

The latest tool against money laundering: the "Afad Act"

On 1 July 2022, the new legislation on the establishment of the Ultimate Beneficial Owners (UBO) register in Hungary which implements the EU anti-money laundering directives entered into force. Certain sections of the present Act will enter into force at a later date.

The directive requires all states to ensure that corporate and other legal entities registered on their territory are required to obtain and hold adequate, accurate and current information on their beneficial owner(s). Competent authorities (such as investigative authorities, national security services, law enforcement agencies), prosecutors and courts must have a free and unrestricted access to the registered data.

In addition to local (in our case: Hungarian) authorities, EU authorities (OLAF, Europol), criminal and law enforcement authorities, courts, prosecutor's offices or supervisory bodies of other member states and in special cases even third country authorities may become entitled to access to the registered data. Third parties and authorities other than those listed above can obtain certain data for a fee if they prove their legitimate interest.

In Hungary, the UBO Register is managed by the Hungarian Tax and Customs Authority.

Most of the business companies (such as Ltd.) registered in Hungary, civil organizations and trusts must also be registered in the UBO Registry.

The Register contains, among other things, the national registration number, name and abbreviated name, registered office or residential address of the data provider, as well as the identification data of the beneficial owner (surname and name, place and time of birth, residential address, citizenship, etc.).

The most important part of the Register is the so-called "TT index", an indicator number with a value between 1 and 10, which indicates the trustworthiness of the data in the Register and is set at 10 (maximum) at the first registration.

If a service provider indicates a discrepancy compared to the actual data in the UBO register with their own client due diligence results, the TT index of the respective client must be reduced by 1 or 2 points, depending on the type of the service provider. If the TT index falls below 8 points, it must be qualified as "uncertain", and if it falls below 6 points and remains so for 60 days of the receipt of the notification by the respective entity of such status, the rating will be classified as "unreliable".

The index also entails a sanction: if the data provider has been classified as "uncertain" for a period of more than 180 days, its name and abbreviated name will be available on the Hungarian Tax Agency's website.

If the data provider organization classified as "unreliable" is considered high risk from the point of view of money laundering prevention, its transactions above HUF 4.5 million (cc. EUR 12,000) will be rejected and its name and abbreviated name will be available on the Hungarian Tax Agency's website.