

A hand in a dark suit and light blue shirt is holding a light blue puzzle piece. The puzzle piece features a black silhouette of a person in a suit. The background is a blurred image of a person in a dark suit and blue tie.

JPM

JANKOVIĆ POPOVIĆ MITIĆ

**ZAKON O CENTRALNOJ
EVIDENCIJI STVARNIH VLASNIKA**

**LAW ON CENTRAL REGISTER OF
BENEFICIAL OWNERS**

Zakon o centralnoj evidenciji stvarnih vlasnika/ Law on Central Register of Beneficial Owners

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Dana 08.06.2018. godine na snagu je stupio Zakon o centralnoj evidenciji stvarnih vlasnika („Sl. Glasnik RS“, br. 41/2018) (“Zakon”). Zakon predviđa uspostavljanje javno dostupne elektronske baze podataka o stvarnim vlasnicima pravnih lica i drugih subjekata osnovanih i registrovanih u Republici Srbiji („Registrovani Subjekt“) koja će se voditi pri Agenciji za privredne registre. Donošenje Zakona predstavlja iskorak u daljoj harmonizaciji lokalnih propisa sa regulativom Evropske unije u oblasti borbe protiv pranja novca i finansiranja terorizma i svoje uporište ima u Direktivi (EU) 2015/849 Evropskog parlamenta i Saveta Evropske unije od 20.05.2015. godine.

Registrovani Subjekti na koje se primenjuje Zakon obuhvataju, inter alia, privredna društva, ogranke i predstavništva stranih privrednih društava, udruženja i ustanove, dok su od primene Zakona izuzeta privredna društva i ustanove čiji je osnivač Republika Srbija, autonomna pokrajina ili jedinica lokalne samouprave.

Stvarni vlasnik Registrovanog Subjekta jeste fizičko lice koje direktno ili indirektno ima vlasništvo ili efektivnu kontrolu nad subjektom odnosno:

1. fizičko lice koje posredno ili neposredno učestvuje u kapitalu Registrovanog Subjekta sa 25% ili više udela;
2. fizičko lice koje posredno ili neposredno ima preovlađujući uticaj na vođenje poslova i donošenje odluka;
3. fizičko lice koje posredno obezbedi ili obezbeđuje sredstva i na taj način bitno utiče na donošenje odluka organa *upravljanja Registrovanog Subjekta*;
4. *fizičko lice koje je osnivač, poverenik, zaštitnik, korisnik trasta odnosno drugog lica stranog prava (trast, anstalt, fiducijar, fideikomis)*;
5. *fizičko lice koje je registrovano za zastupanje za drugu, udruženja, fondacija, zadužbina i ustanova, ako ovlašćeno lice za zastupanje nije prijavilo drugo fizičko lice kao stvarnog vlasnika.*

On 08 June 2018 the Law on Central Register of Beneficial Owners („Official Gazette of RS“, no. 41/2018) („the Law“) entered into force. The Law governs establishment of the publicly available electronic database of beneficial owners of legal entities and other entities incorporated and registered in the Republic of Serbia („Registered Subject“) which will be held with the Serbian Business Registers Agency. Adoption of the Law represents step towards further harmonization of local regulations with *acquis communautaire* of the European Union in the field of anti-money laundering and financing of terrorism and is in compliance with the Directive (EU) 2015/849 of the European Parliament and of the Council of the European union dated 20 May 2015.

The Registered Subjects to which the Law applies include, inter alia, companies, branches and representative offices of foreign companies, associations and institutions, while companies and institutions incorporated by the Republic of Serbia, autonomous province or units of local self-government are exempted from application thereof.

The beneficial owner of the Registered Subject is the natural person who, directly or indirectly, holds ownership or effective control over the entity and refers to the:

1. natural person who participates directly or indirectly in the share capital with 25% shares or more;
2. natural person who directly or indirectly has a dominant influence on business conducting and decision-making;
3. natural person who indirectly provides or secures funds thus influencing the decisions of managing corporate bodies;
4. natural person who is a founder, trustee or beneficiary of the trust or other entity of the foreign law (e.g. trust, anstalt, fiduciary, fideicommissum).
5. natural person registered for representation of cooperatives, associations, foundations, endowments and institutions, unless the representative of the Registered Subject reported another natural person as the beneficial owner.



Svi postojeći Registrovani Subjekti imaju obavezu da u roku od 30 dana od dana stupanja na snagu Zakona (najkasnije do 8. jula 2018. godine) odrede stvarnog vlasnika, kao i da obezbede i čuvaju odgovarajuće, tačne i ažurne podatke i dokumenta na osnovu kojih je stvarni vlasnik određen.

All existing Registered Subjects are obliged to determine the beneficial owner within 30 days from the day the Law entered into force (until 08 July at the latest) and to procure and keep appropriate, accurate and updated data and documents based on which the beneficial owner is determined.

Ukoliko nije moguće odrediti fizičko lice stvarnog vlasnika istim će se smatrati lice registrovano za zastupanje, odnosno član organa tog subjekta.

Centralna evidencija će sadržati dve vrste podataka evidentiranih po osnovu osnivanja ili promene vlasničke strukture i članova organa Registrovanog Subjekta (uključujući i druge promene koje su relevantne za utvrđivanje stvarnog vlasnika) i to:

1. korporativnih podataka o Registrovanom Subjektu čije evidentiranje regulator vrši po službenoj dužnosti; i
2. (podataka o stvarnom vlasniku čije evidentiranje vrši lice ovlašćeno za zastupanje uz upotrebu kvalifikovanog sertifikata za elektronski potpis.

Registrovani Subjekt je dužan da poseduje i čuva odgovarajuće, tačne i ažurne podatke i dokumenta, na osnovu kojih se određuje stvarni vlasnik Registrovanog Subjekta, deset godina od dana evidentiranja podataka o stvarnom vlasniku, kao i da na zahtev nadležnog državnog organa i Narodne banke Srbije iste učini dostupnim i dostavi ih.

Postupanje u suprotnosti sa odredbama Zakona može predstavljati:

1. krivično delo odgovornog lica Registrovanog Subjekta u slučaju neevidentiranja ili unošenja neistinitih podataka o stvarnom vlasniku, promene ili brisanja istinitih podataka sa namerom prikrivanja stvarnog vlasnika uz zaprećenu kaznu zatvora u trajanju od tri meseca do pet godina; ili
2. prekršaj ukoliko Registrovani Subjekt ne izvrši evidentiranje podataka o stvarnom vlasniku u roku od 15 dana od dana nastupanja osnova evidentiranja ili nema i ne čuva odgovarajuće, tačne i ažurne podatke i dokumenta na osnovu kojih je evidentirao stvarnog vlasnika u predviđenom roku, uz zaprećenu novčanu kaznu u iznosu do 500.000 RSD do 2.000.000 RSD. Odgovorno lice u pravnom licu – Registrovanom Subjektu kazniće se novčanom

If none of the criteria listed above applies, the natural person who is the registered representative of the Registered Subject shall be considered as its beneficial owner.

Central evidence will contain two types of data recorded either on the basis of incorporation of the Registered Subject or change of its ownership structure and members of corporate bodies (or other relevant change that might influence identification of the beneficial owner):

1. corporate data on Registered Subject automatically registered by competent registrar; and
2. data on beneficial owner notified by the legal representative using qualified electronic signature certificate.

Registered Subject is obliged to have and keep appropriate, accurate and updated data and documents, based on which the beneficial owner is determined, within the period of ten years from the moment of registration. Additionally, the Registered Subject has a duty to make available and deliver these documents and data upon request of a competent state authority or the National Bank of Serbia.

Non-compliance with provisions of the Law may represent:

1. Criminal offence of the responsible person of the Registered Subject in case of failure to register data on beneficial owner, registration of inaccurate data or changes or deletions of truthful data on the beneficial owner was committed with the intention to conceal a beneficial owner for which it shall be punished by imprisonment for the period between three months to five years;
2. Misdemeanor, if the Registered Subject does not register data on a beneficial owner within the period of 15 days from the occurrence of registration requirements, or if it does not keep documents and data on beneficial owner within prescribed statutory period. For such misdemeanor the Registered Subject shall be fined between RSD 500,000 (approx. EUR 4,250) and RSD 2,000,000 (approx. EUR 17,000), while the Registered Subject's responsible person shall be fined between RSD 50,000 (approx. EUR 425) and RSD 150,000 (approx. EUR 1,275).

Agencija za privredne registre će uspostaviti centralnu evidenciju najkasnije do 31.12.2018. godine, dok će lica ovlaštena za zastupanje Registrovanih Subjekata osnovanih do tog datuma imati obavezu da evidentiraju podatke o stvarnim vlasnicima najkasnije do 31.01.2019. godine.

Svi postojeći Registrovani Subjekti imaju obavezu da u roku od 30 dana od dana stupanja na snagu Zakona (najkasnije do 8. jula 2018. godine) odrede stvarnog vlasnika, kao i da obezbede i čuvaju odgovarajuće, tačne i ažurne podatke i dokumenta na osnovu kojih je stvarni vlasnik određen.

Serbian Business Registers Agency shall establish the central evidence by 31 December 2018 at the latest, while the representatives of Registered Subjects incorporated until that date shall be obliged to register data on beneficial owners by 31 January 2019 at the latest.

All existing Registered Subjects are obliged to determine the beneficial owner within 30 days from the day the Law entered into force (until 08 July at the latest) and to procure and keep appropriate, accurate and updated data and documents based on which the beneficial owner is determined.



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