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Central Registry of Beneficial Owners (“UBO) of companies and other legal entities and possibility to apply for an exemption.

Amendment Law 13 (I) / 2021 introduces changes to The Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007 (188 (I) / 2007) with the purpose of (a) transposition at a national level of the 5th EU Anti-Money Laundering Directive (AMLD)¹ (b) effective implementation of the Regulation (EU) 2018/1805² and (c) harmonization with Article 3 of Directive (EU) 2019/2177³.

The amendments were a consequence of the need to adapt to the latest developments and data brought about by Directive 2018/843/EU, which aims to ensure financial stability by strengthening measures to prevent the use of the EU financial system, for money laundering and, terrorist financing obtained in accordance with the previous Directive 2015/849 / EU. In addition, the possibilities of cooperation between all the competent bodies involved, and the access to registers and available information, are expanded with the activation of a central Registry of Beneficial Owners (“UBO Register”) with open access to the public (under certain conditions). The UBO Register is compiled, kept and published by the Registrar of Companies and Official Receiver (the “RoC”), who has been appointed as the competent authority for maintaining the UBO Register. The RoC keeps information about the companies and other legal entities and their beneficial owners.

The competent Supervisory Authority, the AML Unit, the Customs Department, the Tax Department and the Police will only have access to the information about a beneficial owner through the UBO Register if they have a legitimate interest and, upon submission of a formal request at the RoC. The obligated entities will have access in the context of undertaking due diligence and identification measures for their client. A member of the general public will have only limited access, which consists of access to the name, month and year of birth, citizenship and country of residence of the beneficial owner, as well as the type and extent of rights that he holds in the company.

At the same time, the amending legislation, with the aim of ensuring a proportionate and balanced approach, and to guarantee the privacy and protection of personal data, introduces exceptions through the application of a procedure so that the beneficial owner can request an exception for publication of his data in the UBO Register due to special circumstances. Specifically, in exceptional cases and circumstances to be determined by guidance and instructions to be issued under this law, when access to specific information would expose

¹ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU.

² Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders

³ Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019 amending Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Directive 2014/65/EU on markets in financial instruments and Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing.



the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, an exception may be made on a case-by-case basis from access to all or part of the information concerning the beneficial owner. Exemptions granted pursuant to the above shall not apply to credit institutions and financial institutions, and to obliged entities that are public officials.

The above possibility of exception concerns only specific information that is explicitly provided by law and relates to the access to the information about the beneficial owner through the UBO Register, which the obliged entities have in the context of undertaking due diligence and identification measures for the client. The possibility of exception also concerns the access of a member of the general public to the name, month and year of birth, the nationality and the country of residence of the beneficial owner, as well as to the type and extent of the rights that he holds.

Therefore, on the basis of the above exceptional cases and under certain guidance and instructions that are expected to be issued under this law, a person may submit to the RoC, a request for exemption from disclosure of information in relation to the beneficial owner. Member States shall ensure that these exemptions are granted only following a detailed evaluation of the exceptional nature of the circumstances.

The decision on an application for an exemption from the rule of disclosure of information about the beneficial owner issued by the RoC is subject to the control of the Administrative Court by filing a recourse under Article 146 of the Constitution. According to the new legislation, the decision, decree or notification of the Registrar of Companies and Official Receiver in an application for exemption cannot be executed before a period of seventy-five (75) days has elapsed from the notification to the Applicant, or while a recourse against that decision is pending.

It is noted that, despite the requirement of Directive 2018/843 that the Member States shall ensure the rights to an administrative review of the exemption decision and an effective judicial appeal, the Republic of Cyprus has chosen not to introduce any provision for an administrative review procedure through a possible hierarchical appeal. Rather, it has limited itself to providing only for the challenge of the decision by appealing to the Administrative Court.

In order for such a recourse to have a chance of success, there must be sufficient evidence that the disclosure of such information will expose or is likely to expose the beneficial owner to a disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or, that the beneficial owner is a minor or otherwise legally incapable.

For more information please speak with [Elena Riga](#) or your usual contact at Elias Neocleous & Co LLC.



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