

Beneficial Ownership Regulations – ICAVs and Unit Trusts

Statutory Instrument No. 233 of 2020 *The European Union (Modifications of Statutory Instrument No.110 of 2019) (Registration of Beneficial Ownership of Certain Financial Vehicles) Regulations 2020* (the “**2020 Regulations**”) came into effect on the 25th June 2020.

The purpose of the 2020 Regulations is to amend *the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019* (the “**Principal Regulations**”), which came into effect on the 22nd March 2019 and to set out the beneficial ownership requirements for “Relevant Entities” as defined under the Principal Regulations.

These amendments relate to Applicable Financial Vehicles (“AFVs”) which include:

- Irish Collective Asset-management Vehicles (“ICAVs”),
- Unit Trusts, and
- Credit Unions.

Key Amendments to the Principal Regulations

Establishment of a Central Register

The 2020 Regulations establish the Central Register of Beneficial Ownership of ICAVs, Credit Unions and Unit Trusts (“the Central Register”) which will be housed by the Central Bank of Ireland (“CBI”).

The CBI has launched a webpage regarding the establishment of the Central Register and further information in relation to the process that will be in place for filing is expected.

Verification Requirement

On 1st July 2021, the existing verification exemption was removed by the enactment of Statutory Instrument No. 321 of 2021 *the European Union (Modifications of Statutory Instrument No.110 of 2019) (Registration of Beneficial Ownership of Certain Financial Vehicles) (Amendment) Regulations 2021* (the “**2021 Regulations**”) and AFVs are now obliged to deliver Personal Public Service Number (“PPSN”) details for their beneficial owners.

Beneficial Ownership Definition of a Unit Trust

In the case of a Unit Trust there is a change to the definition of “beneficial owner” to introduce a 25% threshold as follows:

- a) a natural person who owns, or is ultimately entitled to control, more than 25% of the units in the entity, or
- b) any other natural person exercising ultimate control over the entity by means of direct or indirect ownership or by other means, and shall be deemed to include any trustee under, or the settlor of, the arrangements that constitute the entity (whether or not falling within either or both of points a) or b) above).

In respect of part (b) of the definition, details of a natural person within the trustee or management company who exercises ultimate control over the entity must be included on the register in the instance that no natural person is identified as a beneficial owner. It is suggested this would be the most senior PCF holder in the trustee firm or management company.

Compliance with the 2021 Regulations

Similar to the Principal Regulations, the 2021 Regulations require AFVs to:

- 1) Obtain and hold an accurate and current beneficial ownership register
- 2) File details of its beneficial owners on the Central Register
- 3) File any changes to its beneficial owners on the Central Register within 14 days of a change occurring (known as the “follow up obligation”)

Filing Requirement

AFVs will have 6 months from the date of incorporation/existence to make their first filing with the CBI.

Information to be delivered to the Central Register

The following information for each beneficial owner listed on the beneficial ownership register shall be delivered to the Central Register:

- Name;
- Date of birth;
- Residential Address;
- Nationality;
- The PPSN of each beneficial owner (where such a number has been issued), or any other form of verification that is required for a beneficial owner where such a number is not in existence; and
- A statement of the nature and extent of ownership or control.

Access to the Central Register

Unrestricted Access

The following will have unrestricted access to the information contained on the Central Register:

- The Irish Police
- FIU Ireland
- The Revenue Commissioners
- The Criminal Assets Bureau
- Other State Competent Authorities

Restricted Access

Members of the public will have restricted access to the Central Register. It is expected that there will be a nominal fee charged in respect of this access.

The following information for each beneficial owner listed on the beneficial ownership register will be available via restricted access:

- Name;
- Month and year of birth;
- Country of residence;
- Nationality; and
- Nature and extent of ownership or control.

Offences

An AFV who fails to comply may be liable to a class A fine or, on indictment, a fine not exceeding €500,000. A custodial sentence of a term not exceeding 12 months may also be imposed.

KB Associates Services

KBA offers the provision of suitably qualified professionals dedicated exclusively to anti-money laundering/counter terrorist financing ("AML/CFT") compliance to ensure AFVs are in compliance with the 2021 Regulations.

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All members of KBA's dedicated Money Laundering Reporting Officer ("MLRO") team have experience in the area of anti-money laundering, countering the financing of terrorism and financial sanctions ("AML/CFT/FS") compliance, with a focus on customer due diligence ("CDD"). Each acts as the MLRO to Irish investment funds and advises them on AML/CFT/FS issues. They are responsible for providing guidance and expertise on CDD documentation to fund boards, reviewing and testing the AML/CFT/FS Process of fund administrators, providing training to directors and reporting to the directors on AML/CFT/FS compliance matters.



Brian Riordan

Brian has been active in the AML/CFT/FS compliance area since 2012. Prior to joining KB Associates, Brian was an AML Supervisor at HSBC Securities Services DAC, with responsibility for investor relationships and CDD across a number of fund types. He has also served

as AML Project Manager and Senior Analyst at Deutsche Bank.

Brian holds a BA in Business Studies from the University of Limerick and has completed the Professional Certificate in Investment Funds (Institute of Banking) and the Professional Diploma in Compliance (LCI).

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Kamil Jaskiewicz

Kamil has been active in the financial services industry since 2015. Prior to joining KB Associates, Kamil was Assistant Vice President of the AML team in Apex Investor Services. Kamil also held various AML positions in MUFG Fund Services and State Street. Kamil holds

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Anthony Dixon

Anthony has been active in the financial services industry since 2017. Prior to joining KB Associates, Anthony was an Anti-Money Laundering Executive with A & L Goodbody with responsibility for customer due diligence across several different departments. Anthony holds a Bachelors in Corporate Law from NUI Galway and has

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Deirdre O'Callaghan

Deirdre has been active in the financial services industry since 2006. Prior to joining KB Associates Deirdre was a senior AML specialist at Sumitomo Mitsui Banking Corporation Europe with responsibility for CDD and sanction screening across a number of jurisdictions. Deirdre

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Shane O'Neill

Shane has been active in the financial services industry since 2006 and leads the Money Laundering Reporting Officer service offering. Shane has extensive expertise in the area of Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) Regulatory Requirements and AML-CFT Program

operations across multiple fund domiciles such as Ireland, Cayman, United States, Bermuda and Jersey for hedge funds, mutual funds and private equity.

Prior to joining KB Associates, Shane was employed by MUFG Investor Services within Ireland as an Associate Director with responsibility for the European AML Business-As-Usual Team together with Ongoing Monitoring Programs and Project Remediation. Previously Shane worked in Dublin for HedgeServ, an independent fund administrator, as a specialist within the Investor Services AML Team.

Shane holds qualifications as Qualified Financial Adviser together with Professional Certificate in Financial Crime from University College Dublin. Shane is also a member of the Institute of Banking within Ireland.

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