

ABREU & MARQUES

E ASSOCIADOS

SOCIEDADE DE ADVOGADOS, RL

MONEY LAUNDERING

BENEFICIAL OWNER CENTRAL REGISTER

WITHIN THE PREVENTION OF THE USE OF THE FINANCIAL SYSTEM FOR THE PURPOSES OF MONEY LAUNDERING OR TERRORIST FINANCING, IT WAS APPROVED THE BENEFICIAL OWNER CENTRAL REGISTER LEGAL REGIME (RCBE) IN PORTUGAL.

RCBE COMPRISES A DATA BASE WITH INFORMATION ON THE NATURAL PERSON OR PERSONS THAT, EVEN IF INDIRECTLY OR THROUGH A THIRD PARTY, ULTIMATELY OWN OR CONTROL THE COMPANIES AND REMAINING OBLIGED ENTITIES.

Law 89/2017, foresees an obligation for companies (and other obliged entities) to maintain an updated register with the identification of:

- a) the shareholders and relevant shareholdings;
- b) the natural persons that own, even if indirectly or through a third party, the shareholdings; and
- c) whom, in any manner, ultimately controls the companies.

Shareholders are obliged to inform the companies of their identification and any alteration, within a deadline of 15 days as of the same.

In case after duly notified by the company the shareholder unjustifiably do not provide the information, the relevant shareholdings may be amortized.

The company failing to maintain an updated register of the ultimate beneficial owners may be sanctioned with a fine between € 1 000 and € 50 000.

Obliged entities

The law foresees that the following entities must be registered with RCBE:

- a) associations, cooperatives, foundations, civil and commercial companies, as well as any other entities with legal existence, subject to Portuguese or foreign law, pursuing their activity or any legal acts in Portugal and that have to obtain a tax number;
- b) branches and local representations of international or foreign entities with activity in Portugal;
- c) other entities which pursuing own objectives and activities differentiated from its associates, do not have a legal existence;
- d) instruments of fiduciary management in the Madeira International Business Centre (trusts);
- e) external financial subsidiaries registered in the Madeira International Business Centre;
- f) condominiums whenever their respective global tax value exceeds € 2 000 000 and where more than 50% of the total units is owned by just one beneficiary, co-owners or just one single person or persons as ultimate beneficial owners.

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Certain fiduciary funds and other legal arrangements with a similar structure or functions are also subject to RCBE.

Thus, the obliged entities have the legal obligation to declare, adequate, accurate and current information on their beneficial ownership, all circumstances showing such and the details of the beneficial interests held.

Content and data of the declaration

The ultimate beneficial owner declaration must include relevant information regarding:

- a) the obliged entity;
- b) in case of companies, the identification of the owners of the share capital, and relevant shareholdings;
- c) identification of the directors, or of whom performs the management or administration of the obliged entity;
- d) the ultimate beneficial owners;
- e) the applicant.

The following data is collected in the declaration:

- a) regarding the obliged entity or the shareholders that are legal entities:
 - i) Portuguese tax number (NIPC) and, being a non resident entity, the tax or equivalent number issued in the country of residency, if applicable;
 - ii) name;
 - iii) legal nature;
 - iv) registered offices, including jurisdiction, in case of foreign entities;
 - v) economic activity code (CAE);
 - vi) legal entity identifier, if applicable; and
 - vii) institutional e-mail address.

b) regarding the ultimate beneficial owner and the natural persons referred above:

- i) full name;
- ii) birth date;
- iii) place of birth;
- iv) nationality or nationalities;

v) permanent full address, including country;

vi) identification document data;

vii) Portuguese tax number, when applicable, and, being a foreign citizen, the tax number issued by the competent authorities of the State, or States, of its nationality, or equivalent number;

viii) contact e-mail address, when exists.

The information regarding the circumstances indicating the beneficial ownership and the beneficial interests held must include the relevant source, i.e. indication of the Public Administration data base, namely, commercial registry or, when such is not possible, through the filing of evidentiary documentation.

Form, updating and annual confirmation of the declaration

The declaration is filed online.

Any change regarding the information comprised in RCBE must be updated as soon as possible, within a maximum of 30 days.

The information must be confirmed annually up to July 15 (and, when applicable, with the annual tax declaration).

Public Information

The information on the beneficial owners of the companies and legal obliged entities is publicly available in the internet, including:

- **regarding the obliged entity:** Portuguese tax number and, when a foreign entity, tax number issued in the relevant jurisdiction, name, legal nature, registered offices, CAE, legal entity identifier, when applicable, and institutional e-mail;

- **regarding the beneficial owners:** name, birth month and year, nationality, country of residency and economic interest held.

Courts, police and sectorial authorities, as well as the tax authorities, may access all information comprised in RCBE, within the relevant powers to prevent and combat money laundering and terrorist financing.

Sanctions

In case the obliged entities do not comply with the relevant obligations the same shall be prevented from:

- a) distribute profits and dividends;
- b) enter into contracts with public entities or renew such existing contracts;
- c) bid in public tenders or concession contracts;

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- d) admission to official listing on an regulated market;
- e) launch public offers for the distribution of securities;
- f) benefit from European and public grants;
- g) enter into any contract related to real estate property.

False declarations are subject to criminal and civil liability.

Deadline for the initial declaration

The obliged entities (incorporated before October 1, 2018) must file the initial declaration with RCBE, as follows:

- a) **up to April 30, 2019**, the entities registered with the commercial registry;
- b) **up to June 30, 2019**, the remaining obliged entities.

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