

The UBO register: update 2019

December 2019



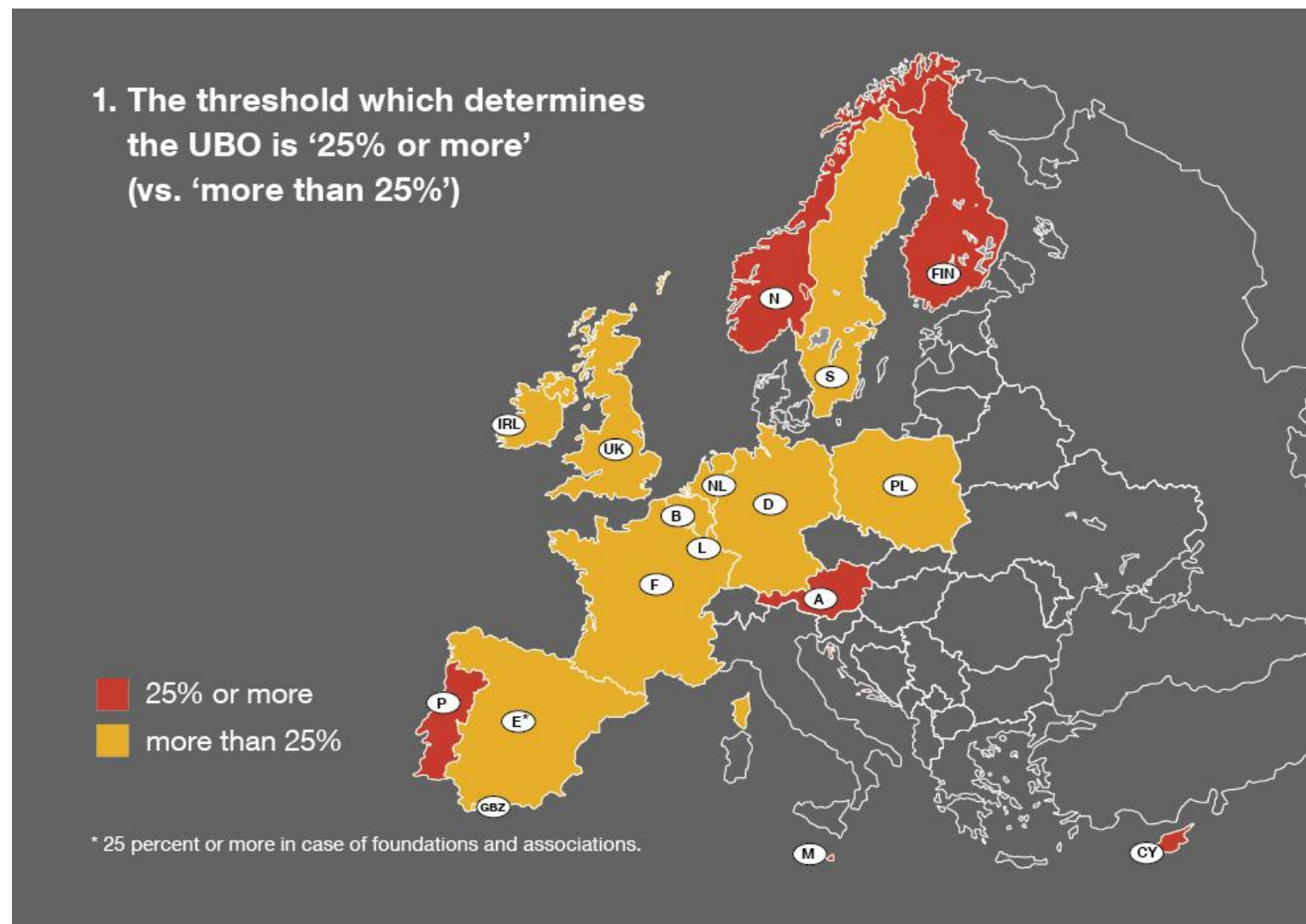
Introduction

All EU and EEA Member States have to implement the UBO registration ultimately by 10 January 2020. This obligation stems from the fourth and fifth anti-money laundering directives (AMLD4 and AMLD5 respectively).

This PwC publication contains an overview of the implementation of UBO registration in seventeen EU and EEA Member States. France is the newcomer this year. The study was completed on 20 December 2019.

With AMLD5, the EU/EEA Member States have become obliged to implement a public registration. At present, four countries still have an undisclosed register that must be made public. These are Austria, France, Gibraltar and Malta.

There are a number of striking results from this study. First of all, the percentages at which someone qualifies as a UBO vary. The Directive prescribes a threshold of *'more than 25%*', but six of the Member States surveyed opt for a percentage of *'25% or more'*. The subtle difference between these two thresholds is the natural person who has exactly 25 percent interest. Austria, Cyprus, Finland, Malta, Norway and Portugal apply the broader qualification of *'25% or more'*. Spain applies a rate of more than 25 percent for companies but 25 percent or more for foundations and associations. In Finland, there are calls to reduce the qualifying interest limit to as little as 10 percent.

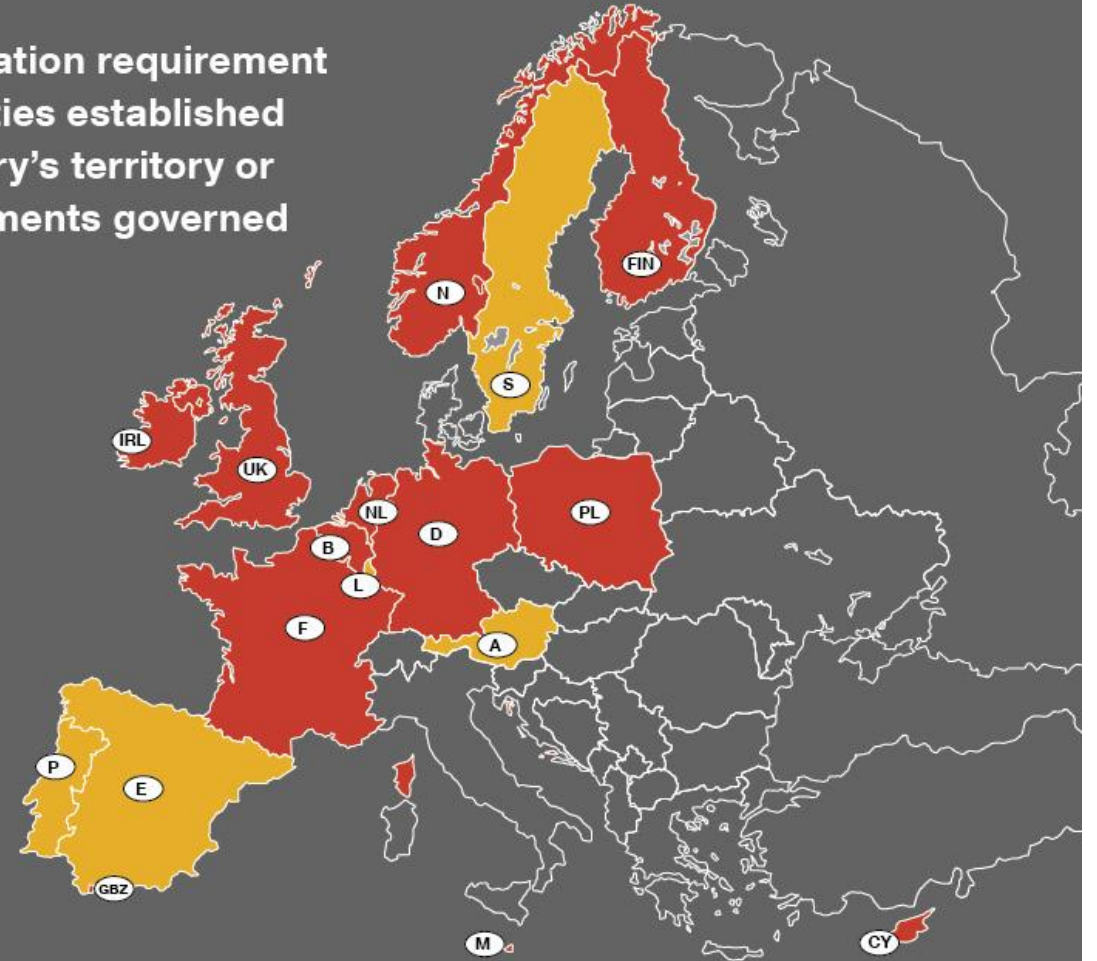


Introduction

In addition, some countries do not limit the UBO registration requirement only to legal entities established within their territory or to legal arrangements governed by the law there. These are Austria, Luxembourg, Portugal, Spain and Sweden. For the purposes of the UBO registration requirement, these Member States look at the entity's place of establishment.

2. The UBO registration requirement is limited to entities established within the country's territory or to legal arrangements governed by the law there

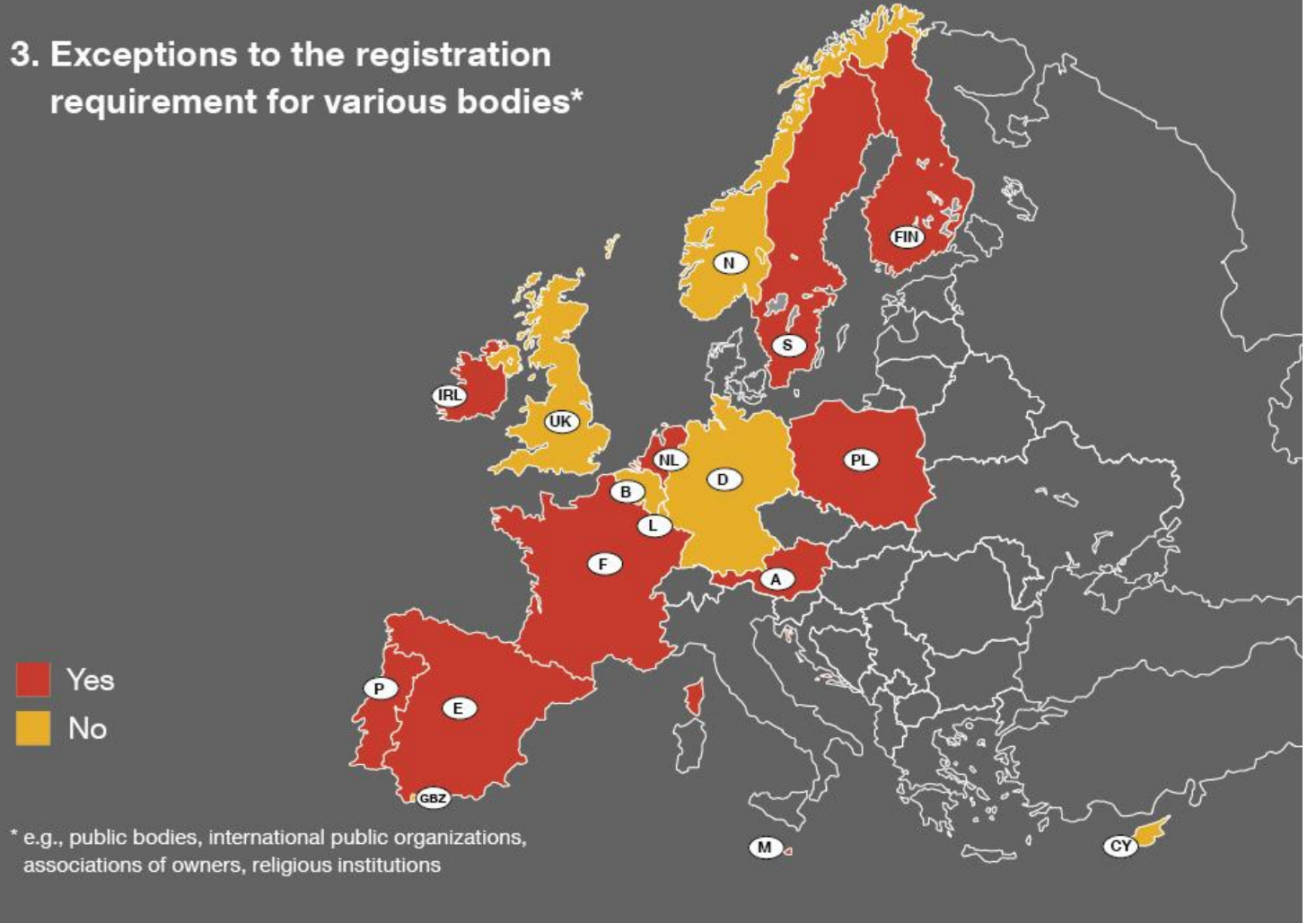
■ Yes
■ No



Introduction

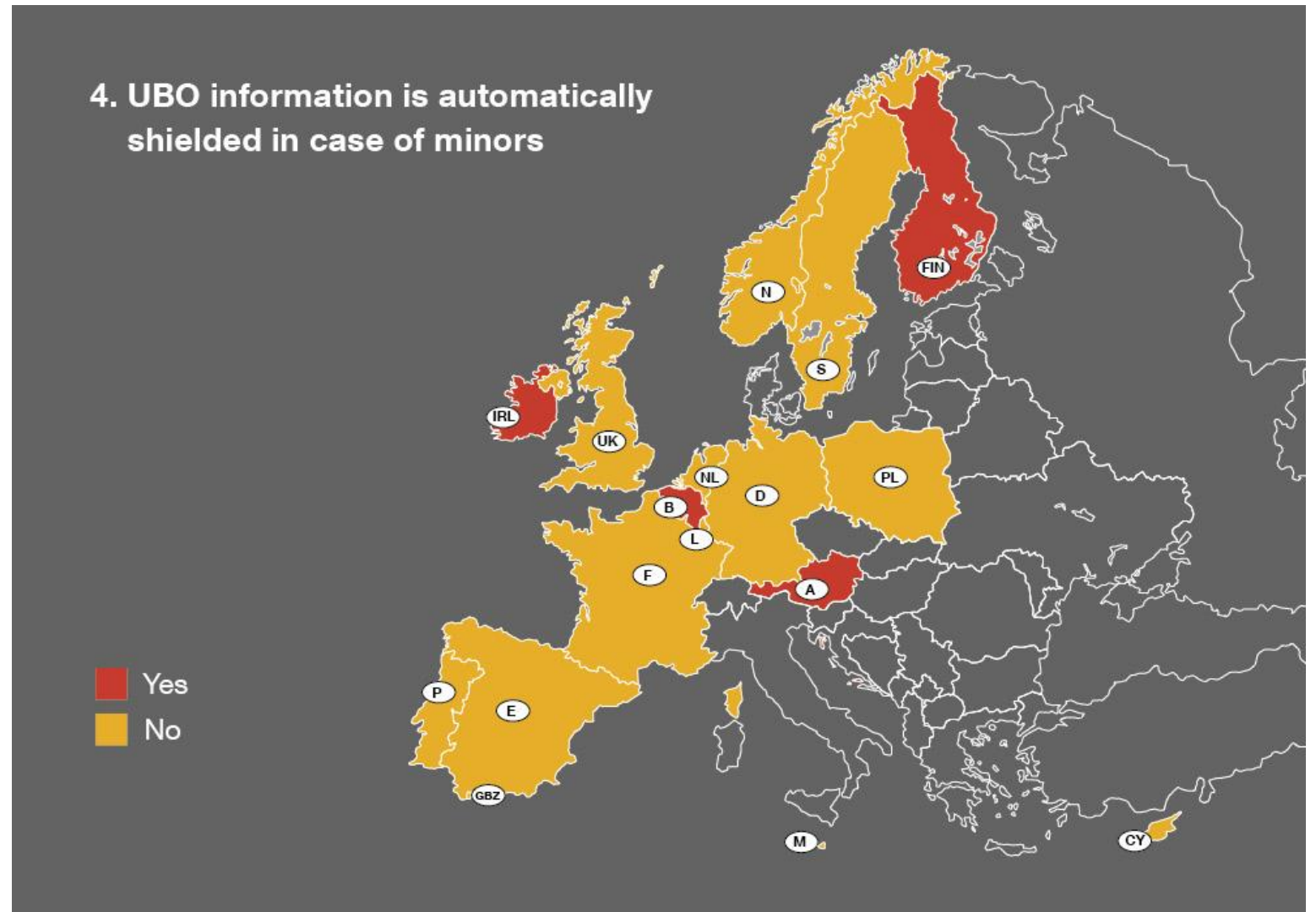
The Directive does not allow for an exception to the UBO registration requirement, with the exception of listed entities and their 100 percent shareholdings. However, some Member States have introduced exceptions, such as Portugal for public bodies, international public organisations and associations of owners. Other countries that have included exceptions are Austria, France, Finland, Ireland, Malta, the Netherlands, Poland, Spain and Sweden.

3. Exceptions to the registration requirement for various bodies*



Introduction

In four of the countries surveyed, UBO data on minors are automatically shielded, namely Austria, Belgium, Finland and Ireland. In the other countries surveyed, this is only possible on request. In Sweden there is no possibility for protecting UBO data of minors.

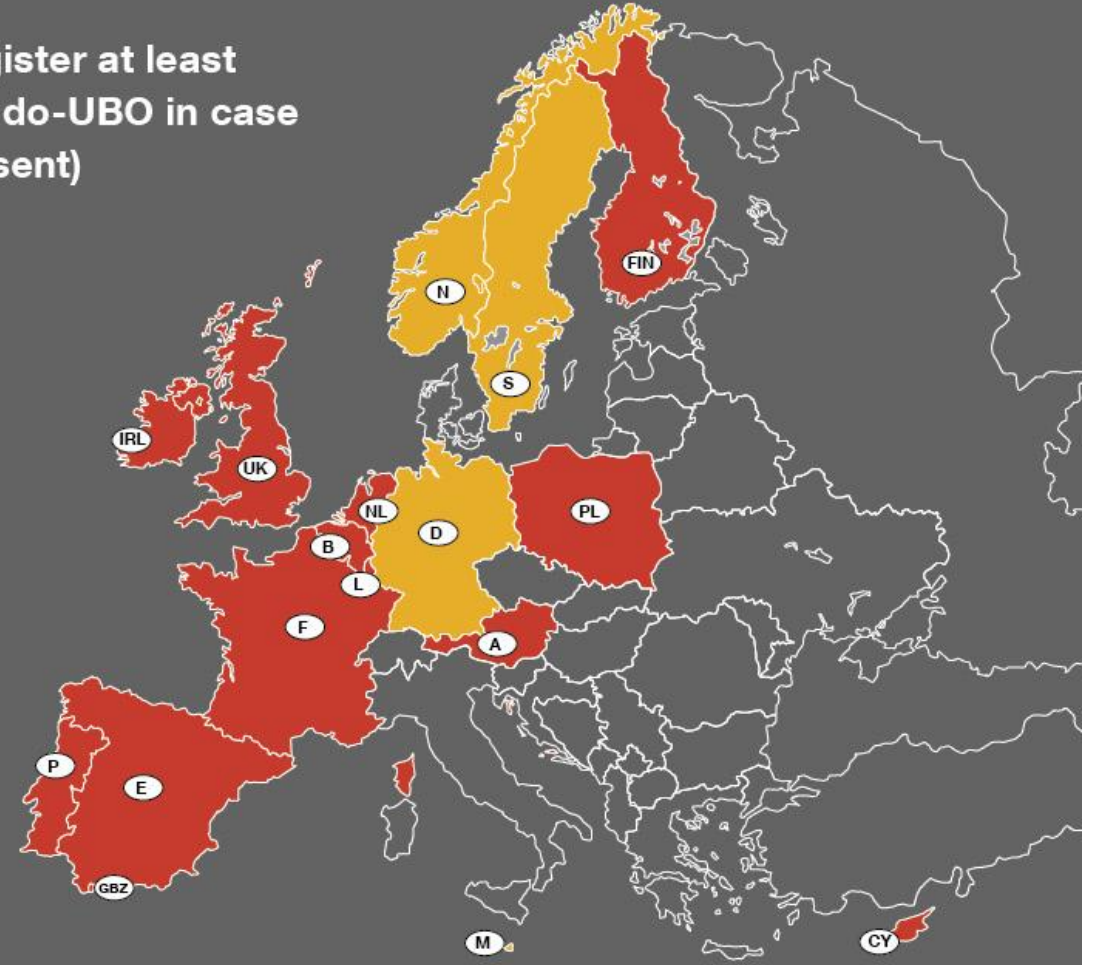


Introduction

Finally, in some Member States there is no obligation to register at least one UBO, namely Germany, Malta, Norway and Sweden. In the absence of a real UBO, there is no obligation to register the pseudo UBO (senior management staff).

5. Obligation to register at least one UBO (a pseudo-UBO in case a real UBO is absent)

■ Yes
■ No



Austria

The UBO register entered fully into force on 15 January 2018.

According to the national definition, a UBO must usually have an interest of more than 25 percent. Different UBO definitions apply to companies, trusts and private foundations. Usually, a natural person qualifies as a UBO if he or she holds or otherwise exercises control over an interest of 25 percent or more. Interests held by entities in which a natural person has a controlling interest (more than 50 percent) are fully allocated to this natural person. So if Mrs. Böhm has more than 50 interests in company X, which in turn has more than 25 percent interest in company Y, then Mrs. Böhm qualifies as UBO of company Y.

The reference point of identifying the UBO is the date on which the law came into effect. Within four weeks after the identification of the UBO, each entity must register its UBOs. In addition, Austrian entities must check their UBOs annually and report any changes within four weeks. If nothing has changed, the entities will have to submit a

confirmation report. This rule will apply after 10 January 2020.

The registration requirement applies to companies and other types of legal entities with registered offices in Austria, as well as trusts and arrangements similar to trusts that are managed within Austria. The government has compiled an exhaustive list of 18 legal entities and arrangements subject to the registration requirement. There is no separate register for trusts. The administrator is the registration authority under the Ministry of Finance.

The UBO register is currently not publicly accessible, but it will become so as from 10 January 2020 onwards. Another major change after this date is the introduction of a requirement to file a confirmation report in case no changes are identified in the yearly due diligence procedures. The following information is not public: country of birth, place of birth, home address SSN or TIN and documentation to substantiate the interest in an entity. This interest is shown in exact percentages. If a person wants to access the current closed register, he or she must have a legitimate

interest to do so, for example when it is proven that it will combat fraud, money laundering and the financing of terrorism. In special circumstances, a UBO may request the shielding of his or her data. Examples are minority, legal incapacity, risk of fraud, kidnapping and coercion. Data from underaged UBOs are not automatically protected. Unauthorised consultation of the register will be punished with a fine of up to EUR 30,000. The distribution of information to third parties may result in a fine of up to EUR 50,000.

On 10 November 2020, a compliance package will be introduced. If a legal entity has appointed a professional representative (e.g. tax adviser, lawyer) to verify its beneficial ownership, the representative will not only be able to carry out the reporting, but will subsequently also be able to submit all the information, data and documents required for the determination of the beneficial owners to the registration authority. The advantage is that these documents can be accessed and used by persons who are themselves subject to the due diligence obligations for the prevention of money laundering and terrorist financing (such as financial

institutions, lawyers, etc.), in the course of fulfilling such due diligence obligations. This means that the time-consuming process of obtaining and sending documents between entities and for example banks, can in the future be accelerated by inspecting the documentation included in the compliance package.

Failure to comply with the registration requirements or passing on incorrect information constitutes an economic offence and can result in fines of up to EUR 200,000. As of 10 January 2020, the composition and build up of sanctions will have changed, but the maximum penalty will still be EUR 200,000.

Belgium

The UBO registration entered into force and was fully implemented on 31 October 2018. In the case of Belgian companies, a natural person is considered to be a UBO if he or she has an (in)direct interest of more than 25 percent (through shares or voting rights) or if he or she otherwise has de facto control within the company. In principle, every company must register a UBO. If no one can be assigned as a UBO, it must be recorded what has been done to identify the UBO(s) (and why this has failed). In that case, the senior management personnel can be registered as a UBO.

In the case of foundations and the Belgian not-for-profit association, the following persons may qualify as UBO: the directors, representatives, persons in charge of day-to-day management, founders, beneficiaries, or any other natural person exercising ultimate control. For trusts this is the settlor, trustee, protector, beneficiary, or any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means. All legal entities including

foundations, Belgian non-profit associations, but also trusts and similar legal arrangements, must register the data of their UBOs in the UBO register. The registration is done with the Federal Public Service Finance.

The date of registration counts as the reference date for determining who the UBO. The UBO registration takes place at the moment the entity is established. The board members of the entity must do this. By 30 August 2019, only 18 percent of the companies had registered the UBO. There will be no further delay, but a tolerance policy will apply until 31 December 2019 and no sanctions will be administered if the registration has not yet been made.

The register will be accessible to everyone. Some data are not public: name, date of birth, country of birth, place of birth, home address, citizen SSN/TIN and documentation on the nature and extent of the interest. The interest is shown as an exact percentage.

The information on minors is automatically protected. In other cases, a request for foreclosure may be made.

In the event of failure to comply with the registration obligation, directors are subject to an administrative fine of between EUR 250 and 50,000, while criminal fines of between EUR 400 and 40,000 are also possible.

Cyprus

The UBO registration provisions were introduced on 3 April 2018, through the transposition of the AMLD4 into domestic legislation. The UBO registry for legal entities will probably be maintained by the Cyprus Registrar of Companies. As regards trusts, the relevant registry will be maintained by the Cyprus Securities and Exchange Commission.

The UBO registration applies to companies, trusts and other arrangements similar to trusts. A UBO is a natural person who ultimately owns or controls the client and/or the natural person on whose behalf a transaction is being conducted. For corporate entities, an indication of shareholding shall be more than 25 percent (25 percent plus one share) held by the natural person. In the case of trusts, the information to be uploaded in the relevant registry includes information/documentation about the identity of the settlor, the trustee(s), the protector, the beneficial owners and/or classes of beneficial owners and any other controlling party. The interest is given in exact percentages.

The reference date for determining the UBO is the moment before entering into a business relationship. It is not yet known when the UBO registries will be put in place and what sanctions will be imposed in the event of non-compliance with the registration obligation.

The trust registry will be accessible to competent authorities and the various regulators and to obliged entities that enter into a business relationship with the trust in question. The UBO registry for corporate entities will be accessible to competent authorities, obliged entities, regulators and persons with legitimate interest.

At this stage it is not clear how the registries will be structured or what information will be shielded.

Finland

The UBO Act entered fully into force on 1 July 2019.

In order to qualify as a UBO, an interest of 25 percent or more is required. Different UBO definitions apply to the entities. The information must be filled in online by the person who usually also has to provide the other registration information of an entity to the Trade Register. These are board members, the manager, a partner or a representative authorised to do so. Each entity must register at least one UBO. Failure to register will result in fines for the entity.

The UBO must be established and registered 'as soon as possible' after the establishment of the entity. The manager is the Patent and Registration Office. The registration obligation is limited to companies and other legal entities established in Finland, operating within the territory of Finland. The subsidiary of a foreign company must register the UBOs in accordance with the legislation of the country where the company has its registered office, so this will often be

a registration in the Member State of establishment. General partnerships and limited partnerships generally do not need to register UBOs, as UBOs are usually already registered as partners. Registration is only required if the UBO in question is not a partner. Listed companies and one-man businesses are exempt from the registration requirement, as are housing corporations, mutual real estate companies, foundations, religious communities and associations. There will be no separate register for trusts.

The register is public, but only parties that intend to use the UBO information in accordance with the Act on Money Laundering can obtain the details. The party requesting the details must report the intention for which the details will be used by submitting a form the Trade Register has drawn up for this purpose. They will only have access to the following information: name, date of birth, nationality, country of residence and the nature and extent of the interest in the entity. The interest is given in exact percentages. The SSN and home address are not public. The semi-public register is deemed to meet the requirements of data protection

legislation. Minors' data are not automatically blocked, but under certain circumstances, a minor, or another individual, may submit a request for blocking.

France

The UBO legislation has been fully implemented on 1 April 2018. According to national legislation, a natural person qualifies as a UBO if he or she has an interest of more than 25 percent or has the power of control as defined under the French Commercial Code. There are different UBO definitions for the entities. The date of registration is the reference point for determining who the UBO is (and shall be updated from time to time in case of a change in the declaration). The UBO must be registered within two weeks after the official incorporation. The legal representatives must do this.

The UBO register is currently closed but must be made public on the basis of AMLD5. Anyone with a legitimate interest can submit a request for access to the private register. The term 'legitimate interest' is defined by the court that grants access to the register. It is not yet known what kind of data can be requested. There is no specific provision for shielding information relating to minors.

The Trade and Company Registry

is the administrator of the register for companies and French branches of foreign companies. For foreign trusts and French fiducie, the Tax Administration is the administrator.

The UBO registration requirement applies to companies and foreign companies established in France. Public companies that are registered in one of the EEA countries are excluded. Exclusion is also possible for countries outside EEA only if this country imposes obligations considered as equivalent by the European Commission within the meaning of AMLD4.

There is a separate register for (i) trusts or similar legal arrangements which is only accessible to the competent authorities listed under the French General Tax Code and (ii) for French fiducie which is only accessible by the officials of the tax authorities.

These registers shall include in particular the identity of the beneficiaries of the trusts or French fiduci, but no explicit reference is made to the definition of UBO.

In 2016, the French initial register for trusts and similar legal arrangements was suspended by the French Constitutional Court on the grounds that access was not restricted and was therefore in violation of the French fundamental right to privacy. There was an incompatibility between the purpose of such a public register (combating tax fraud and tax evasion) and the right of individuals to the protection of their privacy (management of their capital). After this, no major discussions took place in France about the impact of the UBO register on privacy law and the incompatibility with the GDPR. Some legal scholars have questioned this. However, the French Constitutional Court does not assess the implementation legislation of EU directives, so there is little chance that the Court will rule against the future implementation of AMLD5. This would be different if the EU directive would conflict with the essence of the French Constitution, which seems unlikely.

For the sanctions for non-compliance with the registration requirement, a distinction is made between companies and individuals. The liability mainly consists of (i) a jail sentence up to 6

months and a fine up to EUR 7,500 for individuals and (ii) a fine up to EUR 37,500 for legal entities. This liability is incurred by the legal representatives of the entities concerned and by the entities themselves. Additional sentences may be pronounced (prohibition to manage, shutting-down of establishments, etc.).

Germany

The UBO registration was fully implemented on 1 October 2017. A UBO is any natural person who controls an entity or is in a position to enter into transactions or business relationships through the entity. In the case of companies, a UBO is considered to be someone who holds an interest of more than 25 percent in the shares and/or voting rights or who has similar rights. For trusts and foundations, UBO means the contributor, trustee, guardian, beneficiary or anyone who has a decisive influence on the administration, management of assets or the allocation of profit or property distributions. A fiduciary is also considered a UBO. In case of doubt, the legal representative or the manager will be regarded as a UBO. UBOs are obliged to provide their information to the directors. The reference point for determining the UBO is upon registration. The UBO registration takes place when an entity is established or 'as soon as possible'.

Companies, registered partnerships, foundations, associations, cooperatives and trusts are obliged to register their UBOs. The obligation to register

also applies to non-registered family foundations and trusts whose managers have established themselves in Germany. Trusts and similar structures are part of the general UBO register. The Bundesanzeiger Verlag manages the register under the supervision of the Ministry of Finance. The register contains not only the name, date of birth, place of birth, place of residence, but also the nature and exact percentage of the UBO's interest in the entity.

The register is currently not publicly accessible. Only competent authorities, notifiable entities and third parties with a legitimate interest have access. A legitimate interest exists only if the applicant can demonstrate that it is necessary to prevent and combat money laundering, corruption, terrorist financing or preparatory actions for it. Such a legitimate interest is also required for consulting UBO information from trusts and foundations.

There has been no significant discussion in Germany about a possible infringement of privacy rights by the UBO register. However, most of the information in the UBO register about

the shareholders or owners of legal entities is already publicly available via the trade register. Because of that, the publication of the register as a result of the tightening of AMLD4 would, in principle, not entail any change for most UBOs of legal entities. A minor UBO (or the legal representative) but also a UBO that fears for his or her own safety can submit a request to the administrator of the UBO register to protect the personal data. However, such a restriction of access does not apply to authorities and certain reporting entities (such as banks and insurance companies), which are obliged to comply with the legal requirements of the Money Laundering Act.

Fines for failure to comply with obligations can amount to up to EUR 100,000. In the case of a serious offence, the maximum fine is EUR 1,000,000.

Gibraltar

The UBO register was fully implemented in national legislation on 26 June 2017 and is managed by the Finance Centre. A UBO is defined as a natural person who ultimately owns or manages an entity and/or on whose behalf a transaction or activity is carried out. The threshold is more than 25 percent. If a UBO cannot be appointed or if there is doubt as to whether the right person has been assigned as UBO, a member of the senior management will be considered to be a UBO. In the case of trusts, the following persons must be registered as UBO: the contributor, the administrator, the guardian (if applicable), the beneficiaries and any other natural person who ultimately controls the trust. For foundations and legal structures similar to trusts, the natural persons who hold the same type of position as trusts are considered UBOs. There is no separate register for trusts. Entities must register their UBO within 30 days of their establishment or any change in (the details of) the UBO. Entities that were already registered before the entry into force of the UBO registration must provide the UBO information within

thirty days after the entry into force of the UBO registration. A person who becomes UBO after the introduction of UBO registration has fifteen days to report this to the entity in question so that that entity can comply with its UBO registration obligation within the aforementioned thirty days.

The UBO registration requirement applies, inter alia, to limited partnerships, companies, and other legal entities established in Gibraltar. In addition, trusts must provide information on the founder, protector (if any), trustee and beneficiaries. In the case of foundations, UBO information must be provided on natural persons who perform a similar function to a trust. Trusts and similar legal arrangements are subject to a separate UBO register. This register is only for trusts governed by Gibraltar law that are subject to Gibraltar tax law.

The registration of the UBO information in the register must be done by the management of the entity, the UBOs themselves or a (professional) advisor. The information includes the full name, date of birth, sex, place of birth, nationality, place of residence, usual

place of residence, a work address, occupation, the date on which the UBO acquired the economic interest (and if applicable: no longer holds it) and details of the interest of the UBO and how the interest is held, including the category within which the percentage of the interest in the entity falls. The following persons must register the UBO: directors, board members, day-to-day management, the secretary or the natural person exercising effective control.

The UBO register is currently only accessible to authorities, financial intelligence services, authorised entities and persons/organisations with a legitimate interest. This will change after the implementation of AMLD5. However, information can be protected on request if it concerns a minor or if the security of the UBO is at stake. Fines for failure to comply with the obligations can amount to £10,000 (approximately EUR 11,736).

Ireland

The European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019 (the Regulations) require companies incorporated in Ireland to take all reasonable steps to gather and maintain adequate, accurate and current information on their beneficial owners in an Internal Register of Beneficial Ownership ('Internal Register') effective as of 15 November 2016. There is one general definition of who qualifies as a UBO: any natural person(s) who ultimately owns or controls a legal entity, either through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in the entity, including through bearer shareholdings, or through control via other means. This amounts to the (in)direct ownership of more than 25 percent of the shares or voting rights or otherwise exercising influence, for example on the basis of a shareholders' agreement, the power to appoint senior management or the exercise of dominant influence. In the event that there are no natural persons constituting 'beneficial owners',

the Company is required under the Regulations to enter the details of the Company's senior managing officials (i.e. the directors and/or a chief executive officer) in the Internal Register.

The Central Register of Beneficial Ownership (the 'Central Register') established under the Regulations requires all companies to file details of their UBOs publically with the Irish Registrar of Beneficial Ownership. Under the Regulations, the Central Register was to be opened for filing on 22 June 2019. However, this launch date was postponed until 29 July 2019 and existing companies had until 22 November 2019 to make their filing. Any subsequent changes to the Company's beneficial owners must be updated in the Company's Internal Register and must be reflected and updated in the Central Register within fourteen days of the change occurring. Newly established companies should create their Internal Register upon incorporation and will have five months from the date of incorporation to file their UBO information with the Central Register.

The Central Register is publicly accessible via an online portal. A list of current UBOs can be requested here. Only the name, month and year of birth, nationality, country of residence and the nature and extent of the interest are public. Certain competent authorities have unrestricted access to the Central Register (namely, certain members of the Garda Síochána, the Financial Intelligence Unit Ireland, the Irish Revenue Commissioner and Officers of the Criminal Assets Bureau). If a UBO does not have an Irish social security number ('PPSN'), an RBO transaction number must be requested. Data on minors are automatically protected up to the age of eighteen. However, this information is accessible to the competent authorities.

The registration applies to entities operating in the territory of Ireland. Companies and 'Industrial and Provident Societies' must register. Regulated Public Limited Companies and Irish External Companies are not required to file their beneficial ownership with the RBO. Trusts are required to maintain beneficial ownership information internally under the Regulations. The Central Register

which opened on 29 July 2019 does not apply to trusts but a central register for trusts may come into effect at a later stage.

AMLD4 and AMLD5 have been criticised by various institutions (Institute of Directors, The Law Society and the Institute of Chartered Secretaries and Administrators). The criticism focuses mainly on the functionality of the system and the fact that everyone can register and enter data. In addition, there has been a debate in parliament about the impact of the UBO register on privacy rights. This has led to the distinction between two different types of access: unrestricted access, mainly for government agencies, and restricted access for the public and for persons conducting client surveys. Failure to comply with the Regulations is an offence and liable on summary conviction to a fine of EUR 5,000, or conviction on indictment to a fine up to EUR 500,000.

Luxembourg

The UBO law came into force as of 1 March 2019. The UBO registration was fully implemented on 1 December 2019. Different UBO definitions apply. For companies, this is the natural person who owns more than 25 percent of the shares or voting rights, or exercises influence in any other way. If no UBO can be determined, the senior management official(s) must be registered in the Luxembourg Register of Beneficial Owners. The non-profit associations should follow the company's interpretation. For Luxembourg foundations, the founder and the board members are considered to be the UBO. The date of registration is the reference point for determining who the UBO is.

The registration requirement applies to all Luxembourg Registered Entities, including mutual funds and permanent establishments of foreign companies. Existing companies were legally required to register their UBO within six months after the law came into force. However, the Luxembourg Register of Beneficial Owners administratively extended this period to 30 November

2019. New entities have to proceed with the registration within one month. The company's management body is responsible for the fulfillment of this requirement. In the future, a separate UBO register for trusts and fiducies is expected to be set up.

Information in the Luxembourg register of beneficial owners is available to the public at large, with the exception of the private or professional address and identification number. The extent of the interest is given in exact percentages. There has been some discussion about the effectiveness of AMLD4 and AMLD5. The advice of the National Data Protection Commission (NDPC) on UBO legislation has not been fully taken into account. The public character of the UBO register was not assessed in the light of privacy law.

Information can be protected on request if it concerns a minor or someone who is legally unqualified to act. This possibility also exists for persons for whom revealing the information can lead to a disproportionate risk and a risk of kidnapping, blackmailing, extortion, violence and intimidation.

Failure to comply with the registration requirements can result in a fine of between EUR 1,250 and 1,250,000 for the UBO, the entity, or both.

Malta

The UBO register has been fully implemented in national law and came into force on 1 January 2018.

The UBO definition is different for companies, trusts and legal entities such as foundations and associations. For companies, a UBO is a natural person who directly or indirectly holds 25 percent or more of the shares, or of the voting rights or of the ownership interests in that company, including through bearer shareholdings, or who exercises control over such company via other means. Unless otherwise specified, trustees appointed as trustee for an express trust must register in a separate register the natural persons considered as being the beneficial owners of trusts, being the settlor/s, trustees, protector/s (if any), any identified beneficiaries or class of beneficiaries, as well as other persons who, directly or indirectly, exercise ultimate control over the trust.

The identity of the UBO of a legal entity or arrangement is determined on the registration date. The UBO registration must take place at the

establishment of the entity while any subsequent changes to the said UBOs must be disclosed within a statutory period. In the case of companies, the directors and/or any other officer must take care of the registration while any natural person who has reasonable cause to be a beneficial owner shall be bound to provide information to the company; in the case of foundations and associations, these are the administrators. Trustees of express trusts that generate tax consequences must register the UBO information of the trust within fourteen days from when the trustee incurred tax liability.

All legal entities established in Malta must register their UBO. If no UBO can be identified, after having exhausted all possible means and provided there are no reasonable grounds of suspicion, the person(s) holding the position of senior management official(s) should be considered as being the UBO(s). The registration requirement also applies to express trusts subject to Maltese tax law. Exceptions to the registration requirement include Condominium Associations, Trade Union Associations, State Foundations and Religious Entities.

The UBO register is currently not public. However, from 1 January 2020, on the basis of the implementation of AMLD5 into Maltese law, every citizen will have access to the name, month and year of birth, nationality, country of residence and the nature and extent of the economic interest of a company's UBOs. These economic interests are shown in exact percentages.

Different rules apply for the accessibility of the information of the natural persons who are considered as the UBOs of trusts and/or other similar legal constructions.

UBO information on companies and partnerships is submitted to the Malta Business Registry; UBO information on foundations and associations is submitted to the Registrar for Legal Persons. Trusts' UBO data are submitted electronically to the Financial Services Authority.

For the current closed register, the term 'legitimate interest' means that the user's request is demonstrably intended to contribute to the prevention, detection and combating of money laundering or the financing of terrorism.

Whether this is the case will be assessed on a case by case basis. Access to the data of the UBO is granted in accordance with the data protection requirements. The blocking of UBO data in special circumstances is possible on request. As of December 2018 fines for failure to comply with the obligation by those responsible within a company may amount to up to EUR 10,000 per director. In the case of trusts, the trustee is fined a maximum of EUR 150,000. Foundations and associations risk a fine of EUR 500 plus EUR 5 per day.

The Netherlands

The introduction of the UBO register for companies and other legal entities was planned for 10 January 2020, but the parliamentary procedure is not expected to be completed until later in January. The mandatory registration applies to companies, foundations, associations, shipping companies, partnerships, cooperatives and European companies.

Natural persons qualify as UBO if they hold an interest of more than 25 percent in an entity, directly or indirectly, by means of shares or voting rights, or otherwise exercise direct control. In other cases, senior management staff are regarded as UBOs. The registration requirement applies only to companies and other legal entities established in the Netherlands. The registration is done at the Chamber of Commerce.

The UBO register will be part of the Dutch trade register. New entities must register their UBO within one week of formation. If they were already registered in the trade register before the implementation of the new legislation, they have 18 months to

register their UBO.

The UBO register will be publicly accessible. A set of six personal details are public: name, month and year of birth, nationality, country of residence and the nature and extent of the interest. The interest is not shown in exact percentages, but by ranges (from more than 25 to 50 percent, 50 to 75 percent and 75 to 100 percent). In addition, the register contains additional information to which only competent authorities and the Financial Intelligence Unit (FIU) have access.

UBOs can submit a request to the Chamber of Commerce to shield their public data, with the exception of the size of the economic interest. So far, there are only two limitative grounds for protection: (1) disproportionate risk, risk of fraud, kidnapping, blackmail and the like and (2) minority (persons up to the age of 18) and legal incapacity (persons under guardianship). The first ground is only open to persons who are given security by the government (the local or national competent authority) and who appear on specific police protection lists for that purpose. Submitting a request for screening always results

in the immediate blocking of the UBO data. This blocking continues after the objection and appeal procedure when the request is granted and is lifted if the request is definitively rejected.

The impact of the UBO register on privacy rights is - and has been - the subject of discussion in the Netherlands. For example, a very limited part of the proportionality assessment has taken place so far. The UBO information that the directive does not designate as mandatory public information is only accessible to certain designated competent authorities and the FIU, both of which have a duty of confidentiality. Access by other authorities and third parties has been judged by the legislator to be disproportionate.

Any assessment of the subsidiarity principle cannot be found in the explanatory notes of the legislator. In our opinion, there is an alternative that does not violate the fundamental right to privacy to the same extent as the public form of the UBO register, namely a (private) register that only grants access to competent authorities, the FIU and persons with a legitimate

interest.

Passing on incorrect information or failure to comply with the registration obligations constitutes a financial offence and can result in a maximum term of imprisonment of six months, a community service or a fine of EUR 20,750.

Norway

The UBO register has been fully implemented in national law, but has not yet entered into force. It is at this stage unsure when this will be the case.

Although there is one generic UBO definition, different criteria apply for a UBO in a foundation or a trust. As soon as there is an interest of 25 percent or more, there is a UBO. There will only be one UBO register and no separate register for trusts. The reference point for determining the UBO is a maximum of 14 days after the entity has registered in the UBO register.

The following information must be provided to the UBO register: full name, country of residence, citizenship and the SSN, in which the date of birth has been processed. If it concerns a non-Norwegian citizen, the date of birth must be provided separately.

It has not yet been determined who will manage the UBO register. All legal entities that run a business or are registered in Norway will be subject to the UBO registration obligation.

The UBO data in the register are publicly available, with the exception of the SSN and the date of birth.

Regulations on the shielding of information (including that of minors) are expected to enter into force at the same time as the UBO Act.

It is expected that failure to comply with the registration requirement will be punishable by a penalty ranging from a fine to imprisonment, on the condition that it was intentional.

Poland

The Act entered fully into force on 13 October 2019. The Ministry of Public Finance manages the UBO register.

A UBO is a natural person who directly or indirectly controls an entity by means of authority arising from legal or factual circumstances that enable the UBO to exercise decisive influence over the actions of an entity, or a natural person on whose behalf business relations are entered into or transactions are made.

In the case of companies, it is an individual who directly or indirectly owns more than 25 per cent of the shares. Entities already in existence on 13 October 2019 need to register their UBO for the first time in the Central Register of Ultimate Beneficiaries (CRUB) ultimately by 13 April 2020. All (new) entities registered in the National Registry Court after 13 October 2019, have 7 business days after their registration to submit the UBO information to the CRUB. This can be done by the entity's representatives in accordance with the representation rules (for instance, the board member of the company). The following information

is made public: full name, date of birth, nationality, country of residence and the nature and extent of the interest. It is possible for the entity to have more than one UBO identified. In that case all UBOs should be registered. The representatives should also be registered in the CRUB.

The obligation to register only applies to legal entities established in Poland. Apart from listed public limited companies and professional partnerships, all entities are included. There is no separate register for trusts or similar corporate arrangements.

The register is public. Non-compliance with the registration obligation is punishable by a fine of up to PLN 1,000,000 (approximately EUR 234,707). The person responsible for the registration may also be held responsible for any damage caused. Reporting untrue data to the CRUB will also lead to penal liability for the representatives of the applicant entity.

Portugal

The UBO registration entered fully into force on 1 October 2018. The administrator of the register is the Institute for Registration and Notarial Affairs. An interest of 25 percent or more is required to qualify as UBO. There are different definitions for different types of entities.

In the case of companies, the UBO is a natural person who owns or ultimately controls the company through the (in) direct ownership of shares or voting rights, or who exercises decisive influence in some other way. An interest of 25 percent or more is considered as an indication of a qualifying direct or indirect interest. If no one meets these criteria, a member of senior management will be considered a UBO. In addition, it may also be the natural person who exercises control in some other way, or who holds a position on the top management.

In the case of trusts, the UBO refers to the founder, the trustee, the beneficiaries in whose interest the trust is primarily established or carries out its activities, and anyone who has control

over the trust. For foundations and similar entities, the same UBO concept is used, i.e. a UBO is the natural person who performs a role as indicated above for trusts. There is no separate trust register.

The identity of the UBO is determined at the time of the UBO registration. The UBO must be registered when the entity is established. Entities falling under the Commercial Register had to register before 31 October 2019. For all other entities, the deadline of 30 November 2019 applied. Each entity must register at least one UBO. This must be done by the UBOs themselves, the director or board members, the person in charge of the daily management, or a professional advisor. UBO registration is not limited to companies and other legal entities established in Portuguese territory. Foreign entities with operational activities in Portugal are also required to register. This includes trusts established in the free zone of Madeira. Excluded from the registration requirement are, among others, public bodies, international public organisations and associations of owners.

The UBO register is publicly accessible. The following information is public: name, month and year of birth, nationality, country of residence and economic interest. This information is only accessible to parties that have been identified by means of a 'secure identification method' and to lawyers, notaries or chartered accountants. Other information is accessible to competent authorities, which are bound by an obligation of confidentiality.

The public UBO information can be protected in whole or in part on request if it is likely that the safety of a UBO is at stake or if the UBO is underage or otherwise incapable of acting. In that case, the information will only be accessible to competent national authorities such as judges and the Tax and Customs Administration.

In the event of failure to comply with the obligations, in addition to a fine ranging from EUR 1,000 to EUR 50,000, certain restrictions will be imposed on the entity, which will only be lifted once the UBO registration obligations have been complied with. These restrictions relate to the distribution of profits, the conclusion of government contracts

and the benefit of support from various funds and other public funds.

Spain

The UBO Act entered into force on 28 March 2018 and has not yet been fully implemented. There is no separate register for trusts.

There are different definitions for different types of entities. In the general definition, the natural person who directly or indirectly holds more than 25 percent of the shares or voting rights in a company is considered the UBO. For foundations and associations, the UBO is the natural person who - unlike in the case of companies - holds 25 percent or more of the voting rights of the representative body.

The reference date for determining the UBO is the day of introduction of the register. The following data must be registered: full name, date of birth, nationality, country of residence, TIN, and the nature of the UBO's interest in the entity. The extent of the required interest is indicated as '25%' or 'more than 25%'. The board members must register the UBO at the same time as they file the annual accounts.

The registration requirement only

applies to entities within Spanish territory. All legal entities established in Spain that register their annual accounts in the Trade Register must comply with the registration requirement. Spanish companies registered on the regulated capital market are excluded.

The UBO register is accessible only to competent authorities, obliged entities and those with a legitimate interest in it. It is not known what the term 'legitimate interest' entails. By default, the following is protected: day of birth and TIN/BSN.

In Spain, discussions have taken place about which body should manage the UBO register. Currently the Spanish Trade Register does this. It is clearly stated on the forms that the registration complies with the GDPR and the rules of the Trade Register.

Non-compliance with UBO registration is subject to the same sanctions as failure to file the annual accounts.

Sweden

The UBO registration entered fully into force on 1 August 2017. The Swedish Chamber of Commerce manages the UBO register.

The UBO of a company is a natural person who ultimately owns it, or has the ultimate authority to do so, for example by owning more than 25 percent of the shares, the voting rights or by having authority at senior management level. For other legal entities, the UBO is a person who has the ultimate ownership or authority by (in)directly holding more than 25 percent of the shares, (in)directly holding more than 25 percent of the voting rights, or has the authority to exercise effective control or is a member of senior management. If no natural person can be designated as a UBO, the entity must report to the Swedish Chamber of Commerce that there is no UBO.

UBO registration extends beyond the national borders. Foreign and domestic legal entities with activities in Sweden must register their UBOs. Excluded are listed limited companies, undivided

bankruptcy and estate assets, the state, provinces and municipalities and legal entities held by the government. The registration requirement also applies to natural persons residing in Sweden who manage trusts or other similar legal arrangements. All UBO information is collected in one register; there is no separate register for funds. The register contains only basic information and an indication of the extent of the interest in ranges of 25-50 percent, 50-75 percent and 75-100 percent.

The UBO information must be provided within four weeks of an entity's registration, and then continuously updated within reasonable time after a change.

The UBO register is publicly accessible. Personal data for example about religion, ethnicity and political views cannot be used to search the register. In order to request information, you need an identification from a Swedish bank. There has been no discussion about the impact of the UBO register on privacy rights. However, newspapers have paid attention to the effectiveness of the register and expressed their concerns about the danger that UBOs

could become victims of criminal activities. PwC Sweden has noted that customers are concerned about the increasing risk that they, or their families, will be exposed to such dangers.

Non-compliance with the registration requirement is punishable by a fine and a request for information to be submitted.

United Kingdom

The register for 'People with Significant Control' (PSC), which entered fully into force on 6 April 2016, already fulfilled the registration requirement for ultimate beneficiaries set out in the UBO register. Companies House manages the UBO register.

In order to qualify as UBO, an interest of more than 25 percent is required. The identity of the UBO must be determined on the date of registration. The following information is public: name, month and year of birth, nationality, and the nature and extent of the interest. The interest is shown in bandwidths. Directors of an entity must register the UBO data when the entity is established. Each entity must register at least one UBO.

The UBO register is public. The data of minors can be protected on request. The registration requirement applies only to private companies and unlisted public limited companies established in the territory of the United Kingdom. There is a separate register for trusts and similar legal arrangements. This register will not be made public and will

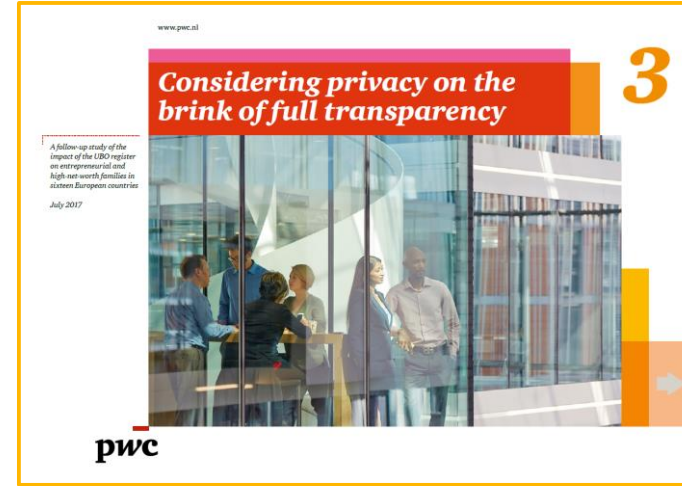
only be accessible to third parties with a legitimate interest, in accordance with AMLD4.

Failure to comply with the registration obligation is punishable by a fine or imprisonment of up to two years.

Retrospect



The first publication on the UBO register: “[Finding a balance between transparency and privacy](#)”, informs you about the consequences of the UBO register for you and your (family) business and about the broad European context. PwC family business specialists from twelve countries provided input, for the research into the impact of the UBO register for wealthy families and family business owners.
– December 2015



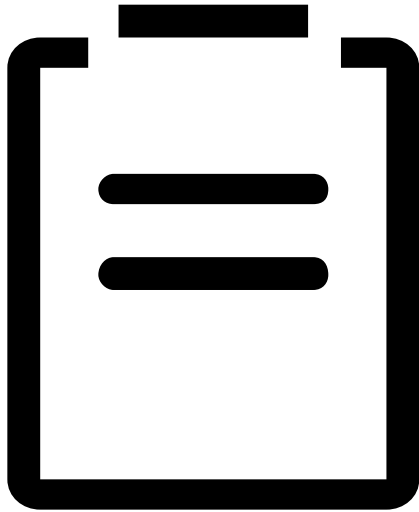
The third publication on the UBO register: “[Considering privacy on the brink of full transparency](#)”, goes into EU developments with the proposal for a fifth Anti-Money Laundering Directive. PwC family business specialists from sixteen countries delivered input, for the research into the impact of the UBO register for wealthy families and family business owners.
– July 2017



The second publication on the UBO register: “[How does privacy fit into a transparent world?](#)”, gives you a status update on the implementation of the UBO register and you can read about how this issue is perceived from a US point of view. PwC family business specialists from fifteen countries provided input, for the research into the impact of the UBO register for wealthy families and family business owners.
– July 2016



The fourth publication on the UBO register: “[EU continues its waltz with the fifth anti-money laundering directive](#)”, reflects the implementation status of the Fifth Anti-Money Laundering Directive. To this end, research has been carried out among seventeen EU/EEA Member States into the impact of the UBO register on wealthy families and family businesses.
– December 2018



Clarification

For this study, we enlisted our PwC family business specialists from seventeen countries: Austria, Belgium, Cyprus, Finland, France, Germany, Gibraltar, Ireland, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, and the United Kingdom. In this appendix, we explain the design of our study and our approach.

Research question

Our principle research question is:

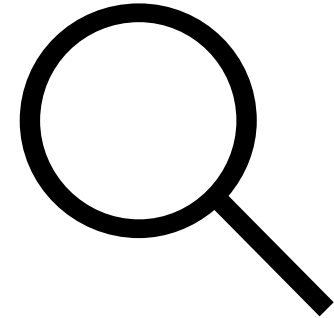
‘What is the impact of the UBO register that is introduced by the fifth Anti-Money Laundering Directive, on Family business owners and their family in the EU?’

To answer the question, we drew up the following sub-questions:

1. How is the UBO register implemented in the various EU Member States?
2. What does the current political and societal debate on this issue focus on?
3. What are the (expected) consequences regarding implementation in the various EU Member States of the (expected) amendment of the fourth Anti-Money Laundering Directive with the fifth Anti-Money Laundering Directive?

Study method

We submitted a questionnaire containing ten questions based on the above sub-questions to our family business specialists in the countries involved. We produced a summary of the answers to the questionnaire, processed the answers into the report and then submitted this report to the subject countries for comment. Based on the responses, we requested answers to specific follow-up questions where necessary.



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