

DRAFT- THE COMPANIES (BENEFICIAL INTEREST AND SIGNIFICANT BENEFICIAL INTEREST) RULES, 2018 -15.02.2018

In exercise of the powers conferred by Section 89 and Section 90, read with sub-section (1) of section 469, of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.–

- (1) These rules may be called the Companies (Beneficial Interest and Significant Beneficial Interest) Rules, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-

- (1) In these rules, unless the context otherwise requires,-
 - (a) “Act” means the Companies Act, 2013 (18 of 2013);
 - (b) "form" means a form annexed to these rules;
 - (c) “beneficial owner” means a person having beneficial interest in a share but whose name is not entered in the register of members of a company as the holder of that share;
 - (d) “registered owner” means a person whose name is entered in the register of members of a company as the holder of shares in that company but who does not hold the entire beneficial interest in such shares;
 - (e) “section” means a section of the Act
 - (f) “rules” means Companies (Beneficial Interest and Significant Beneficial Interest) Rules, 2017.
- (2) Words and expressions used in these rules but not defined and defined in the Act or in Companies (Specification of definitions details) Rules, 2014 shall have the meanings respectively assigned to them in the Act and said Rules.

**3. Declaration to company in respect of beneficial interest under section 89.-
(existing Rule 9 of chapter VII may be substituted with Rule 3 and 4)**

- (1) A registered owner shall file a declaration disclosing that he does not hold the entire beneficial interest in such shares in **Form No. BEN-1** with the company, within thirty days from the date on which his name is entered in the register of members of such company.

- (2) A beneficial owner shall file a declaration disclosing his beneficial interest in **Form No. BEN-2** with the company, , within thirty days after acquiring such beneficial interest in the shares of the company.

Where any change occurs in the beneficial interest of such shares,

- (3) –
- (a) the registered owner shall make a declaration of such change to the company in **Form No. BEN-1, in duplicate**, within a period of thirty days from the date of such change; and
- (b) the beneficial owner shall make a declaration of such change to the company in **Form No. BEN-2, in duplicate**, within a period of thirty days from the date of such change.
- Proviso to Rule 9(3) to be inserted and would be applicable for both Rule 3 and 4.

4. Return of beneficial interest. under section 89-

Where any declaration under Rule 3 is received by the company, it shall –

- (a) make a note of such declaration in its register of members; and
- (b) file a return in **Form No. BEN-3** with the Registrar in respect of such declaration, within a period of thirty days from the date of receipt of declaration by it, along with the fee.

Explanation.– The period of thirty days will start from the date on which complete declarations are received by the company.

5. Declaration of significant beneficial interest in shares under section 90.-

- (1) Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds significant beneficial interests in the company , shall file a declaration in **Form No. BEN-4** to the company within thirty days from the commencement of these rules. , .
- (2) Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, acquires significant beneficial interests in the company or any change therein shall file a declaration in **Form No. BEN-4** to the company, within thirty days of acquiring such significant beneficial interest or any change therein.

‘any change’ may be clearly quantified.

6. Return of significant beneficial interest in shares.-

Where any declaration under rule 5 is received by the company, it shall file a return in **Form No. BEN-5** with the Registrar in respect of such declaration, within a period of thirty days from the date of receipt of declaration by it, along with the fee....register and fee rules.

7. Register of significant beneficial owners.-

- (1) The company shall maintain a register of beneficial owners holding significant beneficial interest in **Form No. BEN-6**.
- (2) The register shall be open to inspection open for inspection during business hours, at such reasonable time of not less than two hours, on every working day as the board may decide, by any member of the company on payment of such fee as may be specified by the company but not exceeding fifty rupees for each inspection.

8. Exception to significant beneficial ownership

Rules 5, 6 and 7 shall not apply where the registered owner is a body corporate whose equity shares are listed on any stock exchange or is a wholly-owned subsidiary of such body corporate.

(Foreign listed companies should also be exempted.)

9. Notice seeking information about significant beneficial owners.-

A company shall give notice seeking information under sub-section (5) of section 90, in **Form No. BEN-7**.

10. Application to the Tribunal.-

The company may apply to the Tribunal under 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 in the shares in question;
- (b) suspension of the right to receive dividend 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.

SCHEDULE I

Form No. BEN-1¹

**Declaration by the registered owner of shares who does not hold the beneficial interest
in such shares**

*[Pursuant to section 89(1) of the Companies Act, 2013 and rule 3(1)/ 3(3) of the Companies
(Beneficial Interest and Significant Beneficial Interest) Rules, 2017]*

To,

Name of the company:

Registered office address:

1. Particulars of the Registered owner of shares:

(i) Name :

(ii) Father's / Mother's / Spouse' name:

(iii) Occupation :

(iv) Whether citizen of India: Yes No

(v) Nationality:

(vi) Date of Birth:

(vii) Gender: Male/ Female

(viii) PAN No./ AADHAAR No.:

(ix) Proof of Identity :

· For Indian Nationals :

(Any of the following):

Income-tax permanent account number

Voter's identity card number

Passport number

Driving License

Unique Identification Number (UIN)

· For Foreign nationals and Non Resident Indians :

Passport

Others

(x) Permanent Residential Address

ISO Country Code Country

Phone Mobile

Email ID Fax

(xi) Whether present residential address is same as the permanent
residential address :

Yes No

If no, present residential address:

¹ Previously, MGT-4

ISO Country Code Country

(xii) Contact:

Phone Mobile

Email ID Fax

2. Particulars of the shares in respect of which declaration is being made by the registered owner:

i) Class of shares:

ii) Number and percentage of shares:

iii) Shares/ securities in physical form

Distinctive numbers: From..... To.....

Certificate No.:

Folio No.

iv) Shares/ securities in Demat form

DP ID/ Client ID :

No. of shares:

Any other:

v) Nominal value of shares:

vi) Paid up value of shares:

vii) Direct/ Indirect percentage of voting rights:

3. Declaration:

In pursuance of sub-section (1) of section 89 of the Companies Act, 2013, Ihereby declare that the person (s) name below hold(s) the beneficial interest in the above mentioned shares registered in my name in the register of members of the company:

Sl. No.	Name of the Beneficial Owner	Address, E-mail id and contact details	Date of Birth/ Age	Father's/ Spouse's name
(1)	(2)	(3)	(4)	(5)
Occupation	Nationality	PAN/UIN/CIN (in case of company)	Passport No. (in case of foreign national)	Distinctive No., if applicable
(6)	(7)	(8)	(9)	(10)

4. Details of the beneficial interest:

i) Nature of the beneficial interest:

ii) Date of creation of the beneficial interest:

iii) Mode of acquisition of beneficial interest: Allotment/ Transfer/ others, specify

iv) Reasons for not registering shares in the name of the beneficial owner(s):

v) Particulars of the instrument/ document, if any, showing the creation of such beneficial interest:

5. Particulars of change in beneficial interest: [If applicable]

i) Date of change:

ii) Nature of the change in the beneficial interest:

iii) Brief particulars of such change:

iv) Reason for such change:

v) Particulars of the instrument/ document, if any, showing the change in such beneficial interest:

Date:

Place:

Attestation

I, confirm that all information provided in the above declaration is accurate and reliable.

[Name]

[Signature of the registered owner]

Enclosures:

(a) Proof of identity of the registered owner and beneficial owner

(b) Instrument/ document under which the beneficial interest is created/ transferred/ changed.

Form No. BEN-2²

**Declaration by the beneficial owner who holds or acquires beneficial interest in shares
but whose name is not entered in the register of members**

*[Pursuant to section 89(2) of the Companies Act, 2013 and rule 3(2) of the Companies
(Beneficial Interest and Significant Beneficial Interest) Rules, 2017]*

To

Name of the company:

Registered office address:

1. Particulars of the beneficial owner

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/UIN/CIN (in case of company)	Passport No. (in case of foreign national)	
(6)	(7)	(8)	(9)	

2. Particulars of the shares in which beneficial interest is held by the person making declaration:

- i) Class of shares:
- ii) Number and percentage of shares:
- iii) Shares/ securities in physical form
 - Distinctive numbers: From..... To.....
 - Certificate No.:
 - Folio No.
- iv) Shares/ securities in Demat form
 - DP ID/ Client ID :
 - No. of shares:
 - Any other:
- v) Nominal value of shares:
- vi) Paid up value of shares:
- vii) Direct/ Indirect percentage of voting rights:

3. Declaration

² Previously, MGT-5

In pursuance of sub-section (2) of section 89 of the Companies Act 2013, Ihereby declare that I hold / have acquired the beneficial interest in the above mentioned shares of the company which are registered in the name of the person whose particulars are furnished below:

4. Particulars of the registered owner

Sl. No.	Name of the registered owner	Address and E-mail id	Date of Birth/ Age	Father's/ Spouse's name
(1)	(2)	(3)	(4)	(5)
Occupation	Nationality	PAN/UIN/CIN (in case of company)	Passport No. (in case of foreign national)	
(6)	(7)	(8)	(9)	

5. Details of the beneficial interest:

- i) Date of creation / acquisition of beneficial interest:
- ii) Mode of acquisition of beneficial interest: Allotment / Transfer / others, specify
- iii) Nature of the beneficial interest:
- iv) Reasons for not registering shares in my name:
- v) Particulars of the instrument/ document, if any, showing the creation of such beneficial interest:
- vi) Direct/ Indirect percentage of voting rights:

6. Particulars of the person from whom the beneficial interest is acquired, if applicable:

- i) Name of the transferor of beneficial interest:
- ii) Whether shares were registered in his name:
(If not, whether any declaration under sub-section (2) of section 89 was filed by him to the company. If so, date of such declaration)
- iii) Particulars of the instrument/ document, if any, showing the transfer of such beneficial interest:

7. Particulars of change in beneficial interest: (if applicable)

- i) Date of change:
- ii) Nature of the change in the beneficial interest:
- iii) Brief particulars of such change:
- iv) Reason for such change:
- v) Particulars of the instrument/ document, if any, showing the change in such beneficial interest:

Date:

Place:

Attestation

I, confirm that all information provided in the above declaration is accurate and reliable.

[Name]

[Signature of the registered owner]

Signature of the beneficial owner

CERTIFICATE

I hereby certify that the beneficial interest in the shares mentioned above has been transferred by me on

Signature of the person who has transferred the beneficial interest in the shares

Date:

Place:

Enclosures:

(a) Proof of identity of the registered owner and beneficial owner

(b) Instrument/ document under which the beneficial interest is created/ transferred/ changed.

Form no. BEN-3³

Return to the Registrar in respect of declaration under section 89 received by the company

[Pursuant to section 89(6) of the Companies Act, 2013 and rule 4 of the Companies (Beneficial Interest and Significant Beneficial Interest) Rules, 2017]

1. (a) CIN:

(b) GLN:

2. (a) Name of the company:

(b) Registered office address:

(c) E-mail id:

3. Particulars of beneficial interest:

S. No.	Date of declaration under sub-section (1), (2) or (3) of section 89	Date of receipt of the said declaration by the company	Particulars of shares in respect of which beneficial interest is created				
			Class of shares	No. and percentage of shares	Distinctive Nos. of shares		
(1)	(2)	(3)	(4)	(5)	(6)		
Particulars of shares in respect of which beneficial interest is created			Particulars of registered owner				
Face value of shares		Paid up value of shares	Name & Nationality	Addresses and e-mail id	Father's/ Mother's / Spouse's Name	Date of entry in the register	Folio no.
(7)		(8)	(9)	(10)	(11)	(12)	(13)
Particulars of beneficial owner			Date and Nature of beneficial interest		Remarks		
Name & Nationality	Address and e-mail id	Father's/ Spouse's Name					
(14)	(15)	(16)	(17)		(18)		

Date:

³ Previously, MGT-6

Place:

Attachments:

1. declaration under section 89 (1);
2. declaration under section 89 (2);
3. declaration under section 89 (3);
4. Optional attachments, if any.

Form No. BEN-4

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

[Pursuant to section 90(1) of the Companies Act, 2013 and rule 5(1)/ 5(2) of the Companies (Beneficial Interest and Significant Beneficial Interest) Rules, 2017]

To-

Name of the company:

Registered office address:

1. Particulars of the shares in which significant beneficial interest is held by the person making declaration:

- i) Class of shares:
- ii) Number and percentage of shares:
- iii) Shares/ securities in physical form
 - Distinctive numbers: From..... To.....
 - Certificate No.:
 - Folio No.
- iv) Shares/ securities in Demat form
 - DP ID/ Client ID :
 - No. of shares:
 - Any other:
- v) Nominal value of shares:
- vi) Paid up value of shares:

2. Particulars of the holder of the significant beneficial interest

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/UIN/CIN (in case of company)	Passport No. (in case of foreign national)	
(6)	(7)	(8)	(9)	

3. Declaration

In pursuance of sub-section (1) of section 90 of the Companies Act 2013, Ihereby declare that I hold / have acquired a significant beneficial interest in the above mentioned shares of the company which are registered in the name of the person whose particulars are furnished below:

4. Particulars of the registered owner

Sl. No.	Name of the registered owner	Address and E-mail id	Date of Birth/ Age	Father's/ Spouse's name
(1)	(2)	(3)	(4)	(5)
Occupation	Nationality	PAN/UIN/CIN (in case of company)	Passport No. (in case of foreign national)	
(6)	(7)	(8)	(9)	

5. Details of the significant beneficial interest:

- i) Date of creation / acquisition of significant beneficial interest:
- ii) Mode of acquisition of significant beneficial interest: Allotment /Transfer / others, specify
- iii) Nature of the significant beneficial interest:
- iv) Reasons for not registering shares in my name:
- v) Particulars of the instrument/document, if any, showing the creation of such significant beneficial interest:
- vi) Direct/ Indirect percentage of voting rights:

6. Particulars of the person from whom the significant beneficial interest is acquired, if applicable:

- i) Name of the transferor of significant beneficial interest:
- ii) Whether shares were registered in his name:
(If not, whether any declaration under sub-section (2) of section 89 was filed by him to the company. If so, date of such declaration)
- iii) Particulars of the instrument/ document, if any, showing the transfer of such significant beneficial interest:

Date:

Place:

Signature of the holder of the significant beneficial interest

CERTIFICATE

I hereby certify that the significant beneficial interest in the shares mentioned above has been transferred by me on

Signature of the person who has transferred the significant beneficial interest in the shares

Date:

Place:

Enclosures:

(a) Proof of identity of the registered owner and holder of the significant beneficial interest

(b) Instrument/ document under which the significant beneficial interest is created/
transferred/ changed.

Form No. BEN-5

Return to the Registrar in respect of declaration under section 90 received by the company

[Pursuant to section 90(4) of the Companies Act, 2013 and rule 6 of the Companies (Beneficial Interest and Significant Beneficial Interest) Rules, 2017]

1. (a) CIN:

(b) GLN:

2. (a) Name of the company:

(b) Registered office address:

(c) E-mail id:

3. Particulars of significant beneficial interest:

S. No.	Date of declarations under sub-section (1) of section 90	Date of receipt of the said declarations by the company	Particulars of shares in respect of which beneficial interest is created			
			Class of shares	No. of shares	Distinctive Nos. of shares/ DP and Client ID of shares	
(1)	(2)	(3)	(4)	(5)	(6)	
Particulars of shares in respect of which beneficial interest is created			Particulars of registered owner			
Face value of shares	Paid up value of shares	Name & Nationality	Addresses and e-mail id	Father's/ Mother's / Spouse's	Date of entry in the	Folio no./ DP/Client

				Name	register	ID
(7)	(8)	(9)	(10)	(11)	(12)	(13)
Particulars of beneficial owner			Date and Nature of beneficial interest	Remarks		
Name & Nationality	Address and e-mail id	Father's/ Spouse's Name				
(14)	(15)	(16)	(17)	(18)		

Date:

Place:

Attachments:

1. Declaration under section 90 (1);
2. Optional attachments, if any.

Form no. BEN-6

Register of beneficial owners holding significant beneficial interest

[Pursuant to section 90(2) of the Companies Act, 2013 and rule 5(1) of the Companies (Beneficial Interest and Significant Beneficial Interest) Rules, 2017]

Name of the company:

Registered office address:

1. Particulars of the beneficial owner holding significant beneficial interest

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/UIN/CIN (in case of company)	Passport No. (in case of foreign national)	Status
(6)	(7)	(8)	(9)	(10)
Date of declaration under section 90	Date of cessation	Amount of guarantee, if any	Any other interest, if any	Instructions, if any, given by the member wt

2. Particulars of the shares in which significant beneficial interest is held by the beneficial owner:

- i) Class of shares:
- ii) Number of shares:
- iii) Shares/ securities in physical form
 - Distinctive numbers: From..... To.....
 - Certificate No.:
 - Folio No.
- iv) Shares/ securities in Demat form
 - DP ID/ Client ID :
 - No. of shares:
 - Any other:
- v) Nominal value of shares:
- vi) Paid up value of shares:

Form no. BEN-7

[Pursuant to section 90(5) of the Companies Act, 2013 and rule 9 of the Companies (Beneficial Interest and Significant Beneficial Interest) Rules, 2017]

[<<Insert Company Name>>] (the “Company”)

<<Insert Date>>

[By post/email]

To:

Name and address of SBO/any other person

Date:

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

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 oflikely to have such knowledge;
- 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 (B.O) (i.e. yourself or the significant BO if you are not the significant BO)
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. Folio number/DP and Client ID of the shares/securities

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

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*

SCHEDULE II

Fees:

For return of beneficial interest :

For return of significant beneficial interest :

Relevant Extracts from Companies (Amendment) Bill, 2016

21. In section 89 of the principal Act, after sub-section (9), the following sub-section shall be inserted, namely:—

"(10) For the purposes of this section and section 90, beneficial interest in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to—

- (i) exercise or cause to be exercised any or all of the rights attached to such share; or
- (ii) receive or participate in any dividend or other distribution in respect of such share."

22. For section 90 of the principal Act, the following section shall be substituted, namely:—

'Register of significant beneficial owners in a company'

'90. (1) Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty-five per cent. or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2, over the company (herein referred to as "significant beneficial owner"), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change thereof, as may be prescribed:

Provided that the Central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section.

(2) Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.

(3) The register maintained under sub-section (2) shall be open to inspection by any member of the company on payment of such fees as may be prescribed.

(4) Every company shall file a return of significant beneficial owners of the company and changes therein with the Registrar containing names, addresses and other details as may be prescribed within such time, in such form and manner as may be prescribed.

(5) A company shall give notice, in the prescribed manner, to any person (whether or not a member of the company) whom the company knows or has reasonable cause to believe—

- (a) to be a significant beneficial owner of the company;
- (b) to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or

(c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued, and who is not registered as a significant beneficial owner with the company as required under this section.

(6) The information required by the notice under sub-section (5) shall be given by the concerned person within a period not exceeding thirty days of the date of the notice.

(7) The company shall,—

(a) where that person fails to give the company the information required by the notice within the time specified therein; or

(b) where the information given is not satisfactory, apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.

(8) On any application made under sub-section (7), the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.

(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).

(10) If any person fails to make a declaration as required under sub-section (1), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

(11) If a company, required to maintain register under sub-section (2) and file the information under sub-section (4), fails to do so or denies inspection as provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

(12) If any person wilfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.'.