

ERGO

Analysing developments impacting business

COMMUNICATION FROM MINISTRY OF CORPORATE AFFAIRS PERTAINING TO SIGNIFICANT BENEFICIAL OWNERSHIP

17 October 2023 **Introduction**

Over the past few days, the Office of the Registrar of Companies, Central Scrutiny Centre has been issuing email advisories for compliance of provisions of significant beneficial ownership (SBO) provisions of the Companies Act, 2013 (Companies Act), essentially, Section 90 of the Companies Act and the Companies (Significant Beneficial Owners) Rules, 2018 (SBO Rules). These emails are computer generated and are apparently being sent to companies selected basis certain criteria known to the Central Scrutiny Centre.

Contents of email notices

The email summarises in detail the relevant provisions of the Companies Act and the SBO Rules, including, the timelines for disclosures. Most importantly, it highlights that every company is obliged to take necessary steps to identify an individual who is a significant beneficial owner in relation to the company and require him to comply with the provisions of this section ('a mandatory duty').

It also highlights the consequences of non-compliance, both for an individual identified as SBO, and a reporting company, and also for wilfully furnishing any false or incorrect information or suppressing any material Information of which he is aware.

The advisories are addressed to companies and their directors, 'request' them to assess the applicability of the aforesaid provisions to such company and accordingly take steps to comply with the provisions.

Comment

At the outset, these emails are not statutory notices under the Companies Act. Further, they do not require any responses from the recipient to the relevant office issuing them. Similar to advisories released by the Income Tax Department regarding advance tax payment and return filing closer to the due dates, these also appear to be more general advisories inviting companies' attention to the compliance of these provisions. While the provisions were made effective from 2019/2020, until now, it has not come to public knowledge that any Registrar of Companies has taken stern action against a company for any non-compliance. This set of advisories may therefore serve as a useful reminder for companies to comply with these provisions.

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