



REGISTER OF BENEFICIAL OWNERS – OBLIGATION TO IDENTIFY UBO

MARCH 2019

1) Introduction

The Belgian anti-money laundering regulations (the Law of 18 September 2017 and the Royal Decree of 30 July 2018) require all companies, non-profit-making organisation and foundations, as well as trusts, fiduciaries and other similar legal entities managed from Belgium, which are the responsible “information providers”, to obtain and hold adequate, accurate and up to date information on their “beneficial owners” (UBO) and to transmit it to the UBO Register, managed by the General Administration of the Treasury.

2) Definition of UBO

UBO are individuals who directly or indirectly exercise effective control over information providers. There are different categories of UBO depending on the type of control exercised and on the type of information provider.

For companies, the following are considered as beneficial owners:

- a. Individual(s) who directly or indirectly has/have ownership of a sufficient percentage of voting rights or own sufficient shares in the company (an indication of a sufficient percentage is the possession, directly or via ownership interest held by one

or more companies, of more than 25% of voting rights or of shareholding);

- b. Individual(s) who control via other means (such as via a shareholders’ agreement) ;
- c. In the case no individual(s) is/are found under the first two categories, the senior manager.

Others persons qualify as UBO for non-profit-making organisations, foundations, trusts, fiduciaries or other similar legal entities. If your entity corresponds to one of those, we will provide you with further details.

3) Information to provide

As mentioned in the Royal Decree, the following information regarding each beneficial owner must be communicated to the UBO Register by the company which is the information provider:

- a. last name, first name, date of birth (day/month/year), citizenship(s), country of residence, complete address of permanent residence, date on which they became the UBO of the company, national registry number or registration number with the Crossroads-Bank for Companies (or overseas equivalent),
- b. the relevant category of UBO to which he/she belongs,

- c. if he/she is a direct or indirect UBO (via one or more other entities),
- d. if the individual(s) meets the criteria alone or in coordination with others,
- e. for indirect beneficial owners, full identification of each of the intermediary entities is required,
- f. the percentage of shares or voting rights owned and,
- g. in case of indirect holding or control, the percentage of shares or weighted voting rights held in the company.

4) Access to the register

The UBO Register is an online register accessible on [the FPS Finance website](#).

UBO Register data are accessible not only to the competent authorities and obliged entities (notably the Ministry of Finance, the tax authorities, the Belgian Financial Intelligence Processing Unit (CTIF), the police, the National Bank of Belgium, the FSMA, company auditors, accountants, lawyers, notaries, bailiffs, etc.), but also, for companies, to all members of the “general public”, in line with the increased transparency principle enshrined in the 5th Anti-Money Laundering directive.

However, those persons will not have access to the first name, the exact date of birth, the complete address of residence, the national registry number or equivalent of the beneficial owners.

All consultations of the register made by those persons will be recorded and kept for a period of 10 years.

The data held in the register will also be kept for a period of 10 years after the date of loss of legal personality of the information provider or the date on which it ceased its activities.

5) Request for derogation

A request for derogation can be made via the UBO Register online platform. In this case, access for the general public to the information is suspended until the General Administration of the Treasury grants or declines to accept the derogation.

In principle, a derogation may only be granted under exceptional circumstances, expressed as follows under in the directive:

"in the event the beneficial owner concerned demonstrates that this access exposes him/her to disproportionate risk, to risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or in the event the beneficial owner is a minor or incapacitated".

A specific request may also be made directly via the General Administration of the Treasury.

Supporting documents which evidence the derogation request must be attached to the official request.

6) Deadline

The different entities must transmit the information to the UBO Register **before 30 September 2019**.

Administrative or criminal fines will apply in case of non-compliance by companies and more particularly by the directors of their obligations. The fines range between 250 EUR and 50,000 EUR.

Thereafter, all modifications must be recorded within a one month period.

Moreover, the information recorded in the Register must be confirmed annually by the information providers. The companies are required to establish a procedure which ensures it is possible to make information available and to keep up to date and correct information, clearly identifying their beneficial owners.

7) Formalities

Companies are required to take the following measures:

- a. Set up internal procedures to facilitate the collection of the requested information and communication of any potential changes relating to it;
- b. Identify the beneficial owners and their corresponding category(ies), and where necessary compile the documents testifying to the veracity of the information communicated (e.g.: a copy of an identity card, a shareholder register, a notarial deed,

articles of association of the intermediary company in case of indirect ownership).

- c. Appoint the legal representative or an external representative with an E-ID card who will be responsible for providing the information listed in the Royal Decree via MyMinFin on behalf of the information provider. In the scenario an external representative is chosen, it may be either an internal agent to the information provider or an external agent (e.g. an accountant, a legal advisor, a natural or legal person).

Practical information is available on the [website of the Federal Public Service Finance](#), particularly under the FAQ document.

* * *

Sandrine Hirsch and Nikita Tissot

For any question, do not hesitate to contact the authors:

sandrine.hirsch@simontbraun.eu – +32 2 533 17 64

nikita.tissot@simontbraun.eu – +32 2 533 17 06