

## BENEFICIAL OWNERS REGISTER: MEF DECREE PUBLISHED IN THE OFFICIAL GAZETTE

On 25 May 2022, decree of the Ministry of Economy and Finance ("**MEF**") No. 55, of 11 March 2022 was published in the Official Gazette No. 121, providing for the communication, access and consultation of data and information relating to the beneficial ownership of companies with legal personality, private legal persons, trusts producing legal effects relevant for tax purposes and legal institutions similar to trusts (the "**Decree**").

The Decree enters into force on 9 June 2022.

### OBJECT AND PURPOSE

The Decree, in order to prevent and combat the use of the economic and financial system for the purpose of money laundering and the financing of terrorism, sets out provisions to be implemented exclusively by telematic methods:

- a) on the communication to the Companies Register Office of data and information relating to the beneficial ownership of companies with legal personality, private legal persons, trusts producing legal effects relevant for tax purposes and legal institutions similar to trusts for their registration and maintenance in the autonomous section and special section of the Companies Register;
- b) on access to data and information by Authorities, obliged parties, the public and any natural or legal person, including those with diffuse interests;
- c) to identify and quantify secretarial fees with respect to parties other than the Authorities;
- d) to ensure the security of data and information processing.

### A. COMMUNICATION TO THE COMPANIES REGISTER OFFICE

- Obliged parties

- a) The directors of companies with legal personality and the founder, if still alive, or the persons entrusted with the representation and administration of private legal persons shall communicate to the Companies Register Office of the territorially competent Chamber of Commerce the data and information relating to beneficial ownership, acquired pursuant to Legislative Decree No. 231, of 21 November 2007 ("**AML Decree**"), for their registration and storage in the autonomous section of the Companies Register;
- b) the trustee of trusts or similar legal institutions communicates the data and information relating to beneficial ownership, acquired pursuant to the AML Decree, to the Companies Register office of the territorially competent Chamber of Commerce for their registration and storage in the special section of the Companies Register.

- Communication object

The communication contains:

- a) the identification data and nationality of the natural persons indicated as beneficial owners;
- b) in addition to the information under point a), for companies with legal personality: 1) the size of the equity participation held in the entity by the natural person indicated as the beneficial owner, within the meaning of the AML Decree; 2) where the beneficial owner is not identified by virtue of the size of the participation referred to in point 1), the manner in which control is exercised or, ultimately, the powers of legal representation, administration or management of the entity, exercised by the natural person indicated as the beneficial owner, within the meaning of the AML Decree;
- c) in addition to the information under point a), for private legal persons, the tax code and, also in the event of any subsequent changes: 1) the name of the entity; 2) the registered office and, where different from the registered office, the administrative address of the entity; 3) the certified email address;
- d) in addition to the information under point a), in respect of trusts and similar legal institutions, the tax code and, also in the case of any subsequent changes: 1) the name of the trust or similar legal institution; 2) the date, place and references of the trust or legal institution's deed of incorporation;
- e) any exceptional circumstances for the purpose of excluding access to beneficial ownership information, pursuant to the AML Decree;

- f) the declaration, pursuant to Article 48 of Presidential Decree No. 445, of 28 December 2000 (TUDA - Consolidated Act of Legislative and Regulatory Provisions on Administrative Documentation), of responsibility and awareness of the penalties provided for by criminal legislation and special laws on the falsification of documents and declarations made.

In addition to beneficial ownership, obliged parties are also required to report:

- (i) any change in beneficial ownership within 30 days of the change;
- (ii) confirmation of data and information, once a year, within 12 months of the first communication or of the variation or last confirmation.

- Modalities and deadlines for communication

Within 60 days of the entry into force of the Decree, it is expected that the Ministry of Economic Development ("**MISE**") will publish the decision certifying the operability of the system for reporting data and information on the beneficial owner. Communications on beneficial ownership must be made within 60 days following the publication of the MISE decision. Companies with legal personality and private legal persons established after the MISE decision proceed to the communication within 30 days from their registration in the respective Registers; trusts and similar legal entities established after the same date proceed to the communication 30 days from their establishment.

## **B. ACCESS TO DATA AND INFORMATION**

- The Authorities referred to in Article 21, paragraph 2, letters a), b), c) and d), and paragraph 4, letters a), b) and c) of the AML Decree <sup>(1)</sup> have access to the data and information on beneficial ownership in the autonomous section and the special section of the Companies Register.
- Obligated parties (as referred to in Article 3 of the AML Decree), upon accreditation, access the autonomous and special sections of the Companies

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<sup>(1)</sup> The Decree refers, *inter alia*, to: (i) the Ministry of Economy and Finance (MEF), the sector Supervisory Authorities, the Financial Intelligence Unit for Italy, the Anti-Mafia Investigative Directorate, the Financial Police [*Guardia di Finanza*] which operates in the cases provided for by this Decree through the Special Currency Police Unit [*Nucleo Speciale Polizia Valutaria*] without any restriction; (ii) the National Anti-Mafia and Anti-Terrorism Directorate (iii) the judicial authorities, in accordance with their institutional attributions; (iv) the authorities in charge of fighting tax evasion, in accordance with access modalities suitable to ensure the pursuit of such purpose, established in a specific decree of the Minister of Economy and Finance (MEF), in agreement with the Minister of Economic Development (MISE).

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Register to consult data and information on beneficial ownership in support of customer due diligence requirements.

- Access by other parties:
  - (i) The data and information on beneficial ownership of companies with legal personality and private legal persons in the autonomous section of the commercial register shall be accessible to the public upon request and without restriction, unless the communication to the Companies Register Office of the data and information on beneficial ownership indicates any exceptional circumstances preventing access to the information on beneficial ownership. Public access shall cover the name, surname, month and year of birth, country of residence and nationality of the beneficial owner and the conditions from which the beneficial ownership status derives.
  - (ii) The data and information on the beneficial ownership of trusts and similar legal institutions required to be registered in the special section of the Companies Register are made available to any natural or legal person, including those with diffuse interests, who is entitled to access pursuant to the AML Decree, on the basis of the submission to the territorially competent Chamber of Commerce of a reasoned request for access. Within 20 days of the request, the territorially competent Chamber of Commerce grants access or communicates its reasoned refusal to the applicant, by certified e-mail. In the absence of communication within the aforementioned time limit, access is deemed to be refused.

The text of the Decree is accessible at the following link:

<https://www.gazzettaufficiale.it/eli/id/2022/05/25/22G00060/sg>

**DISCLAIMER**

The sole purpose of this Client Alert is to provide general information. Consequently, it does not represent a legal opinion nor can it in any way be considered as a substitute for specific legal advice.

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