

Guidance for the Registration of Firms

1.0 Introduction

The Board of Valuers, Appraisers, Estate Agents & Property Managers (BOVAEP) regulates the practice of property valuation, real estate agency and property management by virtue of the powers accorded to it by the Valuers, Appraisers, Estate Agents & Property Managers Act 1981 (the Act) and the Valuers, Appraisers, Estate Agents & Property Managers Rules 1986 (the Rules).

Any registered person wishing to practice must do so via a firm (section 23 of the Act). A firm can be a sole proprietorship, partnership or a body corporate.

2.0 Provisions in the Act

- Sec 23(1), (1A)** : All registered persons must practice via a firm.
- Sec 23(1B) (a) (b) (c)** : - A sole proprietorship must be owned only by a registered valuer, appraiser, estate agent or property manager, as the case may be
- **Satisfies** all conditions specified by the Board
- Sec 23(2) (a) (b) (c)** : - A partnership or body corporate can be owned solely by registered valuers, solely by registered appraisers, solely by registered estate agents, solely by registered property managers, as the case may be or a combination of registered persons and any other persons or bodies corporate (last two are non-registered persons i.e. liberalisation).
- **Satisfies** all conditions specified by the Board
- **The shares**, in the case of a partnership or body corporate where all partners of the partnership or all directors and shareholders of the body corporate are a combination of registered persons and any other persons or body corporate:
- (A) in the case of a valuation practice, by a majority of registered valuers who hold the majority interest and the voting rights;
- (B) in the case of an appraisal practice, by a majority of registered appraisers who hold the majority interest and the voting rights;
- (C) in the case of an estate agency practice, by a majority of registered estate agents who hold the majority interest and the voting rights; and
- (D) in the case of a property management practice, by a majority of registered property managers who hold the majority interest and the voting rights.

- Comments** : Shares in each practice must be majority owned by the respective registered persons either as individuals (in the case of non-liberalised practice, and under item E – Exception to the General Rule of Circular 21/2020 dated 3 August 2020) or via an Approved Holding Company (AHC) wholly owned by registered persons (for practices that are liberalised).
- Sec 23(4) (4A)** : No registered valuer, appraiser, estate agent or property manager may, unless the Board so approves in writing, become or remain as a sole proprietor, partner, shareholder or director **of more than** one sole proprietorship, partnership or body corporate, as the case may be, practising valuation, appraisal, estate agency or property management.

3.0 Provisions in the Rules

- Rule 25D** : **Consideration of application:**
- (a) **Satisfies** the **ownership** requirements specified in section 23 of the Act;
 - (b) **Satisfies** the requirements as to its **name** specified in Rule 25K; and
 - (c) the particulars and the documents submitted by the applicant **satisfy the requirements of the Board**
- Rule 25K** : **Name of firm:**
- (a) a name that is undesirable;
 - (b) a name likely to deceive or cause confusion to the public or would be contrary to law;
 - (c) a name that is identical;
 - (d) a name that so nearly resembles a name belonging to a different registered firm as is likely to deceive or cause confusion

4.0 Forms

The following forms are to be used in the application to register a firm.

a) Form N (Rule 25B)

The form that has to be submitted for any application to register a firm under section 23 of the Act.

DECLARATION TO BE COMPLETED AND SIGNED BY SOLE PROPRIETOR/ALL PARTNERS/ALL DIRECTORS AND SHAREHOLDERS

- **For Sole Proprietor:** agree to abide by all the provisions of the Act and the Rules and will observe, perform and comply with **any conditions or restrictions** that may be imposed by the Board upon granting approval of this application and upon any time thereafter.

- **For Partnership/Body Corporate:** Jointly and severally agree that every Partner/ Director/ and shareholder will abide by all the provisions of the Act and the Rules and

will observe, perform and comply with any conditions or restrictions that may be imposed by the Board upon granting approval of this application and upon any time thereafter.

b) Form S (Rule 2K)

Application for name search

c) Form T (Rule 25L)

Application for change of name/business address

d) Form V (Rule 25M)

Each applicant has to submit this Notice Cessation of Practise as a Registered Firm, when making application for new firm, moving to another firm etc.

5.0 Name of Firm (Rule 25K)

- a) Prior to making an application for the registration of a firm or before changing its registered name, an application must be made for a search as to the availability of the proposed name, using Form S.
- b) The processing fee is as per the Third Schedule, Part B

6.0 Application for Registration of Firm (Rule 25B)

- a) Every application shall be made via Form N
- b) Every application shall comply with Rule 25B, subsection (1) to (5)
- c) The processing fee is as per the Third Schedule, Part B

7.0 Address of Firm

- a) The address and location of the firm must only be at commercial premises.

8.0 Letterhead of Firm

- a) Every application shall be accompanied with the sample letterhead.

9.0 Equity Shareholdings of Firm (refer Circulars 21/2020 & 22/2020)

The set-up of a group practice must be structured either with branches or subsidiaries only and not in combination.

a) Non-Liberalised Firm

- i) A Practising Company (PC) can be a sole proprietor, partnership or body corporate.
- ii) The PC (HQ) must have a minimum of 2 shareholders who are also directors and are registered persons.
- iii) The PC (HQ) can either set up a Branch or a Subsidiary (hence forth known as Registered Subsidiary), depending on the ownership structure.
- iv) In the case of a Branch, there will be no shareholding / equity participation by the local / registered person / branch manager at the Branch, but this local branch manager / registered person may hold share / equity at the PC (HQ) level.

In the case of a Registered Subsidiary, a minimum of 51% shareholding / equity of its Subsidiary must be held by the PC (HQ).

- v) The balance of the shareholding / equity (maximum 49%) in the Subsidiary can be owned by other registered person(s) who does(do) not hold any equity in the PC (HQ), or other Subsidiary(s) in the group or any other PC and / or their Subsidiary(s) or any Partnership (refer to chart), in compliance with Sec 23(4).
- vi) At any meeting, the quorum is at least 3 shareholders/directors, and for the Branch or Registered Subsidiary, a majority must be from the PC(HQ).
- vii) The Chairman of the meeting shall have a casting vote.
- viii) A registered person who practices in a Partnership shall not be permitted to hold any direct or indirect interest in any other Partnership or PC or Registered Subsidiary of any PC.
- ix) A partnership can establish Branch(s) only.

b) Liberalised Firm

- i) A PC that is liberalised must establish an Approved Holding Company (AHC) whose shareholders / directors are all registered persons.
- ii) The AHC must have at least 2 shareholders who must also be directors of the AHC.
- iii) The PC (HQ) must be 51% owned by the AHC whose shareholders must also be directors of PC (HQ).
- iv) A majority of directors in PC (HQ) must be from the directors / shareholders of AHC.
- v) The balance (maximum 49%) of the PC (HQ) can be owned by other persons either as individuals or via a company, which must have its objects as investment holding only.
- vi) Any registered person(s) who may be a shareholder /director of the 49% equity in the PC (HQ), cannot hold any equity in the PC (HQ), or other Subsidiary(s) in the group or any other PC and / or their Subsidiary(s) or any Partnership (refer to chart), in compliance with Sec 23(4).
- vii) If PC (HQ) sets up a Registered Subsidiary(s) i.e. body corporate(s), the PC (HQ) must hold at least 51% equity.
- viii) The balance of the shareholding / equity (maximum 49%) in any Subsidiary can be owned by other registered person(s) who does(do) not hold any equity in the PC (HQ), or other Subsidiary(s) in the group or any other PC and / or their Subsidiary(s) or any Partnership (refer to chart), in compliance with Sec 23(4).
- ix) The Subsidiary(s) must have a majority of directors comprising shareholders/ directors from AHC.
- x) The Chairman of PC (HQ) and Registered Subsidiary(s) must be from a shareholder/director of the AHC.
- xi) At any meeting, the quorum is at least 3 shareholders/directors, with a majority from the AHC.
- xii) The Chairman of the meeting shall have a casting vote.
- xiii) The management and key persons of the PC (HQ) and Registered Subsidiary(s) shall be vested in the hands of registered person(s) only.
- xiv) The Key Executive Officer and Spokespersons for the PC (HQ) or Registered Subsidiary(s) shall be registered persons only.
- xv) A Partnership must be 51% owned by registered persons.
- xvi) A Partnership can establish Branch(s).
- xvii) A registered person who practices in a Partnership shall not be permitted to hold any direct or indirect interest in any other Partnership or PC or AHC or Registered Subsidiary(s) of any PC.

c) Exception to the general rule (under Liberalisation mode):

Small Enterprises need not incorporate AHC but must have at least 2 shareholders (who are natural persons), with one of the shareholders being a registered person holding 51% equity and the post of Chairman. When the small enterprise wishes to establish a Branch or Registered Subsidiary, then all the above provisions for liberalised firms must be complied with (i.e. AHC, etc.)

10.0 Checklist

- a) Application for the registration of a firm must be made using the forms stated above
- b) The name of the firm requires approval from BOVAEP
- c) Address and location of firm must be at commercial premises
- d) Sample letterhead must be enclosed with the application
- e) Equity shareholding must comply with the provisions of the Act, Rules & Circulars (refer above)
- f) Equity shareholding at the PC (HQ) and the branch(s) must comply with Circular 21/2020 and 22/2020
- g) Objects/nature of business of the firm must clearly state – Valuation practice, EA practice or PM practice or in any combination of practices
- h) Below is the Malaysia Standard Industry Classification (**MSIC 2008 Ver.1.0**) for reference.

DIVISION 8 : **REAL ESTATE ACTIVITIES**
GROUP 682 : **Real estate activities on a fee or contract basis**

CLASS	CODE	DESCRIPTION
6820		Real estate activities on a fee or contract basis
		<u>For Real Estate Agency Practice</u>
	68201	Activities of real estate agents and brokers for buying, selling and renting of real estate
		<u>For Property Management Practice</u>
	68202	Management of real estate on a fee or contract basis
		<u>For Valuation Practice</u>
	68203	Appraisal services for real estate

- i) For liberalised firms, the AHC and the company holding shares of non-registered persons must state their main objects as investment holding only.

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