

New rules for filing information on ultimate beneficial owners in Ukraine

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On 29 December 2022, the Law of Ukraine "On Amendments to Certain Laws of Ukraine on Improving the Regulation of Ultimate Beneficial Ownership and Ownership Structure of Legal Entities" (hereinafter – the Law) came into force. The Law amends the rules for disclosure of information on ultimate beneficiaries and establishes liability for failure to submit, late submission or submission of inaccurate data on the beneficial owners of a legal entity or their absence.

1. An alternative to a notarised copy of a passport

Ukraine has introduced an alternative to the submission of a notarised copy of the document certifying the identity of the ultimate beneficial owner (hereinafter referred to as a UBO). Now, applicants may choose to submit to the state registrar a copy of the document (passport) certifying the identity of the ultimate beneficiary in the form of

- a notarised copy or
- a copy certified by an electronic digital signature.

It is important to note that a copy of a passport must be certified no earlier than 90 days prior to its submission for state registration.

2. Abolition of the annual confirmation of UBOs

The Law cancels the requirement to annually submit information on the beneficial ownership and ownership structure to the state registrar.

However, legal entities still have to keep the information on the ultimate beneficiary and ownership structure up to date.

In the event of a change in the ultimate beneficial owner, legal entities are required to submit documents confirming such changes to the state registrar within 30 working days from the date of their occurrence.

3. Expansion of the list of exempted legal entities

The Law expands the list of legal entities that are not subject to the obligation to submit and confirm information on their UBOs. In particular, the following are now exempt from the obligation to confirm the information on the presence or absence of a beneficiary in Ukraine:

- political parties;
- trade unions;
- lawyers' associations, law firms;
- organisations exercising professional self-government in the field of notaries' services;
- state bodies, local authorities;
- Chambers of commerce and industry;
- public companies (legal entities established in the form of a public joint stock company with shares listed on at least one stock exchange (regulated market) from the list of foreign stock exchanges (regulated markets), which is formed in accordance with the procedure established by the Cabinet of Ministers of Ukraine, and which are subject to the requirements for disclosure of information on UBOs equivalent to those adopted by the European Union);
- housing, summer cottage, gardening and garage associations;
- associations of co-owners of apartment buildings, associations of owners of residential buildings;
- agricultural associations, agricultural cooperative associations included in the Register of non-profit institutions and organisations;
- separate structural subdivisions with the status of a legal entity (except for a separate subdivision of foreign non-governmental organisations), etc.

4. Duties and liability of participants (founders) of legal entities

From now on, legal entities and individuals who are founders (participants) of legal entities in Ukraine or exercise a decisive influence on their activities are obliged:

- at the request of a legal entity, to provide the information necessary to update the data on the ultimate beneficiaries and ownership structure, as well as
- to notify legal entities of changes in the ultimate beneficial owner or ownership structure within 5 working days from the date of such change.

Failure of resident legal entities and individuals who are members of legal entities or exercise a decisive influence on their activities to provide, at the request of the responsible persons of the legal entity, the information required to enter or update the information on the ultimate beneficial owner and ownership structure shall lead to a fine of UAH 17,000 to UAH 340,000 (approx. USD 460 to USD 9,240).

The Law also establishes a requirement for mandatory submission of information on all available citizenships (nationalities) of the ultimate beneficial owner.

5. When it is not required to submit information on UBOs

A list of registration actions no longer requiring the submission of information on the UBO has been introduced. In particular, this applies to the state registration of:

- changes to information about a legal entity, except for registration of changes

- to information about ultimate beneficiaries and changes to information about the size of the authorised capital, the size of shares in the authorised capital or the composition of participants;
- transition of a legal entity to operating on the basis of a model charter and vice versa – to operating on the basis of its own constituent document;
 - termination of a legal entity as a result of its reorganisation;
 - establishment of a separate subdivision;
 - changes to information about a separate subdivision;
 - termination of a separate subdivision of a legal entity.

6. Liability of legal entities

The Law increases the liability for violation of the obligation and procedure for disclosure of information on the ultimate beneficial owners. A fine of UAH 17 to 340 thousand (approx. USD 460 to USD 9,240) per legal entity is imposed, in particular, for:

- knowingly providing false information about the ultimate beneficiaries or their absence in the documents submitted for state registration;
- failure to submit or untimely submission of information on ultimate beneficiaries or their absence.

At the same time, fines do not apply during martial law and within 3 months after its termination.