

I. Introduction

The Law number 89/2017, August 21, creates the legal framework of the Central Register of the Beneficial Owner (**CRBE**), managed by the Institute of Registrations and Notaries (*Instituto dos Registos e do Notariado, I. P.*) ("**IRN, I. P.**").

The CRBE is a database that aggregates sufficient, accurate and current information on the natural person(s) who has, albeit indirectly or through a third party, the ownership or the effective control of the entities subject to the CRBE.

The regulation of the CRBE was, nevertheless, left to ministerial order (*Portaria*), instrument that was published on the National Official Journal (*Diário da República*) of August 21, 2018 (*Portaria* n.º 233/2018).

II. Who is considered a beneficial owner?

In case of corporate entities which are not companies listed on a regulated market, beneficial owner means:

- The natural person(s) who ultimately owns or controls a legal entity through direct¹ or indirect² ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity;
- The natural person(s) who controls a legal entity via other means; or
- The natural person(s) who holds the position of senior director(s) if, after having exhausted all possible means and provided there are no grounds for suspicion:
 - no person is identified according to the criteria abovementioned; or
 - there is any doubt that the person(s) identified are the beneficial owner(s).

III. Who are the entities subject to the CRBE?

¹ A shareholding of more than 25 % in the company's share capital held by a natural person shall be an indication of direct ownership.

² A shareholding of more than 25 % in the company's share capital held by a corporate entity, which is under the control of natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership.



The entities subject to the CRBE, i.e. the entities that are required to provide adequate, accurate and current information on their beneficial owners, are:

- Associations, corporations, foundations, commercial companies or civil law companies, as well as any other personalized collective entity, subject to Portuguese law or to foreign law, that carries out or performs an activity, act or a legal transaction within the national territory that requires the acquisition of a Portuguese taxpayer identification number;
- Representations of international or foreign law corporate entities that carry out an activity in Portugal;
- Other entities that pursue their own objectives and carry out activities different from those of their associates and are not given legal personality;
- Trust management instruments registered in the free zone of Madeira;
- Financial branches registered in the free zone of Madeira;
- Trusts and other similar legal arrangements without legal personality, upon verification of certain requirements.

IV. Who are the obliged entities for the purpose of the CRBE?

The obliged entities for the purpose of the CRBE, i.e. the entities who have to fulfill the preventive duties established by Law n. º 83/2017, August 18, may be financial institutions or non-financial institutions, as provided in articles 3 and 4 of the abovementioned law. The law catalogues several financial institutions, among which are the securities investment companies and the self-managed real estate investment companies. The non-financial institutions are also listed, being an example of them: the services providers to companies, to other corporate entities or to other similar legal arrangements.

V. Who has capacity to submit the beneficial owner's declaration?

The beneficial owner's declaration may be submitted by the members of the board of directors of the companies or by the persons who perform similar functions in other corporate entities. It may also be submitted by lawyers, notaries and solicitors, whose powers of representation are presumable, and by certified public accountants at the time of the statement of the beginning of activity or when it is linked to the fulfilment of the obligation to deliver the Simplified Business Information (*Informação Empresarial Simplificada*).

VI. How is the authentication made in the CRBE?

The authentication in the CRBE's system is made, in case of the entities subject to it, through the individual authentication of its representatives by means of the digital certificate of the citizen card, the digital mobile key (*Chave Móvel Digital*), the professional authentication certificate (in case of lawyers, notaries and solicitors), the authentication system of the tax authority (in case of certified public accountants) or the Certification System of Professional Competences (*Sistema de Certificação de Atributos Profissionais*).



As for the obliged entities, their authentication is made or through the means referred to in the previous paragraph and using the CRBE code³, or through the sectoral authorities, which shall verify their capacity as obliged entities as well as their good standing. Nonetheless, the access by the obliged entities through the sectoral authorities is still dependent on the conclusion of protocols between them and the IRN, I.P.

VII. What is the content of the beneficial owner’s declaration?

The declaration shall contain the relevant information on the entity subject to the CRBE, the identification of the shareholders and, in case of commercial companies, the respective shareholdings. Furthermore, it shall contain the identification of the managers, directors or of those who manage the entity and the relevant information on the beneficial owner and on the declarant.

Thus, the following elements shall be collected:

Corporate entities	Beneficial Owner Natural persons	Declarant
<ul style="list-style-type: none"> ■ Portuguese taxpayer identification number and, in case of a non-resident entity, the taxpayer number or equivalent; ■ Corporate name; ■ Legal nature; ■ Registered offices, including the jurisdiction of registry in case of foreign entities; ■ CAE (Portuguese Classification of Economic Activities); ■ Legal Entity Identifier, when applicable; ■ Corporate email address. 	<ul style="list-style-type: none"> ■ Full name; ■ Date of birth; ■ Place of birth; ■ Nationality(ies); ■ Permanente residence; ■ Details of the identification card; ■ Portuguese taxpayer identification number, when applicable; ■ Corporate email address; ■ Circumstances suggesting the beneficial ownership and the economic interest held; ■ Identification of the tax representative of the beneficial owners that do not reside in Portugal, if applicable (full name, address and Portuguese taxpayer identification number). 	<ul style="list-style-type: none"> ■ Name; ■ Permanent residence or professional domicile; ■ Details of the identification card or of the professional card; ■ Portuguese taxpayer identification number, when applicable; ■ Capacity; ■ Email address.

VIII. Is there any form/template?

The obligation to provide adequate, accurate and current information on the beneficial ownership is fulfilled through the filling and submission of an electronic form, which will be made available on the website of the General Department of Justice Administration available here: <https://rcbe.justica.gov.pt/>.

³ For further clarifications on the CRBE code please refer to the answer to question X.



IX. What is the deadline to submit the declaration?

The beneficial owner's declaration shall be submitted together with the registration of the incorporation of the company or with its first registration on the Central Registry of Companies (*Ficheiro Central de Pessoas Colectivas*), whether it is or it is not an entity subject to commercial registration.

As for the subject entities that are already incorporated on October 1, 2018, the submission of the declaration shall take place on January 1, 2019 onwards up to June 30, 2019, phased in the following terms:

- Up to April 30, 2019, the entities subject to commercial registration;
- Up to June 30, 2019, the remaining entities subject to the CRBE.

X. Is there any evidence of the submission of the declaration?

The declaration submitted and validated gives rise to the issuance of a certificate by the registration service designated by resolution of the governing board of IRN, I. P, which contains the identification of the declarant, as well as the information of the CRBE. The consultation of this certificate, and therefore of the information stored in the CRBE, is possible through an access code generated for this purpose, which can be made available to the obliged entities to fulfill their information duties or to any interested party. It should be noted, however, that the consultation of this information by the obliged entities does not exempt them from the verification of the same by means of the collection and conservation of the respective supporting documents.

XI. Is there a certificate attesting any of the CRBE's circumstances?

The status of the entity in the CRBE is certified to third parties through the issuance of an evidence of declaration. Thus, presumably, upon verification of the applicant's status as an interested party or obliged entity, a certificate will be issued with the information available according to the applicant's degree of access. Nonetheless, the operationalization of this process will be defined by an order of the chairman of the governing board of the IRN, I. P.

Information on any circumstances registered in the CRBE may also be issued by the service designated by resolution of the governing board of IRN, I.P.

XII. Is the information stored in the CRBE made public?

There are several degrees of access to the information stored in the CRBE.

The most limited degree of access, which includes the consultation by any interested party of public information, covers the following data:



- In relation to the entity, the Portuguese taxpayer identification number or the tax payer number issued by a foreign entity, the corporate name, the legal nature, the registered offices, the CAE (Portuguese Classification of Economic Activities), the Legal Entity Identifier, when applicable, and the corporate email address;
- As regards the beneficial owner, the name, month and year of birth, nationality, country of residence and economic interest held.

Obligated entities are granted unlimited access to the information stored in the CRBE, with the exception of data regarding the declarant, whose access is limited to the name and the quality in which he/she acts.

Finally, access to information by the judicial, police and sectoral authorities and by the Tax Authority is carried out in real time through an automated consultation of the CRBE database. Furthermore, they are allowed to process and interconnect the data stored in the database.

Access to information on the beneficial owner may be wholly or partly limited where it is found that such disclosure is likely to expose the person identified to the risk of fraud, abduction, extortion, violence or intimidation or if the beneficial owner is a minor or unable.

XIII. Are there search criteria for the information stored in the CRBE?

The search for information stored in the CRBE may be carried out by indicating the Portuguese taxpayer number identification or the taxpayer's identification number (NIF) of the subject entity. If the entity subject to the CRBE is a non-resident entity, the search may also be carried out through its corporate name.

XIV. Is the assisted electronic filing possible?

Assisted submission of the declaration on beneficial owners is made available by appointment. The registration services where this service is available are designated by a resolution of the governing board of IRN, I. P., and are published on the website of the General Department of Justice Administration.

XV. How should the information stored in the CRBE be updated?

The information stored in the CRBE shall be updated in the shortest possible time, without ever exceeding 30 days counting from the date of the fact that determines the change, except for the foreign entities that carry out occasional acts in Portugal, whose declarative obligation shall be fulfilled every time an act is performed.

Whenever possible, information regarding the entity shall be updated by means of automatic communication from the Public Administration databases. At the time of termination or dissolution, in fact or in law, of the entity, the obligation to declare any changes that have occurred in respect of the respective beneficial owners shall be fulfilled.



XVI. What are the consequences of non-compliance with declaratory obligations?

Failure by the company to maintain an updated record of the identification elements of the beneficial owner is an offense punishable by a fine of (euro) 1 000 to (euro) 50 000. Moreover, the information that the company has failed to fulfill its declaratory obligation is reflected on the commercial registry (this information is removed once that obligation has been met).

Until the compliance with the declaratory and rectification obligations is met, the companies shall not:

- Distribute profits of the financial year or make advances on profits during the financial year;
- Enter into supply contracts, public works contracts or purchase of services and goods with the State, autonomous regions, public institutes, local authorities and private social solidarity institutions mainly financed by the State Budget, as well as to renew the terms of the existing contracts;
- Compete for the concession of public services;
- To request the admission to list financial instruments representing the share capital of the company or convertible into it on a regulated market;
- Launch public offers of distribution of any financial instruments issued by them;
- Benefit from the support of European structural and investment funds and public funds;
- Intervene as a party to any business whose object is the transmission of property, whether for a consideration or free of charge, or the constitution, acquisition or transmission of any other right in rem or security interest over any real estate.