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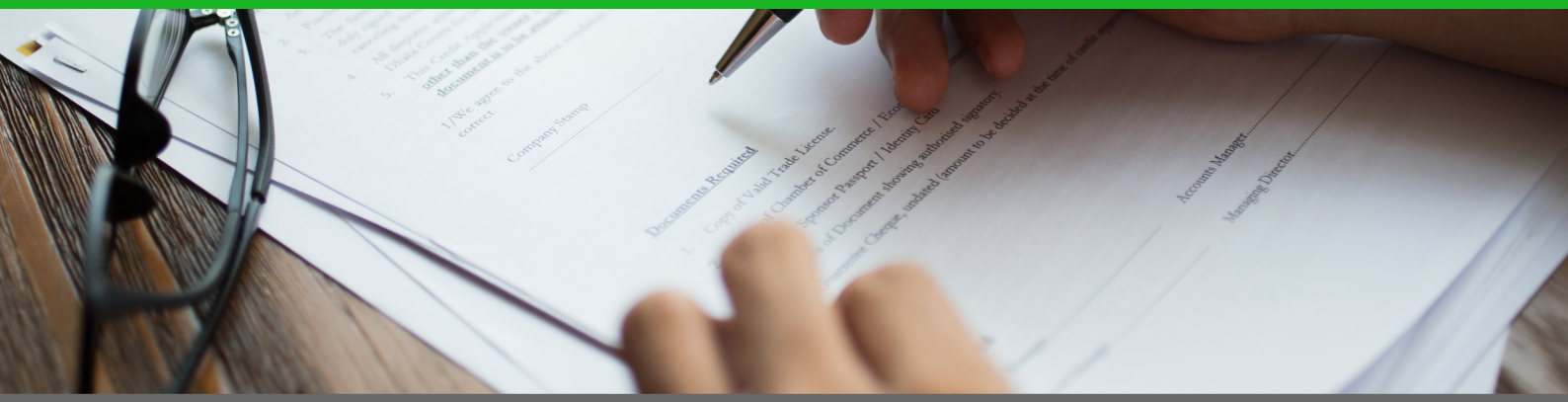
Ultimate beneficial owner Austria



January 10, 2020 - Transposition of the 5th Money Laundering Directive, the most important changes

Dear clients,

The law on compulsory enrolment of ultimate beneficial owner has been amended, i.e. extended.

Overview

January 10, 2020 - Transposition of the 5th Money Laundering Directive, the most important changes

✔ Annual reporting obligation
✔ Compulsory reporting of derogations / irregularities in the register
✔ Changes to criminal provisions

Annual reporting obligation / The check obligation effective from January 10, 2020

Legal entities that are included in the Act on the Reporting of the ultimate beneficial owner in the relevant register shall be obliged to report annually on the timeliness of the registration of the ultimate beneficial owner enrolled in the relevant register. As soon as the check shows that the data in the register is no longer up-to-date, changes must of course be reported.

As explained by the competent authority responsible for the registration of the ultimate beneficial owner, this means in practice that:

✔ After the data stored in the register has been checked - **a new report must be actively submitted** once **in every 12 months**

Example:
The ultimate beneficial owner report or record has been submitted / reported last April. This means that a **new report must be (again) actively submitted by April this year**.
However, since the initial entry into force of the Act on the Reporting of the ultimate beneficial owner in the relevant register (2018), **there is an obligation to report changes to the register within 4 weeks**.

If persons obliged to report changes to the register (usually us as Auditorea) as part of the obligation to prevent money laundering reveal that the ultimate beneficial owner enrolled in the register are not correct or incomplete, from January 10, 2020, this persons must also report such derogations to the register. **The obligation to report such irregularities or derogations** shall be waived if the person obliged to report notifies the client of their incorrect or incomplete entry in the register and the client themselves carries out a correction in the register within a reasonable period of time.

Since January 10, 2020, **the criminal provisions** have been extended and more differentiated in terms of their range according to the specific content of the misstatement. Intentional financial crimes are punishable by a fine of up to **EUR 200,000** and financial crimes of gross negligence are punished by a fine of up to **EUR 100,000**. For example, the person guilty of a financial crime shall be the one who submits an incorrect or incomplete report and thus fails to submit the ultimate beneficial owner, or the one who fails to deliver a report of a change in ultimate beneficial owner within 4 weeks of such discovery, or the one who, after the exemption from reporting has ceased to exist, submits no, incorrect or incomplete report.

Please let us know if we are to handle some of the obligations for You. If you have any questions, do not hesitate to contact us.

Your Auditorea team