

New requirements on registration of beneficial owners in Latvia

On 9 November 2017, amendments to the “Law on the Prevention of Money Laundering and Terrorism Financing” entered into force in Latvia. Among other novelties, the amendments provide an extended definition of a beneficial owner and include an obligation for legal persons to acquire information on beneficial owners and submit the information for registration in the Latvian Register of Enterprises.

The amendments to the Latvian “Law on the Prevention of Money Laundering and Terrorism Financing” (hereinafter – Amendments) were drafted, observing the requirements in the so called 4AMLD, or Directive 2015/849 **on the prevention of the use of the financial system for the purposes of money laundering**.

A beneficial owner is a natural person, who owns or controls a legal person, or on behalf of, for the benefit of, or in interests of which business relations have been established, or transaction of occasional nature has been concluded, and the foregoing natural person is:

- a) regarding legal persons – a natural person who by direct or indirect participation, owns more than 25 per cent of capital shares or stocks, has the rights to vote of a legal person, or who controls these directly or indirectly,
- b) regarding legal formations (trust companies) – a natural person, who owns, or in interests of who a legal formation is created or operating, or who controls these directly or indirectly, inter alia, who is a founder, attorney, or controlling person (manager) of such formation;

The Amendments provide an obligation in Latvia to disclose a beneficial owner and this is mandatory for all legal persons, including partnerships, capital companies (LLC and JSC), cooperative partnerships, associations, endowments, political parties, trade unions, individual undertakings, farms (fisheries), and European economic interest groupings.

Natural persons who have reasons to believe that they are beneficial owners as described above, *must until 1 February 2018 inform* of this fact about their legal person, providing following data about him/her:

- a) Given name, surname;
- b) Personal identification number (if such exists), day, month, and year of birth;
- c) The number and date of issue of a personal identification document, state of issue and issuer of the document;
- d) Citizenship;
- e) Country of permanent residence;
- f) How they control the legal person, indicating, inter alia, given name, surname, personal identification number (if a person does not have a personal identification number – day, month, and year of birth) of a shareholder (stockholder), the member or the owner through whom the control has been performed, but with respect to a legal person – name, registration number, and legal address, as well as documentation substantiating the control.

A natural person must inform and submit the foregoing information to a legal person regarding the beneficial owner, if he/she acts for the benefit of another person as well.

However, legal persons must identify their beneficial owners and store submitted (acquired) information on beneficiary owners as prescribed by the law. From 1 December 2017, legal persons will also be obliged to immediately, and not later than within 14 days from the day they obtained the aforementioned information, submit an application to the Register of Enterprises regarding registration of the information on beneficial owners or changes thereof indicating the previously mentioned information.

From 1 December 2017, when submitting an application to the Register of Enterprises in Latvia for registration (foundation) of a legal person, or changes in composition of shareholders or members of the board of capital companies, it will be necessary to indicate information on the beneficial owners of the legal person, or a confirmation that determination of the beneficial owner is impossible.

With regards to those legal persons, which have already been registered in the Register of Enterprises, or applications on registration of which were submitted prior to 1 December 2017, it will be necessary to submit the respective application to the Register of Enterprises before 1 March 2018. Commercial companies which have already provided information about their beneficial owners in accordance with Section

Amendments provide for several exclusions from the obligation to provide information on the beneficial owner. For example, such is not required if the company's beneficial owner is its shareholder and necessary information has already been submitted to the Register of Enterprises, or if the beneficial owner is a stockholder in a joint-stock company, stocks of which have been introduced to regulated market.

The Amendments do not regulate sanctions for legal and natural persons for not complying with the requirements of the law. However, it is important to remember that currently both administrative and criminal liability are applicable for such violations. In accordance with Section 166 of the Latvian Administrative Violations Code, failure to submit the information or documents specified by regulatory enactments on time to the Register of Enterprises, will result in a warning or a fine for an amount from EUR 70 up to EUR 430. If the same violations occur within a year after the imposition of an administrative punishment a new fine shall be imposed for an amount from EUR 210 up to EUR 700. Criminal liability follows from the Criminal Law (for failure to submit information stipulated by the law or for submission of knowingly false information), where the sanction goes from a fine to short-term detention, or community works. Be advised that if such actions cause significant harm to the state or entrepreneurship or to interests of other persons, which are protected under the law, the sanctions can be a fine or even detention for up to one year.

From 1 April 2018, information on beneficial owners in Latvian companies will be available for a fee to third parties via an online form. Access to information on beneficial owners who at the time of the request are minors will be of restricted.



SERGEJS PETROVS
ATTORNEY AT LAW,
PARTNER

(+371) 67 313 315
SP@NJORDLAW.LV



DMITRI KOLESNIKOV
ATTORNEY AT LAW,
PARTNER

(+371) 67 313 315
DK@NJORDLAW.LV