

FREQUENTLY-ASKED-QUESTIONS

Issuance of the revised *Guidelines on Prevention of Money Laundering and Terrorism Financing for Reporting Institutions in the Capital Market (SC's AML Guidelines)* (effective on 26 April 2021)

Issue Date: 13 July 2021

Removal of exemption to obtain documents and information from Government-Linked Companies (GLCs) and State-Owned Enterprises¹ (SOEs)

1. Are reporting institutions (RIs) now required to identify and verify the directors and shareholders of the GLCs and SOEs?

RIs are exempted from obtaining the constituent documents, and from identifying and verifying the directors and shareholders of legal persons set out in Paragraph 8.1.7 of the SC's AML Guidelines.

Following the removal of GLCs and SOEs from the categories of legal person in Paragraph 8.1.7 of the SC's AML Guidelines in the recent revision, RIs must identify and verify directors and shareholders of its clients who are GLCs and SOEs.

2. Are RIs required to update its policy and procedures pursuant to the latest changes of the SC's AML Guidelines?

Policies and procedures must be regularly reviewed to ensure that they are effective, adequate and aligned with the latest regulatory requirements, international developments and changes in ML/TF trends.

3. Are RIs required to obtain the relevant documents and information from its GLCs/SOEs clients who have been granted such exemption under Paragraph 8.1.7 prior to the April 2021 amendments?

RIs in the capital market are given 12 months until 26 April 2022 to obtain the constituent documents, and to identify and verify the existing directors and shareholders of its GLCs/SOEs clients who have been granted such exemptions in the past.

¹ State Owned Enterprise (SOE) include State-Owned Corporation or Company (SOC).

4. Is the removal of such exemption applicable to those corporations with multiple status e.g. the corporation is a GLC and concurrently listed on Bursa Malaysia?

Where a corporation is both a GLC and listed on Bursa Malaysia, the stricter requirement would apply. In this example, this corporation is not exempted from the requirements of Paragraph 8.1.7 of the SC's AML Guidelines due to its GLC status. RIs must identify and verify directors and shareholders of the said corporation.

5. What is the definition of GLCs and SOEs?

GLCs and SOEs are not defined terms in the SC's AML Guidelines.

RIs who have granted exemptions in the past to its GLCs and SOEs clients prior to the recently revised SC's AML Guidelines may refer to its current internal policies and procedures when identifying GLCs and SOEs client as a reference point.

Notwithstanding the above, the following definitions can be used as guidance:

- (a) **Government-linked company (GLC)** refers to a company where the government is the majority shareholder or single largest shareholder and has the ability to exercise and/or influence major decisions such as appointment of board members and senior management.
- (b) **State-owned enterprise (SOE)** refers to an entity where the government (federal or state level) exercises ownership directly by a government ministry, department or agency or indirectly through a government-linked investment company, statutory body or a public sector agency. SOEs include state-owned corporations or companies (SOCs) and may also take the form of statutory bodies that undertake commercial activities.

6. What are the documents expected to be obtained and maintained by the RIs to identify and verify the directors and shareholders for the purposes of Paragraph 8.1.7, SC's AML Guidelines?

RIs should determine based on their own internal policies and procedures on the appropriate documents which would enable them to reasonably and satisfactorily identify and verify the directors and shareholders of their GLCs and SOEs clients for the purposes of Paragraph 8.1.7 of the SC's AML Guidelines.

7. In the case of GLC and SOE clients, should RIs identify and verify the beneficial owners apart from identifying directors and shareholders.

Yes, this is a current requirement under Paragraph 8.1.6 in both the revised (issued on 26 April 2021) and previous version (issued on 7 December 2016) of the SC's AML Guidelines.

8. Upon identification of directors, shareholders and beneficial owners of GLCs and SOEs, is the 10 minimum data points requirements also applicable to these directors, shareholders and beneficial owners of GLCs and SOEs?

The minimum 10 data points are applicable to individual customers and beneficial owners of customers. Where a director or shareholder of a company has been identified as beneficial owners of a customer, his/her information in respect of the minimum data points is required. Where a director or shareholder of a company is not identified as the beneficial owner, any data point(s) that will enable for the identification and verification of the director or shareholder should be collected based on the RI's Risk-Based Approach (RBA).

Paragraph 8.1.5A of the SC's AML Guidelines also provides that if the RI is of the view that the above information is not sufficient for it to complete its identification and verification process, the RI must seek for further relevant information from the individual customer or beneficial owner.

9. Do RIs rely on their GLC/SOE clients to obtain the relevant documents or should RIs approach the government ministry/institution for the purpose of identification and verification of beneficial owners? Who is to be classified as the beneficial owners as GLCs/SOEs?

Apart from identifying and verifying the shareholders and directors of GLC/SOE clients, the RIs should take reasonable measures to identify and verify the person in the government ministry/institution who has the authority to influence decision-making of the GLCs/SOEs. Appendix E of the SC's AML Guidelines provides guidance and recommended best practices to guide reporting institutions in complying with the relevant requirements in relation to information of beneficial owners of legal persons and legal arrangement.

RIs should work together with their GLC/SOE clients to obtain the relevant documents. RIs may refer to Paragraph 1.10 in Appendix E of the SC's AML Guidelines for the list of recommended source documents which may be used to identify and verify beneficial owners.

10. Can the 12-months grace period be reviewed in case RIs are not able to fulfill the requirements due to the COVID-19 pandemic and Movement Control Order (MCO)?

Where relevant, the SC may review the 12-months grace period taking into consideration the COVID-19 pandemic and MCO that has disrupted business as usual. Any notices of extension of the grace period will be made in 2022 based on SC's assessments.