

Companies Act (Register of Beneficial Owners) Regulations, 2017

The Regulations introduce a requirement for commercial partnerships to identify and maintain a Beneficial Owner Register in respect of its beneficial owners and for the said entities to disclose certain information on its beneficial owners to the Registrar of Companies in Malta ('ROC') which will be keeping its own Beneficial Owner Register.

The Regulations apply to all commercial partnerships, including limited liability companies and private limited liability shipping companies formed and registered under the Merchant Shipping (Shipping Organizations – Private Companies) Regulations. The Regulations do not apply to:

- companies which are listed on a regulated market being subject to disclosure requirements consistent with EU law; and
- companies the registered shareholders of which are natural persons disclosed in the public records maintained at the ROC.

The term 'beneficial owner' under the Regulations mirrors national anti-money laundering legislation and refers to any natural persons having ownership or control of the company through :

- the direct or indirect ownership of **25% plus one** or more of the shares in the company or more than 25% of the voting rights of the company; or
- having other ownership interests (including, for example, having control over the composition of the Board of Directors) of **more than 25%** in the company.

As from the 1st January 2018, a company shall be obliged to gather and keep adequate, accurate and current information on its beneficial owners and shall be required to incorporate this in a Beneficial Owner Register to be kept at its registered office. Such information shall include at least the following:

- Name
- Date of birth
- Nationality
- Country of residence
- Official identification document number indicating type of document and country of issue
- Nature and extent of beneficial interest held.

A company shall be obliged to record any changes to the nature and extent of the beneficial interest as well as the effective date on which natural person becomes or ceases to be a beneficial owner or has increased or reduced his beneficial interest in the company.

Companies incorporated **prior to 1st January 2018** have been granted a **six months grace period** within which to comply with the obligation to keep an up to date Beneficial Owner Register.

Pursuant to the Regulations, a company is required to submit information on its beneficial owners to the ROC which information shall be inserted in a Beneficial Owner Register maintained by the ROC. As from 1st January 2018, information on beneficial owners of a company to be constituted under the laws of Malta shall be required by ROC in order to proceed with the registration of the new company. In addition, any changes to beneficial ownership (for example via transfer of shares, increase or reduction of share capital) shall be notified within 14 days to ROC via the stipulated registry form. In the event that there is a transfer of shares or other restructuring but no change in beneficial ownership then the company still has the obligation to notify this to the ROC and to confirm that there has been no change in beneficial ownership.

The Beneficial Owner Register kept by the ROC shall be accessible to:

- A. Relevant competent authorities as follows:
- National competent authorities with designated responsibilities for combating money laundering and terrorist financing;
 - National competent authorities that have the function of investigating or prosecuting money laundering, associated criminal offences and terrorist financing, or of tracing, seizing, freezing and confiscating criminal assets;
 - The Financial Intelligence Analysis Unit;
 - National tax authorities; and
 - Any other national competent authority under local anti-money laundering regulations.

Sharing of information will be done in timely manner without any restriction and without altering the company. In pursuance of their functions, such authorities may provide such data to competent authorities of other EU member states and third countries.

- B. subject persons under local anti-money laundering regulations providing services in or from Malta for the purpose of carrying out customer due diligence; and
- C. any person who can show and justify a legitimate interest (founded on anti-money laundering considerations).

The provisions of the Regulations relating to **access** to the Beneficial Owner Register shall come into force on the **1st April 2018**.

The register of beneficial owners held by the ROC shall be interconnected with the central registers of Member States via the European Central Platform.

For further information on the Regulations and the Beneficial Owner Register please contact privateclient@whpartners.eu and corporate@whpartners.eu