

## **New change in the money laundering regulations tightens obligations for companies**

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On 30.04.2021 an amendment of Law No. 129/2019 on preventing and combating money laundering and terrorist financing (“**the Law**”) came into force, **tightening** again the obligations applicable to companies with regard to the **declaration of the beneficial owner**.

### **Context**

The Law implements the EU directive No. 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Based on this Law, personal data regarding beneficial owners and also persons entitled to sign for bank accounts, IBAN, day of opening and closing a bank account, as well as information on service providers in the field of Finance and cryptocurrency are recorded in Romania and saved in a register.

This information is managed by an authority competent for preventing money laundering and combating terrorist financing (*Oficiul Național de Prevenire și Combatere a Spălării Banilor*, hereinafter referred to as „**the Authority**”).

As already reported, the Law implies also an obligation of the companies that are active in Romania to disclose and identify the identity of their so called beneficial owners (*beneficiarul real*).

Likewise, certain companies (*entități raportoare*) *have the obligation to find out and document who the beneficial owners of their clients are before developing business relations, and report to the Authority certain transactions that are considered to be suspicious according to the law.*

### **Declaration regarding beneficial owners**

According to the Law, businesses, in particular, that have an obligation to be recorded in the Commercial Register must submit a declaration regarding beneficial owners.

**According to the initial** version of the law, this obligation existed:

- upon establishment;
- annually;
- after any change of the beneficial owner or its personal information.

Luckily, in July 2020 (as already reported by us), Law 108/2020 removed the annual submission obligation. Moreover, it exempted

- public companies (Ro. *regii autonome*) and companies mostly owned by the state;

- companies owned exclusively by natural persons, as long as these natural persons are the only beneficial owners,

from the obligation to declare the UBOs. For these persons, the necessary information was recorded directly through the Commercial Register, based on the documents submitted for establishing the company or for reporting changes.

### **Current changes**

The Law has been changed several times in a relatively short period of time, including through the Emergency Ordinance No. 111/2020.

On 30.04., however, **Law No. 101/2021** amending EO 111/2020 and introducing further amendments of the Law, as well as **Law No. 102/2021** amending another article of the Law came into force.

### **Consequences for the beneficial owner declaration:**

As a result of the new amendments, the regulations regarding the beneficial owner declaration have been tightened again. Therefore,

- **the beneficial owner declaration has to be submitted annually again**

As a result of the Law No. 101/2021, this declaration has to be submitted annually again. The time limit for this action is of **15 days following the approval of the financial statements, respectively the adoption of certain amendments**. Reintroducing this obligation hit companies right during the time in which the financial statements are prepared and submitted (in case the fiscal year is the same as the calendar year, this should happen mainly by the end of May).

After a period of 90 days following the cessation of the state of alert in Romania, the declaration will require that its date be certified by the Commercial Register, a notary or an attorney at law.

- **the exceptions according to Law 108/2020 have been cancelled again.**

Therefore, companies the shareholders of which are solely natural persons have the obligation to submit the declaration as well.

### **Other changes**

Law No. 101/2021 and Law 102/2021 have introduced also other changes with view to the beneficial owner declaration. These mainly refer to fines, offences and matters related to criminal law which need to be adapted again.

### **Assessment**

In principle, the framework introduced by Law No. 129/2019 is a useful tool regarding the advancing globalization, with great relevance for combating money laundering and preventing terrorist financing. It is debatable, however, to what extent the amendments were needed – especially at the moment when most companies were preparing and submitting their financial statements.

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