

## The power of being understood

### UBO REGISTER HAS COME INTO FORCE

On Sunday 27 September 2020, the legal obligation to register UBOs (Ultimate Beneficial Owners) with the Chamber of Commerce (CoC) came into effect. As from this date, newly established entities must also register their UBO(s) by using a 'UBO form' when registering in the trade register.

However, entities already registered in the trade register have a period of 18 months (i.e. until 27 March 2022) to record their UBO(s) and file supporting documents. These entities can use a so-called 'UBO statement'. Registration of UBOs with the Chamber of Commerce is free of charge.

#### Impact for you as a UBO

A UBO is any natural person who ultimately owns or controls a legal entity. At any rate, a UBO exists in the case of direct or indirect ownership or a controlling interest of more than 25% in such an entity. If it is not possible to identify a 'true' UBO, the senior management of the entity will be registered as a so-called 'pseudo-UBO'.

Due to the obligation to register UBOs, some of your data will become public. Any interested party may request the names of the UBOs by entity. For this purpose, a '[Chamber of Commerce extract UBO-register](#)' must be ordered online. According to the Chamber of Commerce, the required access code can be requested easily.

The details that become public include your name, month and year of birth, state of residence, nationality and the nature and extent of the economic interest you hold. Your exact interest is not disclosed, but ranges of percentages will be included (> 25% - 50%, 50% - 75%, 75% up to 100%).

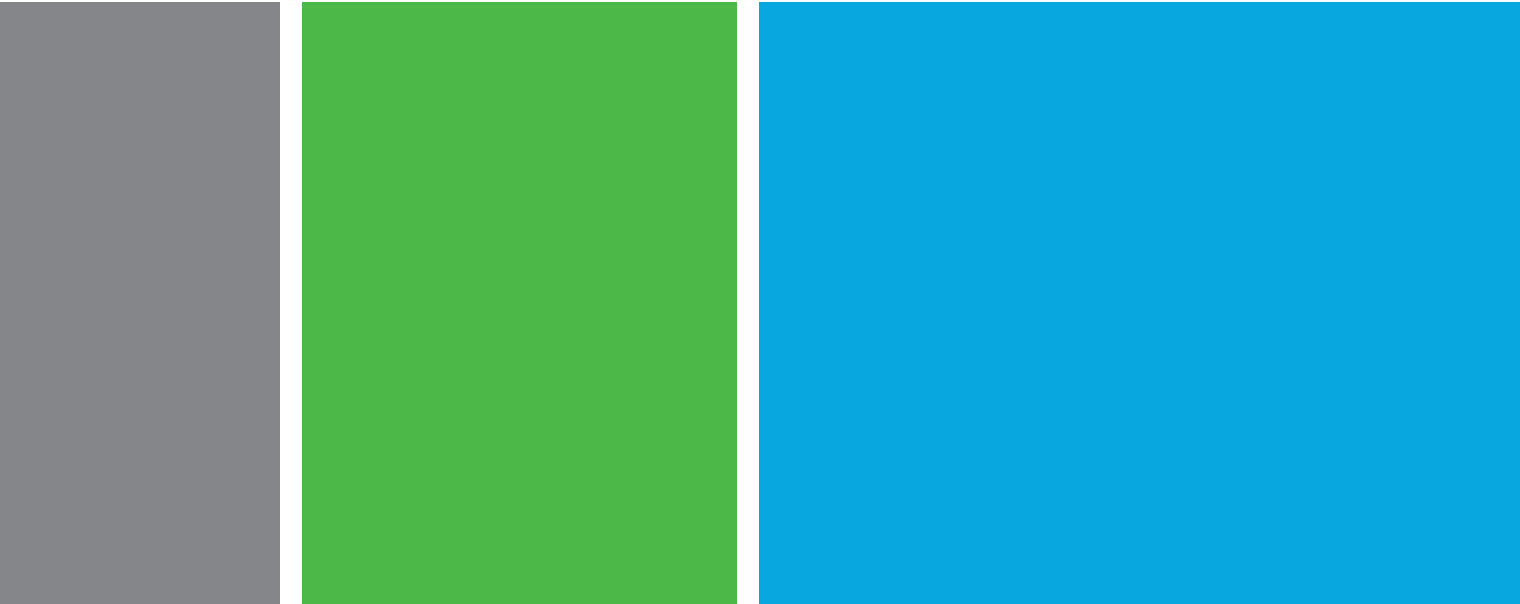
In addition to the public data, the following UBO data must also be recorded, which will only be accessible to competent authorities (such as the Netherlands Authority for the Financial Markets (AFM), the Fiscal Information and Investigation Service (FIOD), the National Police Force, the Public Prosecution Service (OM), the General Intelligence and Security Service (AIVD) etc.) and the Financial Intelligence Unit (FIE):

- Date, place and country of birth;
- address;
- BSN or TIN (foreign tax identification number);
- copy of identity document from UBO;
- copy of documents showing the nature and extent of the economic interest.

As a UBO, you can obtain information on how often your details have been provided from the Chamber of Commerce, but you will not be able to find out whom they have been provided to. Nor will you be able to see how often your details have been viewed by the competent authorities or the FIE.

#### Is it possible to block data?

If a UBO is a minor or without legal capacity to act, a request to block and not disclose the public information (with the exception of the economic interest) may be submitted. The same applies in the case of disproportionate risks of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation.



The explanatory notes to the act state that this can only be successfully invoked if a person is under government protection. If your application for blocking your data is rejected by the Chamber of Commerce, you may submit an appeal against the decision before the court. As long as the proceedings are ongoing and there is no final decision, your data will remain blocked.

This protection does not apply to the competent authorities, the FIE or to designated gatekeepers such as credit and financial institutions and notaries who will continue to have access to this data.

#### **Impact on your entities**

Entities established in the Netherlands with the following legal forms are obliged to register their UBOs:

- unlisted BVs and NVs;
- foundations (this also applies to public benefit organisations (ANBIs) and religious communities);
- formal associations with full legal capacity as well as informal associations that run a business;
- mutual insurance associations;
- cooperatives;
- partnerships (private partnerships, VOFs and limited partnerships);
- shipping companies;
- European public limited companies (SE), European cooperative companies (SCE) and European Economic Interest Groupings (EEIG) having their registered office in the Netherlands.

Failure to comply or comply properly with the obligation to register constitutes an economic offence punishable by imprisonment of up to six months, community service or a penalty of €20,750.

#### **More information?**

RSM can help you by making a targeted analysis of the UBO concept tailored to your situation and can also assist you with UBO registration. If you would like more information about this and how it may affect your situation, please contact your your trusted RSM advisor.