



October 2022

Dutch Trust UBO Register Operational Starting 1 November 2022

Go-To Guide:

- As per 1 November 2022 the Dutch Trust UBO Register goes live.
- Trustees of trusts and trust-like legal arrangements will be required to disclose details of the trust and UBO information of the trust.
- EU AML legislation already required information on UBOs of other (legal) entities to be made public in the UBO registers in the EEA.
- Any trust domiciled or established in the Netherlands, but also any trust **domiciled or established outside the EEA** but **entering into a “business relationship”** or **carrying out certain occasional transactions**, has to register and publicly disclose the UBOs of the trusts in the Netherlands.
- Non-EEA domiciled trusts **will** have to comply before they can acquire real estate in the Netherlands.
- EEA-domiciled trusts must register this information in the jurisdiction of the domicile of their trustees.

About the Trust UBO Register in the Netherlands

The obligation to set up and maintain an Ultimate Beneficial Owner (**UBO**) Register in the Netherlands follows from the Dutch implementation of the amended fourth EU Anti-Money Laundering Directive and requires certain types of Dutch entities to disclose their UBO information ultimately on 27 March 2022.¹ In addition to the aforementioned existing disclosure obligation in the UBO registers for legal entities, each EEA member state is required to also have a public register for the disclosure of UBO information of trusts (and trust-like legal arrangements, such as funds for joint accounts) if certain conditions are met. The aim of this transparency is to help prevent money laundering, corruption, fraud, tax evasion and terrorist financing.

The UBO register for trusts and trust-like legal arrangements is part of the Trade Register kept by the Dutch Chamber of Commerce, that will manage the UBO registration of Trusts on behalf of the commissioning Dutch ministries of Finance and Justice & Security.²

When will the Trust UBO Register go live?

For the Netherlands, the obligation of trustees to register their trusts and trust-like legal arrangements as well as the UBO information thereof takes effect starting **1 November 2022**. The [website](#) has been live since 10 October 2022, but the register will become operational on 1 November 2022, as of which date there will be a three-month transition period to register existing trusts and trust-like legal arrangements. The transition period ends 1 February 2023, which is also the date when each registration must be completed.

Trusts and trust-like legal arrangements that are newly created as of 1 November 2022 must comply with the registration requirements within one week after the event as a result of which the obligation to register arises. After the registration of the trust or similar legal arrangement by the trustee, a unique reference number is assigned to the trust or similar legal arrangement. The trustee is required to provide this number on all letters, declarations, or other written statements made on behalf of the trust, even if there is no connection with the Netherlands in such document.

What is a trust?

A trust is a legal arrangement created by a person (the **settlor**), whereby assets are entrusted to another person (the **trustee**). The Trustee uses the assets in accordance with a trust deed for one or more beneficiaries (the **beneficiary**) or for a particular, more broadly defined purpose (for example, for children in village x, or for scholarships). Sometimes a person is appointed to monitor a trustee (the **protector**).

Trusts have many variants and are internationally used in business, family, charity, etc. Under Dutch law, a trust is not a legal entity, nor does it have a legal form, but it is a separately identified community of assets with a specific purpose for one or more beneficiaries.

The following persons are generally considered a UBO of a trust:

- the settlor;

¹ This obligation stems from the Fourth Money Laundering Directive ((EU) 2015/849) (4MLD), as amended by the Fifth Money Laundering Directive ((EU) 2018/843) (5MLD) (**AML Directive**).

² On the draft legislation, see also [GT Alert, Dutch Ultimate Beneficial Owner \(UBO\) Trust Register Implementation](#), May 25, 2021.

- the trustee;
- the protector;
- the beneficiaries, or to the extent individual beneficiaries cannot be determined, the group of persons in whose interests the trust is principally incorporated or operates; and
- any other natural person who exercises ultimate control over the trust through direct or indirect ownership or other means.

What is a trust-like legal arrangement?

A ‘trust-like legal arrangement’ is assimilated to a trust. For the Netherlands, only the fund for joint account (*fonds voor gemene rekening*) is thus designated. The fund for joint account is an agreement between three different parties i.e., a trustee (*juridisch eigenaar*), a manager (*beheerder*), and participants. The fund aims to raise assets to invest them jointly and exists in different forms: an open or closed fund.

The following persons are generally considered a UBO of a fund for joint account:

- the manager;
- the trustee;
- the beneficiaries, or to the extent individual beneficiaries cannot be determined, the group of persons in whose interests the trust is principally incorporated or operates; and
- any other natural person who exercises ultimate control over the trust through direct or indirect ownership or other means.

Who is responsible for the registration?

The trustee is responsible for registration of a trust or trust-like legal arrangements. The trustee himself is also considered a UBO of the trust, or trust-like legal arrangement. The other UBOs of the trust or trust-like legal arrangement must provide the trustee with all necessary information so that the trustee can arrange for the registration. If any function in relation to a trust is held by a legal entity, the UBOs of such legal entity are to be considered (and registered) as UBOs of the trust or trust-like legal arrangement.

When is registration in the Netherlands required?

If the trust and its beneficial owners are already registered in a register of another member state of the European Union created on the basis of Article 30 of the AML Directive, registration in the Netherlands is not necessary. Otherwise, registration in the Netherlands of trusts or trust-like legal arrangements is required if the trustee is:

- domiciled or established in the Netherlands; or
- domiciled or established outside of the EEA but is in a “business relationship”³ on behalf of the trust or carries out an occasional transaction (e.g., acquisition of real estate, trading in goods) above the thresholds as provided in article 11, sub b), c), and d) of the AML Directive.

³ Defined in the AML Directive as “a business, professional or commercial relationship which is connected with the professional activities of an obliged entity and which is expected, at the time when the contact is established, to have an element of duration”.

What information must be registered?

Only in the case of an economic interest of 3% or more, the beneficiary in question must be registered as UBO. For each UBO, the nature and extent of the economic interest must therefore be registered.

For the registration of the UBOs, the trustee must provide the following details.

Trust details:

- the name and type of the trust or trust-like legal arrangement;
- the date and place of establishment of the trust or trust-like legal arrangement; and
- the purpose of the trust or trust-like legal arrangement.

UBO details:

- **full name**
- **month of birth**
- **year of birth**
- date (day) of birth
- place of birth
- country of birth
- **country of residence**
- **nationality**
- personal identification number and ID document number
- **nature and size of interest involved⁴**
- personal address
- e-mail address
- copies of identity documents
- copies of documents evidencing the nature and size of the economic interest

Note: only the information included in **bold** above is made available to the public by the register. The registration will be effective immediately after submission of the required data in the register.

⁴ The Trust Register Implementation Act classifies these in the following classes:

- at least 3% up to and including 25%;
- at least 26% up to and including 50%;
- at least 51% up to and including 75%; and
- at least 76% through 100%

Exceptions:

Personal information as regards a UBO that would in principle have to be made public in the Trust UBO Register can only be shielded from the public if:

- the UBO involved is a minor;
- the UBO is legally held to be incompetent to conclude any transaction, like a curatorship or legal guardianship, provided that evidence of the same is submitted at the same time; and
- the UBO is enrolled in a protection scheme by a government or a competent police authority.

What are the sanctions for non-compliance?

Non-compliance with the UBO registration for trusts (e.g., no timely registration or registering incorrect information) can result in sanctions, e.g., monetary penalties of more than 20,000 euros and the initiation of criminal investigations against the trustee and non-cooperative UBOs.

Moreover, according to the Dutch Money Laundering and Terrorist Financing Act, institutions that are subject to a reporting obligation must determine if the UBO registration has been completed. If this is not the case, the institution is prohibited from entering into a new business relationship with such entity. Up until 1 January 2023 institutions may proceed with a new business relationship if the entity can provide evidence that it has provided the Dutch Trade Register with the required information to register its UBO, but that the registration has not been finalized yet.

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