



March 2018

### **Register of the beneficial owners of the legal entities**

On 1<sup>st</sup> of January 2018, the last parts of Act No. 368/2016 Coll., which *inter alia* amends the Act. 253/2008, on certain measures against the legalization of proceeds of crime and financing of terrorism (hereinafter only "*the AML Act*") and some related acts, came into force.

On the basis of this act, the register of the beneficial owners of the legal entities was incorporated into the Czech legal order within the implementation of the so-called fourth AML directive <sup>1</sup>. According to the newly adopted definition in the AML Act, a beneficial owner means a natural person „*who has a factual or a legal possibility to directly or indirectly exercise a decisive influence in a legal entity, trust or other legal arrangement without legal personality*”. The AML Act itself contains rebuttable presumptions concerning the beneficial owner. According to one of them, for example, a beneficial owner within a commercial corporation is natural person who, alone or together with persons acting in concert, owns more than 25% of the voting rights of that commercial corporation or owns a share in the registered capital of more than 25%. The AML Act also establishes an obligation to record actual data leading to the identification of the beneficial owner; these data must be retained for 10 years after the beneficial owner ceases to be the beneficial owner.

The amendment further affected Act No. 304/2013 Coll., on public registers of legal and natural persons, as subsequently amended. Legal entities registered in public registers are newly obliged to register their beneficial owners into the relevant register. This register will be kept by the registry courts, but it will be a non-public register, and data regarding the actual owner will not be included in the extract from the public register. Only legally defined entities (courts, tax administrators, intelligence services, etc.) will have access to these data. Entry into the register of beneficial owners will be subject to a court fee of CZK 1,000. However, persons registered in the relevant register before 1<sup>st</sup> of January 2018 shall be exempt from this fee for a period of one year from the entry into force of the amendment, i. e. until 1<sup>st</sup> of January 2019.

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<sup>1</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC