

# QUEBEC: NEW OBLIGATIONS IN TERMS OF CORPORATE TRANSPARENCY

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As part of recent legislative changes to improve corporate transparency and reinforce the protection of the public, businesses subject to the *Act respecting the legal publicity of enterprises* ("**LPE**") will see an increase in their disclosure obligations with the Registre des entreprises du Québec ("**REQ**") as of **March 31, 2023**.

On June 3, 2021, in the context of combatting against fraud, tax evasion, money laundering and corruption, the Quebec National Assembly adopted the *Act mainly to improve the transparency of enterprises*, which amends the LPE, amongst other legislation, to improve the information available in the REQ. Accordingly, as of March 31, 2023, the date on which the relevant provisions come into effect, any business subject to the LPE will be required to disclose the additional information described below when filing its annual updating declarations with the REQ, in addition to the information currently required. This includes both businesses constituted in Quebec as well as federal, other provincial or foreign businesses registered in the REQ.

The additional information required pertains to the ultimate beneficiaries of the business, its directors and any individuals associated with the business.

## Ultimate beneficiaries

The legislative amendments introduce the concept of "ultimate beneficiary", defined as any individual who (i) holds, directly or indirectly, 25% or more of the voting rights of the business, or (ii) holds, directly or indirectly, 25% or more of the fair market value of the business, or (iii) has influence that could result in de facto control of the business.

Businesses will now be required to report certain information about their ultimate beneficiaries, namely:

1. Their first and last name, as well as any other name used by the ultimate beneficiary (for example, a pseudonym);
2. Their date of birth (the date will not be published on the REQ, but will be kept in the Registrar's file);
3. The date on which they became an ultimate beneficiary and, if applicable, the date on which they ceased to be one;

4. The address of their domicile (residential address); and
5. The type of control they exercise or the percentage of shares or units they hold or of which they are a beneficiary.

It should be noted that businesses will also have the option of declaring the business address of the ultimate beneficiary, meaning the address of their principal place of work or business. This could be advantageous since, in cases where the business address is declared, it is this address that will be published in the REQ instead of the residential address of the ultimate beneficiary. Businesses that choose to declare the business address will still be required to declare the residential address of each ultimate beneficiary, but that address will be kept on file with the Registrar without being published in the REQ.

### **Natural Persons Related to a Business**

Going forward, businesses will also have to declare the date of birth of any natural person related to the business whose name is entered in the REQ, i.e. shareholders, directors, officers, ultimate beneficiaries and any other person whose name appears in the REQ file with respect to the business. These dates of birth will not be published in the REQ, but will be kept in the files of the Registrar.

Businesses are already required to declare the residential address of each natural person related to the business, but they will now have the possibility to also declare the business address of these persons so that, as for the ultimate beneficiaries, their business addresses will be published in the REQ instead of their residential one. In this case, the residential address will still have to be declared, but will not be published in the REQ.

### **Directors**

With respect to directors, in addition to the information required to be declared for any natural person related to the business, businesses will have to send to the REQ a copy of a piece of identification of each director in office at the time the amendments to the LPE come into force.

Going forward, a copy of a piece of identification will be required to add any new elected director.

### **Exceptions**

The LPE (as amended) exempts certain businesses from the requirement to report the information set forth above with respect to their ultimate beneficiaries, including not-for-profit organizations, legal persons established in the public interest legal persons established in the public interest, reporting issuers within the meaning of the *Securities Act*, financial institutions, trust companies, banks and associations within the meaning of in the *Civil code of Québec*.

Moreover, an individual may apply to the Registrar to have his or her personal information made non-public

when they have reasonable grounds to believe that the release of the information poses a serious threat to their security. The Registrar will make a decision based on the strict criteria established by the LPE and the urgency of the situation presented to them.

by [Enda Wong](#), [Ingrid Anton](#), [Alice Ahmad](#)

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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