



Register of beneficial owners 2022

Existing regulation of the register of beneficial owners is being changed. On 1st October 2022, act No. 245/2022 Coll. (the “Amendment”) amending act No. 37/2021 Coll., on the register of beneficial owners (the “Act”) has entered into effect. There is a substantial **change in the definition of the beneficial owner**. The distinction between the ultimate beneficiary and the person with ultimate influence is abolished. Furthermore, the scope of exceptions (when some legal entities do not have the obligation to find out the beneficial owner) is narrowed. Newly, the beneficial owner has to be registered, for example, by an association of unit owners or a hunting association.

Does the new regulation impose some obligations?

Persons who have registered the beneficial owner according to the hitherto regulation have **6 months from the effective date of the Amendment** (i.e., until 31st March 2023) to review whether the registration of their beneficial owner is in accordance with the new definition of the beneficial owner. If this is not the case, within this period they are obliged to ensure compliance of the registration with the requirements of the new regulation.

For the majority of persons who are obliged to register the beneficial owners **anew** (e.g., the association of unit owners), their statutory body should be registered as the beneficial owner within one month of the entry into force of the Amendment via **automatic transcription**. The automatic transcription is provided by the information system itself; it is free of charge for registrants. Only in the event that this does not happen (for example, because the entity in question does not have a statutory body registered in the public register in violation of the law), this entity is obliged to ensure the first entry of data on the beneficial owner in the register within 6 months from the effective date of the Amendment, i.e., until 31st March 2023.

New definition of the beneficial owner

The Amendment abolishes the distinction between the ultimate beneficiary and the person with ultimate influence. The beneficial owner is now defined as “*each natural person who ultimately owns or controls legal entity or legal arrangement.*” As far as corporations are concerned, such person is, under new wording of Section 4 of the Act, each natural person who directly or indirectly through another person or legal arrangement

- a) holds interest in the corporation or a voting interest in excess of 25 %
- b) has the right to a share of the profits, other own resources or liquidation balance larger than 25 %
- c) exercises decisive influence in a corporation or corporations that individually or jointly hold a larger than 25 % share in the corporation in question, or
- d) exercises decisive influence in the corporation by other means.

Compared to the previous version of the Act, the concept of the beneficial owner of a corporation is therefore defined in a more formalized way - the possibility of control over the corporation is not a condition for the position of the beneficial owner. To become a beneficial owner, it is sufficient to hold an interest in the corporation larger than 25%, regardless of whether this interest also allows to control the corporation.

Less entities without beneficial owner

The existing regulation of exemptions from the registration obligation of the beneficial owner was too broad and did not correspond to the relevant European directive. That is why Section 7 of the Act was amended - some exceptions were deleted and at the same time a general definition (general material test) was added, on the basis of which it can be found that a legal entity does not have a beneficial owner and therefore does not have a registration obligation. Associations of unit owners, hunting societies or churches and religious societies, for example, now have a registration obligation. As a rule, the beneficial owner of these entities will be each member of their statutory body.

We will be pleased to answer any queries you might have.

CZERWENKA & PARTNER v.o.s. team