



Electronic Money Association

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24 September 2024

Re: EMA response to the Consultation on the Amendments to Regulations to the Act on the Register of Beneficial Rights Holders

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

A handwritten signature in black ink that reads 'Thaer Sabri'. The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA Response

After reviewing the [Consultation](#) on the proposed changes to the [Regulations for the Act on the Register of Beneficial Rights Holders](#) ("**the Regulations**"), the EMA fully supports Norway's dedication to upholding international financial integrity standards, in particular the initiative to connect the Norwegian Register of Beneficial Owners to the Beneficial Ownership Registers Interconnection System ("**BORIS**"), as outlined in § 3-12 of the Draft regulatory changes ("**the Draft**"), which incorporates Regulation (EU) 2021/369 ("**the BORIS Regulation**"), marks a significant milestone in the global fight against financial crime. Connecting Norway's register to BORIS is a vital step in facilitating the ability of financial institutions to effectively meet their Customer Due Diligence ("**CDD**") obligations. For financial institutions and other obliged entities, access to accurate and timely information on the beneficial ownership of companies is fundamental to conducting proper risk assessments and ensuring compliance with Anti-Money Laundering ("**AML**") and Countering the Financing of Terrorism ("**CFT**") regulations. By connecting to BORIS, obliged entities can access beneficial ownership data, enabling them to verify customer information more efficiently and effectively. This enhanced access not only reduces the risks of non-compliance but also strengthens entities' ability to detect and prevent financial crimes. Additionally, the EMA strongly supports granting obliged entities listed in [§ 4 of the Money Laundering Act](#) ("**the AML Act**") access to the register of beneficial owners.

The EMA notes the proposed amendments to § 3-10 of the Regulations, that limit access to information in the register to public authorities mentioned in § 3-11 and entities subject to reporting obligations. These proposed restrictions are presumably designed to balance the need for privacy with the requirement for transparency. The EMA understands the rationale provided by the Norwegian Ministry of Finance, particularly in light of the European Court of Justice rulings in joint cases C-37/20 (WM) and C-601/20 (Sovim), which highlight the importance of data protection, and agrees that restricting access for the general public is a reasonable measure to protect privacy.

However, it is imperative that such restrictions do not apply to financial institutions operating cross-border under the freedom to provide services as they inadvertently create negative outcomes.

Points of Concern

The EMA has concerns about potential unintended consequences stemming from the restricted access to beneficial ownership information.

The key issue is the exclusion of foreign financial institutions that offer cross-border services (i.e., passporting) in Norway. Limiting access to critical data infrastructure distorts the conditions of competition in favour of local financial institutions and is disadvantageous to those operating from another EU country under the "freedom-of-services" passport.

These institutions, which are allowed to provide services in Norway under Section 1-2(2) of [the Financial Institutions Act](#), are currently barred from accessing the register of beneficial owners. The exclusion presents significant operational challenges, hindering their ability to meet AML/CFT obligations, and constitutes a national barrier to the freedom to provide services within the Union, undermining the passporting rights established under PSD2.

By denying passporting institutions access to the Norwegian Register of Beneficial Owners, Norway risks undermining its financial system's transparency and limiting the ability of passporting institutions to fulfil their regulatory obligations. Without direct, unhindered and timely access, there is a risk that illicit activities, such as money laundering or terrorist financing, could go undetected, compromising the integrity not only of the Norwegian financial system but of the European economy.

Transparency in beneficial ownership is a key tool for preventing and detecting financial crimes, tax evasion and terrorist financing. By allowing passporting entities access to the register, Norway would demonstrate its firm commitment to preventing financial crime and maintaining the high standards of transparency needed to protect its financial system.

Recommendations

While the EMA acknowledges and supports the need for controlled access to beneficial ownership information, it is essential that the proposed amendments do not inadvertently hinder the ability of financial institutions operating cross-border to meet their AML/CFT obligations.

The EMA urges revisiting the Draft amendments to ensure that passporting entities are granted access to the register of beneficial owners.

Suggested amendments

§ 3-11 Actors who must have access to the register

~~Public authorities covered by §§ 3-9 and 3-10~~

(1) The following public authorities are covered by the rules in the Act on the register of beneficial owners § 11 and the regulations here § 3-9 and § 3-10 on access to the register etc.:

a. Police and prosecution authority.

b. The unit for financial intelligence responsible for receiving information about suspicious circumstances according to Section 26 of the Money Laundering Act.

c. Tax authorities.

d. Supervisory authorities for persons liable to report under the money laundering regulations.

e. Other authorities responsible for investigating and prosecuting money laundering, primary crimes and terrorist financing.

f. Other authorities responsible for tracking, confiscation and confiscation of dividends.

g. The Security Authority.

h. Supervisory authority for foundations.

(2) Media that must have access to the register of real rights holders are media covered by Section 2 of the Media Liability Act.

(3) Civil society organizations that must have access to the register of real rights holders are non-profit organizations whose purpose is to work with the prevention and combating of abuse of company structures.

(4) Higher education institutions that must have access to the register of real rights holders are institutions covered by § 1-2 of the Universities and Colleges Act.

(5) Foreign financial institutions that are carrying on business through a branch in Norway, or through cross-border operations, as covered by Section 1-2 (2) of the Financial Institutions Act, must have access to the register of real rights holders for the purposes of fulfilling their anti-money laundering and counter terrorist financing obligations.

~~(5 6)~~ *Access to the register requires that those authorized to access adapt to the registry operator's technical solutions and that the access authorization can be verified. Access for*

people other than public authorities cannot involve extracts from the register or searchability of natural persons.

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