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**REGISTRATION OF ULTIMATE BENEFICIAL OWNER INFORMATION**

**GRATA International Mongolia**

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## REGISTRATION OF ULTIMATE BENEFICIAL OWNER INFORMATION

### **1. General framework**

Financial Action Task Force (FATF) announced that Mongolia included in the FATF grey list considering as a favorable country for supporting money laundering and terrorism financing on 18 October, 2019.

Recommendations 24 and 25 of the FATF are focused on the legal entity's transparency and measures related to the ultimate beneficial owner and FATF assessed under their report on Mutual Evaluation of Mongolia with regard to the ultimate beneficial owner as followings:

- Mongolia had not assessed the risks associated with the different types of legal entities incorporated in such country and any sanctions for non-compliance with obligations under Recommendation 24 were not dissuasive.
- Mongolia did not have a mechanism to monitor the quality of assistance it receives in response to requests for basic or ultimate beneficial owner information.

### **2. Legislation**

Within the obligation and task are given by FATF, the Parliament of Mongolia has adopted the Law of Mongolia on the Procedure for compliance with the General taxation law and amended the Law of Mongolia on State registration of the legal entity with regard to accurately register the ultimate beneficial owner information.

In accordance with Article 9 of the Law of Mongolia on the Procedure for compliance with the General taxation law, the legal entity incorporated in Mongolia prior to 01 January 2020 shall be obliged to register the ultimate beneficial owner information of legal entity to the State Registration Authority within 01 January 2021.

Moreover, under Article 9 and 10 of the Law of Mongolia on State registration of legal entity, the legal entity shall keep the basic record of a legal entity in paper and electronic form in the state registration database and basic record of the legal entity includes information on

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the ultimate beneficial owner and its shares amount, interest and voting right. In case that the information on the ultimate beneficial owner is changed, the legal entity shall be obliged to submit the basic record of the legal entity to the State Registration Authority.

### **3. Ultimate beneficial owner**

The ultimate beneficial owner means according to Article 3.1.6 of the Law of Mongolia on Combating money laundering and terrorism financing:

- if a customer is a legal entity, then a person who owns the majority of the assets of the legal entity solely or jointly with others or holds a management function of the legal entity or represented his/her authority by other persons or ultimately owns the legal entity earning benefit and profit by managing any transaction to be made from such legal entity and implement its activities;
- if a customer is an individual, then a person who controls customers' action and activity or a person who earning benefit and profit on behalf of representing his/her action by others;
- As for an asset management transaction, a person who earning benefits and profit on the basis of such assets proxy management transaction.

As the Procedure No A/1258 on Registration of the ultimate beneficial owner of legal entity by Chairman of General State Registration Authority dated 18 August 2020, the majority of the assets are defined as one-third or more of the Company's total shares and 33% or more of the legal entity's assets in accordance with the Company law of Mongolia and procedure No A-26 on Prevention activities of money laundering and terrorism financing by the President of Central Bank dated 21 January 2019.

In the event of non – registration of the ultimate beneficial owner information or failure of notification accurately to the State Registrative Authority on time aforementioned above, the legal entity shall be imposed a penalty with the amount of 500,000MNT (app 175.2 USD) under article 15.23 of Law on Offence. In a breach of regulation on determination of the ultimate beneficial owner, assets and income which equals with breached transaction shall be confiscated and defaulted individual shall be imposed a penalty with the amount of to 5,000,000MNT (app 1,752USD) and defaulted legal entity shall be imposed a penalty with the amount of 50,000,000MNT (app 17,520USD).

### **4. Conclusion**

Mongolia is undergoing major legal reforms to implement the FATF recommendations and improve the legal environment in order to get out from the FATF grey list and one of those reforms is that the ultimate beneficial owner information is accurately registered.

The legal entity incorporated in Mongolia prior to 01 January 2020 shall be obliged to accurately register the ultimate beneficial owner information and in the event of the non-registration or failure to notify correctly the ultimate beneficial owner, the legal entity shall be liable in accordance with the Law of Mongolia on Offence.

*This legal information was prepared by Umguulliin Absolute Advocates LLC, the Mongolian office of GRATA International, an international law firm that has its branches in 20 countries around the world. The material contained in this alert is provided for general information purposes only and does not contain a comprehensive analysis of each item described. Before taking (or not taking) any action, readers should seek professional advice specific to their situation. No liability is accepted for acts or omissions taken in reliance upon the contents of this alert.*