

DEADLINE FOR REPORTING ULTIMATE OWNERS OF LEGAL ENTITIES AT THE END OF THIS YEAR!

Every legal entity registered in the Czech Commercial Register should know that **January 1, 2018** is the deadline for registering its ultimate owner as stipulated under Act No. 368/2016 (hereinafter the “**Act**”) amended by Act No. 253/2008, on certain measures against the legalization of revenues from criminal activity and financing terrorism (hereinafter the “**AML Act**”).

1. Ultimate Owner

The ultimate owner means the natural person with de facto or legal opportunity to exercise, directly or indirectly, a deciding influence in a legal entity, trust fund or other legal arrangement without legal personality. If these conditions are met, a rebuttable presumption of law applies that the ultimate owner of a corporation is the natural person who meets the following prerequisites:

- Holds more than 25% of voting rights in the corporation or a share in the registered capital of more than 25%, alone or with other persons acting in accord with them,
- Controls the entity stated above, alone or with other persons acting in accord with them,
- Should be the recipient of at least 25% of the corporation’s profits, or
- is a member of a statutory body, representative of a legal entity in such body or in a position similar to that of a statutory body member, if they are not the ultimate owner or cannot be designated as such pursuant to the preceding points.

The Act similarly defines the ultimate owner for other entities (e.g. association, public benefit company, foundation, institute...)

2. Register of Ultimate Owners

The register of ultimate owners comes into existence on January 1, 2018 as a non-public register, which register (regional) courts will keep in electronic form like the Commercial Register. The proposal to enter the data about the ultimate owner is made only on the prescribed form, as in the case of data to be entered into the Commercial Register; under certain circumstances it can be done by notarial deed.

The paradox is that as of today making an entry in the register of ultimate owners is impossible, since even the register courts themselves do not have the necessary interactive form, and notaries do not have access to the boxes for direct entry in the register. We continue to monitor the situation.

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3. Scope of the Data in the Register

The register of ultimate owners will include the following information on the ultimate owner:

- a) name, address, place of residence or address, if different from the place of residence,
- b) date of birth and birth identification number, if assigned,
- c) citizenship,
- d) information on
 - (i) share in voting rights, if the position of ultimate owner is based on direct participation in the legal entity,
 - (ii) share in distributed resources, if the position of ultimate owner is based on being the recipient of distributed resources, or
 - (iii) other circumstances, if the position of ultimate owner is established in another manner.

4. Duty to Inform

Every legal entity registered in the Czech Commercial Register must make a notification of ultimate owner by **no later than January 1, 2018**. Keep in mind, though, that this is not a one-time duty to inform, but the information on the ultimate owner must be updated after every change, especially changes in ownership structures of Czech companies and changes in concerns with an impact on the ultimate owner.

5. Storing Data on the Ultimate Owner

The legal entity keeps records and updates them regularly in order to determine and verify the identity of their ultimate owner, including the basis for the position of ultimate owner or other grounds for deeming that person the ultimate owner. The legal entity stores the information to determine and verify the identity of their ultimate owner for the period in which that person is the ultimate owner and for a minimum of 10 years after that relationship ends.

6. Purpose of and Access to the Register of Ultimate Owners

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A relatively wide range of people have access to the information about the ultimate owner (see below) – not just courts and administrative authorities of the Czech Republic or the European Union, but other persons tasked with certain public duties:

a) courts, b) police and public prosecutors, c) tax administrators, d) intelligence services, e) the financial analysis office, Czech National Bank and other authorities in performing activities under the AML Act or the Act on the Implementation of International Sanctions in order to Maintain International Peace and Security, Protect Basic Human Rights and Fight Terrorism, f) Czech National Bank in overseeing persons acting on the financial market and performing activities under the Act on Recovery Procedures and Crisis Management on the Financial Market, g) the National Security Advisory, Ministry of the Interior or intelligence service, h) the Supreme Audit Office, i) obligated persons (banks, lawyers, etc.) under the AML Act in connection with identifying and verifying their client, j) providers of public financial support under the Financial Control Act, k) controlling, audit and other authorities for the purposes of performing their competencies under Regulation No. 1303/201318) of the European Parliament and of the Council (EU), l) the paying agency and certification subject for the purposes of performing their competencies under Regulation No. 1306/201319) of the European Parliament and of the Council (EU), m) a person stipulated by a different act.

We will be happy to discuss any questions you may have.

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