

Belgium | 29 August 2019



Laga Newsflash

Belgian UBO-register and listed companies

The deadline for the first submission to the UBO-register is fast approaching (30 September 2019). In an addendum of 26 August 2019 to the UBO FAQ of 22 July 2019, the Treasury clarifies the interpretation of the UBO-registration exemption for listed companies ([Dutch](#) | [French](#); under 2.1.4).

At first, no exemption

As a reminder, before the FAQ of 22 July 2019, listed companies were subject to the UBO-registration as with any other Belgian company. The FAQ of 2 April 2019 stated that listed companies were not exempt from UBO-registration, but acknowledged that there may be an overlap with other existing obligations regarding the disclosure of major holdings in listed companies to the FSMA. The FAQ suggests that there might be a possible exchange of information between the FSMA and UBO-registration in the future.

One can already find information about shareholders of certain major participations of listed companies on the [FSMA website](#).

One should note that the Fourth Anti Money Laundering Directive provides an exemption for listed companies. However, the exemption was not transposed into Belgian legislation (possibly unintentionally).

Updated position in the FAQ

In the updated 22 July 2019 version, the FAQ provided an explicit exemption from UBO-registration for listed companies when they are subject to transparency requirements consistent with Union law or equivalent standards.

However, how the exemption is applied in cases of partially listed companies and to Belgian subsidiaries of listed companies remained unclear.

Updated position clarified

The latest addendum to the FAQ of 22 July 2019 provides a welcomed clarification. From the example given in the addendum, one can conclude that the exemption applies to all shares of a listed company, even if the company is partially listed.

Furthermore, the FAQ clarifies that the exemption equally applies to 100% subsidiaries, held directly or indirectly by a listed company. However, if a listed company holds a participation of less than 100%, the UBOs of the Belgian subsidiary will have to be identified and registered.

For historical reasons, the subsidiaries of listed companies often have more than one shareholder, keeping in mind that a unique shareholder was previously an exception to the general rule in Belgium (until recently). The new Belgian Companies Code departs from this regime by allowing private and public limited liability companies to be incorporated and/or held by only one shareholder. Listed companies should therefore carefully consider the consequences of their shareholder structure in light of the amended FAQ.

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