

BELGIUM'S UBO REGISTER STATE OF PLAY AND PERSPECTIVES

INTERNATIONAL FISCAL ASSOCIATION

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1. Global, Regional and national Context
2. Objectives
3. Legal framework
4. Challenges
5. Steps forward

GLOBAL, REGIONAL AND NATIONAL CONTEXT

- Trends: digitalization, transparency as an economic enhancement tool
- FATF/GF standards, focus on effectiveness, data quality
- KYC and AML compliance costs and complexity
- Development stage of BE's digital environment, fast evolving IT environment
- Public-public/public-private synergies and partnerships
- User centric
- Privacy safeguards (GDPR)

OBJECTIVES

Develop a centralized online register listing the information of the beneficial owners of :

- Corporates
- NPOs (i.e. A(I)SBL and Foundations)
- Trusts/Fiduciaries and similar legal arrangements

... That enables the:

- Registration of the UBO information
- Consultation of the UBO information
- Implementation of data quality controls

REGISTRATION OF THE UBO INFORMATION

- For all entities: first/last name, address, legal intermediary
- For Corporates: category, intermediate legal entity and percentage if applicable
- For NPOs, trusts and similar legal arrangements: category
- Connexion to the platform via digital secured tool (eID)
- Representatives of reporting entities
- Identification through unique national registry number or commerce registry number

CONSULTATION OF THE UBO INFORMATION

Users:

- Competent authorities
- Obligated entities
- General public/legitimate interest

Connexion to the platform via digital secured tool (eID), audit of the logs

Autonomy, flexibility and responsibility of the users re: access to the register by their agents/employees

DATA QUALITY

Preventive controls:

- Specific business rules
- Prefilling of known information (extract from Commerce or National registries)

Quantitative controls:

- Which reporting entities did not fill anything in the registry
- Cross check with the Commerce registry

Qualitative controls:

- Discrepancies notification
- Data analytics (use of external and internal data bases)
- Targeted controls and follow-up

DATA QUALITY

- Extended powers of inspection granted to the Treasury

- Administrative fines for administrators and members of governing bodies (250 EUR-50K EUR)

LEGAL FRAMEWORK

- EU AMLD
 - Public access and legitimate interest access (NPOs, trusts and similar legal arrangements)
 - Duty to notify discrepancies by competent/obliged entities
 - Yearly confirmation of the UBO information
 - Implementing law
 - Duty for reporting legal entities to have their UBO information
 - Duty for the Treasury to make this information accessible in a central register
 - Royal decree on the operating procedures of the UBO register
- Combination of AML/CFT and Company Law (+CRS/AEOI)

LEGAL FRAMEWORK

Royal decree on the operating procedures of the UBO register

- Chap. 1: Purpose and definitions
- Chap. 2: Registration of the UBOs information
- Chap. 3: Access to the UBO register
- Chap. 4: Exceptions to the availability of the UBO information
- Chap. 5: Control and sanctions
- Chap. 6: Personal data protection
- Chap. 7: Various
- Chap. 8: Entry into force

CHALLENGES

- Implementing a new regulatory framework in a short time span
- Differentiated access rights
- ICT projects
- Increased recent regulatory activity (e.g. CRS/AEOI)
- GDPR vs. AML/CFT

STEPS FORWARD

- FATF/GF (OECD) guidance and best practices
- FAQ update
- Sectoral consultations
- Regulatory framework implementation analysis
- Data mining training, controls implementation
- Public-private partnerships

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“The beginning is the most important part of the work.”

Plato