

LEGAL GUIDE | JUNE 2020

CENTRAL REGISTER OF BENEFICIAL OWNERS

- Which companies are obliged to submit an application to the Register?
- What data do I need to provide?
- Is non-submission of the application punishable?
- What is the deadline for submitting an application? Does the Anti-Crisis Shield change anything in this matter?



CENTRAL REGISTER OF BENEFICIAL OWNERS

In October 2019, new provisions of the Act on Combating Money Laundering and the Financing of Terrorism entered into force. Under this Act, the Central Register of Beneficial Owners was established (hereinafter referred to as the "Register"). We present the reminder of basic information about the Register, **including the change introduced by the "Anti-Crisis Shield 1.0"**.

Table of Contents

1. What is the purpose of establishing the Register?.....	1
2. Which companies are obliged to submit an application to the Register?	1
3. What data do I need to provide?.....	2
4. What if one person is a member of the management board and at the same time a beneficial owner?.....	2
5. Who makes the application?.....	2
6. How to notify the Register?	3
7. Is non-submission of the application punishable?	4
8. What is the deadline for submitting an application? Does the Anti-Crisis Shield change anything in this matter?	4
9. Should a change in the data entered in the Register be notified?	5

1. What is the purpose of establishing the Register?

The Register was created to collect information on so-called "**beneficial owners**", i.e. persons who control, whether directly or indirectly, a company. Act on Combating Money Laundering and the Financing of Terrorism (hereinafter referred to as the "Act") specifies which persons are considered as beneficial owners.

In each company, the circumstances will be different, depending on the legal form of the entity, ownership model, number of partners or shareholders, etc. Each company should, based on the provisions of the Act, identify the beneficial owners within their company.

2. Which companies are obliged to submit an application to the Register?

Following companies are obliged to submit an application and notify beneficial owners to the Register:

- 1) a registered partnership (*spółka jawna*);
- 2) a limited partnership (*spółka komandytowa*);
- 3) a limited joint-stock partnership (*spółka komandytowo-akcyjna*);
- 4) a limited liability company (*spółka z ograniczoną odpowiedzialnością*);
- 5) a simple joint-stock company (*prosta spółka akcyjna*) - a new type of company that will enter into force from March 1, 2021;
- 6) a joint-stock company (*spółka akcyjna*), except for a public company.

The list shows that, **there is no** obligation to notify a professional partnership (*spółka partnerska*) or a civil law partnership to the Register.

3. What data do I need to provide?

The application must contain:

- 1) company details (company name, organizational form, registered office, KRS and NIP numbers);
- 2) identification of the beneficial owner (name and surname; citizenship; country of residence; PESEL number or date of birth, in the absence of a PESEL number; information on the size and nature of the share held in the company; or rights of the beneficial owner);
- 3) the identification details of the member of the body of the company or partner authorized to represent the company indicated in subparagraph 2).

As such, not only the data of the beneficial owners is entered into the Register, but also the data of persons authorized to represent the company (generally - partners or members of the management board).

4. What if one person is a member of the management board and at the same time a beneficial owner?

In such case, this person should be notified for two "roles" - on the one hand as the beneficial owner, on the other hand, as a member of the management board (representative). The IT system used to make applications gives such an opportunity.

5. Who makes the application?

Application to the Register is made by a person authorized to represent the company. Generally, therefore, it will be a partner authorized to represent the company or member of the management board.

It should be borne in mind that, representation rights are shaped differently in different companies. For example, if the articles of association of a limited liability company (*umowa spółki z o.o.*) stipulates that each member of the management board may represent the company independently, then each member of the management board may submit the application. If, on the other hand, cooperation is required to represent the company, for example cooperation of two members of the management board, then the application is made by members of the management board acting jointly.

It is not possible for a company representative (e.g. an attorney or legal advisor) **to submit the application.** First of all, this possibility does not arise from the laws. Secondly, the Ministry of Finance, in an official statement, indicates that this is not possible.

The company representative (or other person) may, however, pre-fill the application, which must subsequently be signed by the person authorized to represent the company.

6. How to notify the Register?

Application can only be made via the IT system made available by the Ministry of Finance.

In order to prepare and submit the application:

- 1) go to <https://www.podatki.gov.pl/crbr/> website;
- 2) click on the „Rejestr CRBR” (the “Register”) window;
- 3) select the „Utwórz zgłoszenie” (“Create a request”) option by clicking a blue „Utwórz” (“Create”) button;
- 4) fill in the details of the company, beneficial owners and company representatives;
- 5) mark the statement that the provided data are accurate;
- 6) sign the application using the “Profil Zaufany ePUAP” (“ePUAP Trusted Profile”) - to do this, go to the bottom of the page and select the „Podpisz dokument” (“Sign the document”) option in the bottom right corner;
- 7) then, you must sign using the *Profil Zaufany* (Trusted Profile):
 - a. first, you must log in to the *Profil Zaufany* (Trusted Profile). This can be done by entering the username and password for the *Profil Zaufany* (Trusted Profile) or by using a bank’s website (provided that the bank offers such a service and it has been activated - the list of banks supporting the *Profil Zaufany* (Trusted Profile) is displayed on the login screen) or by a providing a qualified certificate (electronic signature);
 - b. then, depending on the chosen method of the login, the portal will guide the user, step by step, to sign the application. Depending on the method, one may need to take additional steps (e.g. if one logs in via a bank, one will probably need to enter a one-time code received by an SMS or phone application).

It is also possible to pre-fill the application and save it for later (this allows, for example, the creation of an application by a company employee or company representative, and then presenting it to a member of the management board for a signature). To do this, go through all the steps indicated above, but instead of signing the document, select the „Zapisz do pliku XML” (“Save to XML file”) option. Subsequently, the pre-prepared application will be saved to your computer. To edit or sign a pre-prepared application:

- 1) go to <https://crbr.podatki.gov.pl/adcrbr/#/> website;
- 2) select the „Wczytaj zgłoszenie” (“Load application”) option by clicking a blue „Wczytaj w pliku XML” (“Load in XML file”) button;
- 3) then, you can edit the application or sign it (buttons at the bottom of the page).

A statement on the accuracy of the information submitted is made under pain of criminal liability for submitting a false statement.

7. Is non-submission of the application punishable?

Yes, companies which were obliged to submit the application but did not submit it on time, may be subject to a fine of up to PLN 1,000,000.

8. What is the deadline for submitting an application?

Does the Anti-Crisis Shield change anything in this matter?

In the case of companies registered before October 13, 2019, the deadline for filing the application was originally set at six months from the date of entry into force of the provisions of the Act, i.e. **application was required to be made by April 13, 2020.**

Anti-crisis shield 1.0, i.e. the Act of 31 March 2020 amending the Act on Special Solutions Related to the Prevention, Counteracting and Combating COVID-19, Other Infectious Diseases and the Resulting Crisis Situations and Some Other Acts of the Parliament (Journal of Laws of 2020, item 568) [ustawa z dnia 31 marca 2020 roku o zmianie ustawy o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych oraz niektórych innych ustaw (Dz.U. z 2020 r. poz. 568)] introduced a change in this matter:

The deadline was extended to July 13, 2020.

In the case of companies established after October 13, 2019 - application to the Register must be made within 7 days of entering the company into the National Court Register.

9. Should a change in the data entered in the Register be notified?

Yes, the change should be notified to the Register within 7 days of the change occurring. Therefore, if there is a change of the beneficial owner or the person representing the company, it should be notified to the Register by the abovementioned deadline.