

Briefing



The beneficial ownership register was introduced in Hungary

14 July 2021

With the Act XLIII of 2021 on the creation and operation of the data reporting background related to the identification of financial and other service providers (hereinafter: UBO Act), the beneficial ownership register was introduced in Hungary as well.

1. Who can be considered the beneficial owner?

- The definition of beneficial owner is defined in Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing (hereinafter: AML Act).

The beneficial owner within the meaning of the AML Act is

- Any natural person who owns or controls at least twenty-five percent of the shares or voting rights in an organization directly or indirectly, or who is able to exercise effective control over the organization;
- Any natural person who has a dominant influence in an organization;
- Any natural person on whose behalf a transaction is being conducted, or who is able to exercise effective control over the activity of a customer via other means in the case of natural persons.

2. Method of reporting to the register of beneficial owners

- The data shall be provided via the payment service providers (hereinafter referred to as: **account-holding banks**) holding the payment account.
- However, the reporting to the account-holding bank is the obligation and responsibility of the reporting agents. All entities subject to the Act are considered to be data providers.
- In connection with the management of the payment account, the account-holding bank transmits the beneficial ownership data recorded in the context of the customer due diligence in respect of the data provider to the **registry body**, i.e. the National Tax and Customs Administration (hereinafter: **NTCA**).
- The account-holding bank is obliged to identify the beneficial owner (normally on the basis of the declaration provided by the data provider) and to carry out identity verification within the framework of the customer due diligence.
- The data provider must notify the account-holding bank of any change in the data within **5 working days**.
- The account-holding bank shall send the beneficial ownership data available in its records and the date of recording of each data item in aggregated form **to the NTCA within 5 days of the last day of each calendar month**.

3. The importance of the TT index for classifying clients

What is the TT index?

- The TT index is an indicator of the level of reliability of the beneficial ownership data of the data provider in the Central Register of Beneficial Ownership, with a value between 1 and 10.

Assessment of reliability

- Data providers start from a 10-point TT index.
- The NTCA records the discrepancy reported by the authorities, prosecution, court and supervisory bodies and service providers and the reported beneficial ownership data in the beneficial ownership register and **reduces** the reliability index if a discrepancy is found with the reported data.
- According to the UBO Act, the TT index is reduced by 2 points for any discrepancy reported by public authorities and by 1 point for discrepancy reported by service providers.
- According to the UBO Act service providers are the following entities which have a registered office, branch or business establishment in Hungary: credit institutions; financial services institutions; institutions for occupational retirement provision; voluntary mutual insurance funds; operators accepting and delivering international postal money orders; providers of real estate agency or brokering and any related services; providers of auditing services; providers of accountancy, tax expert, tax advisory activities under agency or service contract; operators of

casinos, or providers of gambling services, distance gambling services, online casino games; traders in precious metals or articles made of precious metals; traders in goods, involving a cash payment in the amount of three million forints or more; attorneys, registered legal counsels, notaries public; fiduciary managers; providers engaged in exchange services between virtual currencies and legal tender, and/or between virtual currencies; custodian wallet providers; service providers trading or acting as intermediaries in the trade of cultural goods where the value of the transaction or a series of linked transactions amounts to three million forints or more; service provider storing, trading or acting as intermediaries in the trade of cultural goods when this is carried out by free ports, where the value of the transaction or a series of linked transactions amounts to three million forints or more; and providers of corporate headquarters services.

Service providers are also the persons established in the territory of Hungary or any other Member State of the European Union or in a third country, who provides any of the services defined in above to customers directly through its business unit set up permanently in Hungary in the form of permanent presence in Hungary.

Uncertain rating

- If the TT index falls below 8 points as a result of a notification, the beneficial ownership data of the data provider is (automatically) classified as "**uncertain**".
- The NTCA informs the data provider in writing within 5 working days of the fact of the "**uncertain**" classification and will draw its attention to the possibility of confirming or modifying the beneficial ownership data stored in the register.
- If the data provider subsequently confirms or modifies the beneficial ownership data, NTCA will reset the TT index to 10 points.

Unreliable rating

- If the TT index falls below 6 points, NTCA informs the data provider in writing within 5 working days and request the data provider to confirm or modify the beneficial ownership data within 5 days.
- If no modification or confirmation is received within 60 days, the data provider will be classified as "**unreliable**".

4. Legal consequences

- In the case of data providers with an "**unreliable**" classification or an "**uncertain**" classification of beneficial ownership for a period of more than 180 days, the NTCA will publish the name and registration number of the data provider and the fact of the classification on its website.
- Under the UBO Act, a data provider with an "**unreliable**" beneficial ownership rating must be considered by the service provider as

high risk under the AML Act and must implement the enhanced customer due diligence measures set out in the AML Act.

- In addition, the service provider is obliged to refuse to execute a transaction with a value of HUF 4.5 million initiated by a data provider with beneficial ownership data that is classified as "**unreliable**".

5. Access to the UBO database

- The authority, the municipal tax authority, the chambers of commerce, the prosecutor, the court and the supervisory body **may have access to** all data stored in the central bank account and safe deposit register without restriction, without notifying the data providers concerned and free of charge in the manner specified by the registering body.
- From 1 February 2022, both the service provider and the beneficial owner **will have access to** the UBO register.
- The authority, prosecutor, court or supervisory authority **may disclose** the data obtained to the authority, prosecutor, court or supervisory authority of another EU Member State or third country.

6. Effect

- The UBO Act entered into force on 21 May 2021.
- The rules on classification by TT index will enter into force on 1 February 2022.
- The rules on legal consequences apply from 1 July 2022.
- The Hungarian UBO register will be channelled into the European Register on 1 February 2023.

Contact

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