

What is an Ultimate Beneficial Owner?

A person or party that owns or controls more than 25% of a company's shares and/or voting rights. In addition, the person or party ultimately benefits from any transactions made by a company. A UBO's control or ownership of a company can be direct or indirect. The Resolution (cabinet resolution 58) has provided clear-cut application guidelines to be followed by all the applicable entities.

UBO Identification

1. According to the resolution, the UBO shall be the person who, directly or indirectly, owns and controls a company. Individuals with ownership of at least 25% shares and voting rights of a company, or someone with the power to dismiss and appoint a majority of a company's directors shall be considered as a UBO.
2. In case there is no natural person who meets the above-mentioned conditions, then the UBO shall be someone who has control over a company through other means.
3. If no natural person can be identified who meets the conditions stated in the first two points, a person appointed to a higher management position in the company will be considered as the UBO.
4. If more than one-person shares the conditions stated for identifying a UBO (e.g. 25% of voting rights are shared by two individuals) then all of them will be identified as joint owners of the ratio.

Ultimate Beneficial Owner Vs Beneficial Owner

A UBO is different from a Beneficial Owner. Beneficial owners are people who hold shares in a company. UBOs are individuals who have ownership of at least 25% of a company's shares. Furthermore, they also have the ability to control a company through direct or indirect means. UBOs have the power to pull the strings of entire organizations. It goes without saying that these individuals can end up holding a lot of power.

Declaration

Now that we have a basic understanding of UBOs and Resolution 58's regulations regarding them, let's take a look at what do UAE legal entities have to do in order to comply with this law. The resolution has provided a set of detailed Guidelines that legal entities can follow in order to declare their UBO.

According to the resolution, all entities licensed in the UAE have to declare their UBO.

Legal Entity's Responsibility

- At the time of their registration and licensing, companies are expected to provide all required details accurately.
- Companies should share their trade name and their official address in the Emirates on all of their documents.

- If there is a doubt about who is the real beneficiary, the company should intimate this to all of its beneficial owners.
- Once the UBO has been identified and declared, companies must provide relevant details of the UBO in the register. They must also make sure to keep the register updated. Any changes that a company becomes aware of should be amended in the register within 15 days after the change came to notice.
- Companies should provide all data regarding their UBO (and other requirements of the resolution) no later than 60 days after the enactment of cabinet resolution 58. Or, no less than 60 days after the registration and licensing of a company has been completed.
- Provide information to the registrar as required. The same information must be shared with authorized personnel.
- Any changes made in the data shared with the registrar must be intimated to the registrar within 15 days of making the changes.

Refer to the Cabinet Resolution No. (58) Of 2020 Regulating the Beneficial Owner Procedures to understand the requirements and responsibilities of legal entities with respect to UBO compliance.

Legal entities that fail to comply with this law will face repercussions. They will have to face sanctions placed by the Ministry of Economy. Once these sanctions have been placed, the legal entity will have to submit an appeal that will then be processed before the sanction(s) can be lifted.

Example

We have established that a UBO is someone who gains the ultimate benefit from a legal entity's decisions. Let's take a look at some examples of UBOs to further clarify the concept:

Example: X is an overseas company that has 100% ownership of Y FZ-LLC, a company in a free-zone in UAE. The shares of X are equally distributed amongst Mr. A and Mr. B (50% each). This makes Mr. A and Mr. B the UBOs of Y FZ-LLC. Note that this does not make them UBOs of X.

How to Verify Ultimate Beneficial Owner

In order to identify and verify a business's UBO, the following approach should be taken:

- Acquire a legal entity's credentials to check whether the company is registered and legitimate.
- Acquire data on a legal entity's ownership chain in order to determine all persons who have direct or indirect ownership in the entity through shares or interests.
- Compare the ownership share, share percentage, and management control of all beneficiary owners. This will help you identify the individuals with the greatest amount of control in the company.
- Compare the ownership and control levels of each BO with the UBO identification conditions outlined by resolution 58. The individual who meets the conditions will be the UBO.

Having expert help from third parties can make UBO verification easier. Once a UBO has been identified, a company must gather the necessary information and compile the Register of Beneficial Owner so that it may be submitted to the authorities.

Register

The declaration process involves identifying a UBO and then gathering data related to them that is entered into the UBO register. The resolution requires legal entities to produce and maintain the following:

- Register of Beneficial Owner
- Nominee Board Member information
- Register of Partners or Shareholders

The Register of Beneficial Owner will contain updated information about a company's identified UBO. Enter the following data of the UBO in the register:

- Full name, place and date of birth, and nationality
- Residential address to which notices shall be sent.
- ID card or passport number, issuing country, and the issue date and expiry date
- The date and the basis on which the individual became the company's UBO.
- The date on which the individual stopped being the company's UBO.

UBO Templates

Below are important templates to understand and submit the declaration:

- Cabinet Resolution No. (58) of 2020 Regulating the Beneficial Owner Procedures
- Required Data for UBO Declaration