



Register of Beneficial Ownership

On 20 December 2017, Malta adopted the provisions of Directive 2015/849/EU (“the Fourth Anti-Money Laundering Directive”) through the transposition of a number of Legal Notices. One of these Legal Notices, specifically, the Companies Act (Register of Beneficial Owners) Regulations, 2017 (Legal Notice 374 of 2017) (hereinafter “the Regulations”), establishes a Register of Beneficial Owners (“the Register”) to be kept by the Registrar of Companies (“the Registrar”).

In terms of the Regulations, which became effective on 1 January 2018, a company formed and registered or continued in Malta in terms of the Companies Act, the Merchant Shipping Act or their subsidiary legislations before the coming into force of the Regulations, is required to obtain by 30 June 2018 and hold at all times adequate, accurate and up to date information in respect of its beneficial owners (hereinafter “BO Information”). The BO Information shall at least comprise the following:

- (a) The name, date of birth, nationality and country of residence and an official identification document number indicating the type of document and the country of issue, of each beneficial owner
- (b) The nature and extent of the beneficial interest held by each beneficial owner and any changes thereto
- (c) The effective date on which a natural person became, or ceased to be, a beneficial owner or has increased or reduced his beneficial interest in the company

In the case of a company, the term ‘beneficial owner’ is generally construed to refer to any natural person or persons who ultimately own or control that company through direct or indirect ownership of 25%+1 or more of the shares or more than 25% of the voting rights or an ownership interest of more than 25% in that body corporate or body of persons, including through bearer share holdings, or through control via other means, other than through a company that is listed on a regulated market which is subject to disclosure requirements consistent with European Union law or equivalent international standards which ensure adequate transparency of ownership information.

First Delivery of BO Information to the Registrar

The due date for the First Delivery of BO Information to the Registrar is dependent on whether there is a change in the beneficial ownership of the company occurring after 30 June 2018 or not. If no such change takes place, then the First Delivery of BO Information to the Registrar is to be made within forty-two days from the first anniversary of the company’s registration falling immediately due after 30 June 2018. On the other hand, if there is a change in the beneficial ownership of the company after 30 June 2018, the company would be obliged to remit the BO Information within fourteen days from when the relevant change is recorded with the company.

The BO Information with respect to all of its beneficial is to be delivered by the company on a prescribed form which must be signed by at least one company director or the company secretary. The BO Information shall be entered by the Registrar in the Register.

Delivery of Changes in BO Information to the Registrar

A company must, within fourteen days from when a change in its beneficial ownership is recorded, deliver a notice to the Registrar containing BO Information on any new beneficial owner, updated information including on the nature and extent of the beneficial interest held on each of the other beneficial owners and the effective date of changes made. This information shall be entered by the Registrar in the Register.

Obligations relating to the Register for new Companies

Where a company is to be constituted or continued under the Companies Act, the Merchant Shipping Act or their subsidiary legislations, a declaration outlining, in respect of each beneficial owner, the name, date of birth, the nationality, the country of residence, an official identification document number indicating the type of document and the country of issue, and the nature and extent of the beneficial interest held, is to be delivered to the Registrar on a prescribed form together with the Memorandum and Articles of the company. The prescribed form is to be signed by two of the proposed directors of the company.

Access to the Register

The information contained in the Register shall, in accordance with data protection requirements, be accessible, from 1 April 2018, to:

- (a) National competent authorities with designated responsibilities for combating money laundering and terrorist financing (including the Financial Intelligence Analysis Unit)
- (b) National competent authorities that have the function of investigating or prosecuting money laundering, associated criminal offences and terrorist financing, or of trading, seizing, freezing and confiscating criminal assets
- (c) National tax authorities
- (d) Any other national competent authority within the meaning assigned to it under the Prevention of Money Laundering and Funding of Terrorism Regulations, not already covered under sub-paragraphs (a)–(c) and
- (e) Subject persons in terms of the Prevention of Money Laundering and Funding of Terrorism Regulations providing services in or from Malta, for the purpose of carrying out customer due diligence in accordance with the said regulation

The above-mentioned authorities may, in pursuance of their functions in accordance with applicable law, provide information derived from the Register to competent authorities and to Financial Intelligence Units of other EU Member States and third countries.

In addition, any person or organisation that upon a written request can satisfactorily demonstrate and justify to the Registrar's satisfaction a legitimate interest specifically and solely relating to and contributing to the prevention, detection and combating of money laundering or the associated predicate offences or the financing of terrorism, shall, in accordance with data protection requirements, be granted access to the name, the month and year of birth, the nationality, the country of residence and the extent and nature of the beneficial interest of the beneficial owners of a company.

Interconnection of Registrar of Beneficial Owners

In accordance with the requirements of the Fourth Anti-Money Laundering Directive, the Register of Beneficial Owners held by the Registrar of Companies shall be interconnected with the system of interconnection of central, commercial and companies registers composed of the registers of EU Member States and EEA States via the European Central Platform and the European e-Justice portal serving as the European electronic access point, in terms of Directive 2009/101/EC, as amended by Directive 2012/17/EU.

Penalties may be levied upon non-compliance with the provisions of the Regulation. In the case that misleading, false or deceptive information is knowingly or recklessly provided to the Registrar, any officer, shareholder or beneficial owner providing this information shall be guilty of an offence and shall be liable to a fine of up to €5,000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Register of Beneficial Owners for other Legal Persons

Similar obligations rest with trusts registered under the Trusts and Trustees Act (Cap 331), and foundations and associations registered under the Second Schedule of the Civil Code (Cap 16).

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