



PROPOSED COMPANIES (AMENDMENT) BILL 2022 & LIMITED LIABILITY PARTNERSHIPS (AMENDMENT) BILL 2022 ON BENEFICIAL OWNERSHIP

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Companies Commission of Malaysia

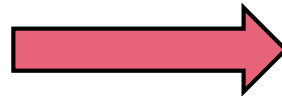
6 OCTOBER 2022

- Company Registry's Role
- Beneficial Ownership Legal Framework in Malaysia
- Guideline for the Reporting Framework for Beneficial Ownership of Legal Persons
- Proposed Amendments to the Companies Act 2016 & Limited Liability Partnerships Act 2012
- Frequently Asked Questions
- Joint Issuance of Reference Note between SSM and BNM

COMPANY REGISTRY'S ROLE



Registers & Regulates
Legal Persons

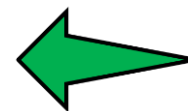


- Companies
- Limited liability partnerships
- Partnerships
- Sole proprietors

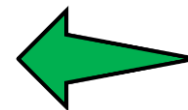


Keeps facility to supply
corporate information

Publicly available



Limited only to
Law Enforcement
Authorities



**BASIC INFORMATION &
other corporate information**

**BENEFICIAL OWNERSHIP
INFORMATION**

COMPANIES ACT 2016 [ACT 777]

Enforced on 31 January 2017

DEFINITION

- Section 2 to be read together with subsection 8(4)
- Ultimate owner of the shares
- Interest & control in shares

REPORTING FRAMEWORK

- Sections 51 & 56
- Power to request information from shareholders
- To record the BO information as part of the register of members
- Keep at registered office

SUBMISSION OF BO INFORMATION

- Section 68
- Declaration in annual return
- BO information must be lodged if shares are held by trustees or nominees

BENEFICIAL OWNERSHIP LEGAL FRAMEWORK



GUIDELINES FOR THE REPORTING FRAMEWORK FOR BENEFICIAL OWNERSHIP OF LEGAL PERSONS

Effective on 1 March 2020

OBJECTIVES

- To assist companies in complying with the BO reporting requirements
- To establish parameters for reporting requirements and continuous reporting obligations

COVERAGE AREA

- Application & exemption
- Main principles and obligations
- Criteria to identify a BO
- Reasonable measures to be taken in identifying a BO
- Transitional period

APPLICATION & EXEMPTION



- The guidelines is applicable to all companies and limited liability partnerships unless exempted
- Exempted companies are:
 - (a) Companies licensed by the Central Bank of Malaysia
 - (b) Companies regulated under the securities laws
 - (c) Companies whose shares are quoted on a stock exchange
 - (d) Companies whose shares are deposited in the central depository
- Exempted LLPs are:
 - (a) Companies licensed by the Central Bank of Malaysia
 - (b) Companies regulated under the securities laws

MAIN PRINCIPLES & OBLIGATIONS UNDER THE GUIDELINES



Identify, obtain & verify the BO Information



Record the BO Information



Keep the BO Information accurate & updated



Update changes to the BO Information & notify the Registrar

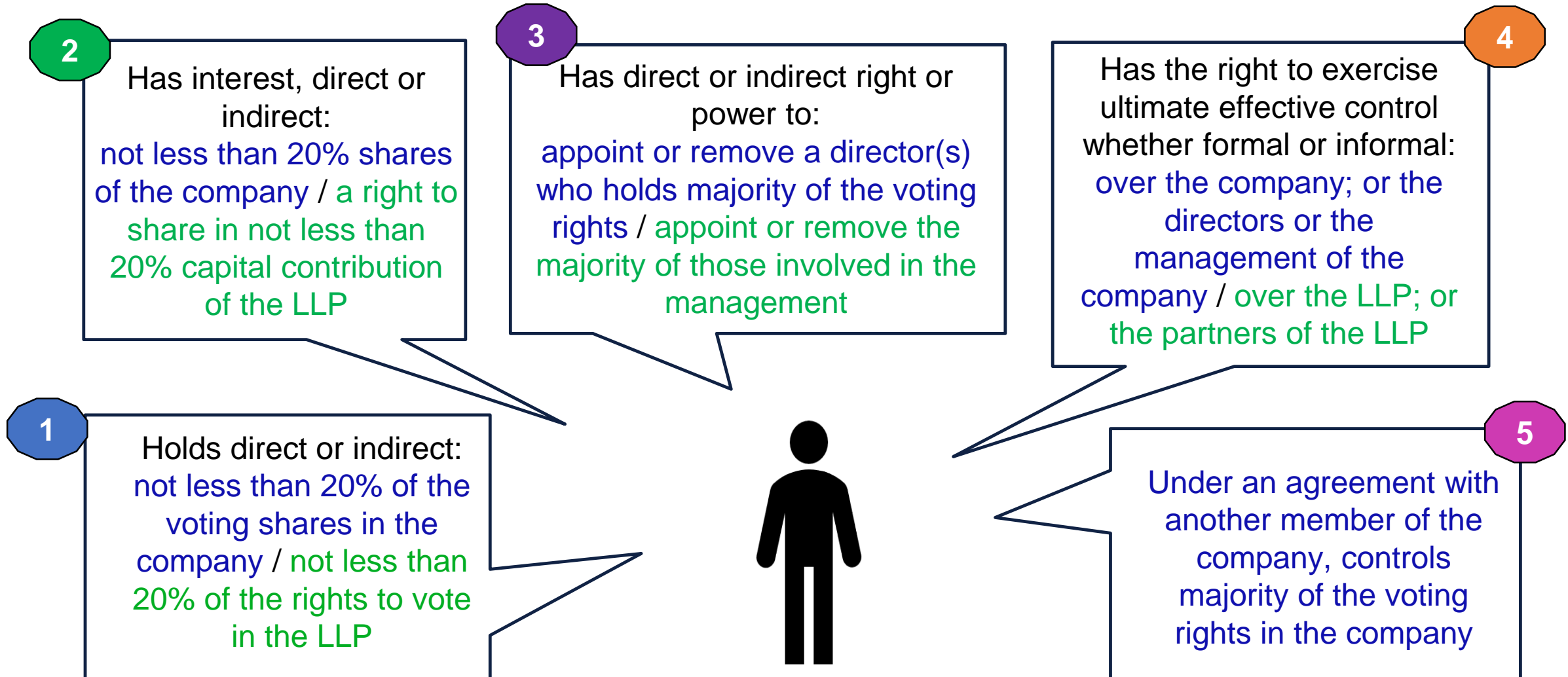


Keep the BO Information at the registered office or where the ROM/ ROP is kept



Give access to law enforcement agencies, the BO & authorized persons

CRITERIA TO IDENTIFY A BENEFICIAL OWNER (COMPANY)



REASONABLE MEASURES TO IDENTIFY A BENEFICIAL OWNER



Consider interest in the entity held by individual/ corporate entity/trust



Review all documents/ information available at the entity's level



Sending out notices under subsection 56(1), (2) or (3)



Consider any evidence to show interests or rights held through variety of means



Internal policy to require shareholders/ partners to notify the entity



Any other actions that can be taken depending on the entities

BO REPORTING TIMELINE

1 March until 31 December 2020

Entity to obtain, verify & keep the BO information at its level

After 31 December 2020 or such further extended date*

- ❖ Registrar will invoke his power under section 56(6) of the CA 2016 & companies will have 14 days to submit the BO information
- ❖ LLPs will have 14 days to notify the Registrar for any change to the registered particulars

Current Stage: The transitional period has been extended to coincide with the implementation of the proposed Companies (Amendment) Bill (via announcement made on 17 December 2020) & expected to be tabled at the next Parliamentary seating (Oct-Dec 2022)

AMENDMENT TO THE COMPANIES ACT 2016 & THE LIMITED LIABILITY PARTNERSHIPS ACT 2012



Register of BO

- ⑩ Requirement for companies/LLPs to keep a separate register of beneficial owners
- ⑩ Notify the Registrar of any changes in the register

Additional Powers

- ⑩ To request BO information from any person who knows the identity of the BO
- ⑩ To request information from BO when there is changes
- ⑩ To request BO to correct information

Obligation of BO

- ⑩ If a person believes that he is BO, he is required to inform the company/LLP & provide the relevant information accordingly
- ⑩ A BO must inform the company/LLP on changes of his particular including when he ceases to be a BO

FREQUENTLY ASKED QUESTIONS



FAQ#1

What is the difference between criteria (a) and (b) in the Guideline i.e., 20% of **shares** and 20% of the **voting shares** of the company?

FREQUENTLY ASKED QUESTIONS



FAQ#2

Whether any company can apply for an exemption under the Guideline?

FREQUENTLY ASKED QUESTIONS



FAQ#3

Will a subsidiary of an exempted company be exempted as well?

FREQUENTLY ASKED QUESTIONS



FAQ#4

Should companies comply with the BO requirements during the transitional period?

FREQUENTLY ASKED QUESTIONS



FAQ#5

Should a company comply with the requirements when the company has no BO?

JOINT REFERENCE NOTE SSM & BNM



REQUIREMENTS OF BNM AND SSM ON BENEFICIAL OWNERSHIP OF LEGAL PERSONS

Date of issuance: 31 March 2022

Objective: To provide clarity and guidance on the similarities and differences between the obligations on beneficial ownership reporting of company secretaries under the SSM's Guideline and the obligations of company secretaries as reporting institutions under the BNM's Policy Document

Content:

The Joint Reference Note is divided into 3 parts:

- Part A (Overview) - Introduction and objective of the Joint Reference Note
- Part B (Joint Illustrative Reference Note) - Overview of the beneficial ownership requirements in illustration format
- Part C (Appendices) - The requirements of the SSM's Guideline in comparison to the BNM's Policy Document which include applicability, definition of beneficial owner, reporting requirements, record keeping and exemptions from the reporting requirements which are in table format for ease of reference.

Note: This document is available on SSM's website (https://www.ssm.com.my/Pages/Legal_Framework/AML-CFT-Joint-Reference-Note.aspx)



THANK YOU