

BULGARIA JOINS THE EU 'AMLD IV IMPLEMENTATION' CLUB

Yesterday the Bulgarian Parliament adopted the Anti-Money Laundering Act (in Bulgarian: *Закон за мерките срещу изпирането на пари*). The Act transposes Directive (EU) 2015/848 on the prevention of the use of the financial system for the purposes of money laundering and terrorist financings (**AMLD IV**). The final text of the law is expected to be released next week. Currently only the Bill that was submitted for the second reading by Parliament on 7 March is publicly available.

UBO REGISTER

The provisions of Articles 30 and 31 of AMLD 4 have been incorporated into the Bill, however they do not provide for a separate central UBO register. The Bill prescribes the use of the current Commercial and Bulstat Registers with the Registry Agency which at present provide information on the type of entity, its seat and management address, registered owners / managers as well as their incorporation and other company documents.

ONLINE ACCESS

The Commercial and Bulstat Registers are accessible through an online database. At present, they contain information on the UBO but only with regard to specific companies registered in a jurisdiction with a preferential tax regime when they are investing in regulated sectors (credit institutions, insurance and social insurance companies, investment intermediaries and regulated markets, payment institutions, companies managing collective investment undertakings or alternative investment funds; mobile operators, radio and TV operators) as set forth by the Act for Economic and Financial Relations with Companies Registered in Jurisdictions with Preferential Tax Regime and Their Beneficial Owners.

Both the Commercial and the Bulstat Registers are publicly accessible but copies of the documents uploaded in the Registers are only accessible with an electronic signature. The Bill however provides that the information regarding UBOs will need to be entered under the batch or the case of the legal entity in the registers and will be directly accessible only by the Financial Intelligence Directorate with the National Security Agency, the Bulgarian National Bank, the Financial Supervision Commission and other competent state agencies as well as by the obliged entities when they are required to undertake enhanced customer due diligence.

UBOS TESTS

Based on the discretion to which the Member States are entitled under AMLD IV, as an indication of beneficial ownership or control the Bill sets a percentage which is lower than the 25% plus 1 share. Under the Bill, a threshold of at least 25% of the capital or voting rights is an indication of a direct holding. For an indirect holding an indication for the UBO exists when a natural person controls a legal entity which in turn has a holding of at least 25% of the capital or voting rights.

LESSONS LEARNT

The previous wave of UBO disclosures – in a narrower context at the time - showed that the synchronization between the legal framework and the rules of operation of the Commercial Register has a substantial timing implication. Companies were almost unable to become compliant with the legal changes due to the absence of forms and procedures for filing the declaration on UBOs in the Register. This path is already mapped so the current need for accommodation of the Register should be more efficient and quicker. The deadline for disclosure is also expected to be set by factoring in the previous experience. According to the Bill, the Registry Agency should ensure that the technical means for recording UBOs is available by 1 October 2018. Legal entities will be required to register their UBOs with the Commercial and Bulstat Registers within 4 months following the expiry of this term, i.e. by 1 February 2019.

We will be able to comment further on the new legislation once the final text of the Act is released. There was strong opposition by the affected market participants in the financial services sector against the draft of the Bill and the final text will reveal to what extent the opinion of the market has been taken into account.

For an overview on the status of implementation of AMLD IV in CEE/SEE, please refer to [here](#).

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