

# CERHA HEMPEL CEE NEWSLETTER

## *Hungary*

### Register of beneficial ownership comes to Hungary

Act XLIII of 2021 on the Creation and Operation of a System of Data Reporting for Identification by Financial and Other Service Providers (“**DRA**”), which regulates the long-awaited register of beneficial ownership, took effect on 21 May 2021. With the introduction of the DRA, Hungary is now in compliance with the EU’s 4th and 5th anti-money laundering directives (“**Directives**”).

#### Register of beneficial ownership

A register of beneficial ownership is a central database kept by each Member State that includes accurate and up-to-date information about the beneficial owners of the companies and other legal entities registered in that Member State. The creation of such a register of beneficial ownership (“**Register**”) was required in Hungary to ensure compliance with the Directives because other existing registers and databases (such as the company register and the register of non-governmental organisations) do not include information on beneficial owners.

It is important to note that the Register will not qualify as an official record of the information included in it [DRA, Section 4(2)].

#### Whose information will be included in the Register?

Information will have to be reported to the Register by every

1. business entity;
2. non-governmental organisation;
3. professional trustee; and
4. government-owned entity with at least 25% private ownership

that is registered in Hungary [DRA, Section 1].

#### What information will be included?

The Register will include the following information about every entity:

1. national registration number;
2. name, short name and registered office;
3. home address (in the case of trustees who are natural persons);
4. tax number;
5. company registration number or other identification number;
6. European Unique Identifier (if any);
7. the first and last name, birth name, nationality, date of birth and address of, and the nature and extent of the beneficial interest held by, the entity’s beneficial owner in accordance with Sections 3.38a), b) and d) to f) of the Hungarian Act on the Prevention of Money Laundering; and
8. a score assigned to the information (“**BO Index**”) [DRA, Section 4(1)].

#### Who is required to report the information and from when?

Banks and safe deposit service providers (“**Banks**”) are under an obligation to report the information to the National Tax and Customs Authority (“**Tax Authority**”), the government agency responsible for the administration of the Register. Banks were required to provide information to the Register about their existing clients on or before 12 June 2021 [DRA, Section 7(1) and Sections 24(1) and (2)].

It is important to note that clients are responsible and liable for ensuring that the information their Banks have on record about them is up to date, as they are required to report any change in their information within five business days [DRA, Section 12(3)].

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The Tax Authority will assign a unique identifier and a BO Index score to each entity upon registration. The default score is 10 at the time of the registration. From 1 October 2021, Banks will be required to report the relevant information about their clients on a monthly basis [DRA, Sections 7(2) and (4), Section 23(4)].

## The BO Index and the related legal consequences

The BO Index is intended to signify the reliability of the information pertaining to a particular entity on a scale from 1 to 10 [DRA, Section 3.15].

Service providers, such as accountants and registered office service providers, have an obligation to check the relevant information during client due diligence procedures, and if they identify any mismatch between information shown in any register or database and their own records, they have to report this to the Register within five business days. If there is a mismatch, the client's BO Index will be reduced by one point. If the mismatch is identified by a regulatory authority, a court or a prosecutor's office, the reduction will be two points. The rules pertaining to the reporting of mismatches will be applicable from 1 February 2022, while the legal consequences attached to various BO Index-based categories will be enforced from 1 July 2022 [DRA, Sections 10 through 12 and Sections 23(4) and (5)].

For easy reference, we have summarised the categories and legal consequences assigned to particular BO Index scores in the table below [DRA, Sections 12 through 14]:

BO Index	Category	Legal consequences (from 1 July 2022)
8 – 10 points	reliable	–
6 – 8 points	uncertain	– if an entity is in this category for more than 180 days, the Tax Authority will publish this fact, along with the entity's tax number, on its website
0 – 6 points	unreliable	– the Tax Authority - will publish on its website that the entity is in this category (along with the entity's tax number) - classify it as a high-risk entity [Act on the Prevention of Money Laundering, Section 10(1)] - take enhanced customer due diligence measures – <b>service providers will refuse to perform transactions worth HUF 4,500,000 or more</b>

If an entity is in the “*uncertain*” or “*unreliable*” category, the Tax Authority will notify it within five business days and call upon it to confirm or modify the information shown in the Register. If the entity confirms or modifies the information, it will regain its “*reliable*” status [DRA, Sections 12(3) through (5)].



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## Who can access the Register?

Third parties can access the information recorded in the Register against payment of a fee. Access for authorities, courts, entities and their beneficial owners will be free [DRA, Sections 8 and 9].

## Interconnectedness of Member State registers

The provisions of the Directives designed to ensure the interconnection of registers kept by the Member States will take effect on 1 February 2023 [DRA, Section 23(6)].

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## For more information

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