



**SURUHANJAYA SYARIKAT MALAYSIA**  
**COMPANIES COMMISSION OF MALAYSIA**

# **LIMITED LIABILITY PARTNERSHIPS: REGISTRATION, COMPLIANCE AND IMPACT ON ACCOUNTANTS**

**Norhaiza Jemon**

**Head, Law Reform, Policy and International Affairs Section**

**Corporate Development & Policy Division**

# OVERVIEW

- Introduction
- Framework for Malaysia
  - Formation and Registration
  - Conversion
  - Compliance Requirements
- Tax Framework for LLP
- Impact of LLP on Accountants

# LIMITED LIABILITY PARTNERSHIP ACT 2012

- Limited Liability Partnerships Act 2012
  - Passed in Parliament on 21 December 2011
  - Gazetted on 9 February 2012
- Date of implementation – to be announced by the Minister



# WHAT IS LLP?

- A new business vehicle.
- A hybrid between company and conventional partnership offering fundamentally:
  - i. the privilege of limited liability accorded to the partners of the LLP; and
  - ii. the flexibility of internal management.



# GENERAL CHARACTERISTICS

- LLP is a **body corporate** and shall have:
  - **legal personality** separate from its partners;
  - **perpetual succession**; and
  - **unlimited capacity**.
- Flexible internal arrangement through:
  - LLP agreement; or
  - In the absence of agreement, default provisions covering the mutual rights and duties of LLP and its partners.



# FORMATION & REGISTRATION OF LLP

# FORMATION OF LLP

- LLP may be formed:
  - by a minimum of two persons (wholly or partly individuals or bodies corporate);
  - for any lawful business with a view of profit; and
  - in accordance with the terms of the LLP agreement.
- LLP formed for **professional practice** must:
  - consist of natural persons of the same profession; and
  - have in force professional indemnity insurance as approved by the Registrar.



# REGISTRATION OF LLP

- Information required for registration:
  - proposed name of LLP
  - nature of business
  - address of registered office
  - name and details of partners
  - name and details of compliance officer
  - approval letter (in cases of professional practice).





# APPROVAL LETTER FROM GOVERNING BODIES OF PROFESSIONAL PRACTICE

- Approval letter confirming the status of the proposed LLP on the following:
  - Current partners (including membership number)
  - Registered address
  - Registration date with governing bodies (including any reference number)
  - Insurance coverage



# REGISTRATION OF LLP

- Name of LLP shall end with “Perkongsian Liabiliti Terhad” or abbreviation of LLP.
- Name shall not be identical
- Name for professional LLP:
  - Name as approved by governing bodies
  - Name search will not be applicable (except for Secretarial Firms)
  - Identical names:
    - Unique LLP number will be issued upon registration
    - Unique identifier will be given to differentiate different profession (ACC, LAW, CS)
    - Example:
      - Wong & Co PLT (LLP1 – LAW) vs Wong & Co PLT (LLP1256 – LAW)
      - Wong & Co PLT (LLP 1- LAW) vs Wong & Co PLT (LLP 8888 – ACC)



# CONVERSION INTO LLP

## Conventional partnerships:

- registered under the Registration of Businesses Act 1956; or
- any partnership established by two or more persons for the carrying on any professional practice.

## Private companies

- incorporated under the Companies Act 1965.

# CONVERSION OF CONVENTIONAL PARTNERSHIP INTO LLP

- Eligibility criteria:
  - Same partners and no one else.
  - At the date of application, the conventional partnership is solvent.
  - In cases of professional practice, the approval letter from the governing body.



# CONVERSION OF CONVENTIONAL PARTNERSHIP INTO LLP

- Effect of conversion:
  - Vesting of assets of the conventional partnership into the LLP;
  - Pending proceedings may be continued, completed and enforced against or by the LLP.
  - Existing agreements, contracts shall have effect as though the LLP were a party.
  - Partner of conventional partnership shall continue to be personally liable (jointly and severally with the LLP) for liabilities and obligations incurred prior to the conversion.

# CONVERSION OF PRIVATE COMPANY INTO LLP

- Eligibility criteria:
  - Same shareholders and no one else.
  - There is no subsisting security interests in its assets.
  - At the date of application, the private company is solvent.
  - All outstanding statutory fees to government agencies has been settled.
  - Advertisement has been placed in a widely circulated newspaper and the Gazette.
  - All creditors agreed to the conversion.



# CONVERSION OF PRIVATE COMPANY INTO LLP

- Effect of conversion:
  - Vesting of assets of the private company into the LLP;
  - Pending proceedings may be continued, completed and enforced against or by the LLP.
  - Existing agreements, contracts shall have effect as though the LLP were a party.
  - LLP continue to be liable for liabilities and obligations incurred prior to the conversion.

# COMPLIANCE REQUIREMENTS



# REQUIREMENT FOR COMPLIANCE OFFICER

- LLP must appoint at least one compliance officer.
- Compliance officer must be either one of the partners or persons qualified to act as a secretary under the Companies Act 1965.
- Compliance officer must be—
  - A citizen or PR of Malaysia; and
  - Ordinarily resides in Malaysia.



# DUTIES OF COMPLIANCE OFFICER

- Statutory duties of a compliance officer:
  - Registering any changes in registered particulars of the LLP;
  - Keeping and maintaining registers and records of the LLP; and
  - Ensuring publication of names of the LLP
- Will be personally liable for the contravention of the statutory duties unless the court is satisfied that he is not so liable.



# OTHER COMPLIANCE REQUIREMENTS

- Registered office
  - LLP must have a registered office in Malaysia at all times.
- Keeping of certain registers and statutory records at the registered office
  - Notice of registration
  - Register of partners
  - Copies of LLP Agreement, annual declaration/any statement lodged with the Registrar
  - Instrument of charges.



# OTHER COMPLIANCE REQUIREMENTS

- Keeping of proper accounting records
  - LLP must keep accounting and other records to sufficiently explain its financial position.
  - The accounts shall be prepared to give a true and fair view of the state of the affairs of the LLP.
- Annual declaration
  - Declaration by at least two partners on the solvency of the LLP.

# TAX FRAMEWORK

# RECOMMENDATION TO MOF

- An LLP should be given the option to elect to be taxed as a general partnership or a company (body corporate).
- The election to be taxed either as a partnership or a company should be irrevocable unless allowed by the Lembaga Hasil Dalam Negeri on good business grounds.
- MOF will announce the tax framework in Budget 2013

# IMPACT OF LLP ON ACCOUNTANTS

# IMPACT ON ACCOUNTANTS

## **Accountants:**

- Provide access to limited liability.
- Protection of personal assets against business risks.
- Some public disclosure is expected

## **Accounting Profession:**

- Growth in work as accounts for LLPs are to be prepared to give a “true and fair view” of LLPs situation
- Audit is not mandatory





**THANK YOU**