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Germany now requires disclosure of beneficial ownership of German companies

Under the new German Anti-Money Laundering Act, clients with operations in Germany are now required to disclose all beneficial owners that directly or indirectly hold more than 25% of the ownership interests or control more than 25% of the voting rights in the German company. The fines imposed under the Act are significant.

The new transparency register

The new German Anti-Money Laundering Act introduces a transparency register. The transparency register is aimed to prevent money laundering and terror financing. A large number of companies registered in Germany will be required to disclose personal details about their beneficial owners. The submission deadline for the required information was October 1, 2017. Access to the transparency register will be granted from December 27, 2017. If your German operation has not already done so, it must comply immediately.

What information has to be submitted?

Companies in Germany are required to electronically submit the following details about their beneficial owners:

- First and surname;
- date of birth;
- place of residence;
- type and extent of the beneficial interest.

The information about the type and extent of the beneficial interest must be specified by disclosing whether the beneficial interest results from the number of capital shares or of voting rights, the function as a legal representative or any other exercise of control

such as provided by voting agreements, etc.

The obligation to disclose the described information to the transparency register applies to the legal representatives of the respective company. Corresponding obligations apply to the beneficial owners to provide the necessary information to the legal representatives. The personal details must be kept current and the transparency register must be notified about any changes without delay.

Publicly listed companies do not need to disclose their beneficial owners. With regard to other organizations, the obligation will only be deemed fulfilled if all required information about the beneficial owner(s) is electronically retrievable from other public registers, such as the German Commercial Register.

Who is a beneficial owner?

A beneficial owner is a natural person who ultimately owns or controls the organization by, directly or indirectly, (i) holding more than 25% of the ownership interests; (ii) controlling more than 25% of the voting rights; or (iii) controls the organization in a comparable manner.

Who can access the transparency register?

Access to the transparency register is provided for certain governmental authorities to the extent necessary to perform their legal duties. Furthermore, anyone that can demonstrate a legitimate interest to gather the information will be given access.

Fines

Failure to disclose the beneficial owners can result in fines up to EUR 100,000. In case of severe, repeated or systematic failure, the fine may amount up to EUR 1 million or twice the amount of the benefits resulting from the violation.

For more information, please contact Kai Bitter or any other member of Frost Brown Todd's [German Desk](#).

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