

# Ireland Update: Access Right Changes to the Register of Beneficial Ownership of Companies

On 13 June 2023, a statutory instrument amending regulations governing beneficial ownership of corporate entities<sup>1</sup> ("Amending Regulations") came into effect.

The Amending Regulations were required as a result of a significant judgement in the Court of Justice of the European Union in 2022<sup>2</sup> (the "Sovim Case") which determined that public access to information on companies' beneficial owners via beneficial ownership registers (previously granted by the original regulations<sup>3</sup>) "*constitutes a serious interference with the fundamental rights to respect for private life and to the protection of personal data*".

As a result of the Amending Regulations the public no longer have access to the Irish Register of Beneficial Ownership of Companies ("RBO") and instead individuals must prove that they have a legitimate interest in the information before it can be obtained.

Public access to the RBO has been on hold since the Sovim Case while legislative change was awaited.

## New Access Requirements

A person must have a legitimate interest in the beneficial ownership information in order to gain access and must make a formal submission<sup>4</sup>

<sup>1</sup> European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) (Amendment) Regulations 2023

<sup>2</sup> WM and Sovim SA v Luxembourg Business Registers (joined cases C-37/20 and C-601/20)

<sup>3</sup> European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019

satisfying the Registrar of Companies (who maintains the RBO) (the "Registrar") that:

- (a) The person is engaged in the prevention, detection or investigation of money laundering or terrorist financing offences;
- (b) The person is seeking to inspect the information for the purposes of an activity in which he or she is engaged as referred to above (but such activity need not necessarily relate to cases of pending administrative or legal proceedings in respect of the relevant entity concerned); and
- (c) The relevant entity concerned is connected with persons convicted (whether in the State or elsewhere) of an offence consisting of money laundering or terrorist financing or holds assets in a high-risk third country<sup>5</sup>.

The Registrar may refuse access and there is no mechanism in the Amending Regulations allowing a challenge to such decision.

## Records

The Registrar is obliged to keep a record (for five years) of each application for access to, or inspection of, beneficial ownership information.

<sup>4</sup> And, if required by the Registrar, supply related information or documents

<sup>5</sup> The consolidated list of high-risk third countries is available here [EUR-Lex - 02016R1675-20230316 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/lexuris/ui/02016R1675-20230316-EN)

It is also obliged to keep a record of each decision taken.

## Unchanged Access Rights

The RBO continues to be accessible by Designated Persons<sup>6</sup> and Competent Authorities<sup>7</sup>.

## How the Maples Group Can Help

If you require assistance or have any queries in relation to this, please do not hesitate to contact your usual Maples Group contact.

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<sup>6</sup> 'Designated Persons' is outlined in Section 25 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended, and includes financial institutions, accountants, auditors, tax advisers, legal professionals, property service providers, virtual currency service providers and dealers in expensive goods such as houses, cars, jewellery, art works, etc.

<sup>7</sup> Competent authorities are those bodies engaged in the prevention, detection or investigation of possible money laundering or terrorist financing such as an Garda Síochána, Financial Intelligence Units, Revenue Commissioners, Criminal Assets Bureau, the Central Bank of Ireland, the Department of Justice & Equality, etc.