



Electronic Money Association

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Ms Sigrid Kaag
Minister of Finance /Minister van Financiën
Korte Voorhout 7 Postbus 20201 NK-2500
EE Den Haag Netherlands

28 June 2023

Dear Ms Kaag

Re: the [Amendment Act restricting access to UBO registers](#)

The Electronic Money Association is the trade body for electronic money issuers and innovative payment service providers. Our members include leading payments and e-commerce businesses worldwide, representing online payments, card-based products, vouchers, and those employing mobile channels of payment.

Several are now authorised in or are seeking authorization in the Netherlands, and we have an EMA branch in the Netherlands that meets on a regular basis, and engages in dialogue with the DNB, the Ministry of Finance, the FIU, and other authorities. Please find a full list of our members attached to this letter.

We would be grateful for your consideration of our comments to the matters set out below.

Yours sincerely

A handwritten signature in black ink that reads 'Thaer Sabri'. The signature is written in a cursive style with a long horizontal stroke at the end.

Thaer Sabri
Chief Executive Officer
Electronic Money Association

The EMA has recently reviewed the Amendment to the Trade Registers Act 2007 and the Implementation Act on registration of beneficial owners of trusts and similar legal arrangements to restrict access to information on beneficial owners of companies and other legal entities as well as access to information on beneficial owners of trusts and similar legal arrangements (Amendment Act restriction of access to UBO registers).¹

We would like to raise our concerns about the proposed amendments with regards to access as set in Article 7 of the Implementation Act on registration of beneficial owners of trusts and similar legal arrangements; and Article 22 (a) of the Trade Register Act 2007.

Access issues

Article 7 of [the Implementation Act on registration of beneficial owners of trusts and similar legal arrangements](#):

1. The data referred to in Section 5(3)(a) and (f) shall be electronically accessible to:

a. an institution as referred to in Section 1(1) of the Money Laundering and Terrorist Financing (Prevention) Act for the benefit of a customer due diligence required by that law;

b. an institution as referred to in Section 10(2) (a) to (m) of the Sanctions Act 1977 for the purpose of compliance with the obligations relating to financial transactions laid down by or pursuant to Section 5 of that Act. [...]

Article 22 (a) of [the Trade Register Act 2007](#):

1. The data referred to in Section 15a(2)(c) and (e) may be inspected by:

a. an institution as referred to in Section 1(1) of [the Money Laundering and Terrorist Financing \(Prevention\) Act](#) for the benefit of a customer due diligence required under that law;

b. an institution as referred to in Section 10(2)(a) to (m) of [the Sanctions Act 1977](#) for the purpose of compliance with the obligations relating to financial transactions laid down by or pursuant to Section 5 of that Act. [...]

Under the proposed articles, payment service providers (“PSP”) authorised in the Netherlands as well as branches of other financial institutions with their registered office outside the Netherlands will be able to access the UBO register. However, it appears that entities authorised in another member state (other than the Netherlands) and that provide services in the Netherlands on a cross-border basis (“passporting”) would not be able to access the Dutch UBO register. This also

¹ <https://www.internetconsultatie.nl/beperkingtoeganguboregisters/b1>

applies to RegTech solutions, which will not be able to provide beneficial ownership information to PSPs.

Similarly, under the proposed articles, PSPs authorised in a member state other than the Netherlands that either provide services in that member state and/or passport in member states other than the Netherlands would be unable to access the Dutch UBO register for information on beneficial owners of corporate entities, trusts and other legal entities in cases where customer organizational structures would require such access (i.e., where there are links to the Netherlands).

The proposed measures place entities operating on a cross-border basis or as described above, at risk of non-compliance with their customer due diligence obligations. Such entities have a legitimate interest and should be able to access the information in the UBO register. Likewise, said measures increase the level of ML/TF risk to which the financial sectors in the Netherlands and of other member states are exposed, by effectively preventing access to a means of verification of identity of businesses registered in the Netherlands. In addition, obliged entities outside the Netherlands will not be able to report any discrepancies.

Furthermore, restricting access to the UBO register will restrict the ability for firms in the Netherlands to access products and services provided by obliged entities based outside the Netherlands. This will place Dutch companies at a disadvantage, as their potential business partners will be unable to verify their beneficial ownership information.

Reporting of Discrepancies

It remains unclear whether entities providing services to customers in the Netherlands or in other member states (in cases where customer structures linked to the Netherlands necessitate access to the Dutch UBO register), but not established in the Netherlands, will remain under an obligation to report discrepancies. If the UBO register is only accessible by entities authorised or established in the Netherlands, firms passporting or providing services in other member states as set out above, will be unable to report any discrepancies identified between the information provided by the client, and that on the UBO register.

The EMA believes that limiting access to the UBO register for entities passporting into the Netherlands or providing services in other member states as described above, distorts the level playing field and hinders a collaborative approach to tackling money laundering.

List of EMA members as of June 2023

[AAVE LIMITED](#)
[Account Technologies](#)
[Airbnb Inc](#)
[Airwallex \(UK\) Limited](#)
[Allegro Group](#)
[Amazon](#)
[American Express](#)
[ArcaPay Ltd](#)
[Banked](#)
[Bitstamp](#)
[BlaBla Connect UK Ltd](#)
[Blackhawk Network Ltd](#)
[Boku Inc](#)
[Booking Holdings Financial Services International Limited](#)
[CashFlows](#)
[Checkout Ltd](#)
[Circle](#)
[Citadel Commerce UK Ltd](#)
[Contis](#)
[Corner Banca SA](#)
[Crypto.com](#)
[Curve](#)
[eBay Sarl](#)
[ECOMMPAY Limited](#)
[Em@ney Plc](#)
[emerchantpay Group Ltd](#)
[Etsy Ireland UC](#)
[Euronet Worldwide Inc](#)
[Facebook Payments International Ltd](#)
[Financial House Limited](#)
[First Rate Exchange Services](#)
[FIS](#)
[Flex-e-card](#)
[Flywire](#)
[Gemini](#)
[Global Currency Exchange Network Limited](#)
[Globepay Limited](#)
[GoCardless Ltd](#)
[Google Payment Ltd](#)
[HUBUC](#)
[IDT Financial Services Limited](#)
[Imagor SA](#)
[Ixaris Systems Ltd](#)
[MANGOPAY](#)
[Modulr FS Europe Limited](#)
[MONAVATE](#)
[Moneyhub Financial Technology Ltd](#)
[Moorwand](#)
[MuchBetter](#)
[myPOS Payments Ltd](#)
[NOELSE PAY](#)
[NoFrixion Ltd](#)
[Nuvei Financial Services Ltd](#)
[OFX](#)
[OKTO](#)
[One Money Mail Ltd](#)
[OpenPayd](#)
[Own.Solutions](#)
[Papaya Global Ltd](#)
[Park Card Services Limited](#)
[Paymentsense Limited](#)
[Paynt](#)
[Payoneer Europe Limited](#)
[PayPal Europe Ltd](#)
[Paysafe Group](#)
[Plaid](#)
[PPRO Financial Ltd](#)
[PPS](#)
[Ramp Swaps Ltd](#)
[Remitly](#)
[Revolut](#)
[Ripple](#)
[Sable International FX Limited](#)
[Securiclick Limited](#)
[Skrill Limited](#)
[Soldo Financial Services Ireland DAC](#)
[Square](#)
[Stripe](#)
[SumUp Limited](#)
[Syspay Ltd](#)
[Transact Payments Limited](#)
[TransferMate Global Payments](#)
[TrueLayer Limited](#)
[Trustly Group AB](#)
[Uber BV](#)
[VallettaPay](#)
[Vitesse PSP Ltd](#)
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[WorldFirst](#)
[WorldRemit LTD](#)
[Yapily Ltd](#)

