

NEWSLETTER AS OF MARCH 1ST, 2023

BILL 78 – ACT MAINLY TO IMPROVE THE TRANSPARENCY OF ENTERPRISES

As of March 31, 2023, the *Act mainly to improve the transparency of enterprises* (the “**Act**”) will come into force to help authorities fighting money laundering and tax fraud. This new Act will bring important changes to any person or entity registered with the *Registraire des entreprises* du Québec (the “**Registrants**”).

Under this new Act, the following information and documents will have to be provided for all Registrants, with certain exceptions provided for by the Act, including, notably, co-ownership syndicates and non-profit corporations which will be exempt from reporting their “ultimate beneficiary(ies)” (as more fully defined below):

- ✓ A copy of identification issued by a government authority (“**ID**”) for all directors of any Registrant;
- ✓ date of birth of directors, shareholders and "ultimate beneficiary(ies)"; and
- ✓ the home address and, if applicable, the business address of these same individuals.

Most of these changes will be public, except confidential information, such as date of birth, the ID and, if applicable, the personal address of any person who has opted to have his or her business address appear in the *Registraire des entreprises* du Québec (the “**REQ**”).

As mentioned above, all Registrants, subject to certain exceptions provided for by the Act, will have to provide the required information, including with respect to their “**ultimate beneficiary(ies)**”, which is defined as an **individual** who meets one of the following conditions:

- ✓ the person is the holder, even indirectly, or beneficiary of a number of shares or units of the Registrant conferring on the person the power to exercise 25% or more of the voting rights attached to the shares or units;
- ✓ the person is the holder, even indirectly, or is beneficiary of a number of shares or units the value of which corresponds 25% or more of the fair market value of all of the shares or units issued by the Registrant;
- ✓ the person has any direct or indirect influence that, if exercised, would result in control in fact of the Registrant, within the meaning of the *Taxation Act* (Québec), without however holding a sufficiently large number of shares or units;
- ✓ the person is the general partner of a Registrant; and/or
- ✓ the person exercises joint control or has agreed to control with one or more persons 25% or more of the voting rights of a Registrant, each of them therefore being considered an ultimate beneficiary of said Registrant.

The penalties for non-compliance with the new provisions, including the new mandatory disclosures and the determination of ultimate beneficiary(ies), are the following:

- ✓ monetary penalties ranging from \$500 to \$25,000 depending on the type of offence committed; and
- ✓ the ex officio cancellation of any Registrant who has failed to file annual updating declaration for two consecutive years.

For more information on all upcoming changes, please consult the following site:

<https://www.quebec.ca/entreprises-et-travailleurs-autonomes/demarrer-entreprise/immatriculer-constituer-entreprise/nouvelles-obligations-transparence>

WARNING:

This Newsletter is a simplified summary of the Act prepared for the purpose of providing information of a general nature. Each case should be analyzed precisely according to all the criteria of the laws and regulations in force. In addition, the Act empowers the government to determine, by regulation, other terms and conditions relating to those changes. Therefore, it is important to remain vigilant about legislation and regulatory changes in the coming months.