

Important amendments to the AML Act

■ LEGAL ALERT 26/10/2021

On 31 October 2021, certain important amendments to the Act of 1 March 2018 on Counteracting Money Laundering and Terrorism Financing (the “AML Act”) will come into force. The amendments will affect, among other things, the Central Register of Beneficial Owners (“CRBO”). In this new legal environment, a large group of entities for the first time in their history will be required to disclose certain information about their beneficial owners in the CRBO. Additionally, the beneficial owners themselves will be responsible for performing certain obligations in this regard.

Below we discuss in more detail four groups of amendments to the AML Act which, in our view, deserve your special attention.

1. Extended list of the types of entities with CRBO filing obligations

The obligation to file a notification with the CRBO has been imposed on the following new categories of entities:

- i. trusts whose trustees or persons holding equivalent positions: (a) are domiciled or established in the territory of Poland, or (b) enter into business relationships or acquire real estate in the territory of Poland in the name or on behalf of the trusts;
- ii. limited liability partnerships;

- iii. European economic interest groupings;
- iv. European companies;
- v. cooperative societies;
- vi. European cooperative societies;
- vii. associations subject to registration in the National Court Register; and
- viii. foundations.

Entities that have been operating before 31 October 2021 have until 31 January 2022 to comply with the above requirement. The transitional period, however, does not apply to newly created entities. New entities will be required to file their notifications with the CRBO within seven business days of the date of being entered into the National Court Register*. Failure to notify the CRBO of a beneficial owner or to update the information held by the CRBO may result in a financial penalty of up to PLN 1,000,000.

2. Controlling CRBO entries for their correctness

From 31 October 2021, the correctness of entries in the CRBO will be subject to control. Firstly, each obliged institution will be obliged to record discrepancies between the information maintained in the CRBO and the information about the customer's beneficial owner collected by such obliged institution.

* Detailed rules for determining the time limits applicable to trusts are provided in Article 60 of the amended AML Act.

Detected discrepancies will have to be reported to the Minister of Finance. Secondly, the Minister of Finance will be able to initiate proceedings to clarify whether the information maintained in the CRBO is correct and up-to-date, and to correct this data ex officio in the event of any irregularities being detected. Submitting untrue information about the identity of a beneficial owner may result in a financial penalty of up to PLN 1,000,000.

3. Obligations of beneficial owners

Until now, lawmakers have not expected beneficial owners to perform any activities in connection with disclosures to the CRBO. This attitude will change with the entry of the above amendment into force. From 31 October 2021, a beneficial owner will be required to provide the relevant entity subject to being entered to the CRBO with all information and documentation

necessary for the entity to report all applicable information about the beneficial owner to the CRBO within 7 days of the date on which the basis for reporting such information arises. A beneficial owner who fails to satisfy this requirement, with such failure resulting in non-disclosure of relevant changes to the CRBO within the applicable time limit or in disclosure of untrue information, will be subject to a financial penalty of up to PLN 50,000.

4. Registration of each citizenship

In the event that a person disclosed in the CRBO holds several citizenships, the entity subject to entry in the register will be required to report all citizenships held by the given person. The update in such scope should be made within 6 months, i.e. by the end of April 2022.

Please contact us:



Karina Aust-Niewiadomska
PARTNER

CONTACT
+48 22 520 4237
KARINA.AUST-NIEWIADOMSKA
@RYMARZ-ZDORT.COM



Aleksandra Maciąg
ATTORNEY AT LAW

CONTACT
+48 22 520 4328
ALEKSANDRA.MACIAG
@RYMARZ-ZDORT.COM



Rymarz Zdort
ul. Prosta 18
00-850 Warszawa
TEL: +48 22 520 4000
FAX: +48 22 520 4001

RYMARZ, ZDORT, GASIŃSKI, HER, IWANISZYN, MIKLAS, UZIĘBŁO I WSPÓLNICY SPÓŁKA KOMANDYTOWA, a limited partnership entered in the Register of Business Entities kept by the District Court for the Capital City of Warsaw, in Warsaw, XII Commercial Division of the National Court Register, under KRS number: 0000026546, NIP (taxpayer identification number): 5252191456.