

**AML/CFT 2021:**

**Guidelines on Beneficial Ownership for  
Labuan Legal Persons and Legal  
Arrangements**

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**9 December 2021**

# I. FATF's Requirements... *BO Information*



## The Financial Action Task Force (FATF) Recommendations (Rec) 24 and 25

### Transparency and Beneficial Ownership (BO) of Legal Persons and Legal Arrangements

**FATF's requirements are as follows:**

- (1) Countries should require all companies:
  - (i) to **obtain and hold adequate, accurate and up-to-date** information on the company's own beneficial ownership;
  - (ii) to **cooperate with competent authorities** to the fullest extent possible **in determining the BO**;
  - (iii) to make the **BO information available** to competent authorities **in a timely manner**; and
  - (iv) to cooperate with financial institutions/DNFBPs to provide accurate and up-to-date BO information.
- (2) Countries should require BO information to be held by a public body or use an alternative mechanism (as specified).

## II. Overview of the Guidelines

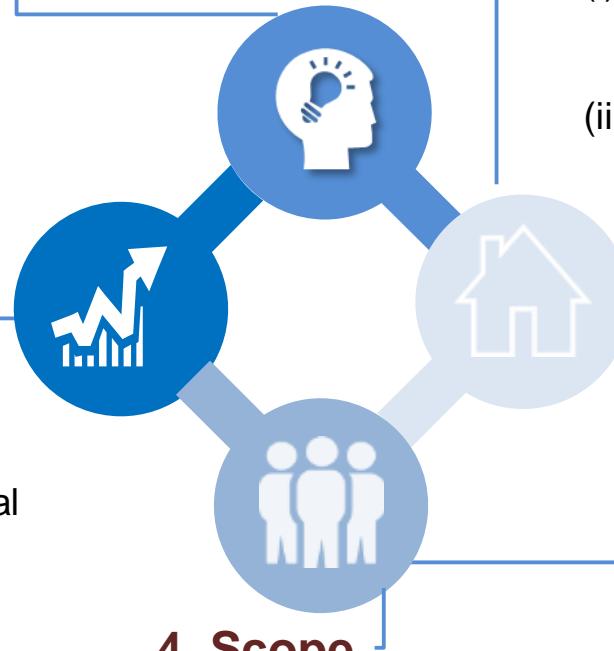
### 1. Objective

Clarifies the obligations for Labuan entities to obtain, verify and hold up-to-date BO information in line with FATF standards.

### 5. Market-Consistent Practices

In line with domestic & international registrars:

- CCM, Malaysia
- CR, HK
- ACRA, Singapore
- JFSC Company Registry, Jersey
- FSC (Registry of Corporate Affairs), BVI



### 4. Scope

Applicable to BO information of:

- (i) *Labuan Legal Persons*
  - *Labuan Companies*
  - *Labuan Limited Liability Partnerships*
  - *Labuan Foundations*
- (ii) *Labuan Legal Arrangements*
  - *Labuan Trusts*
  - *Labuan Limited Partnerships*

### 2. Approach

- (i) Sets out BO principles:
  - *At par with FATF standards*
  - *Comparable with peer registrars*
- (ii) Illustrations on applications to different Labuan entities

### 3. Consultation

- (i) Obtain feedback from Trust co
- (ii) Inputs from BNM's FIED
- (iii) Deliberated with and concurred by Financial Stability Committee

### III. BO Principles... *identification of BO*

#### Principle 1: Identification of BO for Labuan Entities

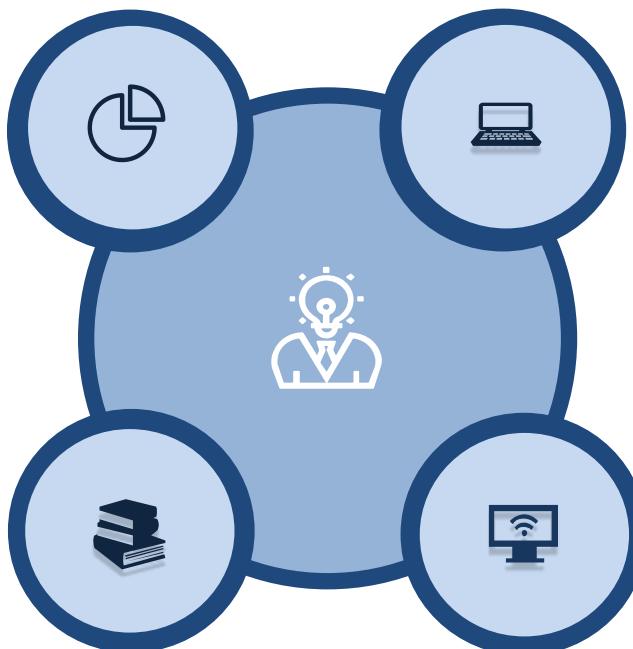
##### (A) Companies & Partnerships

A natural person is a BO if he:



##### Ownership

holds more than 25% of the issued shares or capital contribution



##### Voting Rights

holds more than 25% of the voting rights



##### Power

holds the right to appoint or remove a majority of the board of directors



##### Control

holds the right to exercise effective control and influence

### III. BO Principles... *identification of BO*

#### Principle 1: Identification of BO for Labuan Entities

##### (B) Foundations & Trusts

A natural person is a BO if he:



##### Control

has the right to exercise effective control and influence over the activities, including the right to direct or influence the running of the activities of the foundation or trust



##### Named Beneficiary

benefits from funds or assets endowed / held under the charter or trust deed



##### Other High Risk Beneficiaries

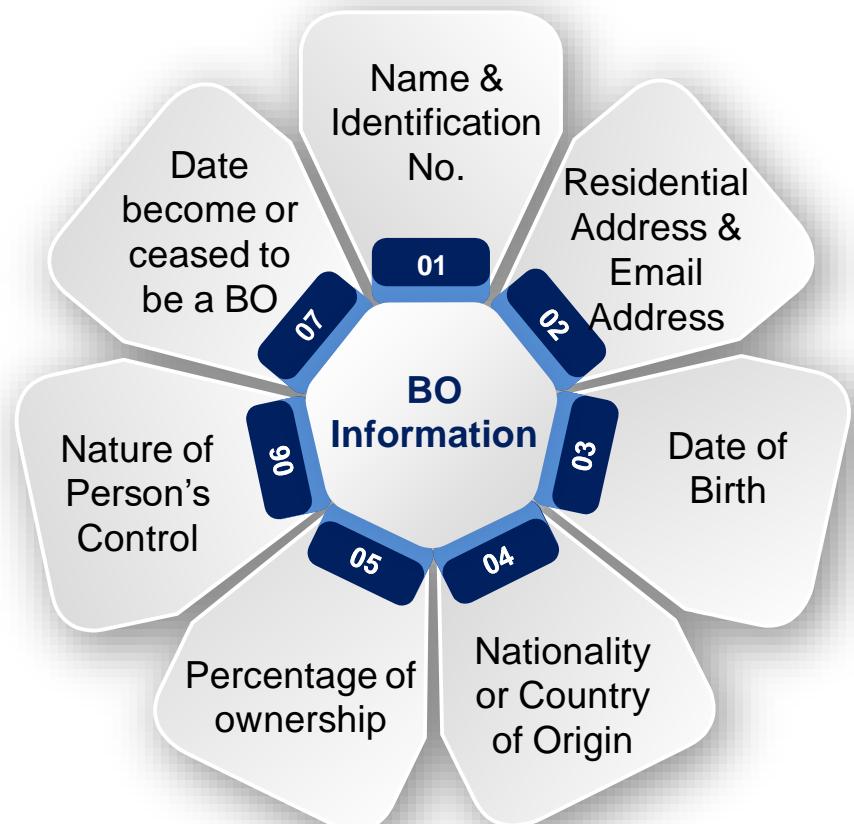
is any other beneficiary whom the council or trustee may exercise discretion and who has been identified as presenting higher AML/CFT risk (e.g. NPO)

### III. BO Principles... *duties of a Labuan entity*

#### Principle 2:

**Duties of a Labuan entity to obtain and provide adequate, accurate and up-to-date BO and nominee information to the authorised agent.**

**1** The Labuan entity would need to acquire at least the following information for BO:



**2** If there is a nominee structure involved, the Labuan entity has to:

- declare nominee status; and
- obtain BO information on the nominators.

**3** Labuan entity has to:

- provide these information with supporting documents upon incorporation to the authorised agent.
- update the authorised agent when there is a change of BO information.

### III. BO Principles... *duties of an Authorised Agent*

#### Principle 3:

Duties of an authorised agent to maintain up-to-date BO and nominee information of its Labuan entities at the registered office.

**The authorised agent has to:**

obtain and hold sufficient, precise and current information from the Labuan entity.

1

update promptly whenever there is a change of information.

2

keep all documents:

- (a) at the registered office at all times.
- (b) for at least 6 years from the date a person ceases to be a BO.

3

#### Principle 4:

The authorised agents should provide timely access of the beneficial ownership and nominee information to the Authority and extend its cooperation to regulated entities.

**The authorised agent has to:**

provide prompt access of BO and nominee information to the Authority.

cooperate with the Authority in determining the BO and nominee.

cooperate with FIs to provide BO and nominee information.

# THANK YOU

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The information contained herein is of a general nature and should not be regarded as offering a complete explanation of the business of Labuan IBFC or Labuan FSA.