

MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 8th February, 2019

G.S.R. 100(E).— In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with section 90 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Significant Beneficial Owners) Rules, 2018, namely:-

1. (1) These rules may be called the Companies (Significant Beneficial Owners) Amendment Rules, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Significant Beneficial Owners) Rules, 2018 (hereinafter referred to as the principal rules), in rule 2, in sub-rule (1), for clauses (b) to (e), the following clauses shall be substituted, namely:-

(b) “control” means control as defined in clause (27) of section 2 of the Act;

(c) "form" means the form specified in Annexure to these rules;

(d) “majority stake” means;-

(i) holding more than one-half of the equity share capital in the body corporate; or

(ii) holding more than one-half of the voting rights in the body corporate; or

(iii) having the right to receive or participate in more than one-half of the distributable dividend or any other distribution by the body corporate;

(e) “partnership entity” means a partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932) or a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);

(f) “reporting company” means a company as defined in clause (20) of section 2 of the Act, required to comply with the requirements of section 90 of the Act;

(g) “section” means a section of the Act;

(h) “significant beneficial owner” in relation to a reporting company means an individual referred to in sub-section (1) of section 90, who acting alone or together, or through one or more persons or trust, possesses one or more of the following rights or entitlements in such reporting company, namely:-

(i) holds indirectly, or together with any direct holdings, not less than ten per cent. of the shares;

(ii) holds indirectly, or together with any direct holdings, not less than ten per cent. of the voting rights in the shares;

(iii) has right to receive or participate in not less than ten per cent. of the total distributable dividend, or any other distribution, in a financial year through indirect holdings alone, or together with any direct holdings;

(iv) has right to exercise, or actually exercises, significant influence or control, in any manner other than through direct holdings alone;

Explanation I. – For the purpose of this clause, if an individual does not hold any right or entitlement indirectly under sub-clauses (i), (ii) or (iii), he shall not be considered to be a significant beneficial owner.

Explanation II. – For the purpose of this clause, an individual shall be considered to hold a right or entitlement directly in the reporting company, if he satisfies any of the following criteria, namely.—

- (i) the shares in the reporting company representing such right or entitlement are held in the name of the individual;
- (ii) the individual holds or acquires a beneficial interest in the share of the reporting company under sub-section (2) of section 89, and has made a declaration in this regard to the reporting company.

Explanation III. – For the purpose of this clause, an individual shall be considered to hold a right or entitlement indirectly in the reporting company, if he satisfies any of the following criteria, in respect of a member of the reporting company, namely:-

(i) where the member of the reporting company is a body corporate (whether incorporated or registered in India or abroad), other than a limited liability partnership, and the individual,—

- (a) holds majority stake in that member; or
- (b) holds majority stake in the ultimate holding company (whether incorporated or registered in India or abroad) of that member;

(ii) where the member of the reporting company is a Hindu Undivided Family (HUF) (through *karta*), and the individual is the *karta* of the HUF;

(iii) where the member of the reporting company is a partnership entity (through itself or a partner), and the individual,-

- (a) is a partner; or
- (b) holds majority stake in the body corporate which is a partner of the partnership entity; or
- (c) holds majority stake in the ultimate holding company of the body corporate which is a partner of the partnership entity.

(iv) where the member of the reporting company is a trust (through trustee), and the individual,-

- (a) is a trustee in case of a discretionary trust or a charitable trust;
- (b) is a beneficiary in case of a specific trust;
- (c) is the author or settlor in case of a revocable trust.

(v) where the member of the reporting company is,-

- (a) a pooled investment vehicle; or
- (b) an entity controlled by the pooled investment vehicle,

based in member State of the Financial Action Task Force on Money Laundering and the regulator of the securities market in such member State is a member of the International Organization of Securities Commissions, and the individual in relation to the pooled investment vehicle,-

- (A) is a general partner; or
- (B) is an investment manager; or
- (C) is a Chief Executive Officer where the investment manager of such pooled vehicle is a body corporate or a partnership entity.

Explanation IV. Where the member of a reporting company is,

- (i) a pooled investment vehicle; or
- (ii) an entity controlled by the pooled investment vehicle,

based in a jurisdiction which does not fulfil the requirements referred to in clause (v) of Explanation III, the provisions of clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation III, as the case may be, shall apply.

Explanation V. – For the purpose of this clause, if any individual, or individuals acting through any person or trust, act with a common intent or purpose of exercising any rights or entitlements, or exercising control or significant influence, over a reporting company, pursuant to an agreement or understanding, formal or informal, such individual, or individuals, acting through any person or trust, as the case may be, shall be deemed to be ‘acting together’.

Explanation VI. – For the purposes of this clause, the instruments in the form of global depository receipts, compulsorily convertible preference shares or compulsorily convertible debentures shall be treated as ‘shares’.

(i) “significant influence” means the power to participate, directly or indirectly, in the financial and operating policy decisions of the reporting company but is not control or joint control of those policies’.

3. In the principal rules, for rules 3 and 4, the following rules shall be substituted, namely:-

“2A. **Duty of the reporting company.**- (1) Every reporting company shall take necessary steps to find out if there is any individual who is a significant beneficial owner, as defined in clause (h) of rule 2, in relation to that reporting company, and if so, identify him and cause such individual to make a declaration in Form No. BEN-1.

(2) Without prejudice to the generality of the steps stated in sub-rule (1), every reporting company shall in all cases where its member (other than an individual), holds not less than ten per cent. of its:-

- (a) shares, or
- (b) voting rights, or
- (c) right to receive or participate in the dividend or any other distribution payable in a financial year,

give notice to such member, seeking information in accordance with sub-section (5) of section 90, in Form No. BEN-4.

3. Declaration of significant beneficial ownership under section 90.- (1) On the date of commencement of the Companies (Significant Beneficial Owners) Amendment Rules, 2019, every individual who is a significant beneficial owner in a reporting company, shall file a declaration in Form No. BEN-1 to the reporting company within ninety days from such commencement.

(2) Every individual, who subsequently becomes a significant beneficial owner, or where his significant beneficial ownership undergoes any change shall file a declaration in Form No. BEN-1 to the reporting company, within thirty days of acquiring such significant beneficial ownership or any change therein.

Explanation.- Where an individual becomes a significant beneficial owner, or where his significant beneficial ownership undergoes any change, within ninety days of the commencement of the Companies (Significant Beneficial Owners) Amendment Rules, 2019, it shall be deemed that such individual became the significant beneficial owner or any change therein happened on the date of expiry of ninety days from the date of commencement of said rules, and the period of thirty days for filing will be reckoned accordingly.

4. Return of significant beneficial owners in shares.- Upon receipt of declaration under rule 3, the reporting company shall file a return in Form No. BEN-2 with the Registrar in respect of such declaration, within a period of thirty days from the date of receipt of such declaration by it, along with the fees as prescribed in Companies (Registration offices and fees) Rules, 2014.”.

4. In the said principal rules, for rules 7 and 8, the following rules shall be substituted, namely:-

“**7. Application to the Tribunal.**- The reporting company shall apply to the Tribunal, -

- (i) where any person fails to give the information required by the notice in Form No. BEN-4, within the time specified therein; or
- (ii) where the information given is not satisfactory,

in accordance with sub-section (7) of section 90, for order directing that the shares in question be subject to restrictions, including –

- (a) restrictions on the transfer of interest attached to the shares in question;
- (b) suspension of the right to receive dividend or any other distribution in relation to the shares in question;
- (c) suspension of voting rights in relation to the shares in question;
- (d) any other restriction on all or any of the rights attached with the shares in question.

8. Non-Applicability.-These rules shall not be made applicable to the extent the share of the reporting company is held by,-

- (a) the authority constituted under sub-section (5) of section 125 of the Act;
- (b) its holding reporting company:

Provided that the details of such holding reporting company shall be reported in Form No. BEN-2.

- (c) the Central Government, State Government or any local Authority;
- (d) (i) a reporting company, or

(ii) a body corporate, or

(iii) an entity,

controlled by the Central Government or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;

(e) Securities and Exchange Board of India registered Investment Vehicles such as mutual funds, alternative investment funds (AIF), Real Estate Investment Trusts (REITs), Infrastructure Investment Trust (InVITs) regulated by the Securities and Exchange Board of India,

(f) Investment Vehicles regulated by Reserve Bank of India, or Insurance Regulatory and Development Authority of India, or Pension Fund Regulatory and Development Authority.

5. In the principal rules, for Form No. BEN-1, Form No. BEN-2, Form No. BEN-3 and BEN-4 the following Forms shall be substituted, namely:—

“Form No. BEN-1

Declaration by the beneficial owner who holds or acquires significant beneficial ownership in shares

[Pursuant to section 90(1) of the Companies Act, 2013 and rule 2A, 3]

To

Name of the company:

Registered office address:

1. Purpose of filing the form (choose any one)

For declaration of Significant Beneficial Ownership under Section 90

For Change in Significant Beneficial Ownership under Section 90

ID of the Significant Beneficial Owner

2. Particulars of the holder of the significant beneficial interest:

Name of the Significant Beneficial Owner (Given name and last Name)	
Address and Email id	
Date of Birth/Age	
Father's/ Mother's/Spouse's name	
Occupation	
Nationality	
Passport No. (in case of foreign national)	

3A. Nature of indirect holding or exercise of right in the reporting company through member of the reporting company (where more than one repeat this para of the Form)

(a) Type of Member (Company/ LLP/Any other Body Corporate/HUF/ Partnership Firm/Discretionary Trust/Charitable trust/Specific Trust/Revocable Trust /Pooled Investment vehicle (PIV) / Entity controlled by PIV)

(b) Corporate Identity number(CIN) or Limited Liability Partnership Identification number(LLPIN) or any other registration number allotted by the regulator established under the Act

(c) Name of the Member

(d) Address

Line I

Line II

City

State

Country

Pin Code

(e) Nature of indirect holding or exercise of right in the reporting company:

- By virtue of shares %
 By virtue of voting rights in shares %
 By virtue of rights on distributable dividend or any other distribution %
 By virtue of exercise of control (attach copy of agreement)
 By virtue of exercise of significant influence (attach copy of agreement)

(f) Status of significant beneficial owner in the member of the reporting company (choose any one)

- Individual in case of company or any other body corporate
 Partner in case of partnership firm or LLP
 Karta in case of HUF
 Trustee in case of a discretionary trust or charitable trust
 Beneficiary in case of a specific trust
 Author or settlor in case of a revocable trust
 General Partner, Investment Manager or CEO in case of pooled investment vehicle or entity controlled by pooled investment vehicle

(g) In case the member is a partnership firm or LLP, specify whether significant beneficial owner:

- is a partner
 holds majority stake in the body corporate partner
 holds majority stake in the ultimate holding company of the body corporate partner

(h) In case the member is a company or any other body corporate, specify whether significant beneficial owner holds:

- majority stake in such company or body corporate
 majority stake in the ultimate holding company of such company or body corporate

(i) Whether Significant Beneficial Owner has any direct holding or right in the reporting company

- Yes No

If yes, enter details below:

- By virtue of shares %
 By virtue of voting rights in shares %
 By virtue of rights on distributable dividend or any other distribution %
 By virtue of exercise of control (attach copy of agreement)
 By virtue of exercise of significant influence (attach copy of agreement)

Date:

Place:

Signature of the holder of the significant beneficial interest

Attachments:

FORM NO. BEN-2

[Pursuant to section 90(4) of The Companies Act, 2013 and rule 4 and 8 of The Companies (Significant Beneficial Owners) Rules, 2018]



Return to the Registrar in respect of declaration under section 90

Form language English Hindi

Refer the instruction kit for filing the form.

1. (a) *Corporate Identity Number (CIN) of company
2. (a) Name of the company
- (b) Registered Office Address
- (c) *email Id

3. * Purpose of filing the form

- For declaration of Significant Beneficial Ownership under Section 90

Number of Significant Beneficial Owners for whom the form is being filed

- For Change in Significant Beneficial Ownership under Section 90

ID of the Significant Beneficial Owner

- For declaration of holding reporting company

CIN of the holding reporting company

4. (A) Number of Members through whom indirect holding or right in reporting company is being exercised

(B) Details of the Member

- I. * Manner in which significant beneficial interest is being held or exercised either indirectly or together with any direct holding or right (select one or more as may be applicable)

- By virtue of shares %
- By virtue of voting rights in shares %
- By virtue of rights on distributable dividend or any other distribution %
- By virtue of exercise of control (attach copy of agreement)
- By virtue of exercise of significant influence (attach copy of agreement)

Particulars of the Member

(a) Type of Member

(b) Corporate Identity number(CIN) or Foreign Company Registration Number (FCRN) or Limited liability partnership Identification number(LLPIN) or any other registration number

(c) Name of the Member

(d) Address

Line I

Line II

City State

Country Pin Code

(e) Email ID of the Member

(f) Date of entry of name in register u/s 88 (DD/MM/YYYY)

(C) Status of the SBO

(D) Whether individual (SBO) has majority stake in the

- Member of the Reporting Company
 Ultimate Holding Company of the member of the reporting company

Corporate Identity number (CIN) or FCRN or any other registration number

Name of the ultimate holding company

(E) Whether the individual (SBO):

- is a Partner of the member
 holds majority stake in the body corporate partner
 holds majority stake in the ultimate holding company of the body corporate partner

Corporate Identity number(CIN) or FCRN or any other registration number

Name of the body corporate partner/ ultimate holding company

(F) Particulars of the Significant Beneficial Owner

(a) Name

First name
 Last name
 Middle name

(b) Father's Name (Even married women must give father's name)

First name
 Last name
 Middle name

(c) Date of birth (DD/MM/YYYY)

(d) Nationality

(e) Whether a citizen of India Yes No

(f) Income Tax PAN

(g) Passport Number

(h) Address

Line I

Line II

City State

Country Pin Code

(i) Email ID of the Significant Beneficial Owner

(j) Date of acquiring Significant Beneficial Interest
 (DD/MM/YYYY)

(k) Date of declarations under sub-section (1) of section 90
 (DD/MM/YYYY)

(l) Date of receipt of the declaration by the company
 (DD/MM/YYYY)

(m) Whether Significant Beneficial Owner has any direct holding or right in the reporting company

Yes

No

If yes, enter details below:

- By virtue of shares %
- By virtue of voting rights in shares %
- By virtue of rights on distributable dividend or any other distribution %
- By virtue of exercising control (attach copy of agreement)
- By virtue of exercising significant influence (attach copy of agreement)

Attachments:

- *Declaration under Section 90
- Optional attachments, if any

Attach

Attach

List of

Remove attachment

Declaration

To the best of my knowledge and belief, the information given in this form and attachments is correct and complete. I have been authorized by board of directors' resolution dated* (DD/MM/YYYY) to sign and submit this form.

*To be digitally signed by

DSC BOX

*Designation

*Director identification number of the director; or
DIN or PAN of the manager or CEO or CFO; or
Membership number of company secretary.

Certificate by Practicing Professional

It is hereby certified that I have gone through the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original records maintained by the Company which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.

Chartered Accountant (in whole-time practice) or

Cost Accountant (in whole-time practice) or

Company Secretary (in whole-time practice)

DSC BOX

Whether Associate or Fellow

Associate

Fellow

Membership Number

Certificate of Practice Number

Modify

Check form

Prescrutiny

Submit

Note: Attention is also drawn to provisions of Section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

This e-Form has been taken on file maintained by the register of companies through electronic mode and on the basis of statement of correctness given by the Director and professional.

Form no. BEN-3

Register of beneficial owners holding significant beneficial interest

[Pursuant to section 90(2) of the Companies Act, 2013 and rule 5(1)]

Name of the company:

Registered office address:

Sl. No.	Name of the Beneficial Owner	Address and E-mail id	Date of Birth/ Age	Father's/ Mother's/ Spouse's name
(1)	(2)	(3)	(4)	(5)
Occupation	Nationality	PAN/UID	Passport No. (in case of foreign national)	Status
(6)	(7)	(8)	(9)	(10)
Date of declaration under section 90	Date of cessation	Date of entry in Register	Date of filing of BEN-2(SRN wise)	Any other interest, if any
(11)				
Instructions, if any, given by the member				

Form no. BEN-4

[Pursuant to section 90(5) of the Companies Act, 2013, rule 2A, 6 and rule 7]

[<<Insert Company Name>>] (the "Company")

<<Insert Date>>

[By post/email]

To:

Name and address of significant beneficial owner/any other person

Date:

Subject: Notice under sub-section (5) of Section 90 of the Companies Act, 2013 and rules made thereunder

The Company has reasonable cause to believe that* :

you are a significant beneficial owner of the company;
 have knowledge of the identity of significant beneficial owner/another personlikely to have such knowledge;
 being a member hold not less than 10% of the shares/voting rights/rights on dividend or any other distribution in the company
 have been a significant beneficial owner of the company during the three years immediately preceding the date of this notice, and

in respect of the above significant beneficial ownership, the return prescribed under Section 90 of the Act has not been filed in compliance with the Act.

You are accordingly advised to give the following information within 30 days of the date of this notice in accordance with the section 90 of the Companies Act, 2013:

1. Name and Address of the Beneficial Owner
2. PAN of the B.O
3. Name of the person/entity/trust/body etc in whose name the shares/rights are registered/held

4. Date of acquiring beneficial interest
5. Documents, terms and conditions or any other particulars regarding the BO ownership
6. Reason for not filing declaration in Form No. BEN-1.
7. Any other information incidental to or relevant or in your possession or knowledge to enable the company to evaluate this matter.

* A copy of Form No. BEN-1 is attached for compliance.

The abovementioned particulars should be submitted in writing to the registered address of the company not later than 30 days of the date of this notice failing which the company shall proceed in the matter without further notice as per the provisions of the Act.

Name & signature
(Person authorized to issue notice)

**Delete whichever is not applicable*

[F.No. 1/1/2018 CL-V]
K.V.R. MURTY, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Part II, Extra ordinary, Section 3, Sub section (i) *vide* number G.S.R. 561(E), dated the 13th June, 2018.
