

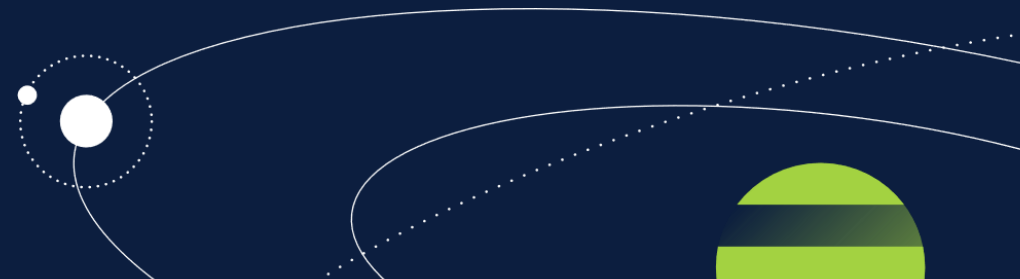
Obligation for legal entities to disclose the ultimate
beneficial owners

Memorandum

June, 2022

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INTRODUCTION

For a period of three years legal entities of all legal forms (except those whose sole participant is the state or municipality), as well as collective investment undertakings established in the Republic of Lithuania have had a formal duty to **obtain, update** and **keep** precise information on their ultimate beneficial owners and **submit** it to the processor of the Information System of Legal Entities Participants (**JADIS**). So far, implementation of this obligation was restricted by technical possibilities and the submitting of information on ultimate beneficial owners to JADIS was not possible. However, this year, legal entities have not only an obligation but also a way how to **fulfil it** as a new Beneficial Owners Subsystem (**JANGIS**) of JADIS system has been launched.

As the functionalities of JANGIS are being implemented in phases, today all legal entities, except for investment funds and investment companies, as well as legal entities with funds in their ownership/management structure (in any of its levels), are eligible to submit data about their ultimate beneficial owners to JANGIS. For the latter, this technical capability will only be available in the third phase of JANGIS roll-out, planned in July-August.

WHO IS CONSIDERED AS AN ULTIMATE BENEFICIAL OWNER?

- I. In case of **legal entities**, the ultimate beneficial owner is:
 - A. Natural person, who:
 1. directly owns more than 25% of the shares or ownership interest in the legal entity, i.e., direct ownership;
 2. controls a legal entity through one or more other legal entities who holds/jointly hold more than 25% of the shares or ownership interest in the legal entity, i.e., indirect ownership;
 3. controls a legal entity through other means.

Generally, the definition of “control” is understood according to the Directive 2013/34/EU and means cases when a natural person:

1. has a majority of the shareholders’ voting rights in a legal entity;
 2. has a right to appoint or remove a majority of the members of the administrative, management or supervisory body of a legal entity and is at the same time a shareholder in that legal entity;
 3. has a right to exercise a decisive influence over a legal entity of which he is a shareholder or member, pursuant to a contract entered into with that legal entity or to a provision in its memorandum or articles of association.
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WHO IS CONSIDERED AS AN ULTIMATE BENEFICIAL OWNER?

- B. Senior managing official – an employee with sufficient authority to make decisions at the institution-wide level, if, after having exhausted all possible identification means, no ultimate beneficial owner (natural person) is identified, or if there is a doubt that the person identified is the ultimate beneficial owner.

Please be noted that public companies registered in Lithuania whose shares are traded on a regulated market that are subject to disclosure requirements in accordance with EU legislation or equivalent international standards, should provide to JANGIS the name of the regulated market on which the public company's shares are traded and data on a senior managing official.

NB! *This refers to the senior managing official of the legal entity whose ultimate beneficial owners are reported to JANGIS. However, if such functions by a CEO's order are actually carried out by an employee working in another group company, he (she) may be considered as the senior managing official.*

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- II. In case of **trusts**, the ultimate beneficial owners are all of the following persons:
 - A. the settlor;
 - B. the trustee;
 - C. the protector, if any;
 - D. the natural person benefiting from the legal entity or unit without the status of a legal entity or, if such person is yet unknown, the group of persons in whose interest the legal entity or unit without the status of a legal entity is established or whose interests they currently represent;
 - E. any other natural person exercising control over the trust by means of direct or indirect ownership or by other means.

- III. **In the case of legal entities administering and distributing funds, in the entities similar to trusts** – the ultimate beneficial owner is the natural person holding equivalent positions to those referred to in the case of trusts. The same requirements apply to collective investment undertakings.

As the process of identifying the ultimate beneficial owners can be long and complicated, we have prepared a [visual guide](#) to help you identify your ultimate beneficial owners.

WHEN THE INFORMATION SHOULD BE SUBMITTED TO JANGIS?

There is no formal transitional deadline for the first submission of data to JANGIS by legal entities (i.e., the legislation currently only foresees that the data after the first submission will have to be updated each time, at the latest within 10 days after the change of data).

However, given that legal entities are obliged to collect data on ultimate beneficial owners since 2019, **the submission of data to JANGIS should be taken care of as soon as possible.**

In addition, amendments to the Law on the Prevention of Money Laundering and Terrorist Financing will enter into force on 1 August this year, obliging credit institutions and other so-called obliged entities (auditors, bailiffs, notaries, accounting firms, real estate brokers, etc.) to verify the details of their client's (legal entity's) ultimate beneficial owners in the official source of information, i.e., in JANGIS, before entering into business relations. Respectively, legal entities which have not provided information on ultimate beneficial owners to JANGIS may encounter difficulties from 1 August when accessing their bank accounts. It should be noted that currently few initiatives have started requesting to introduce transitional period for implementation of this obligation of the banks.

WHAT INFORMATION SHOULD BE SUBMITTED TO JANGIS?

It is required to **obtain, update, keep** and **submit** the following information on ultimate beneficial owners to JANGIS:

- A. first name;
- B. last name;
- C. date of birth;
- D. personal code;
- E. state that issued the document confirming the identity;
- F. Residence address;
- G. ownership¹ and extent² of it or other rights of control.

In the case of an indirect ownership, where a legal entity is controlled via one or more other legal entities, data of each such legal entity will have to be indicated in JANGIS. Such data on a legal entity include: (i) name, (ii) code, (iii) legal form, (iv) headquarters, (v) scope of the ownership rights held; in case of a foreign legal entity, the data to be indicated additionally is (vi) name of a state in which the legal entity is registered, (vii) name of the register in which the legal entity is registered, (viii) date of registration.

Where the legal entity's ownership structure includes foreign natural or legal persons, the scope of information to be provided extends even more. E.g., if an ultimate beneficial owner is a foreign natural person, a copy of such a natural person's ID document must be provided to JANGIS. While providing data on foreign legal entities, extracts on such legal entities from the respective foreign registers, legalized and translated into Lithuanian, will need to be provided as well.

¹ Percentage of shares, percentage of voting rights.

² Chairman of the Board, member of the Board, CEO, senior managing official, other position, percentage of transferred voting rights.

SANCTIONS

Individuals responsible for non-compliance with these requirements are subject to an **administrative liability** and **fin**es (to responsible persons EUR 500–1,800, for repeated infringement EUR 1,500–5,200; CEO of legal entities EUR 2,000–3,500, for repeated infringement EUR 3,500–5,800).

It may also cause **other inconveniences for legal entities that are not related to monetary sanctions**. For instance, there is also a risk for legal entities to be included in the public list of unreliable taxpayers for one year, which can become a ground to remove a supplier from the public procurement procedure. Such sanction is provided for in the Law on Tax Administration if a fine of EUR 1,500 or a higher fine was imposed on CEO or another responsible person of the legal entity for failure to comply with the above-mentioned requirements and/or a fine was imposed on him for such administrative infringement committed repeatedly

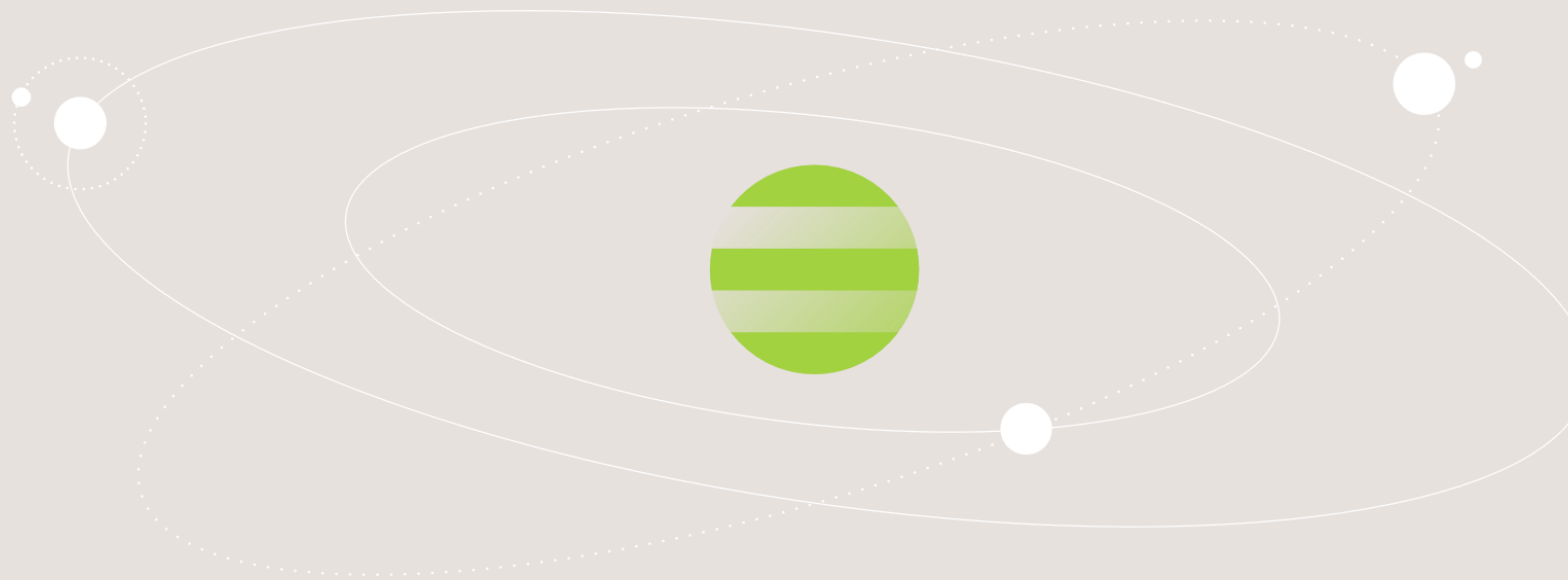
Once JANGIS becomes fully operational, properly processed JANGIS data will likely be essential for legal entities in maintaining business relationships with banks, credit institutions, or other financial market participants. E.g., the provision of extracts from JANGIS can become a precondition in the know-your-client (KYC) procedure to open or to keep using a bank account in the name of the legal entity. Also, while for performing certain notarial actions (e.g., certifying a share purchase and sale agreement of the company), a notary may request the legal entities to update the data in JANGIS, if it has not been done yet, before notarial certification of the documents.

RECOMMENDATIONS FOR FURTHER ACTIONS

In order to properly identify the ultimate beneficial owners of the legal entity, we recommend that you start your preparation for submitting data to JANGIS with the following steps:

1. clarifying and preparing the ownership/management structure of the legal entity (group of legal entities) up to the ultimate beneficial owners (natural persons);
2. collecting the information that has been provided in the name of the legal entity/its group to the registers of the ultimate beneficial owners in foreign jurisdictions;
3. collecting the information on the ultimate beneficial owners of the legal entity that has been provided to banks, financial and credit institutions for the purposes of the Know Your Customer (KYC) process and the determination of the ultimate beneficial owners.

This information will allow and help with the identification of the ultimate beneficial owners, the preparation of the structure to be submitted to JANGIS and the determination of the additional information and documents to be submitted to JANGIS.



If you have any questions or need assistance in the processes of identifying ultimate beneficial owners, collecting data or submitting information to JANGIS, please do not hesitate to contact us via e-mail jangis@ellex.legal – Ellex team will be happy to help you with any JANGIS related issues.



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