

# MAJOR CHANGES IN REGISTRATION OF ULTIMATE BENEFICIAL OWNERS

Dear Clients and Partners,

Please, be informed that 1 June 2021 is the effective date of the Ultimate Beneficial Owner Registration Act, No. 37/2021 Sb. („Act“), which lays down new rules for identification and registration of ultimate beneficial owners („UBO“) of commercial corporations and certain other legal entities. Please, find a summary of the most important changes introduced by the Act below.

## OBLIGATION TO REGISTER UBO

□ All commercial corporations, without any exception, continue to be obliged to register their ultimate beneficial owners. They must first identify their UBO as prescribed by the Act and then register the UBO in the UBO Register.

## NEW DEFINITIONS OF UBO

□ In contrast to the old legislation, the Act changes the definition of an ultimate beneficial owner. An UBO will now be defined as a person **who exerts ultimate influence** over or **draws ultimate** benefit from a corporation.

□ **A person with ultimate influence** is defined as any natural person who, without being instructed by another person, may exert decisive influence

over a legal entity (i.e., it controls a legal entity). This corresponds to **having more than 25 % of voting rights** in the entity.

□ An **ultimate beneficiary** is defined as any person who is entitled receive **more than 25 % of the total gains of the corporation (i.e., profit or liquidation balance) and is not obliged to transfer these gains to any other person.**

## WHAT IF UBO CANNOT BE IDENTIFIED

□ If the ultimate beneficial owner cannot be identified, the person/s in the **top management** of the corporation or the top management of the highest standing company in the corporation's group structure who exert decisive influence over the corporation – i.e., every **natural person** who is responsible for the regular **business management** of the corporation and **at the same time:**

- **is a member of the governing body,**
  - **is a person in a similar position, or**
  - **reports directly to the governing body,**
- will be deemed to be the corporation's UBO.

## SCOPE OF INFORMATION REGISTERED

□ The scope of information registered has been extended by the Act. The following information must now also be registered:

- description of the relationship structure (i.e., relationships which enable the UBO to exert influence over or draw benefit from the corporation),
- nature of the UBO's position, and
- starting and ending dates of the person being the corporation's UBO.

## AUTOMATIC TRANSCRIPTION OF INFORMATION

□ Commercial corporations and other legal entities which have not registered their UBO yet will be subject to **automatic transcription of data registered in the Commercial Register**. This means that for instance a shareholder owning more than 25% share in a limited liability company will be automatically registered as the UBO, a sole shareholder in a joint-stock company will be automatically registered as the UBO, etc.

□ Automatic transcription does not apply to entities which, as of the effective date of the Act, have already registered their UBO in accordance with the old legislation.

□ The automatic transcription may result in a person who is not the ultimate beneficial owner being registered as one. **It is therefore important to check what information has been automatically transcribed and, if inaccurate, file**

## for registration of the true UBO.

### PUBLICITY OF UBO REGISTER

□ The Register of Ultimate Beneficial Owners will be available to the public online, similarly to the Commercial Register. Everyone will be able to get a partial excerpt from the database of ultimate beneficial owners. Information available online will include, without limitation, the name of the UBO, information on his/her position and the date from which the person qualifies as the UBO.

### PENALTIES

□ A breach of obligation to register the UBO may result in a penalty of up to CZK 500,000 being imposed on

- the registering entity, if it fails to enter data required by the Act into the UBO Register, or
- the UBO, if he/she fails to provide the registering entity with **assistance** required for the registration.

□ Failure to register the UBO may also result in the commercial corporation being banned from:

- paying out shares in profit or other equity;
- exercising voting rights at the General Meeting.

### DEADLINES FOR UBO REGISTRATION

□ As mentioned above, the Act becomes effective on 1 June 2021. Commercial corporations which

have already duly registered their UBO in the past, must **ensure compliance with the Act within 6 months from its effective date**. Corporations which have registered their UBO late or not yet, must do so without undue delay after the Act becomes effective.

### RECOMMENDATION

□ To ensure compliance with the new legislation, we recommend taking the following steps:

- if the governing body is registered as the UBO, registration of other persons, in particular from the top management of the corporation's parent company;
- registration of new information, which was not required under the old regulation;
- registration of information which is not transcribed automatically.

We are fully at your disposal if you need to have your ultimate beneficial owner registered or if you have any other questions on the topic.

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