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UBO register: coming (very) soon

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*Yiota Georgiou and Ioannis Sidiropoulos discuss the creation of a
register of ultimate beneficial owners in Cyprus*

The importance of tackling money-laundering activities is emphasised by its negative impact in terms of integrity and stability in the financial industry, and the threat it poses for European and international economic development.

The Fourth Anti-Money Laundering Directive (4AMLD)¹ on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing will affect virtually all enterprises and entities in the EU and the European Economic Area, as well as their ultimate beneficial owners (UBOs). As a result of 4AMLD, UBOs will have to be registered in a centrally held register (UBO Register) in each EU Member State. This will not only impose an administrative burden on enterprises and entities, but will strongly impinge on the privacy of their owners.

4AMLD has been transposed into Cyprus' jurisdiction by *Law 13(I)/2018*, which further amends the national anti-money

laundrying law (*Law 188(I)/2007*) (the Law). This piece of legislation contains extensive provisions for curtailing flows of illicit money. Among them is the introduction of the requirement for the establishment of the UBO Register in Cyprus.

The UBO Register is a system devised to provide transparency and a stable and updated database where every company, or any other legal entity incorporated in Cyprus, shall be required to maintain adequate information on its beneficial owner, according to s.61(a) of the Law. The Law does not explicitly refer to the information that should be entered into the register. In general, companies should provide adequate, accurate and current information on the beneficial ownership of the company. The Law defines a UBO as a natural person who has ultimate control or ultimate ownership in a company.

This is further explained as:

- a natural person who ultimately owns or controls a legal entity through direct or indirect ownership of a shareholding of 25 per cent plus one share; or
- an ownership interest of more than 25 per cent in the customer of a company.

The information referred to above should be held in the central register, which will be accessible by the competent regulators/supervisory authorities (including the Cyprus Bar Association, the Central Bank and the Cyprus Securities and Exchange Commission (SEC)).

Additionally, the police, the customs department, the tax department and the Unit for Combatting Money Laundering and Terrorist Financing are eligible to have access to this information. Any person or organisation who can prove a legitimate interest, providing sufficient evidence, as it will be defined in the relevant regulations, shall have access to the name, month and year of birth, nationality and country of residence of the UBO, and also to the type of rights they hold. The Law subjects the function and the access to the central register to the provisions of the General Data Protection Regulation as it has been transposed in the national legal order.

The Department of the Registrar of Companies and Official Receiver of the Republic of Cyprus has announced that under its jurisdiction it will have the upcoming corporate UBO Register. This is expected to take place in January 2020 and will coincide with the transposition of the Fifth Anti-Money Laundering Directive (5AMLD)² into Cyprus law.

Further, s.61(b) of the Law provides for the creation of a UBO Register for trusts. The information to be entered in the register shall include the identity of the settlor, the trustee, the protector, the beneficiaries and any other natural person exercising effective control over the trust. The information referred to above can be accessed by competent regulators or supervising authorities, as stated above. It appears that the maintenance of such a registry will be undertaken by the Cyprus SEC. The timetable requires its introduction by March 2020.

At the time of writing, the corporate UBO and trust registers had not been created as no regulations had been issued concerning the implementation and application of the relevant provisions of the Law. The incoming transposition of 5AMLD on 10 January 2020 makes the need for implementation of a UBO Register imminent. 5AMLD requires Member States to make significant enhancements to the requirements surrounding UBO Registers, the most significant of which is that Member States must ensure that the UBO Register for corporate and other legal entities is open to the general public. In addition, it expands the requirement to keep a central UBO Register for trusts to include the UBO of other similar types of legal arrangements, and expands access to that register to include obliged entities within the framework of customer due diligence, natural or legal persons that can demonstrate a legitimate interest, and natural or legal persons that file a written request and hold or own a controlling interest in certain defined corporate or other legal entities. These enhancements are significant, as they require Member States to make the UBO Registers far more accessible.

Taking into consideration the time frame for the implementation of the UBO and trust registers in line with the European requirements, it is of high importance that interested parties maintain market and legal awareness. It is important that UBOs and obliged entities, such as financial institutions and regulated professionals, evaluate their existing policies and procedures to ensure compliance with the Law. They must constantly analyse their risk exposure.

The implementation of the UBO Register, along with the AML Directives, is expected to promote the stability and integrity of Cyprus' financial institutions.

1. *Directive (EU) 2015/849*
2. *Directive (EU) 2018/843*

The views expressed in the STEP Journal and Trust Quarterly Review are not necessarily those of STEP. Read more.