

LEGAL ALERT

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Technical Regulation for Mandatory Beneficial Owners Identification and Report Issued

Following the enactment of Presidential Regulation no. 13 year 2018 concerning Implementation of the Principle of Knowing Beneficial Owner of Corporations related to the Prevention and Eradication of Money Laundering and Terrorism Financing Crimes (“**PR 13/2018**”) on 5 March 2018, the Minister of Law and Human Rights (“**MOLHR**”) recently issued Regulation no. 15 year 2019 regarding Implementing Procedures for the Application of the Know-Your-Beneficial-Owner Principle by Corporations (“**MOLHR Regulation 15/2019**”). The MOLHR Regulation 15/2019 came into effect on 27 June 2019 and acts as the implementing regulation to lay out the technical details.

The Beneficial Owner identification and verification obligation applies to Corporations i.e. limited liability companies, foundations, associations, cooperatives, limited liability partnerships, and firms.

The MOLHR Regulation 15/2019 essentially elaborates further about the following procedures, i.e., the (A) identification criteria, (B) obligation to report information, and (C) right to exchange information on Beneficial Owners of a Corporation.

A. Identification criteria of Beneficial Owner

Corporations are required to (i) identify and verify Beneficial Owners, who are individuals who (ii) meet the criteria set out below:

i. Identification and verification of Beneficial Owner

Regulation 15/2019 echoes the requirements contained in PR 13/2018 regarding the sources of information from which the Beneficial Owner of a Corporation may be established, but further expounds the requirements.

The above-mentioned documents are then to be verified by the Corporation.

ii. Criteria of Beneficial Owner

The MOLHR Regulation 15/2019 reiterates the criteria that qualify a Beneficial Owner as stipulated in PR 13/2018 for limited liability companies. It defines a Beneficial Owner as an individual who:

- a. owns more than 25% of the company’s shares (as recorded in the Articles of Association);
- b. holds more than 25% of the voting rights in the company (as recorded in the Articles of Association);
- c. receives more than 25% of the total net annual profit earned by the company;
- d. has the power to appoint, replace or remove directors and commissioners;
- e. has the authority or power to direct or control the company without the need for authorisation or approval from any party;
- f. eligible for benefits, direct or indirect, from the company; and/or
- g. is the true owner of the funds of the company’s share capital.

B. Obligation to report

The most significant addition contained in MOLHR Regulation 15/2019 would be the provisions regarding reporting obligation, which is based on the establishment or during the conduct of business, as follows:

Report of Beneficial Owners information at establishment, registration, or legalisation

No.	Report at establishment, registration, or legalisation		
1.	Condition	Beneficial Owner has been identified	Beneficial Owner has not been identified
2.	Time	Report of Beneficial Owner information on the submission of the establishment application	<ul style="list-style-type: none"> Statement Letter consenting to report Beneficial Owner information on the submission of the establishment application. Submission of Beneficial Owner information at the latest 7 business days after the Corporation obtains business license or registration certificate
3.	Persons authorised to conduct	Notary	
4.	Mode	Electronically through Online General Law Administration at Directorate General of General Law Administration ("AHU Online")	

Report of Beneficial Owners information during the conduct of business

No.		Report after legalisation of Company		
		During the Conduct of Business	Changes	Periodic Update
1.	Condition	Identifying and reporting the beneficial owners	<ul style="list-style-type: none"> Addition of information, or Revocation of information 	Information update based on review of previously-related information
2.	Time	Within 1 year after the enactment of PR 13/2018 on 5 March 2018	At the latest 3 days after the change occurs	Annually as of the last update date
3.	Persons authorised to conduct	<ul style="list-style-type: none"> Notary Founder / Management Other parties authorised by the founder or management of the Corporation 		
4.	Mode	Electronically through AHU Online		

Please note that since 2017 the Notary is obligated to apply Know-Your-Customer Principle under the MOLHR Regulation no. 9 year 2017 concerning the Implementation of the Know-Your's-Customer Principle by Notaries, which they are required:

- to implement the know-your-customer principle by identifying and verifying the customer, and monitoring the transaction of customer; and
- to obtain information on the Beneficial Owner of a Corporation through the collection of information on individuals who control and/or receive benefits from the Corporation, either directly or indirectly.



C. Obligation to exchange information

The MOLHR Regulation 15/2019 further stipulates that the information on Beneficial Owners can be shared by the MOLHR with requesting institutions including (i) law enforcement bodies, (ii) government bodies, (iii) authorised bodies of other countries/jurisdictions, and (iv) the Financial Transaction Reporting and Analysis Center (PPATK). It also provides that further regulation regarding request of information on Beneficial Owners will be stipulated by the MOLHR.

D. Request of information of Beneficial Owner

The MOLHR Regulation 15/2019 states that anyone can request information of beneficial ownership of a certain Corporation to the MOLHR. This request will be regulated further by the MOLHR.

If you have any questions or require any additional information, please contact [Leoni Silitonga](#) or [Sianti Candra](#) of Roosdiono & partners (a member of ZICO Law).

This alert is for general information only and is not a substitute for legal advice.