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On August 1, 2021, the Transparency Register and Financial Information Act (*Transparenzregister- und Finanzinformationsgesetz*, TraFinG; the “Act”) entered into force gradually strengthening registration requirements for the Transparency Register. The Act’s main provisions implement the Directive on access to financial information, (EU) 2019/1153, by amending the Money Laundering Act (*Geldwäschegesetz*, GwG). The amendments force nearly all legal entities registered in Germany, i.e. including all German subsidiaries of Japanese companies, to actively register with the German Transparency Register within 2022. The Act’s stated goal is to improve the interconnection of various European transparency registers and strengthen regulations over money laundering and terrorist financing. This newsletter provides an overview of the updated Transparency Register and outlines the content of registration.

1. Subject of the Transparency Register

Prior to the Act, the obligation to register with the Transparency Register was limited to a small selection of legal entities. Now, all legal entities registered in Germany, with the notable exception of registered associations (*eingetragene Vereine (e.V.)*), have to actively register with the Transparency Register by the following deadlines:

- Stock Corporations (*Aktiengesellschaften (AG)* or *Societas Europaea (SE)*) and Partnerships limited by shares (*Kommanditgesellschaften auf Aktien (KGaA)*) by March 31, 2022;
- Limited Liability Companies (*Gesellschaft mit beschränkter Haftung (GmbH)*), Cooperatives (*Genossenschaften*), European Cooperatives (*Europäische Genossenschaften*) and Partnerships (*Partnerschaften*) by June 30, 2022;
- all other legal entities registered in Germany by December 31, 2022.

The aforementioned deadlines apply only to legal entities not already obliged to register with the Transparency Register under the previous version of the GwG (in effect until to August 1, 2021). All other legal entities have to register without undue delay. In principal, the obligation to register only applies to legal entities registered in Germany. However, in the case of direct or indirect acquisitions of real estate in Germany, the obligation to register applies to foreign legal entities as well.

2. Content of Registration

Registration to the Transparency Register has to identify the ultimate beneficial owner of the legal entity with (i) full name, (ii) date of birth, (iii) address of residence, (iv) nationality and (v) type and extent of economic interest. The ‘economic interest’ includes, for example, participation in the legal entity itself (e.g. via shares or

voting rights), the power to exercise control in other ways (e.g. agreements with third parties or other shareholders or via the authority to appoint members of corporate bodies), or the beneficial owner's function, for example, as a trustee, trustee or foundation board member. In the case that there is no such beneficial owner, the legal entity's managing director must be registered.

Sanctions

The GwG foresees administrative fines in an amount of up to EUR 100,000. In cases of repeated and systematic infringements a fine of up to EUR 1 million can be imposed. Credit and financial institutions can be fined up to EUR 5 million or 10% of the annual turnover of the respective entity. Infringements of the registration obligation will be made public ('naming and shaming').

However, in case of missing the deadlines mentioned under I. and a delayed filing, the law foresees a leniency period of one year starting from the respective deadline mentioned above.

Necessary Steps

Japanese companies with subsidiaries in Germany should be aware of the increased relevance of the Transparency Register and assess their compliance with its updated registration obligation. It should also be ensured that any changes in beneficial ownership, e.g. as a result of M&A activity or internal restructurings, are reflected in the Transparency Register without undue delay.

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