTT) of the state of its tax residence.

In this case, a company distributing Russian-sourced income and acting as a tax agent has the following options when applying the "look-through approach":

- If a beneficial owner is a tax resident of a state which is party to a DTT with Russia,

the foreign recipient (indirect shareholder) can apply the treaty benefits if it is able to provide documentary confirmation of its beneficial ownership status;

- If a beneficial owner is a Russian tax resident, then a Russian tax agent could apply tax benefits under Russian legislation as if it were an internal distribution of income between Russian entities.

### Recent amendments to the Russian beneficial ownership concept

At the end of 2018, Federal Law No 424-FZ introduced several amendments to the Russian beneficial ownership concept. The law is now in force, but some of the provisions are applied retroactively and cover tax periods starting from 2018.

The key amendments of the Law are aimed at simplifying the procedure for confirming beneficial owner status for certain categories of foreign recipients of Russian-sourced income, e.g. individuals, public companies listed on Russian or OECD countries' stock exchanges, sovereign funds, direct subsidiaries of Russian and foreign states. To apply the simplified procedure, the listed recipients should provide a self-declaration of their beneficial ownership status along with a confirmation letter and documents confirming that they meet the aforementioned criteria.

Some technical amendments were introduced to the Russian Tax Code regarding the application of the "look-through approach". Currently, applying the "look-through approach" is not only limited to dividends, it could also be applied for any passive income distributed from Russian sources, including, but not limited to, interest, royalty, rent income, etc.

In addition, another relevant amendment concerns the situation where several payments or dividend distributions are executed under a single arrangement. So it should be sufficient for the foreign recipient to provide one single confirmation for such groups of payments.



*focuses on limiting access to treaty benefits for conduit companies*

*rather complicated*

*allows another person (company) to be designated as the beneficial owner in a cash flow structure*

*tax agent*

*Federal Law No 424-FZ*

*simplifying the procedure for confirming beneficial owner status for certain categories of foreign recipients of Russian-sourced income*

*technical amendments*

*it should be sufficient to provide one single confirmation for groups of payments*



**Some important issues still need clarification**

*mainly focused on clarifying and mitigating technical uncertainties in the Russian Tax Code*

Generally, the aforementioned amendments are mainly focused on clarifying and mitigating technical uncertainties in the Russian Tax Code, and simplifying several administrative and tax compliance procedures for particular cases, rather than introducing new planning tools or opportunities favourable for business.

*there is still no clarification on the treatment of direct investments made by direct shareholders*

Unfortunately, the new amendments do not clarify some more important issues relevant for business, e.g. there is still no clarification on the treatment of direct investments made by direct shareholders as investments made by the beneficial owner (indirect shareholder) under the "look-through approach". Taking into account that a number of tax treaties with Russia contain investment provisions, this makes applying the "look-through approach" impractical as the beneficial owner will not be able to claim a reduced withholding tax rate (WHT) in Russia.

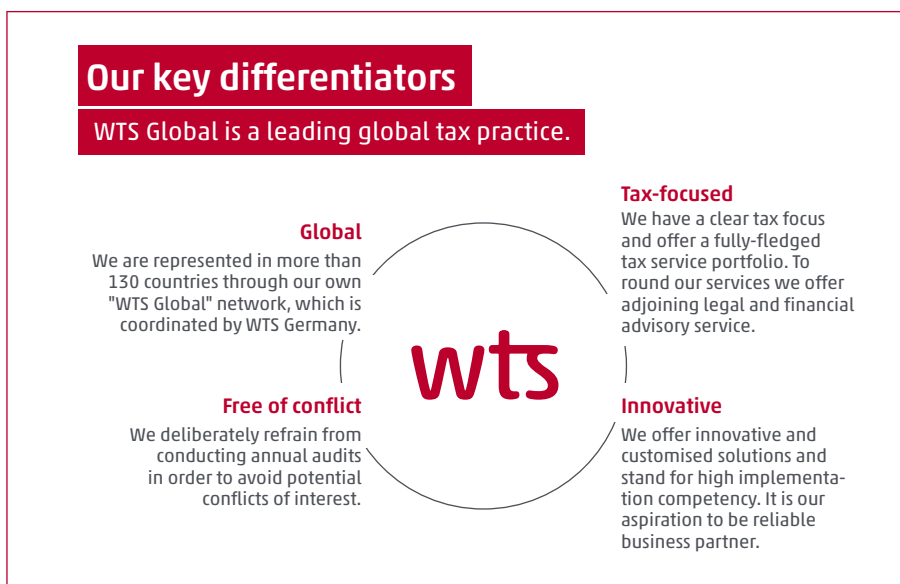
Therefore, due to the ongoing development of the beneficial ownership concept and the general worldwide trend of tax transparency expansion, foreign investments in Russia should be carefully structured taking into account uncertain issues related to applying the beneficial ownership concept and negative court practices, which affect not only companies receiving income from Russia and owing assets located in Russia, but also projects associated with foreign direct investment in Russia.

*foreign investments in Russia should be carefully structured*

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## Central Register of Real Owners established at the end of 2018

Author: **Bojan Radojičić**

In line with the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (4<sup>th</sup> Anti-Money Laundering Directive) ultimate beneficial / real owners have to be registered also in Serbia.

### Deadlines for registering real owners

In Serbia, Article 17 of the Law on the Central Register of Real Owners was adopted and published in the Official Gazette of the Republic of Serbia No. 41/2018 on 31 May 2018. According to this law, the Business Register Agency in Serbia had to establish a Central Register of the Real Owners of Legal Entities and Other Entities Registered in the Republic of Serbia no later than by 31 December 2018.

The same article stipulated that the person authorised to represent the registered entity is obliged to register the necessary data and information on the real owners and the registered entity by 31 January 2019. This was the deadline for all companies incorporated by 31 December 2018 at the latest. Thereafter, newly established companies in Serbia have to register their real owners with the Central Register of Real Owners within 15 days of incorporation.

### Data to be provided

The data required is prescribed by Article 5, § 2 of the Law on the Central Register of Real Owners, including:

- for a domestic natural person – name, unique registration number for citizens and country of residence;
- for a foreigner – name, passport number and country of issue and / or personal

number for foreigners and / or identity card number of the foreigner and the country of issue in accordance with the regulations governing the conditions for entry, movement and stay of foreigners on the territory of the Republic of Serbia, date (day, month, year) and place of birth, country of residence and citizenship;

- for refugees or displaced persons – personal name, number of ID card, date (day, month, year) and place of birth and country of residence;
- the reason for acquiring the status of the real owner of the registered entity.

The actual owner of the registered entity can be:

- a natural person who directly or indirectly holds 25% or more of the shares, voting rights or other rights, based on which they participate in managing the registered entity, or participate in the capital of the registered entity with 25% or more of the shares;
- a natural person who directly or indirectly exerts a dominant influence on the conduct of business and decision-making;
- a natural person who indirectly provides or secures funds for the registered entity and, on that basis, significantly influences the decision-making of the managing body of the registered entity when deciding on financing and operations;
- a natural person who is a founder, a trustee, a protector or a beneficiary, if any, and a person holding a dominant position in the management of a trust, or in another entity of foreign law;



*Business Register Agency in Serbia had to establish a Central Register*

*register the necessary data and information by 31 January 2019*

*newly established companies within 15 days of incorporation*

*actual owner*

*25% or more of the shares*

*dominant influence*

*provides or secures funds*

*a founder, a trustee, a protector or a beneficiary*

*registered to represent* → a natural person registered to represent cooperatives, associations, foundations and institutions, if the authorised person for representation was not registered by another natural person as the actual owner.

#### Obligation to register an email address

*companies are also obliged to have a registered email address*

Apart from the obligation to register the real owners, since 1 October 2018 companies are also obliged to have a registered email address in accordance with Article 21 of the Company Law published in the Official Gazette of the Republic of Serbia No. 36/2011, 99/2011, 83/2014, 5/2015, 44/2018 and 95/2018.

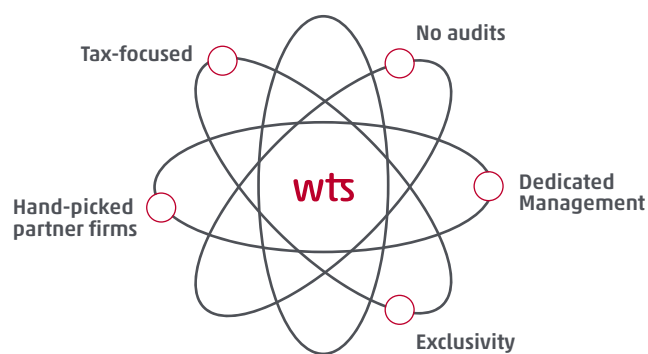
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Mateja Babič  
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## Publicly available information on beneficial owners

Author: **Mateja Babič**

Based on the Slovene Prevention of Money Laundering and Terrorist Financing Act, as published on 20 October 2016, and the Rules on the establishment, maintenance and management of the register of beneficial owners, as published on 24 November 2017, there is a reporting obligation for all legal entities to enter data on beneficial owners in the register of beneficial owners no later than eight days after the incorporation or set-up, or any subsequent change.

### Who must report information to the register of beneficial owners?

The register of beneficial owners is a centralised database, which obtains and holds accurate and up-to-date information on beneficial owners. All legal entities, which are entered into the company register (PRS – Poslovni register Slovenije) or tax register, including foreign trusts, foreign foundations and trust-like arrangements administered in Slovenia, are obliged to enter data on beneficial owners in the "RDL database", which is run by the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES). In June 2019 the Agency issued an official friendly reminder to all non-registered entities to fulfil their obligation. The main national body enforcing the implementation of Directive (EU) 2015/849 is the Office for Money Laundering Prevention at the Ministry of Finance.

### Reported data

The following information must be reported for every beneficial owner in the online register at AJPES:

- first name and surname;
- permanent and/or temporary address;
- date of birth;
- tax number;
- nationality;
- nature and scope of the economic interest as well as
- the entry and exit date.

Most of the information is automatically filled out for a person with a tax number in Slovenia. For foreigners, the information must be entered manually, including name, passport number and country of issue, place of birth, country of residence and tax number in the country of residence.

The initial registration in Slovenia was due no later than 19 January 2018. Newly-established companies are obliged to register their ultimate beneficial owners within eight days of their incorporation. Moreover, if changes occur in registered data, entities are obliged to amend their registration accordingly within eight days of the first notice. The documentation and information required for these obligations must be stored for five years.

If no beneficial owner can be identified according to the above-mentioned parameters, the top-level management of the company shall be deemed the beneficial owner.

### Exempted entities

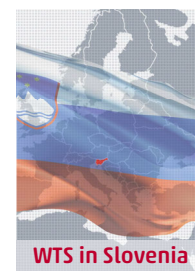
Persons not required to report information:

- Self-employed persons (s.p.) and similar special professions (lawyers, doctors),
- Limited liability companies with a sole shareholder, also acting as a sole CEO at the same time,
- Direct and indirect state budget users,
- Publicly listed companies, if they are already subject to disclosure requirements that ensure transparency.

### Public access available

Information including name, permanent and/or temporary residence, shareholding and/or supervision power of the beneficial owners, as well as the entry and exit date of the beneficial owner is publicly available, free-of-charge, on the website of the Agency AJPES.

Only persons and organisations with a justified interest regarding the possibility of money laundering or financing terrorism have the right to access dates of birth and citizenship upon request.



*RDL database is run by the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES)*

*must be stored for five years*

*not required to report information*

*only persons and organisations with a justified interest have the right to access dates of birth and citizenship*

### Enforcement mechanism

*penalties ranging  
from EUR 6,000  
up to EUR 60,000*

In the event of non-compliance with the registration obligation, the Slovene tax authorities may impose administrative penalties ranging from EUR 6,000 up to EUR 60,000. The penalty can be imposed in the case of non-compliance or wrong data compliance, the failed reporting of subsequent changes regarding the beneficial owners as well as failed reporting within eight days.

An additional penalty of EUR 400 up to EUR 2,000 can be levied on the entity representatives (e.g. the managing director).

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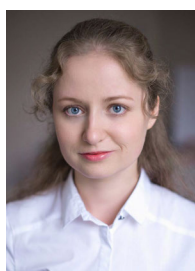
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## Since end-2018, any amendment to company register requires submission of information on beneficiaries

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Since 2014, information regarding the beneficial owners of Ukrainian legal entities must be registered in the Unified State Register of Legal Entities, Private Entrepreneurs and Civil Formations. Following the most recent amendments at the end of 2018, it is mandatory to enter information about beneficiaries on the registration forms at the time of every registration (according to the order of the Ministry of Justice as of 29.08.2018 No.2824/5). So even minor amendments to the register (e.g. change in the company's address or director) require the submission of information on the beneficiaries (even if the information on beneficiaries in the register is already complete and correct).

Only state and municipal enterprises are exempt from the obligation to submit information about their beneficiaries (according to Art. 64-1 of the Commercial Code of Ukraine).

### Ukrainian definition of ultimate beneficial owner

The definition of an ultimate beneficial owner is provided for by the Law of Ukraine On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of the Proliferation of Weapons of Mass Destruction.

An ultimate beneficial owner (controller) shall mean an individual who, regardless of the formal ownership, is able to exert a decisive influence over the management or business activity of a legal entity directly or through other persons, particularly by:

- exercising the right of ownership or use of all assets or a significant share thereof;

- exercising the rights of decisive influence on the composition and results of voting, as well as on concluding transactions that determine the conditions of business activity;
- giving orders to execute instructions or performing functions of the management body;

or who alone, or together with other related individuals or legal entities, holds a 25% or greater share in the charter capital or has 25% or more votes in the legal entity.

### Data to be provided and registered

The following information on beneficiaries should be included in the Unified State Register:

- full name;
- date of birth;
- citizenship;
- passport number;
- ID code (for Ukrainian citizens only);
- residential address;
- type of beneficial ownership (direct, indirect, representation, other);
- full names of all the companies within the beneficial ownership structure (in case of indirect beneficial ownership);
- share (%) of the company under control of the beneficiary.

It should be noted that no confirmation documents are required. However, the persons responsible may be liable if it transpires that the submitted information was incorrect (including criminal liability for deliberately submitting false information during the state registration of a legal entity – Art. 205-1 of the Criminal Code of Ukraine).



*holds a 25% or greater share in the charter capital or has 25% or more votes in the legal entity*

*no confirmation documents are required*

*an individual who, regardless of the formal ownership, is able to exert a decisive influence over the management*

*relevant statement*

If information about the beneficiaries cannot be provided (for example, shares of the company are traded via the stock exchange), a relevant statement should be included in the register.

**Who has access to the data entered into the register?**

The basic information on beneficiaries (including their full names and addresses) is freely available on request via the Unified State Register portal (only in Ukrainian): <https://usr.minjust.gov.ua/ua/freesearch>

The same information can also be provided in the form of pre-paid extract from the register.

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