

REPORTING FRAMEWORK ON BENEFICIAL OWNERSHIP FOR COMPANIES IN MALAYSIA

The Companies Commission of Malaysia (CCM) has issued the Guideline for the Reporting Framework for Beneficial Ownership of Legal Persons, which came into effect on 1 March 2020 (Guidelines), to implement a reporting framework on the beneficial ownership (BO) of companies.

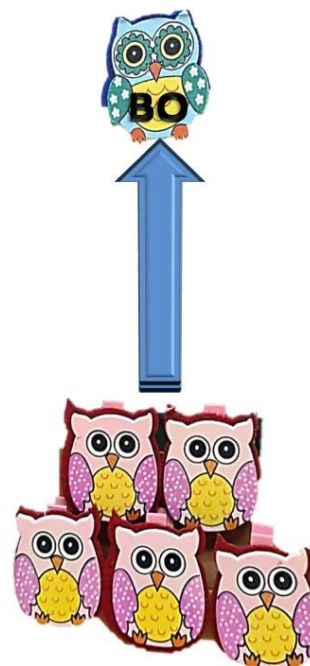
The CCM has prescribed a transition period from 1 March 2020 to 31 December 2020 for companies to comply with the BO reporting framework.

The guidelines is issued to assist legal persons [such as companies incorporated in Malaysia and foreign companies registered in Malaysia under the Malaysian Companies Act 2016 (CA)] to understand and comply with the requirements to obtain, keep and hold up-to-date BO information, and to provide access in a timely manner for the purposes of BO reporting framework.

BO is defined as “The ultimate Owner of the Shares.

In respect of companies limited by shares, the BO of a company is an individual (i.e. natural person) who satisfies any of the following criteria:

- (i) Has direct or indirect interest in 20% or more of the shares of the company;
- (ii) Holds directly or indirectly, 20% or more of the voting shares of the company;
- (iii) Has the right to exercise ultimate effective control over the company, directors or the management of the company;
- (iv) Has the right or power to directly or indirectly appoint or remove director(s) who hold a majority of the voting rights at meeting of the directors; or
- (v) Is a member of the company and, under an agreement with another member, controls alone a majority of the voting rights in the company.



In respect of companies limited by guarantee (i.e. companies without share capital), a BO is an individual (i.e. natural person) who satisfies either (iii) or (iv) above only.

Entities which are subjected to the BO Reporting Framework:

- (a) all companies incorporated in Malaysia under the CA;
- (b) foreign companies registered in Malaysia under the CA;
- (c) companies limited by guarantee; and
- (d) limited liability partnerships.

Entities which are exempted from the BO Reporting Framework:

- (i) companies licenced by Bank Negara Malaysia under the Financial Services Act 2013 and/or the Islamic Financial Services Act 2013;
- (ii) a prescribed development financial institution under the Development Financial Institutions Act 2002;
- (iii) a licenced money services business under the Money Services Business Act 2011;
- (iv) an entity licenced or registered under the Capital Markets and Services Act 2007;
- (v) companies whose shares are quoted in a local or foreign stock exchange; and
- (vi) companies whose shares are all deposited in the central depository pursuant to the Securities Industry (Central Depositories) Act 1991

After the transition period ending 31 December 2020, companies will be required to submit its BO Information to the CCM within 14 days from the end of that period or such extended time frame as the CCM may determine.

Parties responsible to ensure that the BO information is obtained and the accuracy of the BO information is verified for complying with the Section 56 of the CA (*power of company to require disclosure of beneficial interest in its voting shares*):-

1) Board of Directors

- to ensure that the company exercise its power to obtain and enter the BO information in the BO register

2) Members of the Company

- Obligation to inform the company once he receives a notice under Section 56(1) or 56(3) of the particulars of persons whom he holds the voting shares or parties to agreements or arrangements on the voting shares

3) Company Secretary

- Lodgment of information to CCM as required by the CA.

Please note that the following parties who fails to comply with the Section 56 of the CA and upon conviction, shall be liable to imprisonment for a term not exceeding 10 years or to a fine not exceeding RM3 million or both pursuant to Section 591 of the CA:

- (1) the Company;
- (2) Every Officer; and
- (3) the Member.