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New Belgian Ultimate Beneficial Owners Register

The Royal Decree of 30 July 2018 (the **Royal Decree**), which entered into force on 31 October 2018, sets out the legal framework in relation to the new central register of beneficial ownership (the **UBO Register**) and the obligation for all Belgian companies and other entities to communicate information in relation to their ultimate beneficial owner(s) (**UBOs**) for inclusion in the UBO Register.

Scope

Pursuant to the Royal Decree, all Belgian companies (associations, foundations, trusts and legal arrangements having a similar effect) are required to declare to the UBO Register certain information in relation to their UBO(s).

The following categories of individuals are considered to be the UBOs of a company and, as such, will need to be included in the communication to the UBO Register:

- (i) individual(s) who directly or indirectly hold(s) a sufficient percentage of the shares, voting rights or ownership interests in the company (the Royal Decree provides that 25% shall, in any case, be considered to be a “sufficient percentage”);
- (ii) individual(s) who control(s) the company through other means (e.g., an individual who has the power to appoint or remove a majority of the members of the administrative, management or supervisory body of the company); and
- (iii) to the extent that, after due inquiry, no individuals fall within the scope of the categories identified under (i) or (ii), or where it is doubtful that the person(s) identified indeed qualify as UBO(s), information will need to be provided in relation to the individual(s) who hold(s) the position of senior managing official(s).

Information to be provided

The following information needs to be provided to the Belgian UBO Register for each UBO of the company:

- (i) name and first name;
- (ii) date of birth;
- (iii) nationality;
- (iv) country of residence and complete address;
- (v) date on which he or she qualified as UBO of the company;
- (vi) whether he or she is an isolated UBO or acting in concert with other individuals;

- (vii) identification number in the Belgian National Registry (or similar identification number in the country of residence/origin);
- (viii) whether he or she is a direct or an indirect UBO, and in the latter case, the company details of all intermediaries (including, at least the legal name, date of incorporation, trading name, legal form, address of the registered seat, company number or, where applicable, any other similar identifier issued by the country in which such intermediary is registered); and
- (ix) the nature and size of the beneficial interest.

Supporting documents in relation to the information set forth above may need to be provided (for instance a copy of ID or passport, proof of address...).

In addition to the information to be provided to the UBO Register, certain information will also need to be communicated by the company to the UBO (including the fact that personal information is being provided to the UBO Register and his or her rights in relation thereto). It is important to duly document that such communication has taken place.

Timing

Companies are required to communicate the required information to the UBO Register for the first time by 31 March 2019. The company must subsequently update this information at least once every year and, in any case, within one month after it has become aware of any change.

Registration procedure

The registration procedure can be carried out by a representative of the company (to the extent that a company representative would have access to the online “MyMinFin” application which requires a Belgian ID card for identification purposes). It will also be possible for third parties to proceed with the registration on behalf of the company, as soon as the relevant software is released (which is expected in the coming days).

Access

The UBO Register can, in principle, be accessed by: (i) certain administrations (including tax authorities and the anti-money laundering task force); (ii) entities that are required to perform due diligence obligations on their customers pursuant to anti-money laundering legislation; and (iii) every citizen (it being understood that members of the general public can only perform a search in the UBO Register on the basis of the company’s name or the company number and may only have access to limited information). Further, information can be made inaccessible subject to a duly motivated request to the Treasury Administration, in a case where such disclosure would result in, among other matters, a serious risk of fraud, kidnapping, blackmail, violence or intimidation or where the UBO is a minor or incapacitated.

Enforcement

Failure to comply with the obligations set forth above may result in criminal fines for the directors of the company ranging between EUR 250 and EUR 50,000.

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