

Further effects of the new regulations on money laundering and terrorism financing

By Mihail Macovei

We have recently outlined the legal obligations included in the new law on preventing and fighting money laundry and terrorism financing¹. This article tackles the actual changes, as a result of the new laws, to:

- Romanian corporate law, more precisely the law regarding companies², and
- Romanian law of associations, i.e. the regulation of associations and foundations³.

The abolition of bearer shares

The most important change to corporate law concerns joint stock companies (ro. *societati pe actiuni*) and companies limited by shares (ro. *societati in comandita pe actiuni*) and it consists of bearer shares being abolished.

As opposed to nominal shares, bearer shares are shares in a joint stock company that are not connected to a named holder and that, as a consequence, can be transferred with no trade registry procedure (by a simple transfer of ownership).

Since the bearer share no longer exists in Romanian law as of 21.07.2019, the issue of such shares, and making legal transactions with them, are no longer allowed.

Companies that issued bearer shares in the past must now convert them to nominal shares within 18 months. Bearer shares that are still not converted into nominal shares by this deadline will be cancelled by law, and the share capital will be reduced accordingly. If a company has issued only bearer shares and cannot fulfill this conversion obligation on time, the company will be dissolved by law.

Changing the Commercial Register procedure

Another change concerns the registration of companies at the Commercial Register in Romania: it imposes the obligation to submit declarations as to the real beneficiary (ro. *beneficiarul real*) of the company. The information in the declaration will be recorded by the Commercial Register in the new register of the company's real beneficiaries (ro. *Registrul Beneficiarilor Reali ai Societatilor*). The declaration must be updated on a yearly basis, and on any changes to the beneficial owners of the company.

This concerns all companies except for national companies (*societati nationale*) and companies that are owned fully or mainly by the state (*societati detinute integral sau majoritar de stat*). Existing companies must fulfill this obligation within 12 months following the law's coming into force. Failing to fulfill this obligation will be punished with a fine of 5,000 to 10,000 RON. Should the company fail to fulfill this obligation within a further 30 days following the penalty, it could be officially dissolved.

¹ Law No. 129/ 2019

² Law No. 31/ 1990

³ GO No. 26/ 2000

Similar changes for associations and foundations

The new law brought changes to the registration of associations and foundations: they mainly aim at increasing the transparency of the registration procedure.

According to the new modification, the procedure for establishing an association requires (besides the documents needed now) (i) copies of the members' identity documents certified as conforming to the originals and (ii) a statement under oath by the applicant, certified by a notary public, as to the identification data of the association's real beneficiary/ beneficiaries. The same documents must be submitted for foundations.

As in the case of companies, the new regulations provide that the association or foundation must inform the Ministry of Justice yearly on each and every change to the real beneficiaries' identity data for them to be updated.

Conclusion

The new legislation aims at increasing the transparency of the real (individual) beneficiaries of legal entities; this applies not only to companies but to associations and foundations, too. Yearly declarations will be required for all parties concerned.

Both the regulated registration obligations and the new elements of the registration procedures aim to unveil the identity of the individuals behind the legal entities.

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