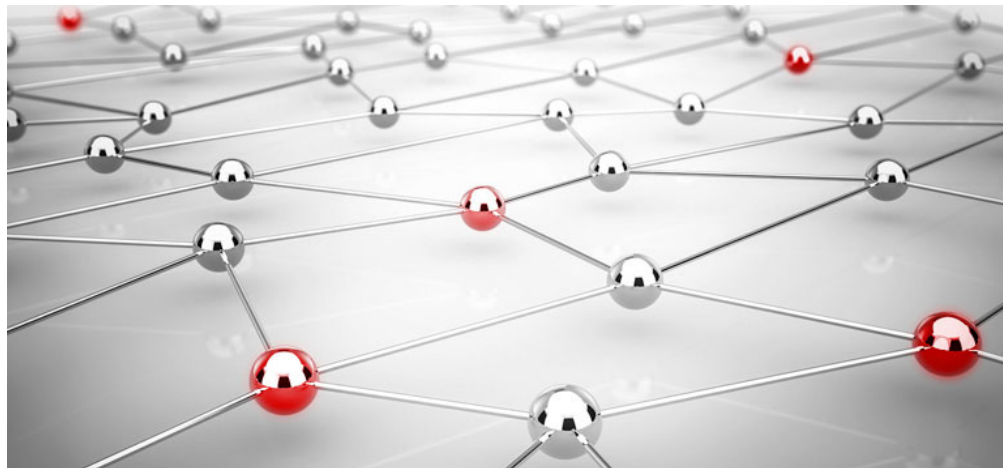


UBO register: what is the impact for the non-profit sector?



March 21, 2019

Antoine Druetz & Sakine Yilmaz



Table of content

- I. KOAN Law Firm - Presentation
- II. Why an UBO register?
- III. Who are the UBOs of an association?
- IV. Who is liable to register the UBOs in the UBO register?
- V. How to register your UBOs in the UBO register?
- VI. What are the sanctions?
- VII. What is the deadline?
- VIII. How are your personal data protected?
- IX. Conclusion
- X. Q&A

I. KOAN Law Firm - Presentation

A. General overview

- **Personal** and **regular** contacts
- **High** responsiveness
- Partner **availability**
- **Competitive** and **predictable** fee budgeting
- Services **adapted to your needs**
- We **take position**
- Our meeting rooms and secretarial support **at your service**
- We advise **on all your legal requirements**
- Our **international network at your disposal**



I. KOAN Law Firm - Presentation

A. General overview

- Koan founded in October **2004**
- **Independent Belgian** law firm
- Offices in **Brussels** and **Paris**
- **International global network** (www.multilaw.com)
- Team of **30** complementary lawyers
- Industry focused and **full service** = **one-stop** for our non-profit clients
- **National & international** clients

I. KOAN Law Firm - Presentation

B. Non-Profit and Trade Associations Team

- (International) non-profit associations
- EU Funding & grants
- Trade entities
- Foundations
- NGOs
- Governance & structuring
- Tax deduction & VAT
- Fundraising

I. KOAN Law Firm – Presentation

B. Non-Profit and Trade Associations Team



Antoine Druetz

Partner

ADR@koan.law

+32 2 566 93 08



Alix Degrez

Senior Associate

ADG@koan.law

+32 2 566 93 37



Sakine Yilmaz

Associate

SYI@koan.law

+32 2 566 93 38



Charlotte Fumière

Associate

CFU@koan.law

+32 2 566 93 26

II. Why an UBO register?

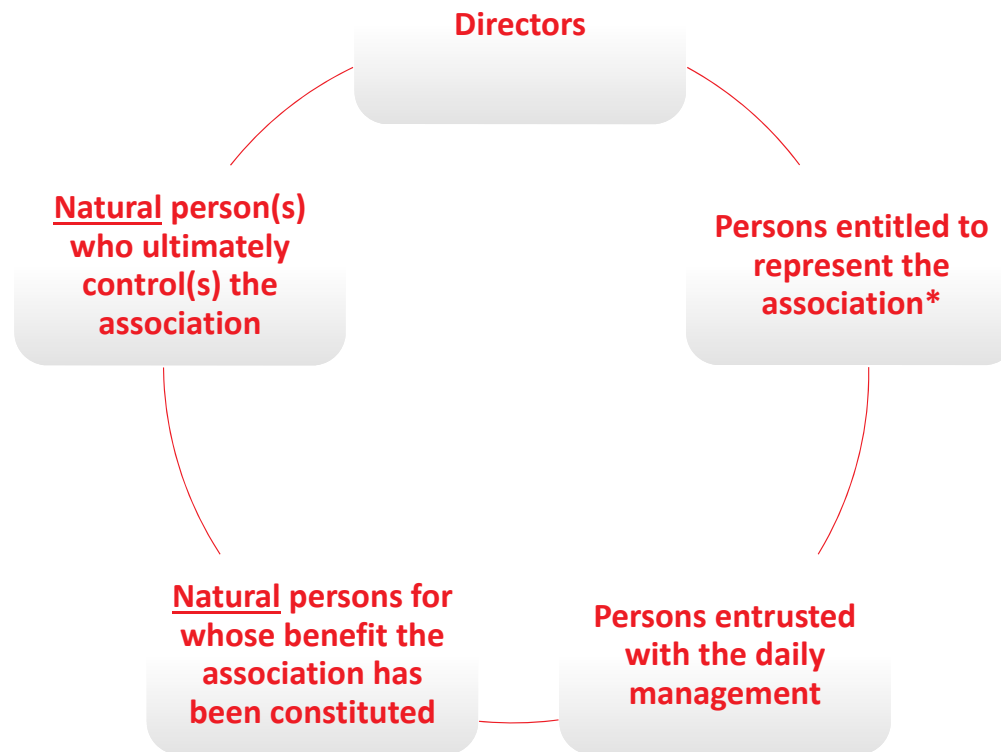
- UBO register = law on the prevention of money laundering and terrorist financing and the limitation of use of cash of September 18, 2017 (hereafter: “**AML Law**”)
- Purpose of the AML Law:
 - Implement the Fourth EU “AML Directive” of May 20, 2015
 - Prevent criminals and terrorists to find ways to finance their illegal activities and to launder the financial gains thereof



II. Why an UBO register?

- How does the UBO register help in the fight against terrorism and money laundering?
 - The UBO register:
 - ✓ Central register administered by the Treasury Administration
 - ✓ Purpose to gather all information regarding the “Ultimate Beneficial Owners” (hereafter: “UBOs”), i.e. the natural person(s) who ultimately own(s) or control(s) a company, association or foundation
 - ✓ Enhances transparency

III. Who are the UBOs of an association?



* Only for the non-profit associations

IV. Who is liable to register the UBOs in the UBO register?

- The Board of Directors (hereafter: « **BoD** »)
- What does it mean in practice for the BoD?
 - Establish internal procedures to gather information regarding UBOs and collect the supporting documentation (see below V, B).
 - Grant a proxy to a special proxy-holder when required (see below item V, A).
 - Register the required information in the UBO register in the deadlines specified by law (see below item VII).


V. How to register your UBOs in the UBO register?

A. Mandates and management of roles

- Inside your association, who can register?
 - In principle, one of the legal representatives (i.e. a director, the Secretary General, the CEO, the Director General) registered in the CBE + Belgian eID
- If no legal representative has a Belgian eID, one of the legal representatives shall:
 - External proxy-holder: grant a proxy to a third party (<https://finances.belgium.be/fr/E-services/mandats>; <https://www.csam.be/en/about-csam.html>)
 - Internal proxy-holder: assign the role to proceed with the UBO formalities to a person employed by the association (<https://iamapps.belgium.be/rma/generalinfo?redirectUrl=%2Frma%2F>)
- Connexion to the UBO register's platform via: www.finances.belgium.be (click on the tab "Registre UBO")

V. How to register your UBOs in the UBO register?

B. Information to communicate to the UBO register

- What information shall be registered?
 - The identity of the UBO:
 - ✓ The first name, last name and date of birth
 - ✓ The national registration number/the number BIS/the foreign identification number
 - The nature and the scope of the control of the UBO:
 - ✓ The date on which the person became an UBO
 - ✓ The category(ies) of beneficial owners in which the UBO(s) falls (see above slide 8)
 - ✓ Whether or not there are any other persons qualifying as UBO in his/her category(ies)
-  **Supporting documents** (e.g. minutes of the Board and the GA; publications in the Annexes to the Belgian Official Gazette; AoA/statutes/bylaws)

V. How to register your UBOs in the UBO register?

C. The intermediary legal entities

- UBOs = natural persons who control the association
- **⚠ However, "intermediary legal entities" (i.e. legal entities through which the UBOs control the association) shall be registered in the UBO register**
- What information shall be registered?
 - The enterprise number
 - The date on which it acquires the control over the association
 - The percentage of control

VI. What are the sanctions?

- Two kind of sanctions:
 - Criminal fines from EUR 400 to EUR 40,000
 - Administrative fines from EUR 250 to EUR 50,000
- When sanctions will be imposed?
 - The information is not registered in the UBO register
 - The information is not registered/updated in the UBO register within the legal deadlines (see below item VII)
 - The information registered in the UBO register is not correct

VII. What is the deadline?

- Deadlines: 30/11/2018 → 31/03/2019 → **30/09/2019**
- Why postponed ?
 - By February 2019, only 25,000 out of 800,000 registered!
 - Practical problems regarding the implementation
- When to update the registration of your UBOs?
 - Changes to be registered within 1 month following the date of the event (e.g. new UBO, change of the nature of the control, change of the percent of the control)
 - At least confirm or update the registered data once a year



**September
30, 2019**

VIII. How are your personal data protected?

- Who has **full access** to the UBO register?
 - Public authorities whose legal mission is to fight against terrorism and money laundering (e.g. the tax authorities); and
 - Natural/legal persons who are obliged by law to identify their clients (e.g. banks, lawyers, notaries)
- Who has a **limited access** to the UBO register?
 - Each person with a legitimate interest (i.e. an interest linked to the fight against terrorism or money laundering)
 - Any specific person upon submission of written request
- Some information will not be made publicly available for **privacy purposes** in case of limited access, such as the address of the domicile or the state register number



VIII. How are your personal data protected?

- A member of the public: access only the information on the basis of the name of the association or its enterprise number (~~the name of a natural person~~)
- Associations + UBOs not informed about the researches made
- All information recorded and any searches conducted will be kept for a period of 10 years
- Rem. Derogation: restriction to the disclosure of the registered information

IX. Conclusion

- **How to prepare?**

- Understanding the different categories of UBOs to be registered
- Establishing and implementing appropriate internal procedures
- Identifying a legal representative or designating an internal/external proxy-holder
- Stay informed

- Burdensome administrative procedure

X. Q&A



Thank you



Antoine Druetz

Partner

ADR@koan.law

+32 2 566 90 08



Sakine Yilmaz

Associate

SYI@koan.law

+32 2 566 93 38

KOAN
Law Firm

Ch. de la Hulpe 166, boîte 24
Terhulpesteenweg 166, box 24
B-1170 Brussels
Belgium

+32 2 566 90 00

 www.koan.law

 @KoanLaw

 [www.linkedin.com/
company/koan](http://www.linkedin.com/company/koan)