

LEGAL UPDATE

Legislative proposal concerning the UBO register published for consultation

Date: 3 April 2017

On 30 March a proposal of the act implementing Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 was published for consultation.

The [legislative proposal](#) pertains, among other things, to the implementation of the *ultimate beneficial owner* (UBO) register in the Netherlands. In this contribution I restrict myself to that register. Incidentally, implementation must have taken place by 28 June 2017.

The legislative proposal provides for the amendment of the Commercial Register Act, (Handelsregisterwet) in which the UBO definition will also be included.

The UBO register will be kept by the Commercial Register. The UBO registration will therefore in any case be made mandatory for entities that are already registered in the Commercial Register (with the exception of sole proprietorships, legal entities under public law, owners' associations and a number of types of historical legal entities). Whether or not informal associations and open-end mutual funds (openbaar fonds voor gemene rekening) will also need to be registered is currently being examined. It is a reasonable expectation that a UBO disclosure obligation will also apply to open end mutual funds.

Under the Directive the following information pertaining to the UBO must in any case be included in the register:

- name, date and year of birth
- nationality and state of residence
- size of the ultimate beneficial interest (for privacy reasons 25, 50, 75 and 100% ranges will be used for the disclosures)

This data will be publicly accessible like the other information that is available in the Commercial Register.

In addition to this, the following information must be registered in the Netherlands:

- date, place and country of birth
- residential address
- BSN number or foreign tax identification number
- copy of the documentation on the basis of which the identity of the UBO has been established
- copy of the documentation substantiating why a person has the status of UBO

This information will not be publicly accessible and will only be available for consultation by competent authorities and the Financial intelligence unit.

In view of the privacy of UBOs and possible misuse of the UBO information a number of measures are proposed, namely:

- registration of users of UBO information
- payment of a fee for examining UBO information (as is currently the case for Commercial Register products)
- restriction of data that can be examined by the general public (see above)
- blocking of details of minors, legally incapable persons and persons in connection with whom there is a risk of fraud, abduction, blackmail, violence or intimidation.

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Finally, I would like to point out that parties that are currently required to perform a client screening, e.g. banks, accountants, attorneys, civil-law notaries, et cetera may not exclusively rely on the information from the UBO register and will have to continue to carry out their own screenings. If this results in the discovery of information that is different from the published information in the UBO register the party that is required to screen is obliged to report this to the Commercial Register.

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