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TREASURY

UBO
register

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BO REGISTER OBLIGATIONS AND IMPACT OF THE AML PACKAGE

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01 Impact of the AML Package on the BO Register

02 Quality of information

03 API



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IMPACT OF THE AML PACKAGE ON THE BO REGISTER





IMPACT OF THE AML PACKAGE ON THE BO REGISTER

- Relatively few changes to the Belgian register, compared with other European countries
- 3 impacts studied:
 - 1) 25% threshold
 - 2) Control by other means
 - 3) Discrepancy reports



1) THRESHOLD OF 25% (AMLR)

- Currently: more than 25%
- AML Package: from 25%. Example : 4 shareholders with 25% each

/!\ Indicative threshold

A percentage below 25% may *de facto* or *de jure* imply control over the company.



2) CONTROL BY OTHER MEANS (AMLR)

/!\ Need to identify the BOs beyond the sole question of the percentage of shares

- Currently: reference to Directive 2013/34/EU on annual financial statements
- AML Package: List of specific examples of control by other means
 - Right to appoint or remove the majority of board members;
 - Decision-making regarding the distribution of the entity's profits;
 - Formal or informal agreements with shareholders;
 - Relationships between family members (e.g. minor children);
 - Etc.



3) DISCREPANCY REPORTS (AMLR & AMLD)

- Currently :
 - No modification of the BO register if incorrect information
 - Notice visible only to the competent authorities
- AML Package :
 - Possibility for the Treasury to correct BO information
 - Notice visible to anyone consulting the BO Register
 - Possibility to not report a discrepancy if minor inaccuracies or outdated data & tell the client to provide the correct information to the BO register



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QUALITY OF INFORMATION





1) MANUAL OR AUTOMATED CHECKS

- Obvious errors (senior managing official or large structure)
- Specific requests (e.g. legalization of BO extract)
- Unclear or inconsistent information (intermediate entities)



MANUAL CHECK: EXAMPLE

- Unclear or inconsistent information:
 - Company operating in Belgium in a high-risk sector
 - Belgian senior managing officials registered as BOs
 - Research: At least 1 foreign intermediate entity
 - Lawyer: no registration of intermediate entities because the BO(s) are part of a foreign royal family
 - Next steps: Request supporting documents, exchange of information, fine, strike off



2) RISK-BASED CONTROLS



- Risk of incorrect or outdated information
- Not on the risk of money laundering/terrorism financing
- 800.000 entities for 12 full-time equivalents → possibility to control 0.12% each year (1000 checks per year)



2) RISK-BASED CONTROLS



Identification of risk factors, for example:

- Number of intermediate entities?
- Intermediate entities in tax havens or listed countries?
- How many BOs are registered and under which category?
- Number of times a BO is registered?



3) VERIFICATIONS BASED ON DISCREPANCY REPORTS: EXAMPLE 1

- Discrepancy report made by an obliged entity
- Current situation: BO registered as holding 33% of the shares of the company
- Correct situation: he is no longer the BO of the company (according to another declaration made by the company)
- Letter sent to the company telling it to correct the information or provide with evidence that the information is still correct and up-to-date
- The legal representative changes the information in the register and removes the UBO → the information is updated



3) VERIFICATIONS BASED ON DISCREPANCY REPORTS: EXAMPLE 2

- Report made by a competent authority
- Current situation: Mr A is registered as a BO holding 90% of the company's shares. The share register contains the same information.
- Correct situation: Mr A sold 90% of his shares to Mr B. Mr A continues to make all decisions for the company for a period of 10 years (according to the transfer agreement).
- Ask the entity to update the BO register and add the transfer agreement as a supporting document.



DISCREPANCY REPORTS: CHALLENGES

- Quality of the discrepancy reports:
 - Information already correct (e.g. date of creation of the entity)
 - Incomplete and/or unclear information (e.g. 'Missing BOs' or 'Incomplete structure')
 - Understanding of categories of beneficial owners (e.g. BOs with 15%)
- Reports on unregistered entities (except for trusts or similar legal arrangements)



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API





API

- API open to obliged entities and competent authorities
- Enables data to be consulted (information updated in real time)
- Enables to introduce discrepancy reports



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