

## UBO REGISTER – UPDATED GUIDELINES PUBLISHED ON 19 JULY 2019

On 19 July 2019, the Federal Public Service of Finance published a new version of its FAQ on the register of Ultimate Beneficial Owners (UBO Register). The previous update was made on 2 April 2019. In addition to answering some technical issues, the newly updated FAQ mainly provides clarification for listed companies, associations and foundations, formalities of requests for derogations and declarations of spouses. The deadline of 30 September 2019 is maintained.

### 1. Deadline

The deadline for registration of the ultimate beneficial owners (UBO's) is maintained. The information on the UBO's must be transmitted to the UBO Register by **30 September 2019** at the latest.

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

### 2. Exemption for listed companies

Companies do not have an obligation to register their beneficial owners if they are listed on a regulated market subject to disclosure requirements consistent with EU law or subject to equivalent international standards which ensure adequate transparency of ownership information.

The updated FAQ thus now provides for an exemption for listed companies, in line with article 3 ¶ 6 of the EU 4th Anti-money laundering directive and with its implementation by other EU countries.

### 3. Non-profit associations and foundations

#### A. Natural persons in whose interest the entity was founded or operates

Associations and foundations also have to transmit information on the (categories) of natural persons in whose main interest the entity was founded or operates.

The FAQ clarifies that general target groups can be registered. A reference to the articles of association may be sufficient.

## B. Any other natural person that otherwise exercises the ultimate control over the entity

Where applicable – as a residual category –, associations and foundations also have to submit information on any other natural person that otherwise exercises the ultimate control over the entity.

This only concerns persons who do not fall within one of the other categories of beneficial owners such as natural persons having the authority to represent the entity, but whose capacity has not been published, or members acting in concert.

## 4. Formalities for derogation requests

The updated FAQ clarifies some aspects of the formalities for requesting a derogation to the access by the general public to the information concerning a UBO.

The request may be filed either by the UBO (or a duly appointed proxyholder) or by the legal representative of the relevant entity when it makes the registration.

A request for a derogation for exposure to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation must be accompanied by supporting documents, such as:

- A reasoned derogation of another country with a similar register
- A conclusion of a risk analysis report of an independent third party
- A complaint filed with the police, a conviction or judgement, protective police measures
- Any other document evidencing one of the abovementioned risks.

In case of a negative decision, legal action may be initiated before the Council of State.

For minors, the derogation automatically granted will last until they reach majority.

## 5. Declaration of spouses

The updated FAQ sets out guidelines for UBO declarations of spouses.

For interests falling within the marital community, the UBO will, in principle, be the spouse mentioned in the share register of the company or which exercises the voting rights. If both spouses do it jointly, they must be jointly registered with an equal number of shares or voting rights.

In other cases, one should analyse which spouse exercises in practice control over the entity.

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The updated FAQ document is available on the [website of the Federal Public Service of Finance](#).

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