

01 March 2023

## Ultimate Beneficial Ownership (UBO) Regulations in Kuwait effective 1 April 2023

The Ministry of Commerce and Industry (“MOCI” or “the Ministry”) in Kuwait issued Ministerial Resolution No.4 of 2023 (“the Resolution”) in January 2023 setting out an obligation for the identification of ultimate beneficial owners (“UBO” or “BO”). The Resolution applies to all entities registered in the State of Kuwait, unless specifically exempted.

The introduction of UBO identification obligations is an important measure to meet international standards of tax transparency to combat tax evasions, as well as money laundering and terrorist financing.

The Resolution requires entities registered in Kuwait (with certain exceptions) to collect and maintain certain information about their beneficial owners, shareholders and nominee directors. The collected information will then need to be filed with MOCI and/or any other regulatory authority. As per our discussions with MOCI, further guidance including filing mechanisms will be issued soon.

### Applicability

The Resolution applies to all legal persons registered or licensed in Kuwait, except for wholly owned Kuwait government entities. The Resolution is effective from 1 April 2023 (“the Effective Date”).

### Requirements

The Resolution requires all entities registered in Kuwait (with certain exceptions) to comply with the following key requirements:

1) Implement procedures to identify the beneficial owners including obtaining and maintaining sufficient, accurate and recent information in respect of their shareholders, UBO and nominee directors;

- 2) Notify MOCI of an address to receive information from MOCI. Foreign entities must provide the name and address of their Kuwait representative.
- 3) Prepare, maintain and file the following within 60 days from the Effective Date of the Resolution (i.e. by 30 May 2023):
  - a) Register of ultimate beneficial owners;
  - b) Register of shareholders; and
  - c) Register of nominee board members, if applicable.
- 4) When incorporating an entity or renewing a license, provide MOCI with certain information as stipulated in the Resolution.

Entities registered in Kuwait which are owned by a company listed on a recognized stock exchange subject to disclosure requirements around beneficial owners, or a company wholly owned by such a listed company, are exempted from the requirement to collect UBO information.

### Penalties for non-compliance

In case of non-compliance with the provisions of the Resolution, MOCI will not approve or renew the license of the non-compliant entity. Additionally, the Resolution stipulates that penalties will be applied as per the provisions of Kuwait Anti-Money Laundering and Combating the Financing of Terrorism Law.

### Key Deadlines

- **1 April 2023:** Effective Date of the Resolution
- **30 May 2023:** all entities registered in Kuwait (unless exempt) must prepare and file registers of UBO, shareholders/ partners and nominee directors with the Ministry.
- Notify the Ministry about any changes in the registers within **15 days** of such change.

## Beneficial Owners

The beneficial owner is defined as the natural person who ultimately and effectively owns or controls a customer, directly or indirectly, or the natural person on whose behalf a transaction is being conducted. It also includes any person who exercises ultimate effective control over a legal person or arrangement.

As per the Resolution, the Beneficial Owners of a company can be identified in the following manner:

- 1) Natural person who ultimately owns, controls or has voting rights with 25% or more shareholding in the company, whether through direct or indirect ownership, or any natural person who has the right to appoint or terminate most of the directors of the company; or
- 2) If UBO cannot be identified through the conditions under point (1) above or if there are doubts, then the UBO is the natural person who controls the company through other means; or
- 3) If the UBO cannot be identified through the conditions above, the UBO becomes the natural person who holds the position of senior management in the company.

## Register of UBOs

Unless exempt, every entity registered in Kuwait must maintain a register of UBOs containing the following information:

- Full name of the beneficial owner, date and place of birth.
- Address for the purpose of sending official correspondences.
- Passport or Civil ID number, date and place of issuance, validity date.
- Basis for being a beneficial owner.
- Date appointed as a beneficial owner.
- Date ceased to be a beneficial owner.

The register of UBO shall be updated with any changes within 15 days from the date of knowledge or deemed knowledge.

## Register of Shareholders and Partners

Every entity registered in Kuwait (with certain exceptions) must maintain a register of its partners / shareholders containing information such as the following:

- Details of the shareholder / partner.
- Number and types of shares, and associated voting rights.
- Date of becoming a shareholder / partner.

In case of any changes to the information of shareholders/ partners, the register shall be updated within 15 days from the date of knowledge.

## Register of Nominee Board Members

Entities subject to the Resolution must maintain details of nominee board members acting in accordance with the instructions of another person. The details to be collected and maintained are the same as those for shareholders/ partners above, as applicable.

## Sharing of Information

The Resolution stipulates that information about registered entities including their UBO will be accessible to the public and shared with the relevant authorities upon request.

## BDO comments

The Resolution will help Kuwait meet its international commitment towards tax transparency and AML, and to effectively exchange information for tax purposes.

From a Kuwait tax perspective, foreign companies operating in Kuwait, through a Kuwaiti/GCC company under a nominee arrangement, will need to assess the Kuwait income tax impact carefully.

With regards to public access to UBO information, it is interesting to note that recently the European Court of Justice ruled that public access to UBO information is against the privacy of personal data.

We expect the Ministry to issue further instructions in the coming weeks including the mechanism of filing UBO and shareholders/ partners registers.

## HOW CAN BDO HELP?

- Advising on UBO identification including mapping out the ownership structure of your group to identify the correct UBO(s).
- Reviewing articles of association, contractual provisions and voting agreements for the purpose of UBO identification.
- Preparing registers of the UBOs, shareholders/ partners and nominee directors.
- Assisting with the filing of registers with the Ministry and addressing any follow-up inquiries.
- Maintaining the relevant registers on a dedicated company secretarial system on an ongoing basis.
- Updating the registers and informing the Ministry of any changes to the information provided.



## CONTACT DETAILS

### **Rami Alhadhrami**

Partner  
Direct: +965 22957592  
rami.alhadhrami@bdo.com.kw

### **Harpreet Jolly**

Manager  
Direct: +965 22957586  
harpreet.jolly@bdo.com.kw

### **Mohamed Atteya**

Assistant Manager  
Direct: +965 22957578  
mohamed.atteya@bdo.com.kw

This publication has been carefully prepared but should be seen as general guidance only. You should not act or refrain from acting, based upon the information contained in this publication, without obtaining specific professional advice. Please contact BDO Kuwait to discuss these matters in the context of your circumstances. BDO Al Nisf & Partners, its partners, employees and agents do not accept or assume any liability or responsibility for any loss incurred as a result of acting on information in this publication, or for any decision based on it.

BDO Al Nisf & Partners in Kuwait is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Copyright © March 2023. All rights reserved.

[www.bdo.com.kw](http://www.bdo.com.kw)