



NEWSLETTER

From: Corporate Law Departement

Subject: OBLIGATION TO IDENTIFY UBO'S: THE UBO REGISTER

Date: 31 October 2018

The Royal Decree implementing the new UBO-register, entered into force on 31 October 2018.

The UBO Register

The UBO-register is a centralized register with accurate and up-to-date information about the *Ultimate Beneficial Owners* ("UBO") of the legal entities to which the Royal Decree is applicable.

Who should file the information?

The Royal Decree applies to:

1. Belgian companies (whether or not they have legal personality);
2. Belgian (international) not-for-profit associations and foundations;
3. Belgian trusts and fiduciaries.

Who is an UBO?

In general, an UBO is the natural person who finally owns or controls the legal entity or is the natural person on behalf of whom the transaction or action is processed.

Depending whether it concerns an UBO in a company, a non-profit association or trust, this definition of UBO is further elaborated in the Royal Decree.

In relation to Belgian companies, the Royal Decree defines the UBO as:

1. The natural person who owns, directly or indirectly, a sufficient percentage of the voting rights or property interests in the company (indication of sufficient percentage: 25%);
2. The natural person who has control over the company through other means (such as shareholder agreements);
3. In case none of the abovementioned persons can be identified, the UBO is the physical persons, part of the senior management of the company.

What information must be given?

Legal entities to which the UBO identification obligation applies, have to provide general information on their UBO(s) (e.g. name and first name date of birth, nationality, full residential address, date of becoming a UBO,..) and information on the type of UBO relationship (e.g. the size of the interest in the company, UBO because of shares ownership, voting rights or control, direct or indirect, individual UBO or together with others,...).

Legal entities to which the UBO identification obligation applies, must also inform their UBO's on the reporting obligations and the information provided to the UBO-register.

Who has access to the UBO-Register

Access to the UBO-Register is granted to the competent authorities (e.g. tax authorities), to persons subject to a disclosure obligation as part of their KYC obligations (banks, insurance companies, notaries, lawyers,...) and to every citizen.

As to citizens, the access to the UBO register of companies is not restricted. The access to the UBO-register of not-for-profit associations or trusts is only granted to citizens upon condition that they can o prove a legitimate interest.

Citizens do not have access to all information in the UBO-Register. The accessible information is limited to the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held.

In exceptional situations, upon request of the UBO, the access to the information can be restricted.

Deadline

Belgian legal entities have to register their UBO's before 31 March 2019.

MVVP will be happy to provide you with further information and assistance on this matter.

Wish to contact our legal experts?

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