IRELAND - Update – Beneficial Ownership Reporting Commences

Executive Summary

The Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies (the “Central Register”) launched on 29 July 2019.

Irish incorporated companies and other legal entities ("Relevant Entities") are obliged by Part 3 of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019 (S.I. 110 of 2019) (the “2019 Regulations”) to file details of their beneficial ownership with the Central Register.

Existing Relevant Entities have until 22 November 2019 to file the details of their beneficial ownership with the Central Register. Relevant Entities incorporated after 22 June 2019 must commence providing information to the Central Register within five months of their incorporation.

It is expected that separate regulations will be published providing for the establishment of a central register of beneficial owners of Irish Collective Asset-management Vehicles ("ICAVs") which will be maintained by the Central Bank.

Relevant Entities must submit their beneficial ownership information through the Central Register’s online registration portal - https://www.rbo.gov.ie. Paper submissions are not accepted and no fees are charged. Relevant Entities should confirm with their service providers which entity will make the filing on their behalf well in advance of the November filing deadline.

The concept of beneficial ownership in the 2019 Regulations remains unchanged from the 2016 Regulations with respect to companies and captures any natural person who, directly or indirectly, has a greater than 25% ownership or controlling interest in a Relevant Entity.

Where it is not possible to identify any natural person who, directly or indirectly, has a greater than 25% ownership or controlling interest in a Relevant Entity, the Relevant Entity’s beneficial ownership register should be populated with the senior managing officials of the Relevant Entity. In the case of investment funds, this will generally be the directors.

For further information relating the requirements of the 2019 Regulations and the functioning of the Central Register, please consult our previous briefings on the topic here and here.

Submission of PPS Numbers to Central Register

The 2019 Regulations state that the Central Register must be maintained in a form that is “adequate, accurate and current”. In order to facilitate the Central Register in complying with this requirement, the Central Register requires the submission of the PPS numbers of each beneficial owner to allow for the verification of their identity.

The launch of the Central Register had been delayed to allow for some clarifications regarding the legality of the submission of PPS numbers to the Central Register to verify the identity of the beneficial owners of Relevant Entities. Following the entry into force of the Social Welfare Consolidation Act 2005 (Specified Bodies) Regulations 2019 from 29 July 2019, the Central Register now has the relevant authority to use the PPS numbers of beneficial owners in performing its functions.
Instances can arise whereby a beneficial owner does not have a PPS number (e.g. where the beneficial owner/director is a non-Irish resident). The Central Register has issued guidance on how the Central Register will address the issue of verification of the identity of beneficial owners who do not have a PPS number. The Central Register requires such beneficial owners to submit a Form BEN2 to the Central Register containing the following information relating to the beneficial owner:

- Forename;
- Surname;
- Date of Birth;
- Nationality;
- Address.

The beneficial owner will be required to sign a declaration confirming that the information contained with the Form BEN2 is true and correct. The completed, signed and witnessed Form BEN2 must then be uploaded via the Central Register’s online portal.

The submission of the Form BEN2 is a one-time filing for each beneficial owner. Once a beneficial owner’s information has been filed with the Central Register by means of a Form BEN2, the beneficial owner will be issued with a “RBO Transaction Number” which can be used to make future beneficial ownership filings for that individual. Please note the Central Register will provide further details at a later date regarding the practicalities around the submission of the Form BEN2.

Under the 2019 Regulations, it is a criminal offence to knowingly provide a false statement to the Central Register and this offence will be subject to penalties of up to €500,000 or imprisonment for a term not exceeding 12 months or both. Failure to provide a PPS number where one exists or providing a Form BEN2 where a PPS number exists will also be an offence subject to the same penalties.

Please note that the Form BEN2 will only be accessible by the Central Register and will not be accessible by those inspecting the Central Register.

How can Walkers help?

Walkers and Walkers Professional Services are ready to assist clients by:

1. advising on any steps necessary to obtain this information, including drafting statutory correspondence to compel the production of this information if so required;
2. drafting an internal register of beneficial ownership (“Internal Register”) to capture the information required to be held by Relevant Entities in respect of their beneficial owners; and
3. preparing board resolutions and updating the fund’s anti-money laundering policy and compliance calendar to ensure that the Internal Register is kept up to date and compliant with the 2019 Regulations.

Contacts

If you have any queries on the Central Register or its operation, please speak to your usual contact in Walkers or contact:

DISCLAIMER: The information contained in this memorandum is necessarily brief and general in nature and does not constitute legal or taxation advice. Appropriate legal or other professional advice should be sought for any specific matter.