

Belgium | 24 July 2019



Laga Newsflash

Belgian UBO register: '*Foundation administration office*' FAQ published

The treasury recently published a brand new FAQ (NL – FR) regarding UBO register procedures when a Foundation administration office ('*Stichting Administratiekantoor*' | '*Fondation bureau d'administration*') is involved. The FAQ offers answers to practical questions, details how to determine the ultimate beneficiary owners (UBOs), and addresses privacy concerns.

After a short Foundation administration office description, the FAQ confirms foundations criteria must be applied to determine the UBO of the Foundation administration office itself. Certificate holders who are not mentioned by name (which is hardly ever the case), with the exception of the standard persons (members of the board, daily managers, founders, beneficiaries and those with control through other means), cannot be individually considered as UBO. The 'certificate holders' will then be considered (as such) as a group of persons in the interest of whom the legal entity has been set up. Many family offices will certainly welcome this approach, as it avoids having to input the data of often dozens - if not hundreds - of certificate holders into the UBO register.

If any of the aforementioned categories of foundation UBOs is a legal entity, then the entity's UBO should be mentioned instead. If, for example, a company is a Foundation administration office board member, then the UBO of that company (often the person holding more than 25% of its shares) should be registered as Foundation administration office UBO.

A second aspect of the FAQ concerns the 'certified' (underlying) company UBO, i.e. a company the shares of which are (directly or indirectly) held through a Foundation administration office. Rather than applying the trust criteria on companies (as proposed by some before), the FAQ takes the straightforward approach to stick to companies criteria. Since

the company's shares generally correspond one-to-one with its certificates, the persons holding more than 25% of the certificates can, in most case, be mentioned as UBO.

Next to the 25%-criterion, control through other means is also addressed. The FAQ clarifies that this does not concern the Foundation administration office board members, nor any other person who solely have control due to a mandate.

The final and most important topic addressed by the FAQ is the compatibility of the publicly accessible UBO-register with the UBO's privacy rights. Many have expressed concern regarding the fact that, since a Foundation administration office is used for estate planning purposes (which is equally private and personal than, for example, a last will), public access to the UBO register may be a disproportionate infringement to basic human rights. The FAQ now confirms that public access to information on the UBO's of a Foundation administration office, as well as the underlying companies, will be limited to only those who can demonstrate a legitimate interest.

With this FAQ, the treasury finds a balance between the international call for transparency on the one hand and the requests from families to respect certain private aspects of their planning on the other hand. At the same time, the Treasury applies the current Anti Money Laundering Directive, its Belgian legal implementation and respects the (sometimes difficult) differences in the application of these rules to companies, other entities, and companies held through other entities.

Greenille by Laga, Tel: + 32 2 738 06 50, E-mail: greenille@laga.be



Laga
Gateway building
Luchthaven Brussel Nationaal 1J
1930 Zaventem
Belgium

A top legal practice in Belgium, Laga is a full service business law firm, highly recommended by the most authoritative legal guides. Laga comprises approximately 140 qualified lawyers, based in Brussels (Zaventem and Watermael-Boitsfort), Antwerp, Ghent and Kortrijk. Laga offers expert advice in the fields of banking & finance, commercial, corporate/M&A, employment, IT/IP, public/administrative, insolvency and reorganisations, real estate, tax law, tax and legal services for high-net-worth families and individuals (Greenille by Laga), and litigation. Where appropriate to ensure a seamless and comprehensive high-quality service, Laga lawyers work closely with financial, assurance and advisory, tax and consulting specialists, and with select EU and US law firms.

Laga provides thorough and practical solutions tailored to the needs of clients ranging from multinational companies, national large and medium-sized enterprises, financial institutions, and private clients to government bodies.

More information: www.laga.be

© 2019, Laga, Belgium - The content and layout of this communication are the copyright of the law firm Laga or its contributors, and are protected under copyright and other relevant and intellectual property rights laws and regulations. No reproduction in any form or through any medium is allowed without the explicit consent of Laga or its contributors.

[Subscribe](#) | [Unsubscribe](#)