

**GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS**

**LOK SABHA
UN-STARRED QUESTION NO. 944
Answered on Monday, July 29, 2024
7 Shravan, 1946 (Saka)**

COMPLIANCE STANDARDS FOR GLOBAL TECH COMPANIES

QUESTION

944. THIRU DAYANIDHI MARAN:

**Will the Minister of CORPORATE AFFAIRS
be pleased to state:**

- (a) the measures taken by the Government to ensure that global tech companies adhere to compliance requirements related to the identification of significant beneficial owners;**
- (b) whether the Government conducts regular audits or reviews to check compliance with the SBO norms;**
- (c) whether the Government intend to send message to other corporations and their officers regarding compliance with SBO norms through the recent imposition of fines on Microsoft and LinkedIn;**
- (d) whether the Government plans to enhance corporate governance and compliance standards among companies operating in India;**
- (e) if so, the details thereof and the framework of the plans to introduce additional guidelines
or regulations to prevent similar violations in the future; and**
- (f) whether the Government has any broader implications for other companies with similar corporate structures or ownership patterns in light of this enforcement action, if so, the details thereof?**

ANSWER

**Minister of State in the Ministry of Corporate Affairs; Minister of State in the
Ministry of Road Transport and Highways**

(Shri Harsh Malhotra)

(a) to (f): Section 90 of the Companies Act, 2013 provides for requirements in respect of disclosure about significant beneficiary ownership. These provisions are applicable to all companies irrespective of any sector or area. Detailed procedure has been prescribed through Companies (Significant Beneficial Owners) Rules, 2018.

Companies (Significant Beneficial Owners) Rules, 2018 (SBO Rules) have been notified for giving effect to the provisions of section 90(1) of the Companies Act, 2013. SBO Rules make it mandatory for individuals and companies to make declaration on beneficial ownership information. The rule inter alia states that the significant beneficial owner as an individual who acting alone or together, or through one or more persons or trust, holds indirectly, or together with any direct holdings, not less than ten percent of the shares or voting rights in the shares or right to receive not less than ten percent of the dividend or exercises, significant influence or control in any manner other than direct holdings.

An individual having or acquiring beneficial interest by way of significant influence or control (as defined under Companies Act, 2013) in a company shall declare the same to the company in Form BEN-1. The company has to report the same to the Registrar of Companies in e-Form BEN-2. In the event of non-compliance, it is an adjudicable offence. Section 90 of the Companies Act, 2013 has also been made applicable to the LLPs vide notification dated 11.02.2022 and accordingly LLP (Significant Beneficial Owners) Rules, 2023 has been notified on 09.11.2023.

Similarly, the provisions of the AML-CTF & KYC Guidelines issued by the International Financial Services Centres Authority (IFSCA) in 2022 inter-alia includes provisions related to identification of Beneficial Owner, apply to the Regulated Entities (Res) licensed, recognized or registered, authorized by IFSCA. All REs in IFSC are mandated to ensure compliance of the provisions related to identification of Beneficial Owner(s) as specified in the AML-CTF& KYC Guidelines.

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 specify the corporate governance and disclosure norms to be complied by the entities listed on the recognised stock exchanges in India. The said regulations are amended from time to time, in order to keep pace with the evolving dynamics of the capital market in India.

Further the Income-tax Act, 1961, Section 139 provides that “beneficial Owner’ in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person. Further, the said section provides that a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, 1961, who at any time during the previous year, holds as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or a beneficiary of any asset (including any financial interest in any entity) located outside India, shall furnish, on or before the due date, a return in respect of his income or loss for the previous year.

Further also, the said section also prescribes that in the income tax Return forms, assessee shall furnish the particulars of income exempt from tax and assets of the prescribed nature and value, held by them as a beneficial owner or otherwise or in which they are a beneficiary, their bank account details and credit cards held. In the case of companies, details of persons who are beneficial owners of shareholding not less than 10% of the voting power at any time is also required to be furnished.

Furthermore, sub-section (4) of the section 94A of the Income-tax Act, 1961 provides that where, in any previous year, the assessee has received or credited any sum from any person located in a notified jurisdictional area and the assessee does not offer any explanation about the source of the said sum in the hands of such person or in the hands of the beneficial owner (if such person is not the beneficial owner of the said sum) or the explanation offered by the assessee, in the opinion of the Assessing Officer, is not satisfactory, then, such sum shall be deemed to be the income of the assessee for that previous year.
