

THE REGISTER OF EFFECTIVE BENEFICIAL OWNERS

To be conform with European law, a new French law has set up the obligation for French companies to declare its **beneficial owners** to the Register of commerce in France.

It's about being able to identify who is really behind a company, so that we can better fight against money laundering, tax evasion and terrorism, the workings of which can use shell companies.

1 - Definition of the beneficial owner

A beneficial owner is defined as any natural person who owns, directly or indirectly, more than 25% of the capital or voting rights of the company or, failing that, a person who exercises control over the management or management bodies of the company. company or the general meeting of its partners or shareholders.

- For **individual shareholders** with more than 25% of the capital and / or voting rights, they will clearly be declared beneficial owners in the register of beneficial owners.
- In the case of **corporate partners** holding more than 25% of the share capital and / or voting rights of the reporting company, it will be appropriate to seek, from among their direct or indirect natural persons, those who hold a share of their capital qualifying an indirect holding of the reporting company greater than 25% (example: if a partner of the reporting company is a company which holds 40% of the capital, and if one of the partners of this company is an individual holding 80% of its capital, then it will indirectly hold 40% x 80%, ie 32% of the capital of the reporting company and must therefore be considered as a beneficial owner).
- Regarding the other direct or indirect associate natural persons of the reporting company, it will be necessary to analyze the clauses of the various existing contracts (notably the statutes of SAS which can present various and varied arrangements and / or the possible shareholders' agreement) to check whether this person exercises a power of control over the management, administrative and management bodies of the company or the general meeting of shareholders or shareholders.
- If no one is identified as beneficial owner, then the legal representative of the reporting company should be declared as the beneficial owner.

2 - Companies concerned by the register of beneficial owners

All legal persons registered in the commercial and companies register are concerned by the obligation to keep a register of beneficial owners.

It is as follows:

- joint-stock companies: SA, SAS, SCA
- commercial companies of persons: SARL, SNC, etc.
- civil societies
- Law 1901 associations as long as they are registered
- undertakings for collective investment

3 - Formality of deposit relating to the register of beneficial owners at the creation of a company

When a company is created a special form shall be deposited at the register of commerce with the name of the beneficial owners.

Companies will have to complete and file a "Beneficial Owner Document" and add an interlayer for each additional beneficial owner.

This formality is accompanied by a register of commerce cost to be paid to the registry of the commercial court, namely € 24.71 to be added to the € 41.50 registry fee already existing for registration.

4 - Filing form relating to the register of beneficial owners for existing companies:

For companies registered before August 2, 2017, the formality must be made no later than April 1, 2018.

The register of commerce cost of the regularization formality will be € 54.42.

5 - Contents of the beneficial owners register

The form shall contain the following information :

- the identity of the company: corporate name, corporate form (SAS, SARLE, SCI, etc.), address of the registered office, no. Siren and mention of the registry in which the company is registered;
- the identity of the beneficial owner: surname, forenames, name of use, date and place of birth, nationality, personal address;
- control procedures, namely information on whether the beneficial owner has, directly or indirectly, more than 25% of the company's capital, more than 25% of the voting rights or "by any other means, a power of control over the management, administration, management bodies of the company or the general meeting of shareholders or shareholders";

- date on which the person concerned became beneficial owner of the company concerned

6 - Sanction of non-filing of beneficial owners register

The new obligation to file a document relating to the beneficial owner with the registry of the commercial court is accompanied by a system of penal sanctions for non-compliance: failure to file a return or to report false information, incomplete or erroneous, voluntarily or not, is punishable by 6 months imprisonment and 7500 € fine.

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