



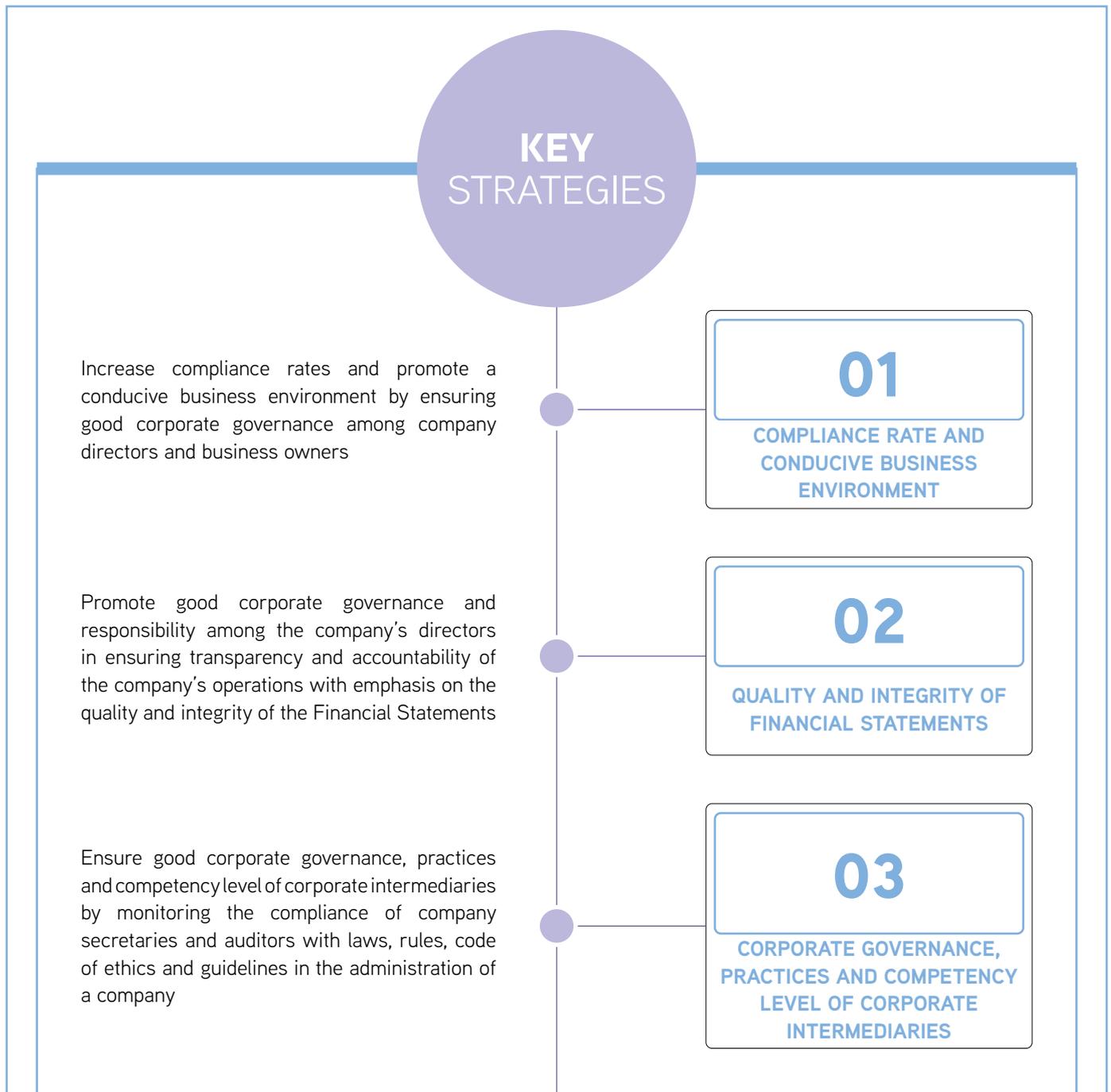
# ENFORCEMENT INITIATIVES

## ENFORCEMENT INITIATIVES

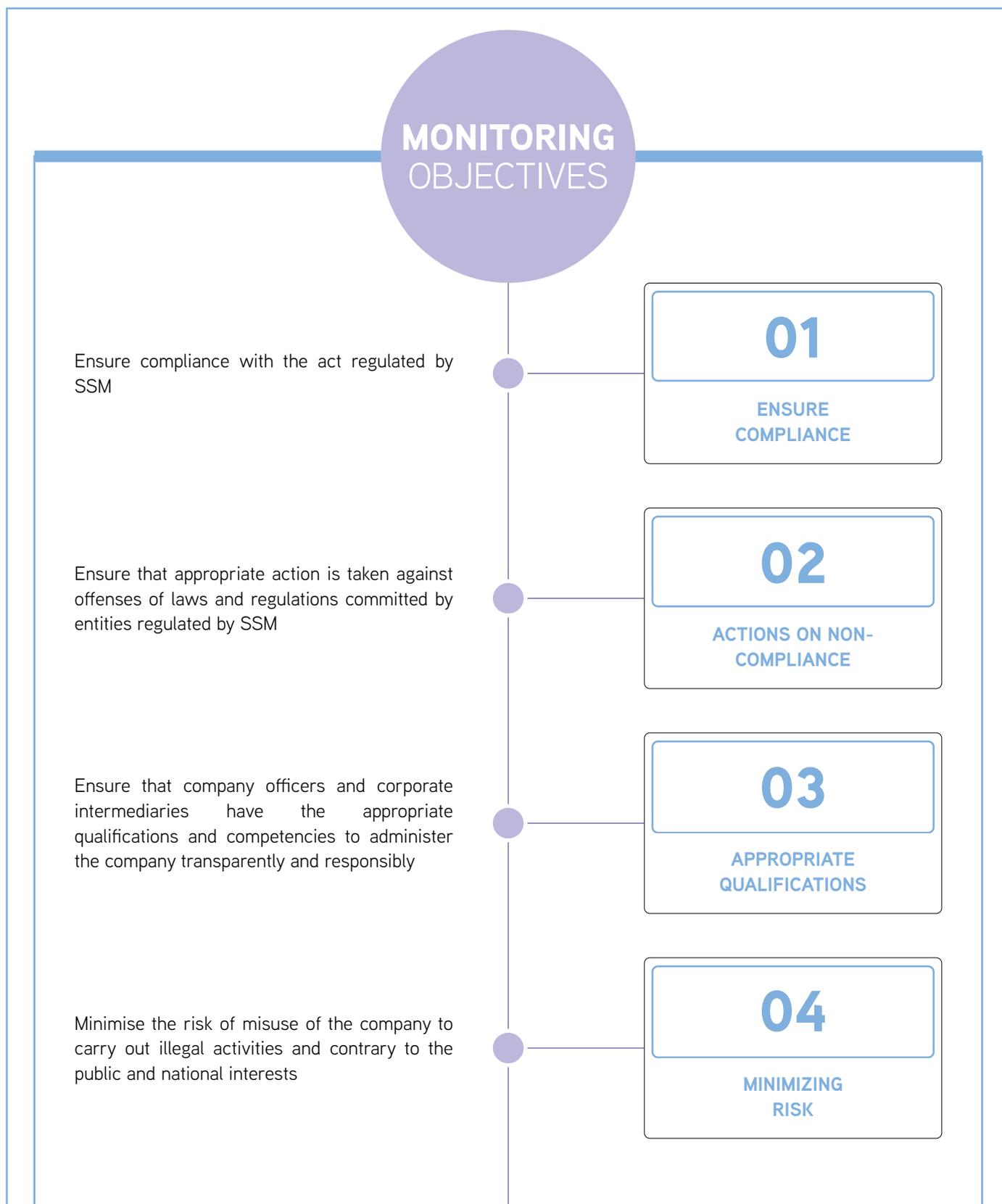
### REPORT ON ENFORCEMENT INITIATIVES

In 2021, SSM continued to focus on three (3) enforcement initiatives on key strategies to create a conducive business environment and increase transparency among the corporate community.

All these strategies are aimed at achieving the main objectives of monitoring as below:



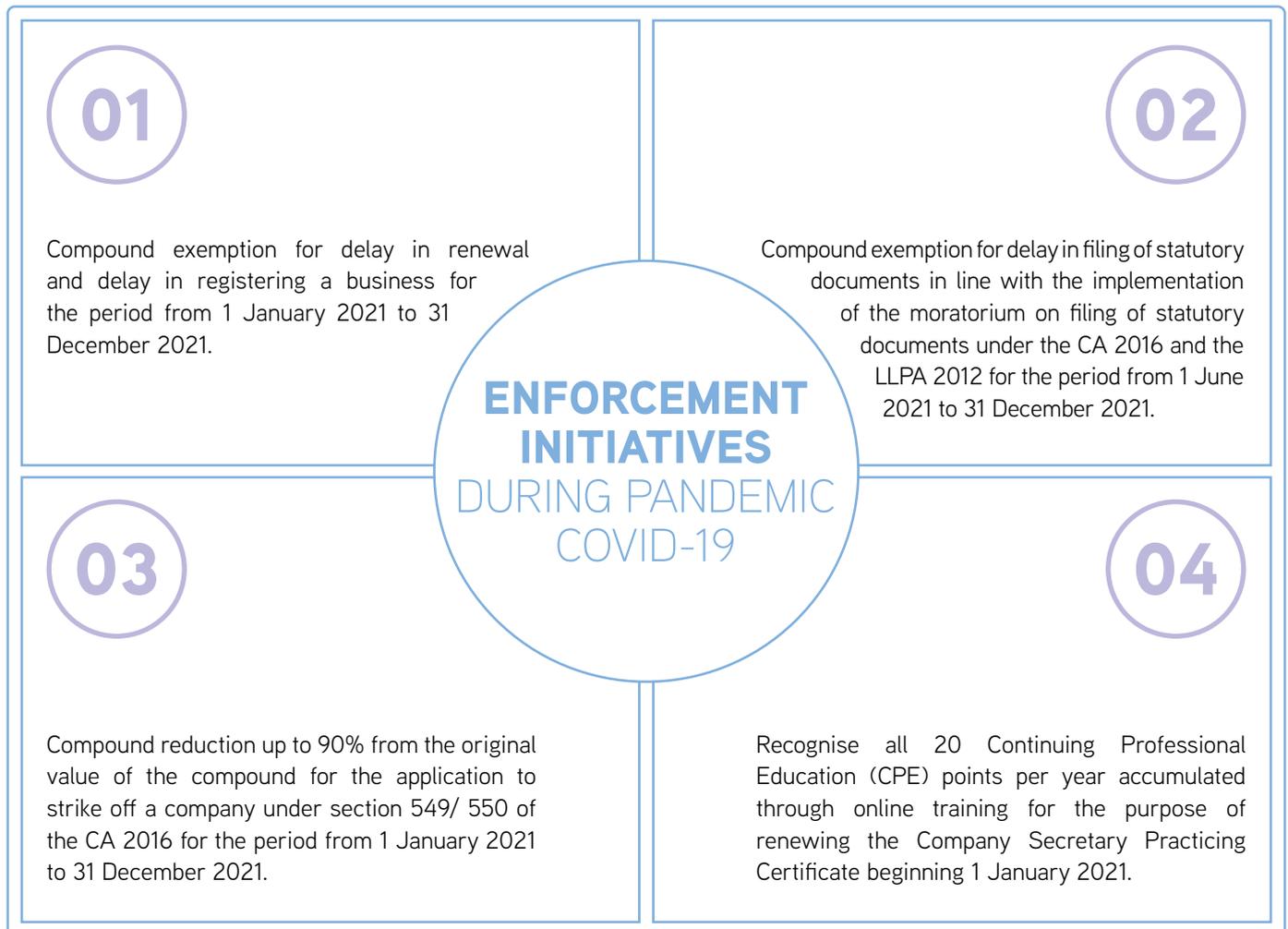
## ENFORCEMENT INITIATIVES



## ENFORCEMENT INITIATIVES

## ENFORCEMENT INITIATIVES DURING THE COVID-19 PANDEMIC

In the challenging environment and circumstances faced by the business community in Malaysia, SSM is committed to assist individuals, businesses and companies affected by the COVID-19 pandemic through the following initiatives:



## ENFORCEMENT INITIATIVES

## INSPECTION AND MONITORING ACTIVITIES

Throughout 2021, SSM continued its physical and data inspection activities on **528,584** companies, businesses and LLPs. The scope of the inspections are as follows:

ENTITIES	PHYSICAL INSPECTION	DATA INSPECTION
<b>Company</b>	<p><b>Scope of Monitoring:</b></p> <ul style="list-style-type: none"> <li>• Compliance under section 30(1) of the CA 2016 regarding the display of company name and registration number at business premises.</li> <li>• Record and maintenance of Statutory Books by Company Secretaries pursuant section 105, 362, 59, 57, 47, 343, 54 of the CA 2016 and Companies Regulations (CR) 1966 requirements.</li> <li>• Monitoring qualification of company secretaries under section 235 of the CA 2016.</li> <li>• Assessment of company secretary's competency through level of compliance to the CA 2016 provisions and requirements.</li> </ul>	<p><b>Scope of Monitoring:</b></p> <ul style="list-style-type: none"> <li>• Annual Returns lodgement status pertaining to section 68(1) of the CA 2016.</li> <li>• Financial Statement lodgement status pertaining to section 248(1), 258(1) &amp; 259(1) of the CA 2016.</li> <li>• Monitoring of companies to ensure every incorporated company has at least one (1) company secretary under section 240 of the CA 2016.</li> <li>• Qualification and independence of auditors under section 264 of the CA 2016 and conditions for Auditor Renewal Approval issued by Ministry of Finance.</li> <li>• Obligations of auditors pursuant to section 266(3)(b) of the CA 2016 relating to the opinion on maintenance of statutory books.</li> <li>• Qualifications and independence of liquidators under section 433 of the CA 2016.</li> <li>• Compliance under section 30(2) of the CA 2016 regarding the display of company name and registration number on official documents and publications including in electronic form and websites.</li> </ul>
	<b>TOTAL: 3,919</b>	<b>TOTAL: 325,252</b>
<b>Business</b>	<p><b>Scope of Monitoring:</b></p> <ul style="list-style-type: none"> <li>• Compliance under Rule 13A(2) of the ROBR 1957 regarding displaying business name and registration number outside the place of business.</li> <li>• Compliance under section 12(2) of the ROBA 1956 regarding the display of registration certificate at business premises.</li> <li>• Compliance with the provisions of section 12(1)(a) and 12(1)(b) of the ROBA 1956 regarding business registration and renewal of businesses.</li> </ul>	<p><b>Scope of Monitoring:</b></p> <ul style="list-style-type: none"> <li>• Monitoring of business registration expiry dates under section 12(1)(b) of the ROBA 1956.</li> <li>• Concerns relating to public interest, e.g. illegal investments, interest schemes and fraud by businesses.</li> </ul>
	<b>TOTAL: 5,503</b>	<b>TOTAL: 189,432</b>
<b>Limited Liability Partnerships</b>	<p><b>Scope of Monitoring:</b></p> <ul style="list-style-type: none"> <li>• Compliance of LLPs to accounting records requirements and other such records pertaining to section 69 of the LLPA 2012.</li> </ul>	<p><b>Scope of Monitoring:</b></p> <ul style="list-style-type: none"> <li>• Annual Declaration lodgement by LLPs pertaining to section 68(2) of the LLPA 2012.</li> <li>• Concerns relating to public interest, e.g. illegal investments, interest schemes and fraud by LLPs.</li> </ul>
	<b>TOTAL: 30</b>	<b>TOTAL: 4,448</b>
<b>TOTAL</b>	<b>9,452</b>	<b>519,132</b>

## ENFORCEMENT INITIATIVES

## OTHER ENFORCEMENT ACTIVITIES IN 2021

Task Force: *Ops Ulat Sesawang*

A task force, named *Ops Ulat Sesawang* (OUS) was established on 25 March 2021 to combat unauthorized agents using SSM's name and logo and offering online business renewal services with high fees. Shown below are the statistics of the inspections carried out:

Statistics of Total Business Entity			
	Active	Cessation	Total
Businesses	5	12	17
Companies	1	0	1
LLPs	0	1	1
Unregistered	0	3	3
<b>Total</b>	<b>6</b>	<b>16</b>	<b>22</b>

Statistics of Total Website URL			
	Active	Cessation	Total
Businesses	5	19	24
Companies	1	1	2
LLPs	0	1	1
Unregistered	0	3	3
<b>Total</b>	<b>6</b>	<b>24</b>	<b>30</b>

Statistics of New Entity Findings				
	Website	Shopee	Facebook	Total
Businesses	14	4	2	20
Companies	-	-	-	-
LLPs	1	-	-	1
Cooperatives (Registered under SKM)	-	1	-	1
Unregistered	2	2	-	4
<b>Total</b>	<b>17</b>	<b>7</b>	<b>2</b>	<b>26</b>

## ENFORCEMENT INITIATIVES

## SSM ONLINE BUSINESS ALERT (OBA)

SSM continued to implement various initiatives to ensure corporate communities are protected against fraudulent and unauthorized business activities. The SSM OBA was introduced on 29 July 2020 as a proactive move to assist the public in identifying unethical and fraudulent business entities.

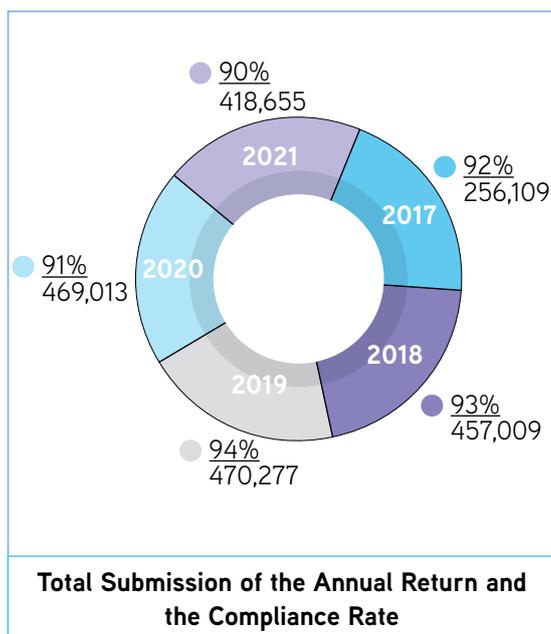
The OBA, which can be assessed through SSM's official website, will display a list of dubious websites and social media pages suspected of being involved in scam or fraudulent business activities. These websites/ social media pages were identified through police reports received from the public. Since it was introduced, a total of 20 entities have been identified and listed in the list.

## MONITORING AND INSPECTION OUTCOMES

## Compliance Rate

SSM continued its efforts in promoting compliance with the requirement to submit the Annual Return (AR) to the Registrar. Submissions of the AR for 2021 recorded a 90% compliance rate.

The chart below shows a comparison of the submission of the AR and the compliance rate for a period of five (5) years:



## FURTHER ACTION FOR NON-COMPLIANCE



## ENFORCEMENT INITIATIVES

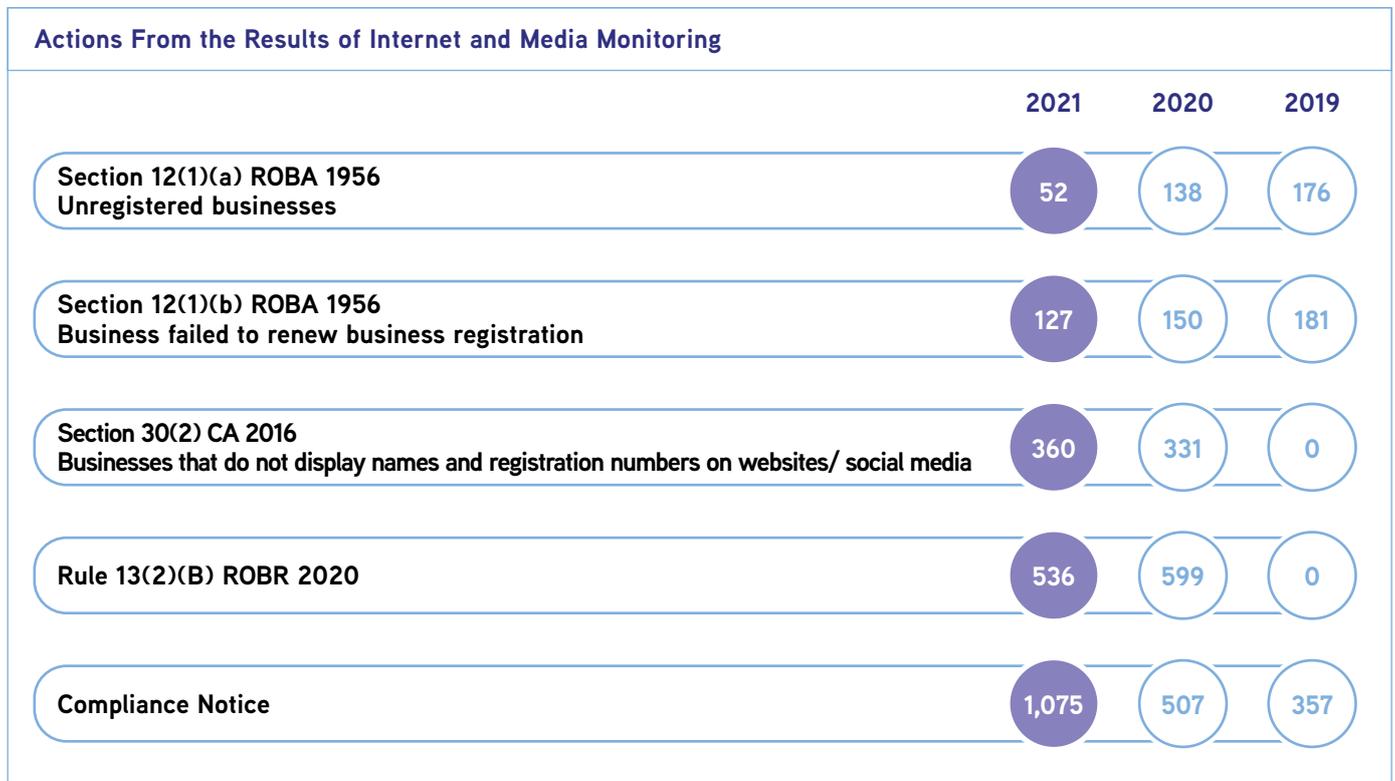
## ACTION FROM MONITORING AND INSPECTION OUTCOMES

To ensure a conducive business environment and good corporate governance among company directors and business owners, SSM continues to take enforcement action against non-compliances identified through operational, online and media monitoring as well as monitoring the qualifications of company directors.

The statistics for the inspection of company, business and LLP premises are as below:



The statistics of online and media monitoring for 2019 to 2021 are as follows:



## ENFORCEMENT INITIATIVES

Monitoring of bankrupt directors, companies that fail to submit Statement of Affairs and companies with outstanding charges are as follows:

### MONITORING OF BANKRUPT DIRECTORS, COMPANIES THAT FAIL TO SUBMIT STATEMENTS OF AFFAIR & COMPANIES WITH OUTSTANDING CHARGES



#### WINDING UP COMPANIES WHICH FAILED TO SUBMIT STATEMENT OF AFFAIRS

**Total Notices:**

444 compliance notices under section 484 of the CA 2016 were issued against directors and company secretaries.

**Administrative Actions:**

444 company directors and secretaries have been imposed administrative action.



#### BANKRUPT DIRECTOR

**Total Notices:**

No compliance notice under section 198 of the CA 2016 was issued against any bankrupt director.

**Administrative Actions:**

2 Directors have been imposed administrative action.



#### COMPANIES WITH OUTSTANDING CHARGES

**Total Notices:**

1,469 compliance notices under section 360 of the CA 2016 were issued against companies, directors and company secretaries.

**Winding Actions:**

79 companies have been proposed for cancellation of names under section 549 of the CA 2016.

## REGISTRATION OF COMPANY SECRETARY

### Company Secretary Practicing Certificate

As of 31 December 2021, a total of 9,177 company secretaries have registered and obtained their Company Secretary Practicing Certificate since section 241 of the CA 2016 came into effect on 15 of March 2019.

This provision requires any person, who is qualified under section 235 of the CA 2016 and wishes to act as a company secretary, to register with SSM before they can act as a company secretary.

The purpose of section 241 of the CA 2016 is aimed at establishing a registry of company secretaries in Malaysia that will allow SSM to monitor the competencies and professionalism of company secretaries. This in turn will have a positive impact on the level of compliance and good governance among companies and the corporate community.

## ENFORCEMENT INITIATIVES

The following are the statistics of new applications for Company Secretary Practicing Certificates in 2021:

## APPLICATIONS FOR COMPANY SECRETARY PRACTICING CERTIFICATES IN 2021

Total Applications Received	<b>658</b>
Total Applications Approved	<b>637</b>
Breakdown of approved applications according to the qualifications and Professional Bodies	
(a) Company Secretary License (LS)	<b>90</b>
(b) Malaysian Institute of Chartered Secretaries and Administrators (MAICSA)	<b>93</b>
(c) Malaysian Institute of Accountants (MIA)	<b>325</b>
(d) Malaysian Bar (BC)	<b>94</b>
(e) Malaysian Association of Company Secretaries (MACS)	<b>14</b>
(f) Malaysian Institute of Certified Public Accountants (MICPA)	<b>7</b>
(g) Sabah Law Association (SLA)	<b>10</b>
(h) Advocates Association of Sarawak (AAS)	<b>4</b>

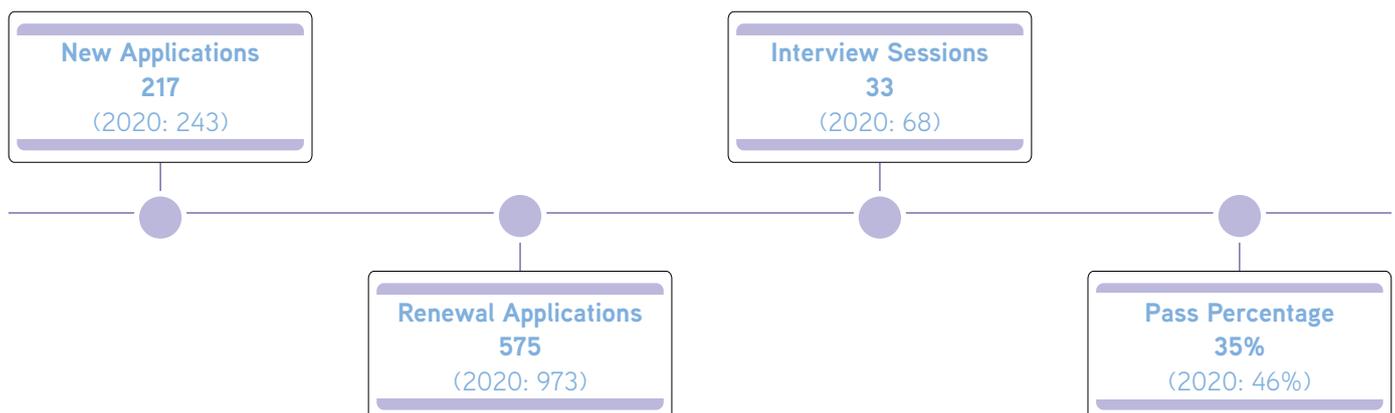
The table below shows the statistics of renewal application of Company Secretary Practicing Certificates in 2021:

## APPLICATIONS FOR THE RENEWAL OF COMPANY SECRETARY PRACTISING CERTIFICATES IN 2021

Total Applications Received and Approved	<b>4,045</b>
Breakdown of renewal applications approved according to the qualifications and Professional Bodies	
(a) Company Secretary License (LS)	<b>1,045</b>
(b) Malaysian Institute of Chartered Secretaries and Administrators (MAICSA)	<b>981</b>
(c) Malaysian Institute of Accountants (MIA)	<b>1,618</b>
(d) Malaysian Bar (BC)	<b>151</b>
(e) Malaysian Association of Company Secretaries (MACS)	<b>191</b>
(f) Malaysian Institute of Certified Public Accountants (MICPA)	<b>11</b>
(g) Sabah Law Association (SLA)	<b>10</b>
(h) Advocates Association of Sarawak (AAS)	<b>38</b>

## Company Secretary License

A total of 2,390 individuals have been licensed by the Commission under section 20G of the CCMA 2001 until 31 December 2021. The summary of licensing activities for the year 2021 are as follows:

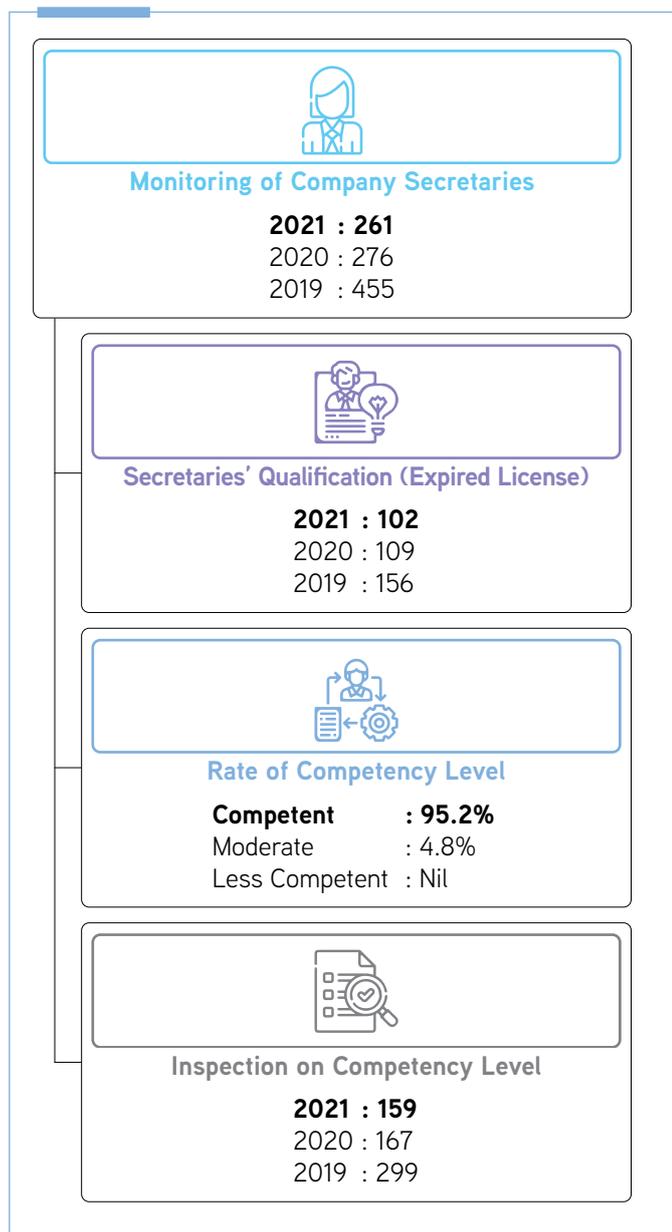


## ENFORCEMENT INITIATIVES

**MONITORING OF COMPANY SECRETARIES**

For the monitoring of company secretaries, a total of 261 (2020: 276) competency inspections of company secretaries were conducted at the company's registered office to assess the level of compliance with the provisions and requirements of the CA 2016.

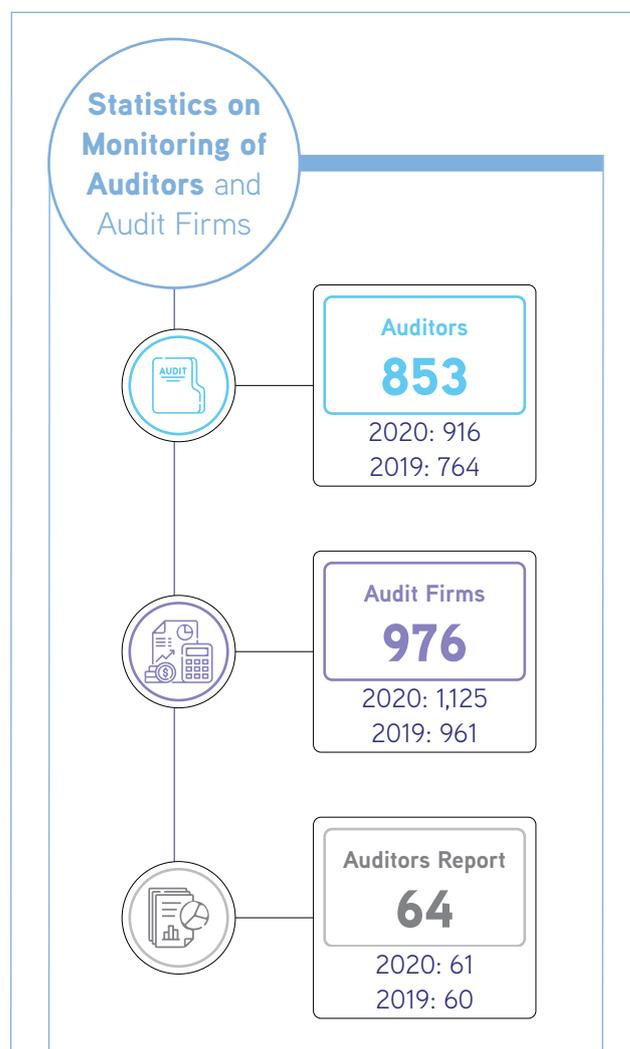
A total of 102 (2020: 109) monitoring notices on the qualifications of company secretaries under section 235(2) of the CA 2016 have been issued. The summary of the company secretaries monitoring activities for 2021 is as follows:

**MONITORING OF AUDITORS AND AUDIT FIRMS**

SSM conducts monitoring of auditors of companies to ensure that the level of competence and professionalism of auditors are monitored effectively through a comprehensive mechanism. This would also increase the level of awareness among auditors and audit firms regarding the need to comply with the provisions as prescribed under the CA 2016.

In 2021, SSM conducted inspections on 853 auditors (2020: 916) and 976 audit firms (2020: 1,125). The result of the inspections revealed two (2) audit firms had failed to comply with the provisions under section 265 (4) and section 284 (a) of the CA 2016.

A summary of activities related to the monitoring of auditors and audit firms for 2021 is as follows:



## ENFORCEMENT INITIATIVES

## COMPLAINTS MANAGEMENT

The number of complaints received until December 2021 was 1,109 complaints with a reduction of 74 complaints which is 6.25% compared to the previous year (1,183). Of the total number of complaints received, a total of 1,093 (98.5%) complaints were successfully processed within the target period set for 2021.

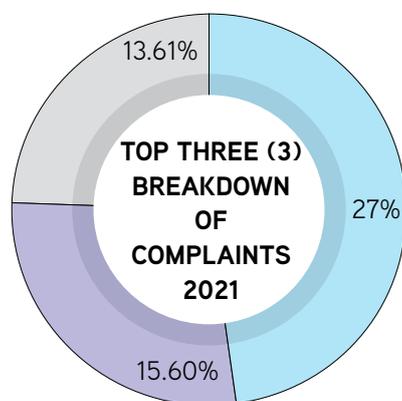
COMPLAINTS RECEIVED IN 2021						
Complaints Received	Complaints Resolved		Complaints Resolved Within the Timeline		Complaints Resolved Beyond the Timeline	
1,109	1,093	98.50%	1,093	98.50%	16	1.50%

YEAR	COMPLAINTS RECEIVED BY ENTITY			
	COMPANIES	BUSINESSES	OTHERS	TOTAL
2021	738	342	29	1,109
2020	786	371	26	1,183
2019	1,109	408	31	1,548

YEAR	COMPLAINTS RESOLVED BY ENTITY			
	COMPANIES	BUSINESSES	OTHERS	TOTAL
2021	725	339	29	1,093
2020	768	362	26	1,156
2019	1,076	403	31	1,510

CLASSIFICATION OF COMPLAINTS RECEIVED	
ISSUES	TOTAL
Inaccurate information and identical name	15
Inappropriate conduct by director	75
Inappropriate conduct by company secretary	89
Misconduct company auditor	3
Fraud and serious offences such as corporate governance and lodgement of false and misleading information	299
Misconduct during winding up of company	20
Accounting non-compliance	5
Registered Interest Schemes	26
Unregistered Interest Schemes	6
Unregistered online Interest Schemes	0
Regular offences and routine	140
Issues involving the jurisdiction of other agencies such as employment, tourism, scratch and win, direct selling and fraud	173
Issues that do not involve offences governed by SSM such as claims for money or goods, internal problems and meeting arrangements	107
Inquiries on corporate misconduct	151
<b>TOTAL</b>	<b>1,109</b>

## ENFORCEMENT INITIATIVES



- Inquiries on Corporate Misconduct
- Fraud and Serious Offences
- Issues Involving the Jurisdiction of Other Agencies

The top three (3) categories of complaints received in 2021 were:

(a) The highest complaint which constituted 299 complaints (27.00%) of the total complaints received were in relation to fraud and serious offences. Among the complaints received were on the lodgement of false and misleading information, the duties and liabilities of directors and taking unauthorised deposits or offering shares to the public.

(b) Issues involving the jurisdiction of other agencies such as employment issues, tourism, scratch and win, direct sales and fraud is the second highest complaint which comprised of 173 complaints (15.60%) out of the total number of complaints received.

(c) Complaints involving inquiries relating to corporate misconduct was the third highest complaint at 151 complaints (13.61%).

### MONITORING OF FINANCIAL STATEMENTS FOR ENTITIES INCORPORATED AND REGISTERED IN MALAYSIA

In 2021, continuous monitoring of the company Financial Statement's integrity was a priority for SSM. A total of 4,366 Financial Statements were monitored. The monitoring activities were carried out by conducting a detailed review on the financial records of companies and LLP in accordance with the requirements of the CA 2016, CA 1965, TCA 1949, LLPA 2012 and CCMA 2001 and compliance with applicable approved accounting standards and other regulated Acts.

The focus of monitoring these regulated entities is to ensure that the accounting records and supporting documents of the company are properly kept, financial statements are prepared regularly, able to explain every transaction involved and

emphasis on the adoption of applicable approved accounting standards during the preparation of the financial statements. This is also to ensure the financial statements give a true and fair view as required by section 259 of the CA 2016.

In addition to the audited Financial Statements, SSM also monitors the unaudited Financial Statements in ensuring compliance with the criteria set out in Practice Directive 3/ 2017: Qualifying Criteria for Audit Exemption for Certain Categories of Private Companies.

Further, SSM monitors the key financial information in the Annual Declaration of an LLP to ensure that the LLPs comply with the provisions under section 69 of the LLPA 2012 regarding the keeping of accounts. In addition, the monitoring of key financial information of the LLP is also monitored through the issuance of the LLP Financial Information Form to ensure that the LLP provides accurate and not misleading information under section 80 of the LLPA 2012.

The purpose of monitoring a trust company is to ensure compliance under section 21 of the TCA 1949 on the submission of the statement of liabilities together with statement of affidavit and statement bi-annual activities. In addition, compliance with section 245 of the CA 2016 for the trust company is carried out to ensure compliance with the keeping of accounts are fulfilled.

Statistics on the monitoring the Financial Statements, accounting records and awareness programmes through e-postcard to company secretaries, directors and compliance officers are as follows:

#### Qualified Financial Statements

**1,364**

2020 : 408  
2019 : 809



#### Unaudited Financial Statements

**1,245**

2020 : 172  
2019 : 7



#### Limited Liability Partnerships

**518**

2020 : 428  
2019 : 928



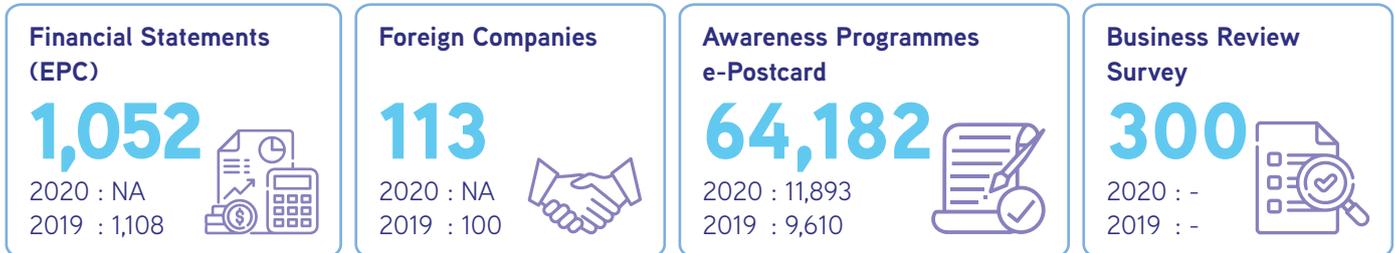
#### Trust Companies

**37**

2020 : 37  
2019 : 38



## ENFORCEMENT INITIATIVES



The description of the offences for Financial Statements and Accounting Records are as follows:

OFFENCES	DETAILS	TOTAL
<b>Section 245 &amp; 246 of the CA 2016</b>	(a) Failure to keep accounting records and other records to ensure that Financial Statements can be prepared fairly and equitably.  (b) Failure of directors of public companies and public subsidiaries to ensure that the company's system of internal control in relation to assets and transactions of accounting records can be properly controlled and recorded and to ensure that Financial Statements are properly prepared and fair.	<b>479</b>
<b>Section 27B(4) of the CCMA 2001</b>	Failure of the LLP to respond to the notice under section 27B of the CCMA 2001 for Financial Information Form.	<b>63</b>
<b>Practice Directive 3/ 2017</b>	Failure of companies to comply with the Practice Directive 3/ 2017: Qualifying Criteria for Audit Exemption for Certain Categories of Private Companies.	<b>306</b>
<b>Section 248 of the CA 2016</b>	Failure of company directors to prepare audited Financial Statements within six (6) months from the end of the financial year. The company submitted an unaudited Financial Statement and did not meet the criteria set out in PD 3/ 2017.	<b>107</b>
<b>Section 251(1)(b) of the CA 2016</b>	Failed to include a statutory declaration with the Financial Statements by the person responsible in providing an opinion on the accuracy of the content of the Financial Statements.	<b>1</b>
<b>Section 244 of the CA 2016</b>	Failure to use correct accounting standards in the preparation of the Financial Statements of a foreign company.	<b>2</b>
<b>Section 574 of the CA 2016</b>	The failure of a foreign company to keep accounting and other records in Malaysia that adequately describe the transactions and financial position of the foreign company to enable the records to be easily and properly audited.	<b>1</b>
<b>Section 260 of the CA 2016</b>	Failure of the company to comply with the provisions in particular to ensure that the information stated in the EPC Certificate (Form 558) signed by the directors, company secretary and auditors is true and valid.	<b>66</b>
	<b>TOTAL</b>	<b>1,025</b>

## ENFORCEMENT INITIATIVES

Enforcement actions on monitoring Financial Statements and Accounting Records in 2021 are as follows:

ENFORCEMENT ACTIONS	TOTAL
Reminder Notice because the company does not follow the Audit Exemption Certificate (AEC) format	125
Reminder Notice because the company submitted unaudited Financial Statements without an Audit Exemption Certificate (AEC)	132
Notice of Compliance against companies with Qualified Financial Statements status under section 245 of the CA 2016 to company secretaries and company directors	154
Reminder Notice is issued to the company to comply with the provisions of section 260 of the CA 2016 so that the information stated in the EPC Certificate (Form 558) signed by the director, company secretary and auditor is true and valid	66
Reminder Notice is issued to LLP compliance officers who fail to respond to the notice under section 27B of the CCMA 2001	63
<b>TOTAL</b>	<b>540</b>

## MONITORING OF COMPANIES LIMITED BY GUARANTEE (CLBG)

In 2021, a total of 250 CLBGs Financial Statements were inspected to ensure compliance with the approved accounting standards. A total of three (3) notices were sent to CLBGs for asset verification and a further 1,594 CLBGs were sent notices of 27B to respond to the Financial Information Form (FIF) and 2,123 Internal Control Information Form (ICIF). A total of 64 notices were sent to CLBGs to ensure that compliance on the RM1 million fund requirement to be obtained within six (6) months after incorporation. SSM also conducted Risk-Based Approach inspection where a total of 345 notices were issued.

Two (2) surveys on CLBGs were conducted in 2021 and they are firstly on the Best Practices of CLBGs and Anti-Corruption Policy Based on the National Anti-Corruption Plan (NACP). The survey was circulated to 2,123 CLBGs. The second survey was the Business Review Director Feedback Survey 2021 which was circulated to 600 CLBGs. Awareness programmes were also conducted to increase the level of awareness of CLBGs among directors and company secretaries regarding the accounting standards, business review and system of internal control. The information was disseminated to directors and secretaries of 4,846 CLBGs.

The summary of CLBG monitoring activities in 2021 are as follows:

MONITORING ACTIVITIES	TOTAL
Inspections of Financial Statement with "qualified/ unqualified" status	250
Assets Verification	3
Financial Information Form (FIF)	1,594
Internal Control Information Form (ICIF)	2,123
<b>To Comply with The License Conditions/ CLBG Guidelines</b>	
• CLBGs must obtained initial funds of RM1 million within six (6) months after incorporation	64
• CLBGs which holds or disposes land	86
• CLBGs who paid any fees, salaries and fixed allowance to its directors	96

## ENFORCEMENT INITIATIVES

MONITORING ACTIVITIES	TOTAL
<b>Inspections of FIF 2020 feedback</b>	
• CLBG that has a total donation income from abroad exceeding RM100,000.00	35
• CLBG that receives income through grants	80
• CLBG that receives a total of cash and bank from abroad exceeding RM100,000.00.	10
• CLBG that receives income from trustees	38
<b>Survey</b>	
• “Best Practices of CLBG and Anti-Corruption Policy Based on NACP”	2,123
• “Business Review Director Feedback Survey 2021”	600
<b>e-Postcard Awareness</b>	
• Approve Accounting Standards	2,123
• Business Review under section 253(3) and Part II Fifth Schedule of the CA 2016	600
• CLBGs System of Internal Control	2,123

Enforcement actions of CLBG for 2021 are as follows:

## FAILURE TO ANSWER FINANCIAL INFORMATION FORM FOR 2020

- 560 Reminder Notices
- 493 Seconds Reminder Notices

## MONITORING OF REGISTERED INTEREST SCHEMES (RIS)

The Interest Schemes Act 2016 is the sole legislature to administer and regulate the RIS. The RIS is an alternative form of fundraising where contributions by stakeholders are collected within the same company.

The objectives of monitoring are to:

- |  |   |
|--|---|
| (a) Identify the types of RIS to be the basis for action under the Interest Schemes Act 2016;  | (e) Ensure that the management company (operator of the scheme) complies with the provisions under the Interest Schemes Act 2016 and complies with Deed of Trust (DoT) and prospectus registered and issue reminders to the company that has been identified; and |
| (b) Ensure that the management company officers (operator of the scheme) are adhering to the corporate governance requirements;              | (f) Ensure the DoT, Supplementary Trust Deed (STD) and Prospectus have been inspected.  |
| (c) Ensure the rights and interests of interest holders are protected;   |   |
| (d) Ensuring the appointed trustee of the scheme performs the duties and responsibilities as stipulated under the Interest Schemes Act 2016; |   |

## ENFORCEMENT INITIATIVES

Protection mechanisms against shareholders are as follows:

## INTEREST SCHEMES ACT 2016

**Section 9(5)**

The power of the Registrar to direct the management company to compensate any person who have purchased any interest in the scheme prior to the application

**Section 42**

The Registrar may, by stop order in writing served on the management company

**Section 55**

The interest holders of a scheme may require the directors of a management company to call for a meeting of interest holders

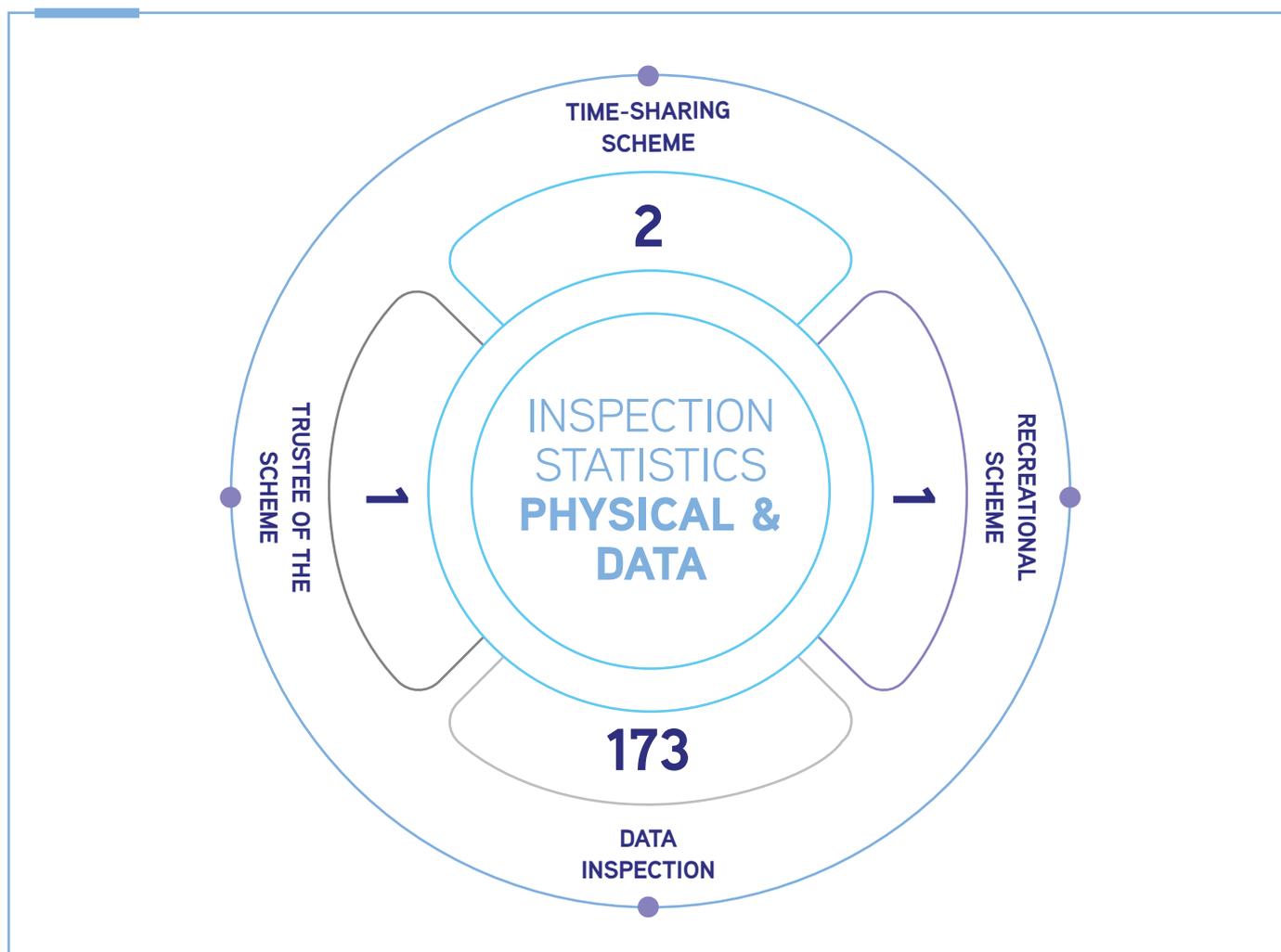
**Section 71**

Notwithstanding anything in this Act, the Registrar shall have the power to intervene in the management of a scheme when he is satisfied

**Section 72**

The Registrar shall have the power to terminate an unregistered scheme

Statistics of RIS for the 2021 which involved monitoring based on the physical and data inspections are as follows:

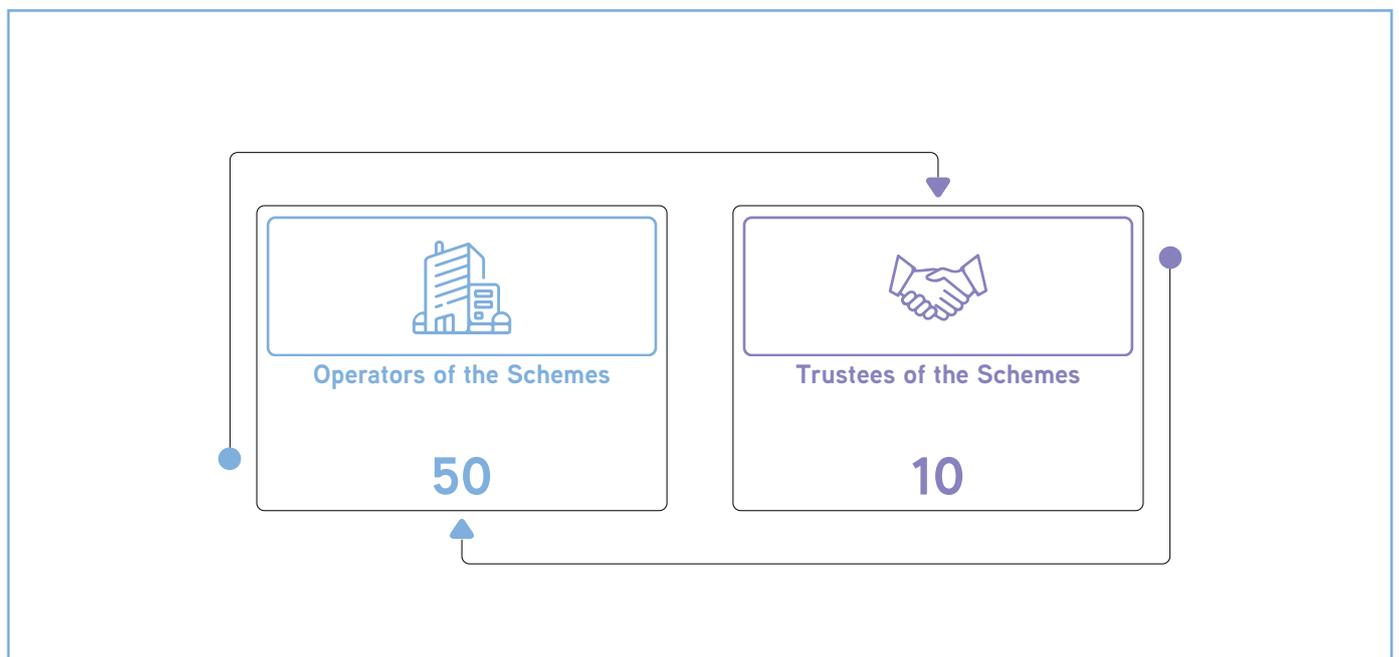


ENFORCEMENT INITIATIVES

Due to the COVID-19 pandemic, physical inspections were replaced to issuance of notices under section 27B. Findings of the physical and data inspections for 2021 are as follows:

ACTIVITIES	ACTIONS
Physical Inspection	<p><b>Four (4) complaints files were issued as below:</b></p> <ul style="list-style-type: none"> <li>• No Further Action - <b>2 files</b></li> <li>• Under Winding Up Action - <b>2 files</b></li> </ul>
Data Inspection	<p><b>33 compliance notices for renewal of the prospectus were issued to the following schemes from 173 data inspection as below:</b></p> <ul style="list-style-type: none"> <li>• Recreational Membership Scheme - Golf &amp; Recreational Club - <b>2</b></li> <li>• Recreational Membership Scheme - Recreational Club - <b>11</b></li> <li>• Timesharing Scheme - <b>7</b></li> <li>• Investment Scheme - Share farming - <b>2</b></li> <li>• Investment Scheme - Memorial Park - <b>4</b></li> <li>• Investment Scheme - Property - <b>7</b></li> </ul>
Issuance of notice under section 27B	<p><b>15 notices under section 27B were issued to trustee of the scheme regarding status of the scheme under their supervision as below:</b></p> <ul style="list-style-type: none"> <li>• Continuous monitoring until submission of the Deed of Termination - <b>7 files</b></li> <li>• No further action - <b>6 files</b></li> <li>• Physical inspection - <b>2 files</b></li> </ul>

Awareness programmes carried out for operators and trustees of the schemes in 2021 are as below:



ENFORCEMENT INITIATIVES

INVESTIGATION

PROGRAMME WITH COMPANY SECRETARIES ON A TARGETED BASIS ON THE ISSUE OF FALSIFICATION OF INFORMATION UNDER SECTION 364 OF THE CA 1965/ SECTION 591 OF THE CA 2016

THE INVOLVEMENT OF 72 PARTICIPANTS COMPRISING OF COMPANY SECRETARIES AND ASSISTANT COMPANY SECRETARIES THROUGH FOUR (4) PROGRAMME SESSIONS FOR 2021.

OBJECTIVE

THE MAIN INFORMATION CASES

CAUSES OF FALSIFICATION

Company secretaries failed to perform Know Your Customer (KYC)/ Customer Due Diligence (CDD) with the customers who have dealt with them

To provide exposure to the company secretaries on the importance of KYC/ CDD

1

To explain the consequences of non-compliance of KYC/ CDD

2

COMMON OFFENCES COMMITTED BY COMPANY SECRETARIES

Failed to identify and verify customer's identity

Granting permission to another individuals acting as a company secretary

Failed to identify and verify the locus standi of the individual's identity (third party) who dealt with company secretaries

Failure to ensure that the information and records of the company's Financial Statements are kept in an orderly manner

Failed to manage and store customer's information



86%



14%

Overall, 86% (62 participants) agreed that the objectives of the programme had been achieved and stated that the programme conducted has improved their knowledge and skills in performing duties as company secretaries.

ENFORCEMENT INITIATIVES

MEDIA RELEASES

In addition to the reactive conventional investigative actions practiced by SSM, preventive enforcement actions and awareness are also used as one of the proactive measures to educate the public to be more careful so that they do not get involved and be deceived in cases involving violations of acts regulated by SSM.

Therefore, throughout 2021, SSM has posted on SSM’s social media platforms on various topics. These media announcements appear to have received encouraging sharing response from other social media platforms especially media platforms owned by governments agencies and communities such as PDRM (Cyber Crime Alert Royal Malaysia Police and District Police Office), Malaysian Insolvency Department, Attorney General’s Chambers, *Pusat Ekonomi Digital Keluarga Malaysia* (PEDi), Community Internet Centres and also secretarial and accounting firms’ groups.

AWARENESS TOPICS

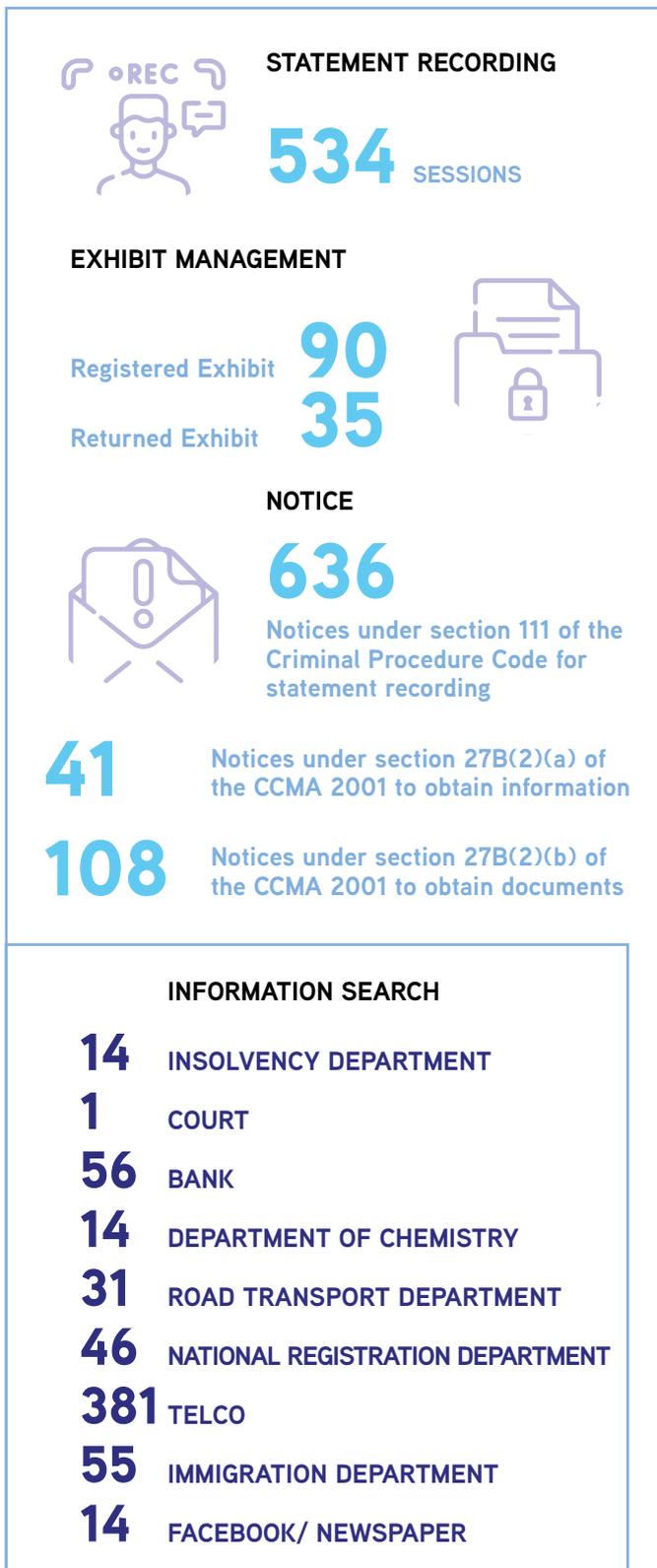
- 1 Kootu Schemes
- 2 Licensed Money Lenders
- 3 Bogus Auditors
- 4 Protect Your Identity
- 5 Misleading Information
- 6 Know Your Customers
- 7 Bankrupt Directors
- 8 SSM Notices

ANNOUNCEMENTS ON SSM SOCIAL MEDIA



## ENFORCEMENT INITIATIVES

## ENFORCEMENT ACTIVITIES 2021



## PROSECUTION



## INSPECTION

**BUSINESS PREMISES** **23**

**REGISTERED OFFICES** **30**

**AUDITOR'S OFFICE** **1**

**WITNESSES AND SUSPECTS RESIDENTAL ADDRESSES** **65**

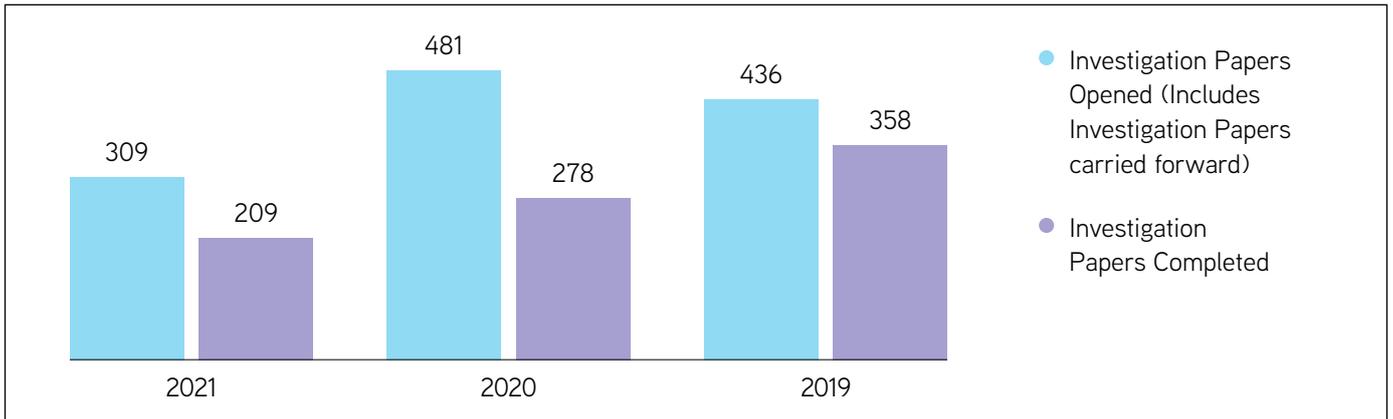
## STRATEGIC COLLABORATIONS WITH ENFORCEMENT AGENCIES, STATUTORY BODIES AND OTHERS



ENFORCEMENT INITIATIVES

INVESTIGATION STATISTICS AND ANALYSIS FOR THE YEAR 2021

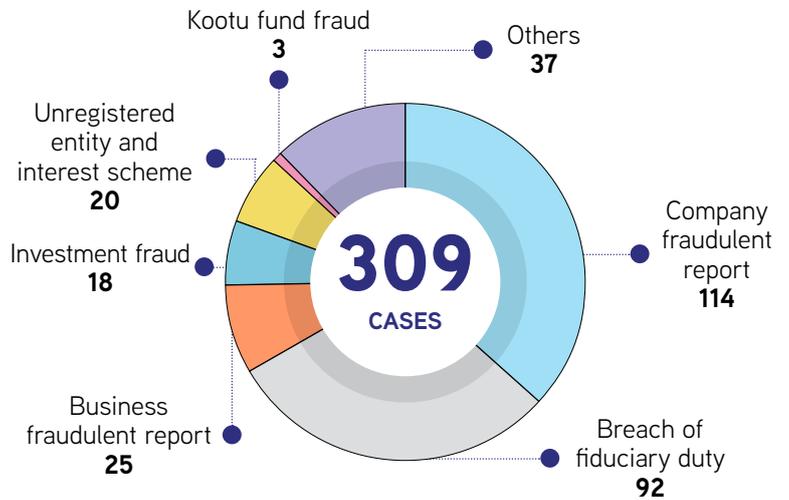
TOTAL INVESTIGATION PAPERS



INVESTIGATIONS UNDER RESPECTIVE ACTS



NATURE OF OFFENCES



309 ENTITIES INVOLVED IN THE INVESTIGATION



*ENFORCEMENT INITIATIVES***PROSECUTION AND LITIGATION****WORKSHOP ON TRIALS AND APPEALS**

The workshop on Trials and Appeals was held on 7 until 9 April 2021 involving 31 participants. The invited speaker to deliver the sessions for this programme was Puan Samihah Bt Rhazali, an experienced Deputy Public Prosecutor from the Appellate and Trials Division, Attorney General's Chambers of Malaysia. The participants of the programme included all Prosecution & Litigation Division (PLD) officers from SSM Headquarters and Enforcement Section officers from the SSM State Offices.

**WORKSHOP ON DRAFTING PROSECUTION SUBMISSIONS 2021**

Workshop on Drafting Prosecution Submissions was held on 17 until 19 November 2021. The workshop was officiated by Deputy Chief Executive Officer (Regulatory & Enforcement), Tuan Khuzairi Yahaya. The participants of this workshop were Prosecution Officers from SSM Headquarters. The speakers delivering the modules on the topic of drafting prosecution submissions were Puan Rozaliana Zakaria, Director of PLD and Encik Mohd Zulkhairi Kamaruzaman, Head of Prosecution Section, PLD.

**SSM ENFORCEMENT CONFERENCE 2021**

The 12th Enforcement Conference 2021 (ECON 2021) with the theme "*Social Economy and the COVID-19 Crisis: New Norms – New Strategies*" was successfully held on 8 until 10 December 2021. Participants from the Divisions under the Regulatory & Enforcement Office, SSM State Offices and Branches from throughout the country convened to share information and discuss issues regarding regulatory and enforcement. The speakers, panelists and moderators were the officers from the Regulatory & Enforcement Office as well as invited panelists from the Attorney General's Chambers of Malaysia and Royal Malaysian Police.

## ENFORCEMENT INITIATIVES

## PROSECUTION

## REGISTRATION OF COURT CASES IN 2021

2021 recorded an increase in the number of prosecution cases registered in Court. SSM registered 5,732 cases in Court in 2021 as compared to 4,738 cases in 2020, which is an increase of 21%.

Statistics of Corporate Governance cases registered under the CA 1965, CA 2016, LLPA 2012, CCMA 2001, Interest Schemes Act 2016, Kootu Funds (Prohibition) Act 1971 and ROBA 1956 are as follows:

CATEGORY OF CORPORATE GOVERNANCE OFFENCES	NUMBER OF CASES REGISTERED		
	2021	2020	2019
<b>Section 12(1)(d) ROBA 1956:</b> Making or furnishing the Registrar with false information.	-	1	3
<b>Section 7D(5) CA 1965:</b> Failure to give a justify reason for non compliance of 7D(1) notice from Registrar.	-	-	-
<b>Section 89 CA 1965:</b> Interests to be issued by not a company or an agent of company.	-	-	-
<b>Section 91(1) CA 1965:</b> No issue without approved deed.	-	2	1
<b>Section 125(1) CA 1965:</b> Undischarged bankrupts acting as directors.	2	-	7
<b>Section 128(2) CA 1965:</b> Removal of directors without special notice.	-	-	-
<b>Section 131(1) CA 1965:</b> Failure to disclose interest to the company in a meeting.	-	-	-
<b>Section 132(1) CA 1965:</b> Failure to exercise power as director of a company in the best interest of the company.	-	-	4
<b>Section 132(2)(c) CA 1965:</b> Director or officer of company using his position as director or officer without the consent or ratification of a General Meeting.	-	4	4
<b>Section 132(2)(d) CA 1965:</b> Director or officer of company using his position as director or officer without the consent or ratification of a General Meeting to use any opportunity of the company which he becomes aware of.	-	-	1
<b>Section 364(2) CA 1965:</b> Person making or authorising the making of a statement false or misleading in any material particulars, knowing it to be false or misleading.	1	3	17
<b>Section 370(1) CA 1965:</b> Default penalty proceedings for continuous default.	-	-	-
<b>Section 167(2) CA 1965:</b> Failure to keep company accounting records for 7 years.	-	1	-
<b>Section 198(1) CA 2016:</b> Undischarged bankrupt acting as director.	3	2	4

## ENFORCEMENT INITIATIVES

CATEGORY OF CORPORATE GOVERNANCE OFFENCES	NUMBER OF CASES REGISTERED		
	2021	2020	2019
<b>Section 593(a) CA 2016:</b> Person making or authorising the making of a statement false or misleading in any material particulars, knowing it to be false or misleading.	1	-	2
<b>Section 593(b) CA 2016:</b> Person making or authorising the making of a statement false or misleading in any material particulars, knowing it to be false or misleading.	-	1	-
<b>Section 591(2)(a) CA 2016:</b> False statement that is misleading.	2	5	3
<b>Section 27B(1)(a) CCMA 2001:</b> Failure to comply with notice to attend private hearing before the Registrar.	-	-	3
<b>Section 80(1) LLPA 2012:</b> False statement and misleading.	1	-	1
<b>Section 484(6) CA 2016:</b> Failure to disclose liabilities in Statement of Affairs.	-	-	1
<b>Section 245(9) CA 2016:</b> Failure to keep accounting records.	-	1	2
<b>Section 3(2)(a) Interest Schemes Act 2016:</b> Restriction to not issue any advertisement inviting to participate in an unregistered and unauthorized scheme.	-	-	2
<b>Section 3 Kootu Funds (Prohibition) Act 1971:</b> Carry on business of promoting kootu funds to the public.	-	1	-
<b>Section 597(1) CA 2016:</b> Any person carrying on business under any name or title of which "Berhad" or "Limited" is the final word or abbreviation without approval.	-	1	-
<b>Section 230 CA 2016:</b> Fees and benefits payable to directors of public company or listed company and its subsidiaries shall be approved at a general meeting.	2	-	-
<b>TOTAL</b>	<b>12</b>	<b>22</b>	<b>55</b>

## ENFORCEMENT INITIATIVES

Statistics of non-compliance cases registered under the CA 1965, CA 2016, LLPA 2012, CCMA 2001, Interest Schemes Act 2016, Kootu Funds (Prohibition) Act 1971 and ROBA 1956 are as follows:

CATEGORY OF NON-COMPLIANCE OFFENCES	NUMBER OF CASES REGISTERED		
	2021	2020	2019
<b>Section 143(1) CA 1965:</b> Failure to hold Annual General Meeting.	214	131	384
<b>Section 169(1) CA 1965:</b> Failure to table accounts at the Annual General Meeting within the prescribed period.	66	121	107
<b>Section 165(4) CA 1965:</b> Failure to lodge Annual Return.	1,528	1,610	7,011
<b>Section 68(1) CA 2016:</b> Failure to lodge Annual Return.	3,413	2,508	1,705
<b>Section 121(1)(b) CA 1965:</b> Failure to print company name and number on official documents.	-	-	-
<b>Section 121(3) CA 1965:</b> Failure to display company name on all offices.	-	-	-
<b>Section 369(1)(c) CA 1965:</b> General Offences	-	-	-
<b>Section 588(1)(c) CA 2016:</b> General Offences	-	-	1
<b>Section 12(1)(a) ROBA 1956:</b> Carrying on business without registration.	5	34	21
<b>Section 12(1)(b) ROBA 1956:</b> Carrying on business after expiry of business registration.	36	63	76
<b>Section 12(1)(c) ROBA 1956:</b> Failure to give information to the Registrar.	-	-	-
<b>Section 12(2) ROBA 1956:</b> Failure to display Certificate of Registration.	65	76	32
<b>Section 17A(1)(b) ROBA 1956:</b> Failure to submit change of registered business particulars.	3	12	22
<b>Section 17A(2) ROBA 1956:</b> Failure to display signboard.	62	118	8
<b>Section 259(1)(a) CA 2016:</b> Duty to lodge Financial Statements and reports with the Registrar.	328	43	-
<b>TOTAL</b>	<b>5,720</b>	<b>4,716</b>	<b>9,367</b>

## ENFORCEMENT INITIATIVES

SSM has jurisdiction to conduct prosecution cases in Court for offences under the CA 1965, Kootu Funds (Prohibition) Act 1971, CA 2016, ROBA 1956, LLPA 2012, CCMA 2001 and Interest Schemes Act 2016 pursuant to the First Schedule of the CCMA 2001.

Statistics of Corporate Governance cases charged under the CA 1965, CA 2016, LLPA 2012, CCMA 2001, Interest Schemes Act 2016 and ROBA 1956 are as follows:

CATEGORY OF CORPORATE GOVERNANCE OFFENCES	NUMBER OF CASES CHARGED		
	2021	2020	2019
<b>Section 91(1) CA 1965:</b> Issuing of interests without an approved deed.	-	-	-
<b>Section 94(1)(b) CA 1965:</b> Failure to comply with a covenant contained in a deed.	-	-	-
<b>Section 7D(5) CA 1965:</b> Failure to comply with notice 7D(1) to provide reasonable excuse to the Registrar.	-	-	-
<b>Section 125(1) CA 1965:</b> Undischarged bankrupt acting as director.	1	-	-
<b>Section 132(1) CA 1965:</b> Failure to exercise power as director of a company in the best interest of the company.	-	-	-
<b>Section 132(2)(a) CA 1965:</b> Use of company property without the consent or ratification of a General Meeting.	2	-	2
<b>Section 132(2)(c) CA 1965:</b> Director or officer of the company use his position without consent or ratification of meeting to gain for himself or cause detriment to the company.	2	-	1
<b>Section 363(3) CA 1965:</b> Offering shares for subscription or purchase to the public	-	-	-
<b>Section 364(2) CA 1965:</b> Persons who made or authorised the making of a statement false or misleading in any material particulars knowing it to be false or misleading.	-	1	4
<b>Section 364A(1)(a) CA 1965:</b> An officer knowingly and wilfully authorises the making of any false or misleading statements to members of the corporation	-	-	-
<b>Section 198(1) CA 2016:</b> Undischarged bankrupt acting as director.	-	1	1
<b>Section 593(b) CA 2016:</b> Persons who made or authorised the making of a statement false or misleading in any material particulars knowing it to be false or misleading.	-	4	-
<b>Section 245(9) CA 2016:</b> Failure to keep accounting records	-	1	-
<b>Section 12(1)(d) ROBA 1956:</b> False declaration to the Registrar	-	1	-
<b>Section 3 Kootu Funds (Prohibition) Act 1971:</b> Carry on business of promoting kootu funds to the public	-	1	-
<b>Section 597(1) CA 2016:</b> Any person carrying on business under any name or title of which "Berhad" or "Limited" is the final word or abbreviation without approval	-	1	-
<b>Section 591(2)(a) CA 2016:</b> False or misleading statement	1	-	-
<b>TOTAL</b>	<b>6</b>	<b>10</b>	<b>8</b>

## ENFORCEMENT INITIATIVES

Statistics of non-compliance cases charged under the CA 1965, CA 2016, LLPA 2012, CCMA 2001, Interest Schemes Act 2016 and ROBA 1956 are as follows:

CATEGORY OF NON-COMPLIANCE OFFENCES	NUMBER OF CASES CHARGED		
	2021	2020	2019
<b>Section 143(1) CA 1965:</b> Failure to hold Annual General Meeting.	242	204	449
<b>Section 169(1) CA 1965:</b> Failure to table accounts at the Annual General Meeting within the prescribed period.	37	26	73
<b>Section 165(4) CA 1965:</b> Failure to lodge Annual Return.	546	1,412	3,924
<b>Section 165A CA 1965:</b> Failure to attach Auditor's Statement.	-	-	24
<b>Section 68(1) CA 2016:</b> Failure to lodge Annual Return.	5,279	3,135	1,220
<b>Section 370(1) CA 1965:</b> Default penalty proceedings for continuous default.	-	-	-
<b>Section 139C CA 1965:</b> Disqualified secretary	-	-	-
<b>Section 12(1)(a) ROBA 1956:</b> Carrying on business without registration.	522	1	-
<b>Section 12(1)(b) ROBA 1956:</b> Carrying on business after expiry of business registration.	149	30	58
<b>Section 12(2) ROBA 1956:</b> Failure to display certificate of registration.	120	17	2
<b>Section 17A(1)(b) ROBA 1956:</b> Failure to submit change of registered business particulars.	2	1	1
<b>Section 17A(2) ROBA 1956:</b> Failure to display signboard.	168	22	9
<b>Section 259(1)(a) CA 2016:</b> Duty to lodge Financial Statements and reports with the Registrar.	160	-	-
<b>TOTAL</b>	<b>7,225</b>	<b>4,848</b>	<b>5,760</b>

## ENFORCEMENT INITIATIVES

## LANDMARK CASES IN 2021

In 2021, SSM recorded a total number of 116 convictions. A summary of the important cases conducted by SSM are as follows:

PARTIES	DESCRIPTION OF OFFENCE	OFFENCE (SECTION)	SUMMARY
<b>NWP Holdings Berhad v Public Prosecutor</b>	<b>Payment of directors' fees without obtaining approval in a general meeting</b>	<b>Section 230(1)(b) CA 2016</b>	<p>The Appellant (accused) was charged with two (2) charges under section 230(1)(b) of the CA 2016 for the offence of payment of directors' fees without obtaining approval in a general meeting for the years 2017 and 2018.</p> <p>The reason for the Appellant's Application for Preliminary Objection is that the first charge (2017 fee payment) is retrospective due to the calendar year for 2017 is between the transition of the CA 1965 (Act 125) to the CA 2016 (Act 777) and therefore the charge is invalid. The Respondent (Public Prosecutor) quoted section 619 CA 2016 (General Transitional Provisions) to rebut the ground given by the Appellant.</p> <p>The Appellant also filed an objection because both charges were defective as they did not comply with Criminal Procedure Code and therefore both charges were invalid.</p> <p>The Court dismissed the Appellant's Preliminary Objection and ruled that both charges were valid and legitimate.</p>
<b>Public Prosecutor v Aziz bin Intan</b>	<b>Director/ officer of company used his position to gain directly benefit for himself</b>	<b>Section 132(2)(a) and section 132(2)(c) CA 1965</b>	The accused pleaded guilty to both charges against him. The Court convicted the accused and sentenced him to a fine of RM3,000 for each charge in lieu of three (3) months imprisonment.
<b>Public Prosecutor v Cheng Nyok Wei</b>	<b>Giving false information to the Registrar</b>	<b>Section 364(2) CA 1965</b>	The accused pleaded guilty to the charge against him through the Plea Bargaining process. The court convicted and sentenced the accused to a fine of RM50,000.
<b>Public Prosecutor v Choong Shin Cheong</b>	<b>Giving false information to the Registrar</b>	<b>Section 364(2) CA 1965</b>	The accused was found guilty after a full trial in Johor Bahru Sessions Court and was sentenced to a fine of RM20,000 in lieu of 6 months imprisonment. The accused's appeal was dismissed by the High Court and the Court of Appeal. Thus, the previous conviction and sentence were affirmed.
<b>Public Prosecutor v Hung Lye Huat</b>	<b>Undischarged bankrupt acting as directors</b>	<b>Section 125(1) CA 1965</b>	The accused pleaded guilty to two (2) charges against him through the Plea Bargaining process. The Court convicted and sentenced him to a fine of RM8,000 for each charge in lieu of three (3) months imprisonment.

## ENFORCEMENT INITIATIVES

## PROSECUTION CONVICTIONS FROM 2019 TO 2021

Statistics of convictions by Court are as below:

CATEGORIES	CORPORATE GOVERNANCE OFFENCES			NON-COMPLIANCE OFFENCES		
	2021	2020	2019	2021	2020	2019
<b>Company</b>	-	-	-	<b>90</b>	309	432
<b>Director</b>	<b>8</b>	3	8	-	-	-
<b>Owner/ Individual Businesses</b>	-	1	-	<b>18</b>	34	19
<b>TOTAL</b>	<b>8</b>	4	8	<b>108</b>	343	451

## LITIGATION

In 2021, SSM has implemented two (2) activities as follows:

(a) Workshop for Preparation of Job Procedure Manual for cases involving Injunction for Acts governed by SSM through Microsoft Teams which was held on 17 September 2021; and

(b) Workshop for Preparation of Job Procedure Manual for Cases under Interest Schemes Act 2016 which was held on 1 until 3 December 2021.

Listed below are the statistics of files related to litigation action opened for the period of January until December 2021:

CATEGORIES	FILE OPENED		
	2021	2020	2019
<b>Court Case</b>	<b>519</b>	511	543
<b>Legal Advice</b>	<b>1</b>	12	4
<b>Miscellaneous</b>	<b>6</b>	8	8
<b>TOTAL</b>	<b>526</b>	531	555

Among the court cases handled by SSM are as follows:

(a) Application to reinstate the name of company in the Company's Register (section 555 of the CA 2016);

(b) Application for extension of time and amendment of documents related to charges (section 361 of the CA 2016);

(c) Application relating to the rectification of documents under section 602 of the CA 2016;

(d) Cases involving application to rectify register of members under section 103 of the CA 2016;

(e) Cases involving the Interest Schemes Act 2016;

(f) Cases involving Writ of Summons for negligence claim and damages against SSM; and

(g) Cases involving insolvency issues.

## ENFORCEMENT INITIATIVES

In 2021, SSM was involved in several notable cases that need to be highlighted. Among the notable cases are listed as below:

PARTIES	SUMMARY
<p><b>Wabina Constructions &amp; Engineering Sdn Bhd v Kerajaan Malaysia, Kementerian Perdagangan Dalam Negeri Dan Hal Ehwal Pengguna Malaysia, Datuk Alexander Nanta Linggi, SSM dan Lain-Lain (PA-25-26-05/2020)</b></p>	<p>The Plaintiff, Wabina Constructions &amp; Engineering Sdn Bhd in this case filed an application for Judicial Review in the Pulau Pinang High Court to challenge the legality of the Companies Order (No.2) 2020 which was gazetted on 23 April 2020. The Exemption Order which was introduced during the Movement Control Order (MCO) 1.0 is aimed at providing a breathing space for many companies whose businesses and financial sustainability were affected by the COVID-19 pandemic.</p> <p>Amongst reliefs sought by the Plaintiff in the Judicial Review are:</p> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">(a) An Order in the form of certiorari for cancellation or setting aside of the Companies (Exemption) Order No. 2 2020 [P.U (A) 123] dated 23 April 2020;</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">(b) An Order in the form of mandamus wherein the Respondents (including SSM as the 4th Respondent) will comply and recognise this Judicial Review Order; and</div> <div style="border: 1px solid black; padding: 5px;">(c) An Order in the form of mandamus that the costs of action shall be borne by the 1st Respondent until 4th Respondent jointly or severally.</div> <p>Prior to the hearing of the Judicial Review application conducted, the Plaintiff had made an interlocutory application to the Pulau Pinang High Court to refer the above mentioned issues for determination and disposal by the Federal Court.</p> <p>The interlocutory application was initiated under section 84 of the Court of Judicature Act 1964 as such issues involved which are related to the Federal Constitution as follows:</p> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">(a) Whether the statutory rights of the Plaintiff as provided under section 465 and section 466(1)(a) of the CA 2016 has been infringed, disappeared and destroyed due to the issuance of the Companies (Exemption) Order (No.2) 2020 which was gazetted on 23 April 2020 and indirectly denying the Plaintiff's rights as protected and enshrined under Article 5(1) and Article 13(1) of the Federal Constitution;</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">(b) Whether the constitutional rights of the Plaintiff as the creditor which was decided by the Construction Industry Payment and Adjudication Act 2012 (CIPAA) on 24 February 2020 is blocked and destroyed in between 23 April 2020 until 31 December 2020 due to the Companies (Exemption) Order, whereas the 5th Respondent is unfairly enjoying valid interest and additional protection from the Companies (Exemption) Order. This has denied Plaintiff's rights enshrined under Article 5(1), Article 8(1) and Article 13(1) of the Federal Constitution;</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">(c) Whether the Plaintiff as the creditor (and any other companies which are the creditors) has different rights and is not granted any equal protection under the law compared to the 5th Respondent (and any other debtor company). This is again has denied Plaintiff's rights as protected and enshrined under Article 8 of the Federal Constitution; and</div> <div style="border: 1px solid black; padding: 5px;">(d) Whether the Plaintiff's has lost its rights under the law when a new law was enacted by the 2nd Respondent and the 3rd Respondent (which was proposed by the 4th Respondent) without any enactment in the Parliament of Malaysia. Indirectly this is a denial of the Plaintiff rights and reasonable expectation which is protected under Article 44(1) and Article 66(1) of the Federal Constitution.</div>

## ENFORCEMENT INITIATIVES

PARTIES	SUMMARY
	<p>On 3 May 2021, His Lordship Dato' Sri Tun Abd Majid Dato' Haji Tun Hamzah, the Penang High Court Judge, had dismissed the above application with cost in cause and ordered that the main application for Judicial Review in paragraph 1 be heard by the Court on the date to be fixed. Parties were also ordered to file their necessary affidavits before the hearing date is fixed by the Court.</p> <p>At the main hearing of Wabina's Judicial Review application on 15 December 2021, the Penang High Court Judge had dismissed the application with cost of RM5,000 payable to Respondents No. 1-4 and RM3,000.00 costs to Respondent No. 5.</p> <p>The Penang High Court in its broad grounds agreed that this judicial review had become an academic issue as the Companies (Exemption) (No. 2) Order 2020 ended on 31 December 2020. Furthermore, the Applicant had received full payment from Respondent No. 5.</p> <p>On substantive issues, the Penang High Court held that the Exemption Order is not <i>ultra vires</i> against the CA 2016 and did not deny the rights of the Applicant nor the creditors or against the principle of equality under the Federal Constitution.</p>
<p><b>Janice Khoo Liew Kee &amp; A La Pointe Ballet (Penang) Sdn Bhd v SSM</b></p>	<p>This case involves an application by SSM to intervene and to set aside the Court Order dated 8 January 2019. The Court had allowed an ex-parte application by the Applicant to strike off the name of A La Pointe Ballet Academy (Pg) Sdn Bhd from SSM's Register whereby SSM was ordered by the Court to give effect to the said Court Order.</p> <p>The issue raised in this case is whether the Court has the power to strike off the name of a company pursuant to section 549 and 550 of the CA 2016.</p> <p>On 7 September 2021, His Lordship Dato' Sri Tun Abd Majid Dato' Haji Tun Hamzah, the Penang High Court Judge allowed SSM's application to intervene and to set aside the Court Order dated 8 January 2019. The decision of the Court shows that the power to strike off a company's name from the Companies Register in accordance with section 549 and 550 of the CA 2016 lies with the Company Registrar and not the Court. The Applicant should not abuse the Court process by making an ex-parte application to strike off the company name through the Court since the power to strike off a company lies with the Company Registrar through the CA 2016.</p>
<p><b>Shanmuganathan A/L Palaniappan, Suresh A/L Kaliannan &amp; Yow Hoe Bus Company Berhad v SSM</b></p>	<p>This case involves an application by the directors of Yow Hoe Bus Company Berhad in the Johor Bahru High Court for an Order under section 583 of the CA 2016 to transfer a total of 30,200 units of shares owned by eight (8) Yow Hoe Bus Company Berhad shareholders who are Singaporean and their whereabouts are unknown, for a period of not less than ten years, to the Minister charged with responsibility for finance.</p> <p>In this case, the Johor Bahru High Court Judge after hearing SSM's submission which refers to section 25(2) of the Court of Judicature Act 1964, allowed the Applicant's application and ordered the Deputy Registrar/ Senior Assistant Registrar of the High Court of Malaya to execute the shares transfer form pursuant to section 25(2) of the Court of Judicature Act 1964.</p>