



Register of beneficial owners for Foundations

As of 1st January 2018 all Maltese foundations have a new obligation: identifying, recording and reporting their beneficial owners to the Registrar of Legal Persons. A right of access to such new information will also come about.

IDENTIFICATION, RECORDING AND REPORTING

Which entities must comply

The Regulation applies to all foundations established:

- as a beneficiary foundation, for a private interest; or
- as a purpose foundation for the achievement of a social purpose or for the carrying on of any lawful activity on a non-profit making basis,

irrespective of whether they are registered with the Registrar of Legal Persons in terms of the Civil Code's Second Schedule, and include voluntary organisations in the nature of foundations.

What and how to disclose

Every foundation is to keep the following information in an internal register, as well as keep records of any changes thereto: name; date of birth; nationality; country of residence; an official identification document number indicating the type of document and the country of issue; the role of the beneficial owner in relation to the foundation; the nature and extent of the benefit and any changes thereto; and the effective date on which a natural person became, or ceased to be, a beneficial owner of the foundation.

A declaration, signed by two administrators containing the information on the beneficial owners should be submitted prior to registration to the Registry of Legal Persons.

In case of any change in a beneficial ownership, a foundation has 14 days to deliver to the Registrar of Legal Persons a notice of such change in a prescribed form.

When to record and report

The Regulation came into force on 1st January 2018.

Foundations which have been established or registered prior to 1st of January 2018 will have 6 months from the date of coming into force of the Regulation to submit a declaration to the Registry of Legal Persons containing information on the beneficial owners.

Penalties

Penalties for non-compliance by entities can reach €500 while providing misleading, false or deceptive in a material particular constitutes an offence liable on conviction to a fine of up to €5,000 or to imprisonment up to 6 months, or both.

ACCESS

As of 1st January 2018 access to the above will be granted to a number of persons as follows:

- National competent authorities with designated responsibilities for combating money laundering and terrorist financing;

- Subject persons in terms of the Prevention of Money Laundering and Funding of Terrorism Regulations for the purpose of carrying out customer due diligence in accordance with the said regulations with reference to such foundation, which access shall be granted in a timely manner on a written request; and
- Persons who satisfactorily demonstrate and justify a legitimate interest, specifically related to the prevention of money laundering and the financing of terrorism. The burden of proof in such cases lies with the requestor of the information. The Registrar of Legal Persons is to determine whether to grant access to such information or otherwise.

Exceptions

Exception to access only apply:

- in exceptional circumstances it can be justified by means of documentary evidence and to be determined on case by case basis that such access would expose a beneficial owner to risk of fraud, kidnapping, blackmail, violence, intimidation; or
- if the beneficial owner is a minor or otherwise incapable.

Can you make it on your own or do you need help?

At KPMG we have a dedicated team of professionals who can help with an efficient management of the overall processes to ensure clients are fully compliant with the new requirements, including:

- Providing guidance on the duties and obligations in force at the level of both the legal entities, other legal arrangements, and officers.
- Analysing the implications of and identifying the manner of application of the new requirements.

In addition, our dedicated team and correspondents in other member firms can provide integrated corporate and tax compliance services across the globe.

Our Core Annual Service looks to assist clients with the routine corporate matters their entities face each year, including ongoing maintenance of corporate registers, which will include preparing and keeping the 'UBO Register' duly updated.

Contact us



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