

# Ultimate beneficial owner of an association

MAY, 2018



Latvijas Republikas  
Uzņēmumu reģistrs

FINANCE  
LATVIA  
ASSOCIATION

## 1. Ultimate beneficial owner (UBO) of an association

- A UBO is a natural person who ultimately and effectively owns or controls a legal entity and its transactions. The concept of UBO is not related to the term 'public benefit organisation'.
- Associations do not engage in economic activity (unlike, for example, a limited liability company), therefore to determine their UBO, the association's nature and structural characteristics must be considered. Each association must be evaluated on a case-by-case basis.
- The registration of a natural person as a UBO is a record of the effective situation and therefore does not in itself create any liability for the UBO.
- **By law, an association operating in accordance with the letter and spirit of the law will not have a determinable UBO, except in certain cases; for example, where:**
  - a third person or a single member ultimately and effectively controls the activity of the association beyond the framework stipulated by law;
  - members have entered into contracts causing a third person to gain indirect control over the association;
  - members are pursuing a goal other than the one specified in the articles of the association;
  - an association effectively lacks active members and is operated only by a board of directors; in this case, the UBO is a member of the board.



## 2. Take into account that:

- According to the [FCMC provisions for customer due diligence](#), having the status of association is in itself a risk-increasing factor in a customer's risk assessment, except in cases where the association is a public benefit organisation
- banks do not request information out of pure curiosity, but to eliminate the risk of money laundering and terrorism financing. If at least the minimum of information is not provided by the association in accordance with Section 28 of the Law on the Prevention of Money Laundering and Terrorism Financing, a financial institution shall terminate the business relationship with the customer
- without the cooperation of the members of an association, the bank is not able to discern or assume whether the activity of the association constitutes a risk of money laundering and terrorism financing
- policies and procedures, as well as the gradation of risk, may vary among banks. Assessments of an association may differ depending on the association's transactions and the status of its officials.

**Actions undertaken by the Register of Enterprises and the bank when determining the UBO will differ, as the Register only considers the information provided by the person, while the bank must also carry out due diligence to ensure inspection of the origins of the funds and transactions made using those funds.**

### 3. In the Register of Enterprises

In an association operating according to the letter and spirit of law, the members of the association execute rights only as members of the association, and thus the Register will record that 'a UBO is not determinable', except in the aforementioned cases in Paragraph 1 where the UBOs will be the specified natural persons.



### 4. At the bank

A bank's findings on UBOs may differ from the information recorded in the Register. In such a situation, the proceedings will differ for each case depending on its specific conditions (see above for UBO exception cases).

In cases where the Register states that a UBO is not determinable, a bank will have to – based on its assessment of essential conditions – name one, several or all board members as UBOs in order to carry out customer due diligence in compliance with legal requirements.

The exceptional cases mentioned in Paragraph 1 will be assessed on a case-by-case basis, and it will also be taken into account whether the implementation of control over an association not covered by the law would constitute a risk so high as to decline entry into a business relationship with the specific association.

If the UBO is a politically exposed person (such as a member of parliament, a minister, a judge, or a relative of any of these) the bank may have to conduct an in-depth customer due diligence, that is, a further inspection of the association's transactions etc., also taking into account the time that has elapsed since the date the UBO ceased to be a politically exposed person.

For the provision of information the bank offers questionnaires that are universally applicable and takes into account the various types of business structures and amendments to regulations. In case of uncertainty, please seek assistance from a bank employee to clarify which sections of the questionnaire do not apply to associations.

For informative purposes, the bank will state the UBO, alongside information regarding the association's accounts, in the Account Register maintained by the State Revenue Service.



See also:

[Why are banks asking questions?](#)

[Filing a complaint with the ALCB ombudsman.](#)