

LAW REFORMING RCS AND RBE: STRENGTHENING POWER OF THE LBR

The law of 23 January 2025 (the "Law") reforms the provisions applicable to the Luxembourg Trade and Companies Register ("RCS") and the Register of Beneficial Owners ("RBE")¹ to enhance the quality and reliability of information recorded. The Law entrusts the Luxembourg Business Register ("LBR") as RCS and RBO administrator, with enhanced capabilities and sanctioning power to monitor registered individuals and entities and ensure compliance with their registration and filing obligations. The Law will enter into force on 1 February 2025.

ENHANCED MONITORING AND COMPLIANCE MEASURES

The Law provides new tools for the LBR to implement continuous monitoring policies on registered individuals and entities to ensure that data remains adequate, accurate and up to date. The LBR can proactively alert registered individuals and entities about discrepancies in their records and request updates. Registered entities and individuals have the option to provide their email address as part of their filing process, facilitating the direct communication between RCS and registered entities and individuals as necessary.

Additionally, the LBR can cross-check RCS data against other national registers to maintain consistency and reliability.

GRADUATED ADMINISTRATIVE MEASURES AND SANCTIONS

For entities that fail to comply with update requests, the Law empowers the LBR with a graduated range of administrative measures and sanctioning power for non-compliance. These sanctions include the publication of the breach on the public RCS record of the non-compliant entities, which serves as a public notice that an entity's records are not up to date or contain discrepancies.

Additionally, the LBR can highlight the detected discrepancies or breach on the RCS extract of the non-compliant entities. Entities that fail to comply with

Key points of the Law

- aims at improving the quality of the information recorded with the RCS and RBE
- introduces proactive alerts to follow up on registered entities by the LBR
- empowers LBR with graduated sanctioning power
- introduces administrative simplifications by interconnecting RCS and RBE databases
- will enter into force on 1 February 2025

¹ Law of 19 December 2002, concerning the Trade and Companies Register, as well as the accounting and annual accounts of enterprises; and law of 13 January 2019, establishing a Register of Beneficial Owners.

update requests may also face a daily fine of 40 euros, accumulating until the discrepancies are resolved.

In the most severe cases, the LBR has the authority to automatically remove an entity (*radiation d'office*) from the RCS without dissolution or loss of legal personality and/or refer them to the public prosecutor (*procureur d'état*). Entities are required to pay additional filing fees for late updates, and any imposed fines must be settled regardless of subsequent compliance.

Similar measures are extended to the RBE, with a range of incentive and coercive measures, ensuring that entities declare and maintain up-to-date information on their beneficial owners.

ADMINISTRATIVE SIMPLIFICATIONS

The Law introduces administrative simplifications by interconnecting the databases of the RCS and RBE. This interconnection aims at improving data accuracy and consistency, particularly in the fight against money laundering and terrorist financing ("**AML/CTF**"). The Law facilitates the declaration process by allowing the reuse of information from the RCS for the RBE, thereby simplifying procedures for entities.

The Law also ensures that national authorities have efficient access to the RBE for regulatory purposes. It introduces a secure electronic platform for information exchange, enhancing communication and data management.

CLARIFICATION OF ACCESS TO RBE

The Law reforms access to the RBE following the European Court of Justice's decision on 22 November 2022, which ruled the public access to the RBE invalid. While financial professionals and national authorities need access for AML/CTF purposes, the Law clarifies who else has a legitimate interest in accessing the RBE. Specifically, the Law now includes provisions that allow journalists and organisations with a legitimate interest in the AML/CFT to access the RBE. Journalists, both national and those established within the European Union, can access the RBE to ensure transparency and accountability in their investigative work. This access is crucial for these entities to carry out their missions effectively.

The Law also stipulates that professionals, in the execution of their due diligence measures towards their clients, in accordance with the AML law on AML/CFT, including with respect to entities with which their clients are likely to conclude a transaction, can access the register to verify the legitimacy of their potential business partners and prevent any association with money laundering, its underlying offenses or terrorist financing. While public access is restricted, those with a legitimate need for the information can still obtain it.

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