

# Identification of the beneficial owners according to the Money Laundering Act

## General information:

According to the Money Laundering Act (MLA), notaries are considered as obliged entities. Therefore, they shall identify the **beneficial owners** in certain transactions (Sec. 10, para. 1, pt. 2 of the MLA).

The **involved parties have to make information and documents** required to identify the beneficial owners **available** (Sec. 11, para. 6 of the MLA). If they do not fulfil this obligation, they might be subject to a **prohibition to authenticate** (Sec. 10, para. 9, sentence 4 of the MLA).

Foreign foundations have to register in the German **Transparency Register** or that of another EU Member State if they intend (i) hold or intend to purchase (ii) real estate in Germany or (iii) shares in the amount of 90 percent or more in a company that holds real estate in Germany (see Annex). As long as the foundation has not fulfilled this obligation, the notary is mandatorily required to refuse the authentication (Sec. 10, para. 9, sentence 4 of the MLA) (see Annex also for trustees).

In view of the above, you are kindly asked to complete this questionnaire in order to disclose information on the beneficial owners of the foundation and to submit certain documents:

Information on the foundation:

(Name, registered office, address)

1. Please indicate all members of the foundation's board<sup>1</sup> (names and place of residence):

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2. Are there natural persons that have been designated as beneficiaries?<sup>2</sup>

No

→ Please answer question 3.

Yes

→ Please submit the articles of association and indicate the persons (names and place of residence).

<sup>1</sup> Please see question 5 if an association is member of the foundation's board.

<sup>2</sup> Only persons whose names are indicated in the articles of association or who can be identified as such through designation in the articles of association are considered as beneficiaries. If these persons have not yet been designated, only the group of natural persons in whose favour the assets are to be primarily managed or distributed and which arises from the Act of Foundation shall be indicated (see question 3). Therefore, in case of a large number of changing beneficiaries whose names are not indicated in the Act of Foundation, not every single person shall be considered as a beneficial owner. Please see question 5 if an association has been designated as beneficiary.

3. Is there a group of natural persons in whose favour the assets are to be managed or distributed?<sup>3</sup>

No

Yes

→ Please submit the articles of association and indicate the group as designated in the articles of association.

4. Are there natural persons who, directly or indirectly, exercise a controlling influence on the management of the assets or on the distribution of the income?<sup>4</sup>

No

Yes

→ Please indicate the persons (names and place of residence) and explain their influence.

5. Is an association member of the foundation's board, designated as beneficiary or acts as settlor, trustee or protector?

No

Yes

→ Please indicate the association (association name and seat) and disclose its ownership and control structure (if necessary, with a separate graphical demonstration).

6. Are there natural persons that are acting as settlor, trustee or protector?

No

Yes

→ Please indicate the persons (names and place of residence) and explain their functions.

Place and date:

Name / function of the declarant:

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<sup>3</sup> A group of beneficiaries is a group of clearly definable natural persons among whom one or more final beneficiaries are designated at a later stage, e.g. a foundation with the purpose of awarding grants to talented young artists, whose group of beneficiaries is subject to constant change. The group is to be designated as specified in the Act of Foundation.

<sup>4</sup> Including e.g. persons that can influence the management or distribution due to a veto right.

## Annex – Real estate acquisition by foreign foundations and trustees

### Obligation of registration

Foreign foundations have to register in the German Transparency Register or that of another EU Member State if they intend (i) hold or intend to purchase (ii) real estate in Germany or (iii) shares in the amount of 90 percent or more in a company that holds real estate in Germany (see Annex). As long as the foundation has not fulfilled this obligation, the notary is mandatorily required to refuse the authentication (Sec. 10, para. 9, sentence 4 of the MLA) (see Annex).

If a trustee which has its registered office abroad (i) enter into a business relationship for the trust with a contractual partner domiciled in Germany or undertakes to acquire (iii) ownership of real estate located in Germany or (iii) shares in the amount of 90 percent or more in a company that holds real estate located in Germany, it is obliged to provide the German Transparency Register with certain information on the beneficial owner for registration (Sec. 21, para. 1, sentence 2 of the MLA). It is sufficient if this information has already been transmitted to another transparency register of a Member State of the European Union. As long as the trustee has not complied with this obligation, the notary is mandatorily required to refuse the authentication (Sec. 10, para. 9, sentence 4 of the MLA).

### Mandatory information

The German Transparency Register must be provided with the following information of the beneficial owners (Sec. 19, para. 1 of the MLA):

- First and last name
- Date of birth
- Place of residence
- Nature and scope of the economic interest
- Nationalities

### Further information

For further information on the German Transparency Register as well as on the registration and transmission of information about beneficial owners, see <https://www.transparenzregister.de/treg/en/start?1> (the website is available in English as well).