

REGULATORY UPDATE

**MCA NOTIFIES
LIMITED LIABILITY PARTNERSHIP
(SIGNIFICANT BENEFICIAL OWNERS)
RULES, 2023**



MCA NOTIFIES LIMITED LIABILITY PARTNERSHIP (SIGNIFICANT BENEFICIAL OWNERS) RULES, 2023

MCA issued LLP (Significant Beneficial Owners) Rules, 2023 (“SBO Rules”) on 9th November 2023, requiring LLPs to identify and report details of Significant Beneficial Owner (“SBO”) to MCA.

A. NON-APPLICABILITY

The SBO Rules shall not apply to:

- contribution held by the Central Government, State Government, or local authority;
- LLPs/entities controlled by the Central Government or State Government(s) or both;
- investment vehicles
 - registered with the SEBI, or
 - regulated by the RBI or IRDAI or PFRDA.

B. IMPORTANT PROVISIONS AND DEFINITIONS

Holding of indirect interest in a LLP

- According to **Rule 3(k)**, a **SBO** means an individual having one or more of the below rights or entitlements in the reporting LLP, acting alone or through one or more persons:
 - Has right to exercise or actually exercises, **significant influence or control**, in any manner other than through direct holdings alone or holds, indirectly or together with any direct holdings not less than 10% of the:
 - ❖ **contribution**;
 - ❖ **voting rights** in management or policy decisions;

- ❖ of the right to receive or participate of the total **distributable profits** or any other distribution in a financial year
 - An individual shall be considered to hold a right or entitlement **indirectly** in the reporting LLP, if he satisfies any of the following criteria: -
 - (i) where the partner of the reporting LLP is a
 - a) **body corporate** other than an LLP, and the individual holds majority stake
 - in that partner, or
 - the ultimate holding company of that partner.
 - b) **HUF** and the individual is the Karta of such HUF
 - c) **Partnership entity** and the individual
 - Is a partner or
 - Holds majority stake in the
 - body corporate which is a partner of such partnership entity
 - ultimate holding company of the body corporate which is a partner of the partnership entity
 - d) **Trust** and the individual is a
 - trustee (in case of a discretionary trust or a charitable trust)
 - beneficiary (in case of a specific trust)
 - author or settlor (in case of a revocable trust)
 - e) **Pooled investment vehicle** or entity controlled by the pooled investment vehicle based in the Member State of FATF on Money Laundering and the Securities Market Regulator in such Member State is a member of IOSCO and the individual is a

- General Partner or
- Investment Manager
- CEO where Investment Manager of such pooled vehicle is a Body Corporate or Partnership Entity
- based in a jurisdiction who does not fulfil the requirements provided above; provisions of sub-para (a)-(d) above shall apply.

Holding of Direct Interest in LLP

- An individual shall not be considered an SBO if he/she **directly** holds any rights or entitlements in following manner:
 - Contribution in the reporting LLP, representing such right or entitlement, is held in the name of the individual; or
 - The individual holds or acquires a beneficial interest in the contribution of the reporting LLP under Rule 228(2) of the LLP Rules, 2009 and has made a declaration in this regard to the reporting LLP.

C. DUTIES OF THE REPORTING LLP

- Identification of SBO, if any, and cause such individual to make a Declaration in **Form LLP BEN-1**.
- Notice to identified SBO in **Form LLP BEN-4**, seeking prescribed information. The SBO to furnish information within 90 days of commencement of the SBO Rules.
- Filing of SBO return in **Form LLP BEN-2** with Registrar of Companies within 30 days of receipt of the declaration from the SBO.
- Maintenance of Register of SBO in **Form LLP BEN-3**.

DISCLAIMER: - *The summary information herein is based on notification dated 09.11.2023 by MCA. While the information is believed to be accurate, we make no representations or warranties, express or implied, as to the accuracy or completeness of it. Readers should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This note is not an offer, advice or solicitation. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.*