

AML/CFT 2021:

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

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.

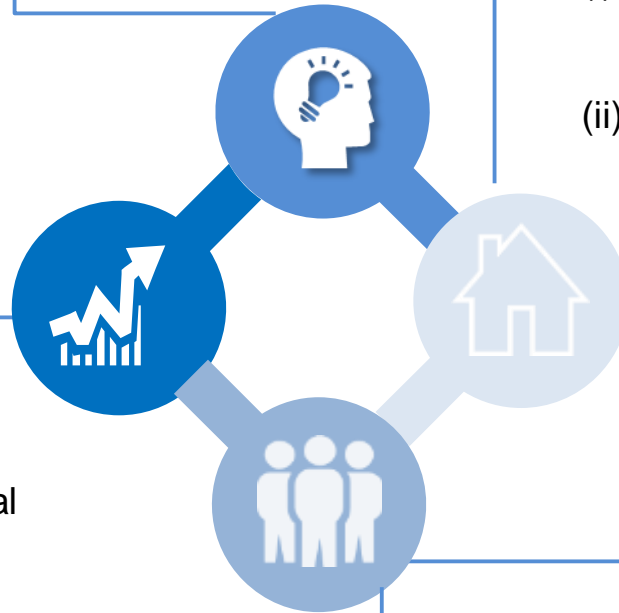
2. Approach

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

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



3. Consultation

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

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*

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

Principle 1: Identification of BO for Labuan Entities

(A) Companies & Partnerships

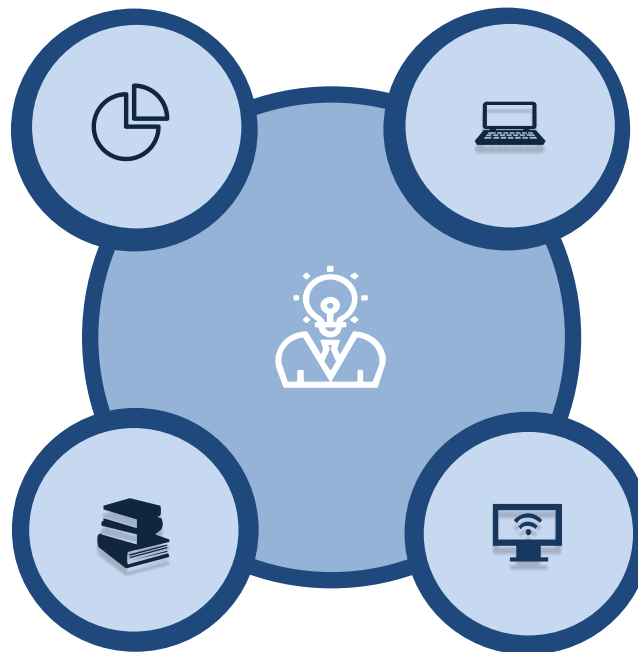
A natural person is a BO if he:

Ownership

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

Power

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



Voting Rights

holds more than 25% of the voting rights

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

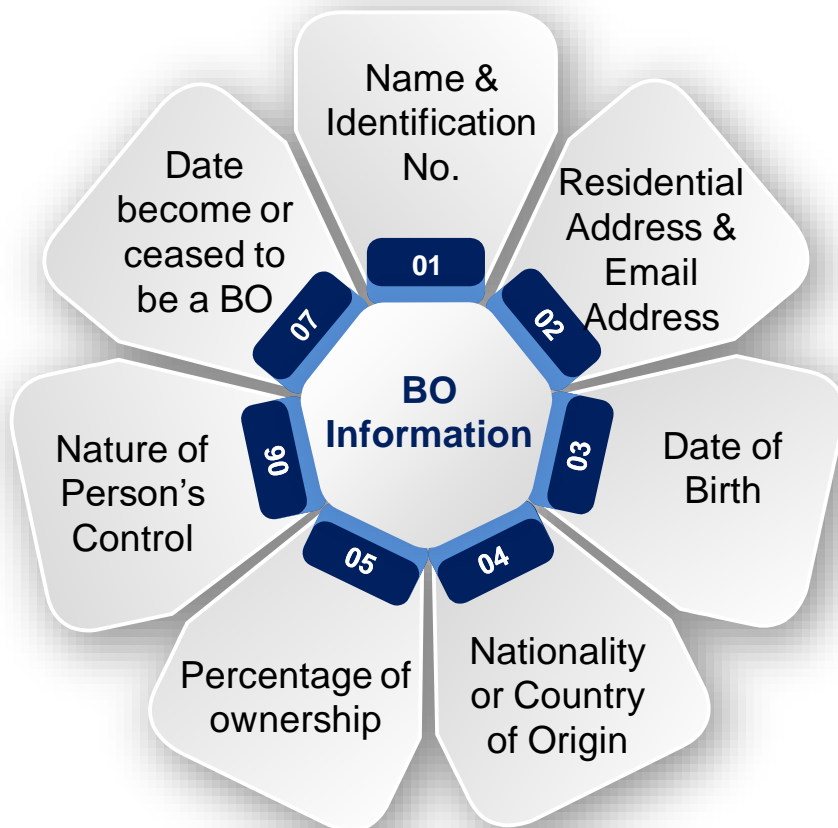
is any other beneficiary whom the council or trustee may exercise discretion and who has been identified as presenting higher AML/CFT risk (e.g. NPO)

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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