



# LEGAL REGIME ON THE BENEFICIAL OWNERSHIP CENTRAL REGISTER

## REGULATIONS BY MINISTERIAL ORDER 233/2018, OF 21 AUGUST

The Legal Regime on the Beneficial Ownership Central Register (BOCR legal regime), approved by Law 89/2017, of 21 August, required the implementing regulations to be published within 90 days.

Exactly one year later, Ministerial Order 233/2018, of August 21, finally regulates on the Legal Regime on the Beneficial Ownership Central Register. However, these regulations are still not complete, since the forms for compliance of the disclosure requirements under the BOCR must still be published on the website of the Justice sector. Also, it requires that such forms will include the circumstances indicating of the status of beneficial owner that must be taken into account when filling out the form.

The first beneficial owner declaration by the entities subject to the BOCR already in existence on 1 October 2018 must be made between 1 January 2019 and 30 April 2019 for the entities that must be registered with the Companies Registration Office, and between 1 January 2019 and 30 June 2019 for all the remaining entities.

The obligations under this legal regime must be fulfilled by filing the said form. To this end, the entities subject to the BOCR legal regime must be authenticated in the person of their representative.

The obliged financial and non-financial entities pursuant Law 83/2017, of August 18 must be registered through the sectorial competent authorities (Bank of Portugal, Portuguese Securities Market Commission, Supervisory Authority for Insurance, among others), and are given access through secure authentication services.

Each beneficial owner declaration submitted and validated is evidenced by a certificate containing the name of the declarant and the information relating to the BOCR. This certificate is accessed with an access code generated to that effect. No paper certificate is issued. It is worth noting that proof of beneficial owner registration and updates must be submitted whenever the law requires proof of tax clearance, without prejudice to all other legal provisions requiring the filling of tax clearance certificates, to be made by electronic consultation to the BOCR.

The Ministerial Order also provides that, with a secure authentication by the interested party in the manner required by the BOCR computer system, part of the information held by BOCR will be made publicly available, notably information regarding the entity and its beneficial owners.

Without prejudice to the access given by a secure authentication, the obliged entities will have online access to the BOCR, through their sectorial authorities, provided that they sign a protocol with *Instituto de Registos e Notariado* (“IRN, I.P.”) and meet the several requirements.

The judicial, police and sectorial authorities, as well as the Tax Authority, have real time access to all the information held by BOCR, through automated searching on its database, following the execution of a protocol with IRN, I.P to be submitted to the National Data Protection Commission for prior verification. These authorities will convey to IRN, I.P the identification of the users accessing the database, who are bound by the duty of secrecy.

The status of an entity in the BOCR is attested by the issue of a certificate evidencing beneficial owner registration. Also, information on any other circumstances held by BOCR may be issued, and the registration services designated by resolution of the board of IRN, I.P are competent to issue such certificate or information.

Furthermore, these regulations amend the Companies Registration Regulations to include a provision whereby the companies subject to registration must declare not having filed the beneficial ownership declaration and this information will be reported by BOCR.

Within 30 days from the entry into force of this Ministerial Order, the obliged financial and non-financial entities under Law 83/2017, of August 18 must communicate to the respective sectorial entities the identification of their trustees, the person holding management functions, the entities with whom they have business relationships or carry out occasional transactions. The sectorial entities draw up and forward the lists containing the relevant information for compliance with the above identification obligation not later than 60 days after expiry of the above time limit.

In addition, within 30 days from the entry into force of this Ministerial Order, the Tax Authority shall communicate to the BOCR the identification of the entities subject to the provisions of article 3.2 of the BOCR Legal Regime<sup>1</sup>.

<sup>1</sup> Article 3.2 of the BOCR Legal Regime provides that that trusts and other arrangements without legal personality and similar structure or purpose are also subject to this provision, whenever:

- i) The trustee, the manager or the person or entity holding such position is an obliged entity within the meaning of Law 83/2017, of August 18;
- ii) They are assigned a Taxpayer Number by the Tax Authority;
- iii) They establish business relationships or carry out occasional transactions, as provided for in Law 83/2017, of August 18;
- iv) The trustee, the manager or the person or entity acting in such capacities establish business relationships or carry out occasional transactions with an obliged entity within the meaning of Law 83/2017, of August 18.

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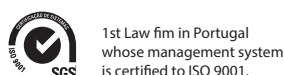
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