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Guidelines on Reporting Framework for Beneficial Ownership [UPDATE]

The Companies Commission of Malaysia has, following the issuance ^[1] of the exposure draft, published the Guidelines for the Reporting Framework for Beneficial Ownership of Legal Persons (**Guidelines**). The Guidelines have come into force, and extend to compliance by limited liability partnerships (**LLPs**).

The Guidelines are intended to provide guidance on beneficial ownership reporting, including criteria in determining the “ultimate owner of shares”. For instance, a person is a beneficial owner if he/she has:

- (i) has an interest, whether directly or indirectly, in not less than 20% of the shares of the company; or
- (ii) has the right to exercise ultimate effective control over a company, the directors or management of the company.

Companies and LLPs should note the following important points:

1. The Guidelines provide a transitional period ending 31 December for compliance. This means companies are to utilise this period to obtain beneficial ownership information from their members. At the end of such period, the Registrar may invoke his power under s 56(6) of the Companies Act 2016, requiring companies to submit beneficial ownership information within 14 days.
2. Companies must maintain an accurate register of beneficial ownership. Such records shall be kept for at least seven years (from the date a person ceases to be a beneficial owner). The register shall not be left empty. If there is no beneficial ownership identified, companies are required to state so in the register. Beneficial ownership information shall also be submitted in the companies’ annual returns and annual declarations (in the case of LLPs).
3. Companies are required to send out notices (using a prescribed form) to members, at least once in a calendar year, to obtain beneficial ownership information. The board is ultimately

responsible for ensuring that such notices are issued. Where no information (of beneficial ownership) is obtained, companies must show evidence that attempts to obtain such information have been made.

4. Companies are required to have an internal policy on beneficial ownership reporting. The Guidelines also suggest that if necessary, such policy be reflected in the companies' constitution.
5. Companies are obliged to conduct verification on information received. In identifying and verifying a beneficial owner, a company must rely on sufficient information and supporting documents.

The Guidelines are legally binding, and carry a potential penalty of a fine not exceeding RM50,000 or a maximum three years' jail term, or ^[2] both upon conviction, for non-compliance.

The Guidelines can be found [here](#).

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If you have any queries on the Guidelines, please contact the author or her supervising partner [Aaron Gerard Sankar](mailto:ags@lh-ag.com) (ags@lh-ag.com).

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[1]

Please see our alert issued on 28 November 2019, [Guidelines on Reporting Framework for Beneficial Ownership](#).

[2]

Section 56(7) read together with s 588 of the Companies Act 2016