

# New requirements on disclosure of ultimate beneficial owners by Ukrainian companies

Ukraine's new AML Law, which took effect on 28 April 2020, introduced more sophisticated requirements to the UBO disclosure including stricter timelines, a requirement to file copies of UBOs' passports, and fines for non-compliance.

## Who is covered by disclosure requirements?

The new AML Law features a very wide and catch-all definition of an UBO. In fact, an ultimate beneficial owner is defined as any individual exerting decisive influence (control) over the company's activities, including:



- for legal entities – any individual who directly or indirectly (i.e., through related persons (individuals and/or legal entities, trusts or other similar legal formations) owns at least 25% of the company's charter (share) capital or voting rights OR who exercises decisive influence over the company through other means (e.g., the right of control, usage or disposal of all or part of the assets; the right to receive income, to influence on voting results of governing bodies, or to issue instructions mandatory on the company irrespective of formal ownership);
- for trusts or other similar legal formations established outside of Ukraine – founder, trustee, protector (if any), beneficiary or group of beneficiaries, and any other individual exerting decisive influence on the activities of the trust (including through the chain of control/ownership).

## What to do?

The new AML Law provides that Ukrainian companies must update information on their UBOs on a one-time basis by filing the following documents with the state registrar:



- notarised and apostilled copy of the UBO's passport;
- notarised and apostilled extract/certificate in respect of a foreign entity-participant of a Ukrainian company;
- ownership structure illustrating chain of ownership starting from the direct founder (participant) of a company and up to the UBO, including relations between all entities in the ownership chain (percentage of shares owned, etc.) signed on behalf of the company (the **UBO package**).

## When?

The new AML Law provides that Ukrainian companies must update information on their UBOs on a one-time basis by filing the following documents with the state registrar:



- One-time disclosure – within **3 months** after entry into force of the ownership structure form approved by the Ministry of Finance of Ukraine by filing the UBO package to the state registrar.
- The ownership structure form was approved by the Order of the Ministry of Finance of Ukraine No. 163 dated 19 March 2021 (the Order), which will take effect on 11 July, 2021. Therefore, Ukrainian companies will be obliged to file the UBO package to a state registrar during the period from **11 July 2021 until 11 October 2021**.
- Regular disclosures – starting from 2022, annually and irrespective of whether there was a change of the UBO by filing the UBO package to the state registrar within **14 calendar days** after each anniversary of the company's incorporation.

## Issues to consider

The Order requires disclosure, together with the ownership structure, of additional documents, namely documents proving control of the UBO over the Ukrainian company through the entire chain of entities in the ownership structure (such as registration documents of foreign companies in the ownership chain, corporate resolutions, trust agreements, SHAs, etc.).



This excessive requirement appears to widen the scope of disclosure provided by the law. Still, it is most likely to apply to companies as is, unless the Order is amended or additional formal guidance from state authorities is provided.

## Failure to comply – liability estimate

In case of failure to update information on the company's UBO, the company's director may bear administrative liability in the form of a fine from

to **UAH 17,000** (approx. EUR 500)  
to **UAH 51,000** to EUR 1,500)

