

Article 30 of the fourth Anti-Money Laundering Directive (the “**4AMLD**”, (EC) 2015/849) imposes the obligation to introduce a central register which identifies Ultimate Beneficial Owners (“**UBOs**”) of (legal) entities (the “**UBO register**”).

The 4AMLD leaves discretionary room for the EU Member States on the implementation of the UBO register on certain specific points. In light of this, DLA Piper has composed the below overview. This overview provides a preliminary impression of how the EU Member States might implement the UBO register in their national legal systems. Following this overview, it is possible to reflect the different ways that the EU Member States might implement the UBO register requirement.

	The Netherlands	United Kingdom	Germany	France	Belgium	Spain	Italy	Luxembourg
<b>Article 3 (6)(a) 4AMLD</b>								
<b>What is the percentage that indicates ownership or control of the UBO?</b>	Yet to be determined	25%	25%	25%	25%	25%	25%	25%
<b>Article 30 (1) and (5) 4AMLD</b>								
<b>Which UBO information has to be registered in the UBO register?</b>	<p><b>Category A</b></p> <ol style="list-style-type: none"> <li>Name, month and year of birth</li> <li>Nationality and country of residence</li> <li>Nature and extent of the beneficial interest held</li> </ol> <p><b>Category B</b></p> <ol style="list-style-type: none"> <li>Date of birth, place of birth, country of birth</li> <li>Address</li> <li>Citizen service number (BSN) or tax identification number (TIN), including information which demonstrates from which country the TIN is issued</li> <li>Copy of documentation pursuant to which the identity of the UBO is verified</li> <li>Copy of documentation which substantiates (i) why a person has the status of UBO and (ii) the nature and extent of the beneficial interest held</li> </ol>	<ol style="list-style-type: none"> <li>Full name</li> <li>Full date of birth</li> <li>Nationality</li> <li>Country, state or part of the UK where the Person with Significant Control (“PSC”) usually lives</li> <li>Service address</li> <li>Usual residential address</li> <li>Date he or she became a PSC in relation to the corporate entity</li> <li>Indication of the nature of the PSC’s control over the corporate entity</li> </ol>	<ol style="list-style-type: none"> <li>First name and surname</li> <li>Date of birth</li> <li>Place of residence</li> <li>Nature and extent of the beneficial interest held</li> </ol>	<ol style="list-style-type: none"> <li>Identification information</li> <li>Personal address</li> <li>Nature and extent of the beneficial interest held</li> </ol>	Yet to be determined	<ol style="list-style-type: none"> <li>Full name of the UBO</li> <li>ID/passport number</li> </ol>	Yet to be determined	<ol style="list-style-type: none"> <li>Name, month and year of birth</li> <li>Nationality</li> <li>Nature and extent of the beneficial interest held</li> <li>Relevant copies of identification and verification data and other relevant documentation on the identity of the UBO</li> </ol>
<b>Article 30 (5) 4AMLD</b>								
<b>Who has access to the UBO register?</b>	<p><b>Category A-information</b></p> <ol style="list-style-type: none"> <li>Everyone</li> </ol> <p><b>Category B-information</b></p> <ol style="list-style-type: none"> <li>Competent authorities</li> <li>FIU Netherlands</li> </ol>	1. Everyone	To the extent necessary to fulfil their legal tasks: <ol style="list-style-type: none"> <li>Competent authorities</li> <li>FIU Germany</li> <li>‘Obligated entities’ as defined under 4AMLD</li> <li>Any person or organisation that can demonstrate a legitimate interest (i.e. a reasonable interest showing that it is justified in the specific case to inspect the register; to be determined by the competent authority operating the register). However, instead of the full date of birth only the month and year of birth will be revealed and instead of the place of residence only the country of residence will be revealed</li> </ol>	<ol style="list-style-type: none"> <li>Competent authorities</li> <li>FIU France</li> <li>‘Obligated entities’ as defined under 4AMLD</li> <li>Any person or organisation that can demonstrate a legitimate interest and is authorised by a judge</li> <li>Entity that provided the information to the register</li> </ol>	Yet to be determined	<ol style="list-style-type: none"> <li>Public authorities</li> <li>Notaries Public</li> </ol> <p>It was indicated in the Spanish AML Act that the information should also be accessible for other regulated subjects. However, this is not yet the case</p>	<ol style="list-style-type: none"> <li>Competent authorities</li> <li>FIU Italy</li> <li>‘Obligated entities’ as defined under 4AMLD, upon accreditation and payment of a fixed amount</li> <li>In the course of a judicial proceeding (i.e. only where the involved persons are before a Court, and have an interest in proving that the real ownership is different from the legal ownership) any involved person or organisation</li> </ol> <p>In relation to 1 and 2 the manner of access depends on the type of authority</p>	Yet to be determined
<b>Article 30 (5) and (9) 4AMLD</b>								
<b>Which safeguards are introduced in order to protect the privacy of the UBO?</b>	<ol style="list-style-type: none"> <li>Access to UBO information is subject to online registration at the Chamber of Commerce. The UBO may request insight on the categories of purchasers of its information</li> <li>Access to UBO information is subject to payment of a fee</li> <li>Everyone other than competent authorities and the FIU Netherlands merely have access to a limited set of information (i.e. Category A information)</li> <li>Access to UBO information can be blocked in exceptional circumstances, e.g. where access would expose the UBO to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the UBO is a minor or otherwise incapable</li> </ol>	<ol style="list-style-type: none"> <li>The only information that will be suppressed on the public register will be usual residential address, date of birth, and information that is subject to the “protection regime” - i.e. where public identification of the individual as a PSC would mean placing him or her at serious risk of violence or intimidation – whether due to the company’s activities per se or the association of that particular individual with that particular company. However, access to usual residential address will be extended to FIUs, competent authorities and ‘obliged entities’ as defined under 4AMLD</li> <li>The UK register of companies consider applications for the protection of information on a case-by-case basis, consulting relevant bodies such as UK law enforcement agencies</li> </ol>	<ol style="list-style-type: none"> <li>Access to UBO information is subject to prior online registration and can be recorded for the purpose of control</li> <li>Access to UBO information is subject to payment of a fee</li> <li>Everyone other than competent authorities and ‘obliged entities’ as defined under 4AMLD merely have access to a limited set of information</li> <li>At the request of the UBO, access to the Transparency Register can be restricted either wholly or in part if the beneficial owner states that the inspection is contrary to their legitimate interests, taking into account all the circumstances of the individual case. Such interests arise if: <ul style="list-style-type: none"> <li>facts justify the assumption that the inspection would expose the UBO to the risk of becoming a victim of one of the following offences: fraud, extortionate abduction, hostage-taking, extortion with or without threat/use of force, criminal acts against body or life, coercion, threats</li> <li>the UBO is underage or legally incompetent</li> </ul> </li> </ol>	<ol style="list-style-type: none"> <li>Public access to the register requires a legitimate interest and an authorisation granted by a judge</li> </ol>	Yet to be determined.	<ol style="list-style-type: none"> <li>Notaries Public need to use a qualified electronic signature to get access to the Índice Único Notarial</li> <li>Other safeguards are yet to be determined</li> </ol>	<ol style="list-style-type: none"> <li>Access to UBO information is subject to payment of a fee</li> <li>In relation to the fourth group in the question above, the UBO information is only available to any private subjects holding a significant and specific legal interest, provided that the knowledge of the UBO is necessary to cure or defend, during a judicial proceeding, an interest corresponding to a legally protected situation, when the concerned individual has concrete and documented reasons to doubt that the real ownership is different from the legal one. The mentioned interest shall be direct, material and effective and, in case of bodies representing general interests, such interest shall not coincide with the interest of single persons belonging to the represented category. The access to the UBO information can be excluded if the information relates to unable persons or minors or if such access exposes the UBO to risks to its personal safety</li> </ol>	<ol style="list-style-type: none"> <li>The processing of personal data of the UBO is subject to rules regarding the protection of individuals with regard to the processing of personal data</li> </ol>
<b>Article 67 4AMLD</b>								
<b>What is the expected date of entry into force of the UBO register?</b>	In principle 26 June 2017, however a delay until January 2018 is expected	26 June 2017	In principle 26 June 2017, however the information must be provided to the UBO register by/ from 1 October 2017	Entry into force after the publication of a decree, August 2018 the latest. Companies and entities which are already registered in the Commercial Register shall file the UBO information by 1 April 2018 the latest	The draft unofficial legislation implementing the UBO register was submitted in March 2017 by the Council of Ministers to the Council of State. The objective would be to have a final law by the due date set in the 4AMLD, i.e. by the end of June 2017	A registry is already operative although not available to regulated subjects and not including all information required by the 4AMLD. No information with regard to when, if so, and in which conditions access to the UBO register will be available to the rest of the regulated subjects	Yet to be determined	26 June 2017. However, a delay of the date of entry into force is expected
<b>Miscellaneous</b>	The Dutch legislator intends to introduce an obligation for all ‘obliged entities’ as defined under 4AMLD, competent authorities and the FIU Netherlands to notify the Chamber of Commerce in case they have serious doubts about the accuracy or the lack of certain UBO information laid down in the UBO register	The UK has already legislated to require transparency about the beneficial ownership of UK companies, LLPs and Societas Europaeae. The obligation on these entities to maintain a register of PSCs and provide this to the UK register of companies was put in place in March 2016  Information on the PSC register is required to be updated at least once every 12 months. However, the government does not believe that this meets the requirement for the filed information to be “current”. Therefore the government proposes to require entities to update the register within six months of a change occurring		Article 30 of the 4AMLD has been implemented into French law by two different laws: (i) the so-called Sapin 2 law (n°2016-1691) of 9 December 2016 on transparency and fighting corruption and (ii) the Ordinance n°2016-1635 of 1 December 2016 reinforcing the anti-money laundering and terrorism financing mechanism. There is still uncertainty as to which implementing law will prevail  Failure to comply with (i) the obligation to register the information to UBO register or (ii) the registration of inaccurate or incomplete information is an offence punishable by 6 months imprisonment and a fine of up to EUR 7,500 (UBO register as implemented by Ordinance n°2017-1635)			The Italian legislator clarifies that the consultation of the UBO register does not relieve obliged entities of the obligation to assess AML and CTF risks and to take any appropriate measures related to the risk assessed.  The final text of the Legislative Decree implementing 4AMLD has been recently approved by the Italian government but the content of the Legislative Decree is not available yet. It is expected a 12 months transitional period - from the entry into force of the mentioned Legislative Decree - for the issuance by the competent Ministry of the specific provisions governing the UBO Register	To date, (i) the UBO register has not implemented in Luxembourg, (ii) the Luxembourg bill of law implementing the 4AMLD was tabled before the Luxembourg’s house of representatives very recently, on 26 April 2017 and (iii) this bill does not include any specific provisions or clarifications with regard to the UBO register  No further information on (i) who would be in charge of the UBO register, (ii) whether the UBO register would be freely available and (iii) how investment funds would comply with the requirement to contribute to such register is currently available

\* Please note that this overview is based on draft implementing legislation of the different EU Member States. Therefore, the overview is subject to amendments and no final conclusions can be derived from this overview. Furthermore, this overview specifically deals with the implementation of Article 30 4AMLD. Therefore, trusts and similar entities are excluded from the scope of this overview. The most notable implementation per topic - if any - is highlighted in blue.