# THE PREVENTION AND SUPPRESSION OF MONEY

LAUNDERING AND TERRORIST FINANCING LAWS
OF 2007-2021

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| 61B.-(1)(a) A Society, a Foundation, a Federation, an Association, within the meaning given to them in accordance with the provisions of the Law on Societies and Institutions and other Related Matters, and an institution within the meaning ascribed to the term under the provisions of the Charities Law, shall acquire and retain adequate, accurate, and up-to-date information on its beneficial owners, including details of the rights held by beneficial owners, where applicable.  |
| (b) The beneficial owners, including through shares, voting rights, ownership interest, or control via other means of all the legal entities mentioned in paragraph (a) shall provide those entities with all the information necessary to comply with the requirements provisions in paragraph (a). |
| (2) A legal entity referred to in paragraph (1)(a) provides the obliged entities, in addition to the information relating to its legal owner, information on the beneficial owner, when the obliged entities are taking customer due diligence measures in accordance with this Law.(3) The competent Supervisory Authority, the Unit, the Customs and Excise Department, the Tax Department, and the Police, within the framework of exercising their competencies, can access the information referred to in subsection (1) in a timely manner.(4)(a) The information referred to in subsection (1) is held in a Central Register of Beneficial Owners of Legal Entities.(b) The Register shall be drawn up, kept, and published by the General Registrar, who, being the authority that keeps the Register, shall keep information relating with the legal entities and their beneficial owners. (c) The characteristics, creation and operation of the Register, the procedure and securing a right of access and legalisation of access thereto as well as any related matters for which reference is made in this Law, are laid down in Directives, which are issued pursuant to the provisions of this article by the authority that keeps the Register, which are binding and mandatory with regard to their implementation for the persons to whom they are addressed:Provided that the Directives issued under this paragraph, shall lay down the details that specify the way of implementation of the provisions of this article by the obliged persons.(5)(a) The information kept in the Register shall be adequate, accurate and current. (b) The obliged entities shall report to the General Registrar any discrepancy they find between the beneficial ownership information available in the Register and the beneficial ownership information available to them:Provided that the authorities referred to in paragraph (6)(a) shall have corresponding obligation to report in case they identify such discrepancies, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions.(c) The General Registrar shall ensure through the Directives provided for in paragraph (4) that actions be taken to resolve the discrepancies in a timely manner and, if appropriate, a specific mention be included in the Register in the meantime. (6) (a) The following persons shall have access, in any case, to the information relating to the beneficial owner, through the Register:(i) The competent Supervisory Authority, the Unit, the Customs and Excise Department, the Tax Department, and the Police without any restrictions;(ii) the obliged entities, within the framework of applying customer due diligence measures in accordance with this Law:Provided that it is not permissible for an obliged entity to rely exclusively on the Register for the fulfilment of the customer due diligence requirements in accordance with this Law:Provided further that, the above-mentioned requirements are fulfilled by the adoption of a risk-based approach;(iii) a member of the general public shall be permitted to access the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held, if applicable. (b) The General Registrar may implement the access to the information relating to the beneficial owner provisioned in paragraphs (a)(ii) and (iii), on the condition of online registration and the payment of a fee which is specified in the Directives provisioned in paragraph (4) and which shall not exceed the administrative costs of making the information available, including costs of maintenance and developments of the Register.(7) (a) The competent Supervisory Authority, the Unit, the Customs and Excise Department, the Tax Department, and the Police have timely and unrestricted access to all the information kept with the Register without alerting the relevant companies and other legal entities about said access. (b) The obliged entities have timely access to the Register when they are taking customer due diligence measures laid down in this Law.(c) The persons referred to in paragraph (6)(a)(iii) shall have access to the Register based on the access rights laid down in said paragraph.(8) The competent Supervisory Authority, the Police, the Customs and Excise Department, the Tax Department, and the Unit shall provide the information referred to in this section in a timely manner to the respective competent authorities and the Units of other Member States.  |
| (9) (a) In exceptional circumstances, as laid down in the Directives issued pursuant to the provisions of this article, where the access referred to in points (ii) and (iii) of subparagraph (a) of paragraph (6) would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, provisions may be made accordingly for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis: Provided that such exemptions shall not apply to credit institutions and financial institutions. (b) On the basis of the Directives issued under the provisions of this section, a person may apply to the General Registrar for exemption from publication of information in connection with the beneficial owner.(c) The decision of the General Registrar on the application for exemption from publication of information on the beneficial owner, is subject to an appeal under the provisions of Article 146 of the Constitution:Provided that decisions, orders or notices of the General Registrar on an application for exemption may not become enforceable earlier than seventy-five (75) days from their communication to the applicant or while an appeal against such decision which had been lodged under the provisions of Article 146 of the Constitution is pending. (d) The General Registrar shall publish annual statistical data on the number of exemptions granted under the provisions of paragraph (a) and reasons stated and report the data to the Commission. (10)(a) The General Registrar shall keep the information on the beneficial ownership for the legal entities that are registered in the Republic or that have their registered address in the Republic. (b) The General Registrar may specify through Directives issued under the provisions of paragraph (4) which information is published in the Register, as well as the procedure and the timeframes of their publication in connection with the companies and the legal entities.(c) All legal entities, as well as all officials thereof, shall update the Register with the details of the beneficial owners on the basis of the Directives laid down in paragraph (4):Provided that the obligation of information mentioned in this paragraph applies, under conditions laid down in the Directives, also to the natural persons who are the beneficial owners of the legal entities. (d) The obligation of the persons referred to in paragraph (c) to update the Register shall apply with regard to a change in the beneficial owner of a legal entity within the time frame laid down in the Directives provided for in paragraph (4). (e) A person who refuses, fails or neglects to fulfil the obligations relating to the submission of details on the beneficial owners of legal entities, as such obligations arise from the provisions of this article and under the Directives issued pursuant thereto, shall be subject to a fine of two hundred euros (€200) and additional fine of one hundred euros (€100) for each day for which the breach is continued, with the maximum total fine being twenty thousand euros (€20.000).(f) A person who, following a relevant notification from the authority keeping the Register,(i) refuses, fails or neglects to fulfil the obligations relating to the submission of details on the beneficial owners of legal entities, as those obligations arise under the provisions of this article and the Directives issued pursuant thereto, and/or(ii) when providing information to the General Registrar for the purposes of fulfilling his obligations under the provisions of this section or the Directives issued pursuant thereto, knowingly makes a false, misleading or fraudulent declaration as to the beneficial owners of a legal entity,is guilty of an offence if convicted, shall be subject to a term of imprisonment of no more than one (1) year or a fine not exceeding one hundred thousand euros (EUR 100.000) or both.(g) A legal person and any of the members of its board of directors, the managing director, the secretary or any other official or other management body of that legal person who is proven to have consented to or participated in the commission of the offence shall be held criminally liable in respect of the criminal offence referred to in paragraph (f).(11)(a) The Register referred to in this section shall be interconnected via the European central platform set up pursuant to Article 22 (1) of Directive 2017/1132 and in accordance with the technical specifications and procedures laid down by the implementing acts adopted by the Commission, in accordance with Article 24 of that Directive and Article 31a of the EU Directive.(b) The information referred to in paragraph (1) shall be made available through the system of interconnection of registers established pursuant to Article 22 of Directive 2017/1132 in accordance with the provisions of paragraphs (6) and (7) of this article.(c) The General Registrar may establish mechanisms and a procedure relating to the interconnection of the Register referred to in this paragraph and lay down measures and procedures to ensure that the information corresponding to the beneficial owners of legal entities and made available through the interconnection system, is up to date.(d) The information referred to in paragraph (1) shall be made available through the Register and through the system of interconnection of registers referred to in this paragraph, for a period of up to ten (10) years from the removal of the legal entity from a relevant register kept by the General Registrar on the basis of the Societies and Institutions and other Related Matters Law or other legislation:Provided that after five (5) years from the removal of the legal entity from the respective register, the information referred to in paragraph (1) may be kept in the Register and access to that information shall be allowed only in the context of an administrative or criminal investigation, for the implementation of the provisions of this Law, by the Supervisory Authorities, as well as by the Unit, the Tax Department, the Customs Department and the Police.(12) For the purposes of this section – «General Registrar» shall have the meaning ascribed to the term pursuant to the provisions of the Societies and Institutions and other Related Matters Law;«Register» shall mean the Central Register of Beneficial Owners of Legal Entities provided for in paragraph (4). |