

Panama to Introduce Beneficial Ownership Register

February 2020

Summary

Panama will launch a private register of beneficial owners of Panamanian entities, following the approval by the Panama National Assembly of Bill No. 169 (the "Bill"), which sets out the legal framework for the establishment and regulation of a beneficial owner register. The Bill is not yet law but will become effective the day after it has been executed by the President of the Republic and then published in the Official Gazette.

Once the Bill enters into law, resident agents of Panamanian entities will be required to file certain information on the ultimate beneficial owner (UBO) of the entity at the Superintendence of Non-Financial Institutions (the "Superintendence"). This information will not be available to the public.

The new law will apply to all entities incorporated and registered in Panama: companies, foundations, SRLs and foreign entities registered at the Panama public registry.

For Panamanian legal entities formed on or after the date the Bill becomes effective, the required UBO information will need to be provided to the Superintendence within 30 business days of their formation. Entities in existence before the date the Bill enters into law will have six months to provide

the UBO information. Once UBO information has been filed with the registry, changes to it must be provided within 30 business days.

Failure to comply will result in sanctions for both the entities and their registered agents. Most notably, registered agents will be required to resign from entities for which the UBO information has not been provided. In addition, the Superintendence will be able to suspend the corporate rights of a legal entity that is not in compliance with the law and then dissolve the entity after a period of two years of non-compliance.

How is a UBO Defined in the Legislation?

The Bill defines a UBO as: "A natural person, who directly or indirectly owns, controls, and/or has a significant influence over the account relationship, contractual relationship and/or the business; or the natural person benefitting from a transaction or who ultimately controls the legal entity's decisions".

Tests for Ownership, Control or Influence

Specifically, a natural person will be classified as a UBO if they meet any of the following tests:

Shareholding Participation

- The natural person who ultimately owns or controls, whether directly or indirectly, 25% or more of the

shares or voting rights in a legal entity, except if the shares are listed on a recognized stock exchange

Control

- The partner or partners who control a partnership
- The trustee, settlor, beneficiary, protector or any other person who controls a trust
- In the case of a legal entity that is in the process of liquidation, is bankrupt or is in administrative receivership, the natural person who is appointed as liquidator or administrative receiver
- In the case of a shareholder in a corporate entity who would otherwise be the UBO but is deceased, the natural person acting as executor or personal representative of the deceased's estate

Management

- The natural person who ultimately exercises control over the management of the legal entity

Reportable information

The following information is reportable on a person who has been designated as a UBO of a legal entity:

Legal entity information

- Full name of the entity
- Folio number
- Incorporation/formation date
- Address
- Activity of the entity

UBO information

- Full name
- ID number (passport or any other personal identification number)
- Date of birth
- Nationality
- Address
- Date on which the natural person became UBO of the legal entity

Access to the UBO Register

The information held on the register will not be publicly available. It will only be available to resident agents, registered legal entities (such as

trust companies and banks), and two designated officers of the Superintendence with the required security and technical safeguards. Information held on the register will be made available to competent authorities upon request. Failure to keep the information confidential is punishable by a fine of up to USD200,000 on the person responsible. Anyone who gains unauthorized access to the register is liable for a fine of USD500,000.

Sanctions for Non-Compliance

The Superintendence can order the Panamanian public registry (PR) to place an annotation of suspension of the corporate rights against the records of the legal entity for not being registered or failing to update the Superintendence with respect to any changes to the UBO. Suspension of corporate rights means the legal entity will no longer be able to register any action, document and/or agreement at the PR or apply for any certificate. The legal entity can be dissolved by the public registry after two years of failing to file the UBO information.

A resident agent that fails to file the required UBO information in the necessary timeframe will be required by law to resign as the entity's resident agent.

Resident agents will also be fined from USD1,000 to USD5,000 for each legal entity whose beneficial information is not registered or updated, with progressively increasing daily fines. Extra penalties will be applied for filing false information.

What Will Happen Next

We will inform you as soon as the Bill has become law. We will then contact you to validate the data we currently hold and update it or add to it where required.

Failure to comply with this request within the stated timeframes will mean that we will be required by law to resign as your registered agent.

Should you have any questions, please do not hesitate to contact Panamasubstance@tridenttrust.com.

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