



== SSM IN TWO DECADES ==
Inspiring Trust In Business

**20 YEARS OF
TRANSFORMATION**



MANAGEMENT REPORT

ENFORCEMENT

INITIATIVES

ENFORCEMENT INITIATIVES

In 2022, SSM maintained its emphasis on three (3) enforcement initiatives as part of its key strategies to foster a conducive business environment and enhance transparency within the corporate sector. These strategies were devised with the primary aim of overseeing and achieving the following monitoring objectives:

KEY STRATEGIES

Ensuring good corporate governance among company directors and business owners with the objective of increasing compliance rates and fostering conducive business environment.

01 COMPLIANCE RATE AND CONDUCTIVE BUSINESS ENVIRONMENT

Promoting good corporate governance and responsibility among the company's directors, emphasizing transparency and integrity in the financial statements' quality and accuracy.

02 QUALITY AND INTEGRITY OF FINANCIAL STATEMENTS

Monitoring the adherence of company secretaries and auditors to laws, rules, a code of ethics, and other guidelines in the running of a company to ensure excellent corporate governance, procedures, and competency levels of corporate intermediaries.

03 CORPORATE GOVERNANCE, PRACTICES AND COMPETENCY LEVEL OF CORPORATE INTERMEDIARIES

MONITORING OBJECTIVES

Ensure compliance with the Acts regulated by SSM.

01 ENSURE COMPLIANCE

Ensure that the proper legal action is taken against any violations of laws and regulations committed by entities regulated by SSM.

02 ACTIONS ON NON-COMPLIANCE

Ensure that company officers and corporate intermediaries have the appropriate qualifications and competencies to administer the company transparently and responsibly.

03 APPROPRIATE QUALIFICATIONS

Minimise the risk of misuse of the company to carry out illegal activities and contrary to the public and national interests.

04 MINIMISING RISK

ENFORCEMENT INITIATIVES TO ASSIST THE ECONOMIC RECOVERY OF THE COUNTRY

In alignment with the Government's objectives to alleviate the challenges faced by the corporate community due to the ongoing COVID-19 pandemic and contribute to the economic recovery in 2022, SSM introduced the Compound Reduction Initiative under the Companies Act 1965 (CA 1965). This initiative was designed to provide relief to the corporate community.

Through this initiative, the corporate community had the opportunity to benefit from a reduction of up to 90% of

the original value of the compound for all offences under the CA 1965. The initiative was in effect from 1 March to 31 December 2022. During this period, a total of 17,624 compounds issued saw a reduction of up to 90% in value. This initiative benefited 6,017 companies and 4,926 company directors.

INSPECTION AND MONITORING ACTIVITIES

Throughout 2022, SSM conducted physical and data inspection activities on a total of 1,268,119 companies, businesses, and LLPs. The inspections encompassed the following areas:

ENTITIES	PHYSICAL INSPECTION	DATA INSPECTION
COMPANIES	<p>Scope of Monitoring:</p> <ul style="list-style-type: none"> • Compliance with section 30(1) of the Companies Act 2016 concerning the display of company name and registration number at business premises; • Examination on the upkeep of Statutory Books by Company Secretaries, as required by sections 105, 362, 59, 57, 47, 343, 54 of the Companies Act 2016 and the Companies Regulations (CR) 1966; • Monitoring on the qualifications of Company Secretaries in accordance with section 235 of the Companies Act 2016; and • Evaluation of the competency of Company Secretaries based on their adherence to the provisions and requirements of the Companies Act 2016. 	<p>Scope of Monitoring:</p> <ul style="list-style-type: none"> • Annual Returns lodgement status pertaining to section 68(1) of the CA 2016. • Financial Statement lodgement status pertaining to section 248(1), 258(1) & 259(1) of the CA 2016. • Monitoring of companies to ensure every incorporated company has at least one (1) Company Secretary under section 240 of the CA 2016. • Qualification and independence of auditors under section 264 of the CA 2016 and conditions for Auditor Renewal Approval issued by Ministry of Finance. • Obligations of auditors pursuant to section 266(3)(b) of the CA 2016 relating to the opinion on maintenance of statutory books. • Qualifications and independence of liquidators under section 433 of the CA 2016. • 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 maintenance of statutory books.
	TOTAL: 23,691 (2021: 3,919)	TOTAL: 531,744 (2021: 325,252)

ENTITIES	PHYSICAL INSPECTION	DATA INSPECTION
BUSINESSES	<p>Scope of Monitoring:</p> <ul style="list-style-type: none"> • Compliance with Rule 13A(2) of the ROBR 1957 regarding the display of the business name and registration number outside the place of business; • Compliance with section 12(2) of the ROBA 1956 regarding the display of the registration certificate at business premises; and • Compliance with the provisions of section 12(1)(a) and 12(1)(b) of the ROBA 1956 regarding business registration and renewal of businesses. 	<p>Scope of Monitoring:</p> <ul style="list-style-type: none"> • Monitoring the expiry dates of business registrations in accordance with section 12(1)(b) of the ROBA 1956; and • Addressing concerns related to public interest, such as illegal investments, Interest Schemes, and fraudulent activities by businesses.
	TOTAL: 29,944 (2021: 5,503)	TOTAL: 671,516 (2021: 189,432)
LIMITED LIABILITY PARTNERSHIPS	<p>Scope of Monitoring:</p> <ul style="list-style-type: none"> • Adherence of LLP to the accounting standards and other records as required by section 69 of the LLPA 2012. 	<p>Scope of Monitoring:</p> <ul style="list-style-type: none"> • Lodgement of Annual Declaration by LLPs in accordance with section 68(2) of the LLPA 2012; and • Addressing concerns related to public interest, such as illegal investments, Interest Schemes, and fraudulent activities by businesses.
	TOTAL: 183 (2021: 30)	TOTAL: 11,041 (2021: 4,448)
TOTAL	53,818 (2021: 9,452)	1,214,301 (2021: 519,132)

OTHER ENFORCEMENT ACTIVITIES IN 2022

SSM Online Business Alert (OBA)

The SSM OBA was introduced to assist the public by providing awareness not to get involved with any entity that conducts online business unethically. Since the introduction of SSM OBA, a total of 21 entities have been identified and listed.

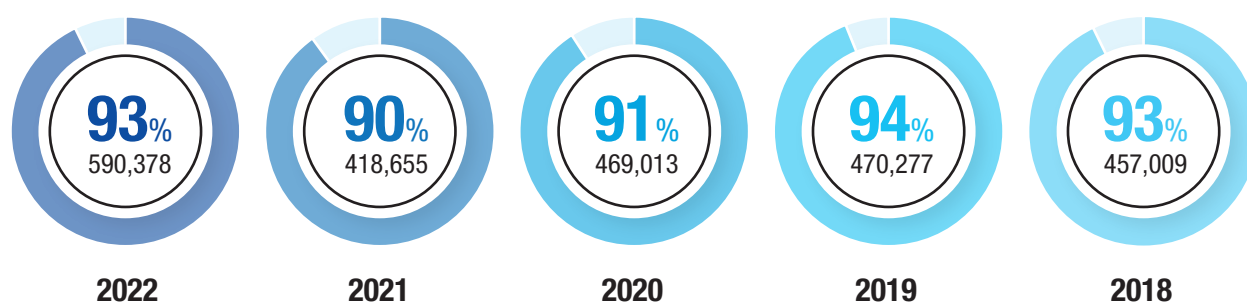
In addition, the SSM OBA also displays a list of online business renewal sites operated by third parties that are not regulated by SSM. A total of 16 websites were found to provide illegal business renewal services by imposing unreasonable fees that particularly burden business owners.

MONITORING AND INSPECTION OUTCOMES

Compliance Rate

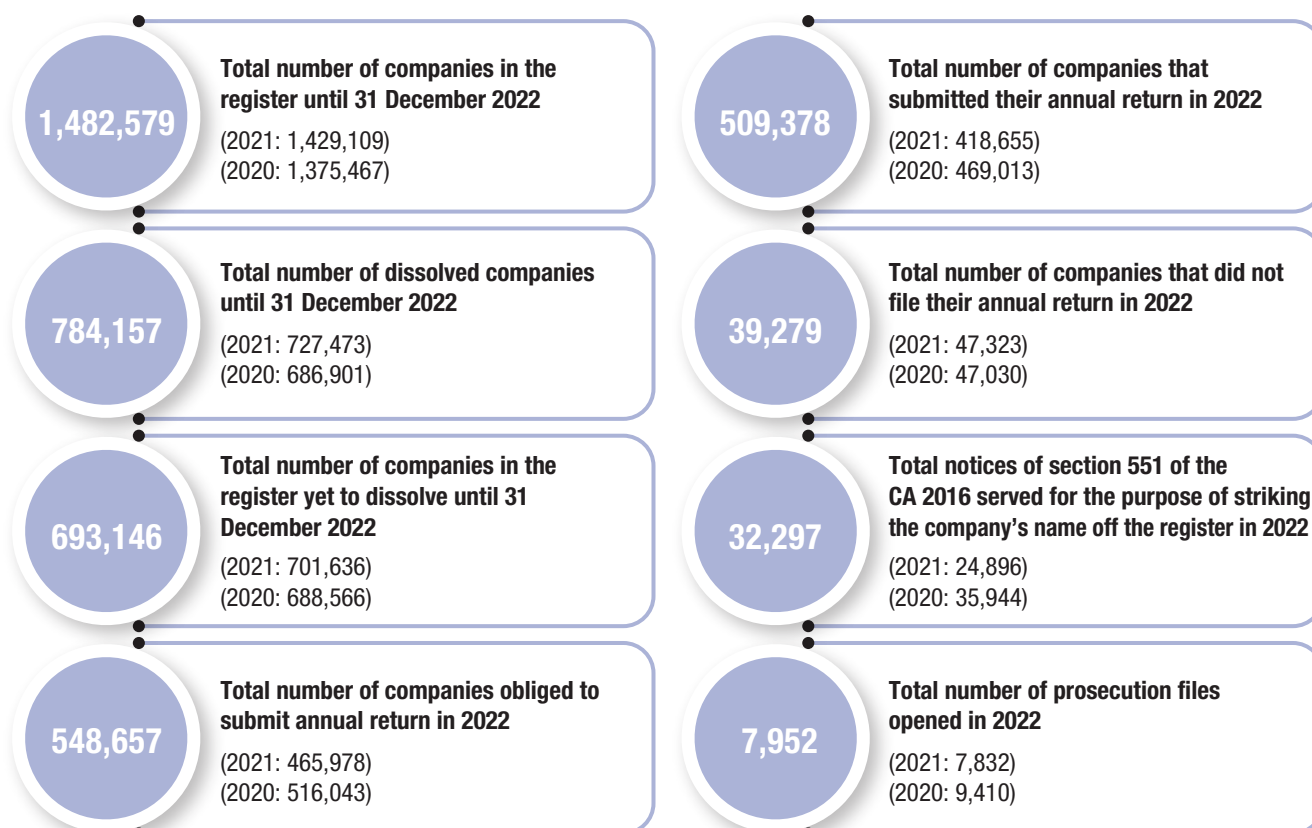
SSM has persistently worked towards encouraging compliance with the submission of the Annual Return (AR) to the Registrar. In 2022, there was a commendable

93% compliance rate in AR submissions. The chart below provides a five-year comparison of AR submissions and the corresponding compliance rates:



Total submissions of the Annual Return (AR) and the corresponding Compliance Rates from 2018 to 2022

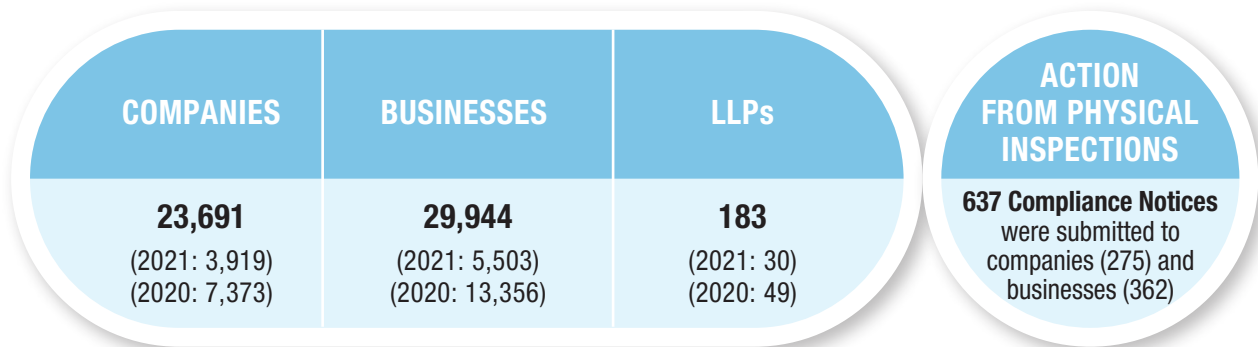
STATISTICS OF ENFORCEMENT ACTION BASED ON THE COMPANIES ACT 2016



CONTINUED ACTIONS FOLLOWING 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 on non-compliance identified through inspection, operation, online and media

monitoring as well as monitoring the qualifications of company directors. The statistics for the inspection of companies, businesses and LLPs premises are as follows:



The statistics of online and media monitoring for the years 2020 to 2022 are as follows:

Action taken due to the Results of Internet and Media Monitoring

	2022	2021	2020
Section 12(1)(a) of the ROBA 1956 Unregistered business	1,429	52	138
Section 12(1)(b) of the ROBA 1956 Business failed to renew registration	206	127	150
Section 30(2)(b) of the CA 2016 Company failed to display the company name and number on the website/ social media	221	360	331
Rule 13(2)(b) of the ROBR Amendment 2020 Failed to display name and business registration number	765	536	599
Rule 17A(1)(b) of the ROBR 1957 Failed to update business information	110	–	–
Section 20(3) of the LLPA 2012 Failed to display LLPs name and registration number on the website/ social media	5	–	–
Compliance Notice	2,163	1,075	507
Compound	247	–	–

MONITORING OF BANKRUPT DIRECTORS, COMPANIES THAT FAIL TO SUBMIT STATEMENT OF AFFAIRS AND COMPANIES WITH OUTSTANDING CHARGES



WINDING UP COMPANIES WHICH FAILED TO SUBMIT STATEMENT OF AFFAIRS

Total Notices:

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

Administrative Actions:

405 company directors and secretaries have been imposed administrative action. (2021: 444 compliance notices and 444 administrative action)



BANKRUPT DIRECTOR

Total Notices:

11 compliance notices under section 198 of the CA 2016 were issued against bankrupt directors.

Administrative Actions:

One (1) director has been imposed with administrative action. (2021: No compliance notices and two (2) administrative action)



COMPANIES WITH OUTSTANDING CHARGES

Total Notices:

1,409 compliance notices under section 360 of the CA 2016 were issued against companies, directors and company secretaries.

Winding Up Actions:

477 companies have been proposed for strike off under section 549 of the CA 2016. (2021: 1,469 compliance notices and 79 companies have been proposed for strike off)

REGISTRATION OF COMPANY SECRETARY

Company Secretary Practicing Certificate

As of 31 December 2022, a total of 10,072 individuals have registered and obtained their Company Secretary Practicing Certificate since section 241 of the CA 2016 came into effect on 15 March 2019. This provision mandates that any person qualified under section 235 of the CA 2016, who wishes to serve as

a Company Secretary, must register with SSM before assuming the role.

The objective of section 241 of the CA 2016 is to establish a comprehensive registry of company secretaries in Malaysia. This registry enables SSM to oversee the competencies and professionalism of company secretaries, ultimately fostering better compliance and corporate governance within companies and the broader corporate community.

The numbers of new applications for Company Secretary Practicing Certificates in 2022 are as follows:

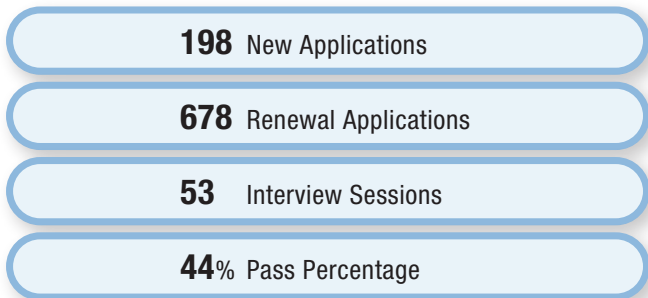
APPLICATIONS FOR COMPANY SECRETARY PRACTICING CERTIFICATES IN 2022	
Total Applications Received	759
Total Applications Approved	740
Breakdown of approved applications according to the qualifications and Professional Bodies	
(a) Company Secretary License (LS)	102
(b) Malaysian Institute of Chartered Secretaries and Administrators (MAICSA)	117
(c) Malaysian Institute of Accountants (MIA)	367
(d) Malaysian Bar (BC)	108
(e) Malaysian Association of Company Secretaries (MACS)	32
(f) Malaysian Institute of Certified Public Accountants (MICPA)	5
(g) Sabah Law Association (SLA)	3
(h) Advocates Association of Sarawak (AAS)	6

The table below shows the statistics of renewal applications for Company Secretary Practising Certificates in 2022:

APPLICATIONS FOR THE RENEWAL OF COMPANY SECRETARY PRACTISING CERTIFICATES IN 2022	
Total Applications Received and Approved	2,622
Breakdown of renewal applications approved according to the qualifications and Professional Bodies	
(a) Company Secretary License (LS)	713
(b) Malaysian Institute of Chartered Secretaries and Administrators (MAICSA)	651
(c) Malaysian Institute of Accountants (MIA)	984
(d) Malaysian Bar (BC)	102
(e) Malaysian Association of Company Secretaries (MACS)	129
(f) Malaysian Institute of Certified Public Accountants (MICPA)	10
(g) Sabah Law Association (SLA)	5
(h) Advocates Association of Sarawak (AAS)	28

Company Secretary License

A total of 10,665 individuals have been licensed by SSM under section 20G of the CCMA 2001 until 31 December 2022. The summary of licensing activities for the year 2022 are as follows:



MONITORING OF COMPANY SECRETARIES

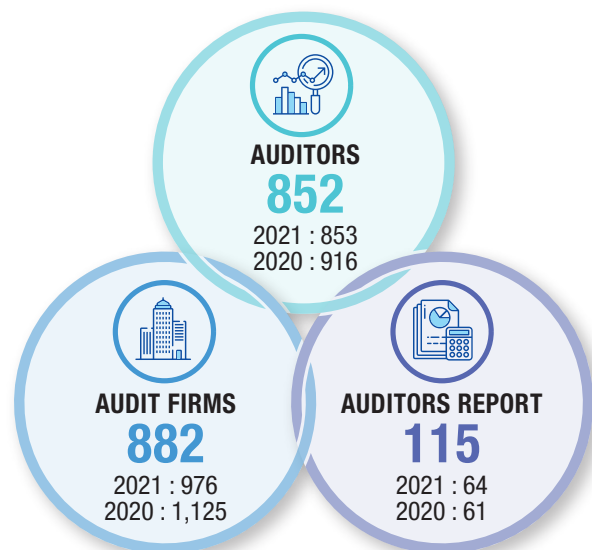


- 167 Company Secretaries inspected in 2022
- 93% rate of Company Secretaries competency level
- 258 notices issued to Company Secretaries for non-compliance against section 241 of the CA 2016

MONITORING OF AUDITORS AND AUDIT FIRMS

In order to ensure the competence and professionalism of auditors, SSM conducts monitoring of auditors of companies through a comprehensive mechanism. This monitoring helps raise awareness among auditors and audit firms about the importance of complying with the provisions specified under the CA 2016.

In the year 2022, SSM conducted inspections on 852 auditors (compared to 853 in 2021) and 882 audit firms (compared to 976 in 2021). The inspection results revealed that two (2) audit firms did not comply with the provisions outlined in section 264(1) of the CA 2016. Here is a summary of the activities related to the monitoring of auditors and audit firms in 2022.



COMPLAINTS MANAGEMENT

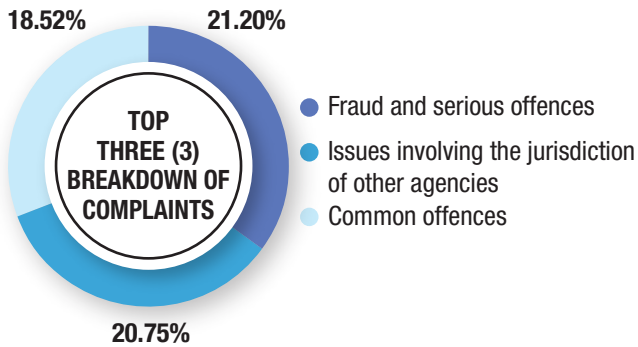
Until December 2022, a total of 1,118 complaints were received, and all of these complaints were successfully resolved at the Complaints Unit. Out of these, 617 (55.19%) complaint files were referred to the Investigation Division, Corporate Compliance Division, and other relevant divisions and were successfully resolved. However, 501 (44.81%) complaint files are still pending resolution by the relevant divisions.

COMPLAINTS RECEIVED IN 2022						
Complaints Received	Complaints Resolved at the Complaint Unit Level		Complaints Resolved by the Investigation Division, Corporate Compliance Division and Other Divisions		Complaints that are still being processed by the Investigation Division and the Corporate Compliance Division	
1,118	1,118	100%	617	55.19%	501	44.81%

YEAR	COMPLAINTS RECEIVED BY ENTITY			
	COMPANIES	BUSINESSES	OTHERS	TOTAL
2022	738	357	23	1,118
2021	738	342	29	1,109
2020	786	371	26	1,183

YEAR	COMPLAINTS RESOLVED BY ENTITY			
	COMPANIES	BUSINESSES	OTHERS	TOTAL
2022	738	357	23	1,118
2021	725	339	29	1,093
2020	768	362	26	1,156

CLASSIFICATION OF COMPLAINTS RECEIVED	
ISSUES	TOTAL
Inaccurate information and identical name	27
Inappropriate conduct by company director	55
Inappropriate conduct by company secretary	107
Misconduct by company auditor	2
Fraud and serious offences such as corporate governance and lodgement of false and misleading information	237
Misconduct during winding up of company	31
Accounting non - compliance	12
Registered Interest Schemes	5
Unregistered Interest Schemes	1
Unregistered online Interest Schemes	0
Regular offences and routine	207
Issues involving the jurisdiction of other agencies such as employment, tourism, scratch and win, direct selling and fraud	232
Issues that do not involve offences governed by SSM such as claims for money or goods, internal problems and meeting arrangements	103
Inquiries on corporate misconduct	99
TOTAL	1,118



The top three (3) categories of complaints received in 2022 are:

- (a) The highest number of complaints, constituting 237 complaints (21.20%) of the total, were related to fraud and serious offences. These complaints encompassed issues such as the submission of false and misleading information, concerns about directors' duties and liabilities, and cases involving unauthorized deposits or the offering of shares to the public;
- (b) The second-highest category of complaints, totaling 232 complaints (20.75%), revolved around issues falling under the jurisdiction of other agencies. These complaints encompassed various matters, including employment issues, tourism-related concerns, scratch and win contests, direct sales, and instances of fraud; and
- (c) Complaints related to common offences ranked as the third-highest category, with a total of 207 complaints (18.52%).

MONITORING OF FINANCIAL STATEMENTS FOR ENTITIES INCORPORATED AND REGISTERED IN MALAYSIA

Throughout 2022, SSM conducted a comprehensive review on 5,451 Financial Statements to uphold the integrity of the financial statements submitted to SSM. This monitoring encompassed various aspects, including a meticulous examination of the financial records of companies and LLPs, in compliance with the provisions of CA 2016, CA 1965, TCA 1949, LLPA 2012, and CCMA 2001. Additionally, the review ensured adherence to the approved accounting standards governing the preparation of Financial Statements.

The primary objective of this monitoring effort was to ascertain that companies maintained their accounting records and supporting documentation appropriately. This monitoring was essential to guarantee that the resulting Financial Statements presented a true and fair view, in accordance with the requirements under section 259 of the CA 2016.

In addition, SSM also conducts monitoring to ensure compliance with sections 250 and 253 of the CA 2016, which relate to the preparation of consolidated

Financial Statements and the content of the Directors' Report that accompanies the company's Financial Statements. Additionally, SSM conducted monitoring to ensure compliance with the criteria outlined in Practice Directive 3/2017: Qualifying Criteria for Audit Exemption for Certain Categories of Private Companies. This ensures that only eligible private companies submit Unaudited Financial Statements. SSM also performs monitoring of the financial information included in the Annual Declaration of LLPs to verify compliance with the provisions of section 69 of the LLPA 2012 regarding the maintenance of accounting records. This monitoring aims to ensure that LLPs provide accurate and non-misleading information in accordance with the provisions of section 80 of the LLPA 2012.

The monitoring activity involving trust companies was also conducted to ensure compliance under section 21 of the TCA 1949 on the submission of liability statements together with affidavit statements and bi-annual activity statements. Compliance with section 245 of the CA 2016 for the trust companies was conducted to ensure compliance with the keeping of accounting records.

Statistics on financial statement monitoring, accounting record inspection, and awareness programmes for company secretaries, directors, and compliance officers using e-postcards are as follows:

MONITORING ON LLPs AND COMPANY FINANCIAL STATEMENTS

01 DATA MONITORING ON COMPANIES ACCOUNTING RECORDS

2022 : 5,344 | 2021 : 4,301 | 2020 : 3,137

02 PHYSICAL INSPECTION ON ACCOUNTING RECORDS UNDER SECTION 245 OF THE CA 2016 AND SECTION 69 OF THE LLPA 2012

2022 : 107 | 2021 : 28 | 2020 : 31

03 AWARENESS PROGRAMMES FOR DIRECTORS, COMPANY SECRETARIES AND LLPs

2022 : 203 | 2021 : 64,182 | 2020 : 11,893

TYPES OF MONITORING ACTIVITIES

Modified Financial Statement 2022 : 2,883 2021 : 1,364 2020 : 408	EPC Financial Statement 2022 : 704 2021 : 1,052 2020 : NA	Director's Report 2022 : 898 2021 : NA 2020 : NA
Unaudited Financial Statements 2022 : 253 2021 : 1,245 2020 : 172	Foreign Companies 2022 : 360 2021 : 113 2020 : NA	Limited Liability Partnerships 2022 : 260 2021 : 518 2020 : 428
Trust Companies 2022 : 38 2021 : 37 2020 : 37	Consolidation of Financial Statements 2022 : 10 2021 : NA 2020 : NA	Awareness Programmes 2022 : 203 2021 : 64,182 2020 : 11,893

ENFORCEMENT ACTIONS

156
COMPANIES

COMPOUND UNDER SECTION 245 OF THE CA 2016
Failure of company to keep proper accounting records and other records.

54
COMPANIES

ACTION UNDER SECTION 246 OF THE CA 2016
Failure of company directors and public companies to ensure that the companies internal control system related to assets and accounting transactions are properly controlled and recorded.

87
COMPANIES

PRACTICE DIRECTIVE 3/ 2017
Failure to comply with Practice Directive 3/ 2017: Qualifying Criteria for Audit Exemption for Certain Categories of Private Companies.

49
COMPANIES

COMPOUND AND ACTION UNDER SECTION 244 OF THE CA 2016
Failure to use approved accounting standards in the preparation of Financial Statements.

62
LLPs

COMPOUND UNDER SECTION 27B(4) OF THE CCMA 2001
Failure of company and LLP to respond to the notice under section 27B CCMA 2001.

859
COMPANIES

AWARENESS PROGRAMMES
Awareness programmes were organised for company directors regarding the preparation of directors' reports under section 253 and Schedule V, Part 1 of the CA 2016 and consolidated financial statements under section 250 of the CA 2016

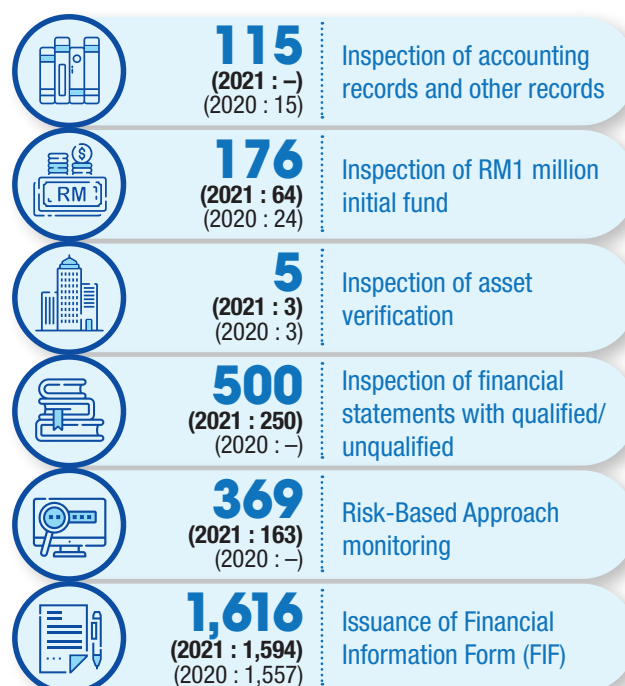
MONITORING OF COMPANIES LIMITED BY GUARANTEE

In 2022, SSM conducted monitoring on Companies Limited by Guarantee (CLBG) to ensure compliance with the CA 2016, the conditions of the license as specified under section 45(5) of the CA 2016, and the Guideline on Company Limited by Guarantee. This monitoring was essential due to the non-profit nature of CLBGs and the risk of potential misuse for illegal activities.

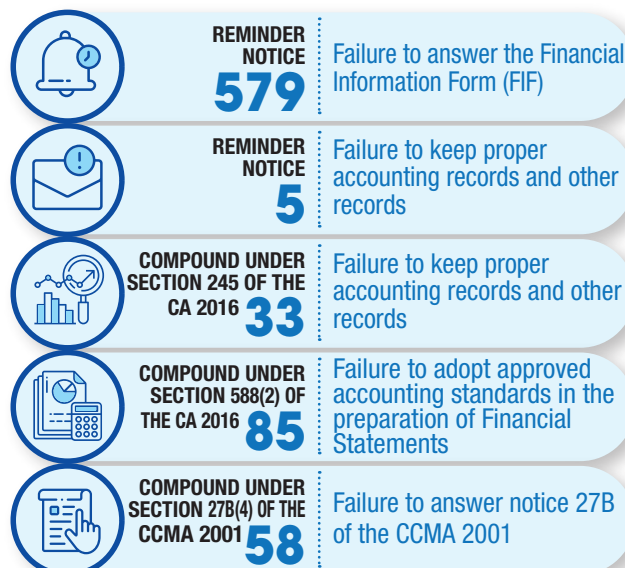
During the year, SSM inspected the Financial Statements of 500 CLBGs to verify their compliance with approved accounting standards. Additionally, notices were issued

to five (5) CLBGs for asset verification, and 1,616 CLBGs received notices pursuant to section 27B of the CCMA 2001 to respond to the Financial Information Form (FIF). A total of 176 notices were sent to CLBGs enquiring on initial fund of RM1 million within six (6) months after incorporation. In addition, a total of 369 notices were issued in connection with Risk-Based Approach (RBA) inspections.

The summary of CLBGs monitoring activities in 2022 are as follows:



Enforcement actions of CLBGs for 2022 are as follows:



MONITORING OF REGISTERED INTEREST SCHEMES

The Interest Schemes Act 2016 was introduced to regulate the interest schemes, the alternative mode of fund-raising activities for companies, by pooling financial contribution from the public in exchange for an interest in a particular interest scheme.

The medium of inspection conducted on the registered interest schemes (RIS) comprises data inspection and physical inspection, with the following objectives:

- (a) Identifying the types of RIS to be the basis for action under the Interest Schemes Act 2016;
- (b) Ensuring the management company officers (operator of the scheme) are adhering to the corporate governance requirements under section 45 and section 46 of Interest Schemes Act 2016;
- (c) Ensuring 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 section 24 of Interest Schemes Act 2016; and
- (e) Ensuring the management company (operator of the scheme) complies with the provisions under the Interest Schemes Act 2016 and complies with Deed of Trust (DoT), Supplementary Trust Deed (STD) and prospectus of the scheme.

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

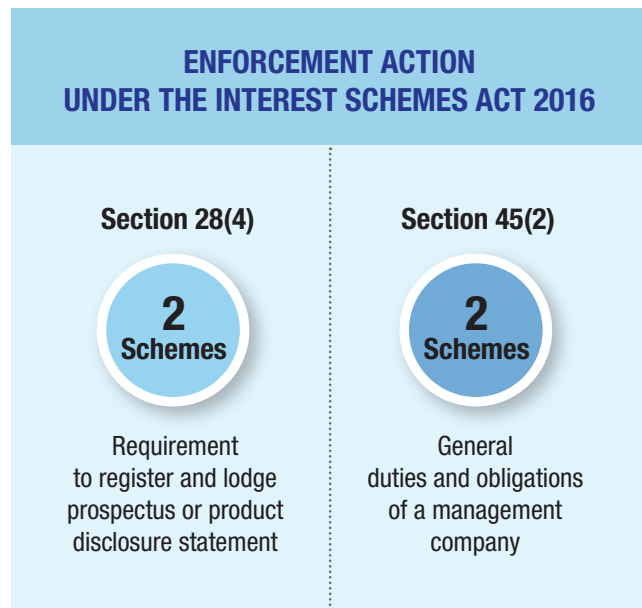
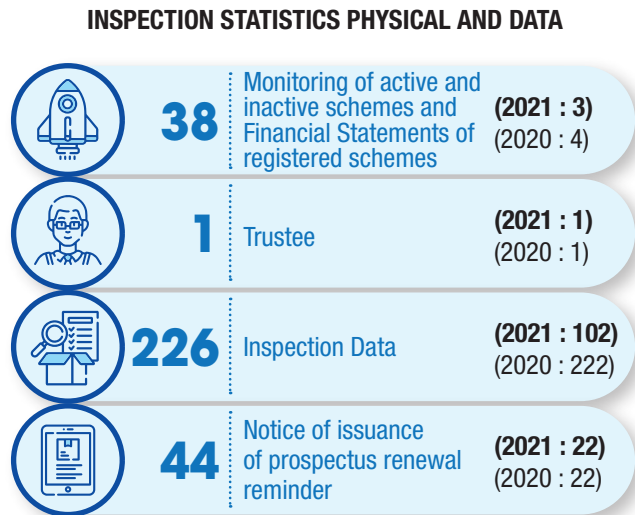
Section 42
The Registrar may issue stop work order to the management company.

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
The Registrar is empowered to intervene in the management of a scheme when it is satisfied that the organisation of the scheme is not in compliance with the conditions stipulated in the scheme's approval.

Section 72
The Registrar shall have the power to terminate an unregistered scheme

Statistics of RIS in 2022 which involved monitoring based on the physical and data inspections are as follows:



AWARENESS ON THE PREPARATION OF BUSINESS REVIEW REPORTS FOR PUBLIC LISTED COMPANIES AND COMPANIES LIMITED BY GUARANTEE

Under section 253(3) of the CA 2016, the Business Review Report has been introduced as part of the Directors' Report which is submitted along with the Financial Statements. The report was introduced to encourage companies to make voluntary reports on internal controls and corporate responsibility initiatives implemented by their companies.

In 2022, the Business Review Survey was conducted online, involving 767 Public Listed Companies (PLCs). Furthermore, an awareness programme utilising e-postcards was implemented to increase awareness among directors and secretaries from 928 PLCs.

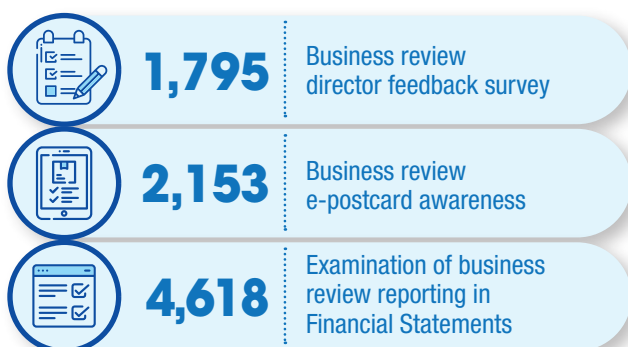
The survey was also conducted for 1,795 Companies Limited by Guarantee (CLBGs). Additionally, awareness programmes aimed at increasing awareness among directors and company secretaries regarding business reviews were organised for directors and secretaries of 2,153 CLBGs.

A detailed examination was conducted on 2,609 Financial Statements from a total of 928 Public Listed Companies (PLCs) to identify those that had included business reviews in their Directors' Reports. The review identified that nine (9) PLCs had indeed disclosed business reviews in the Director's Report accompanying their Financial Statements. The following are the summary of the actions taken in connection with the Business Review Report on PLCs and CLBGs:

BUSINESS REVIEWS ACTIVITIES FOR PLCs



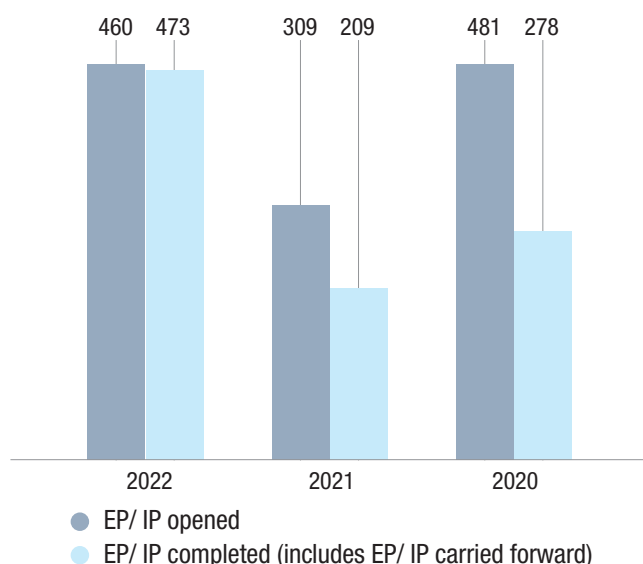
BUSINESS REVIEWS ACTIVITIES FOR CLBGs



INVESTIGATION

In year 2022, a total of 465 cases was investigated for various offences under provisions of Acts governed by SSM. An investigation will be conducted into complaints made by the public or agencies that are referred to the Investigation Division. Enquiry paper (EP) will be open to examine the issues raised in the complaints and any pertinent supporting documents to determine whether an offence against the SSM-governed Acts provisions has occurred. If there is merit, the investigation paper (IP) will be opened to complete the investigation, and the conclusions and recommendations will be referred to the Prosecution Division for review and further action. Investigation analysis and statistics are as follows:

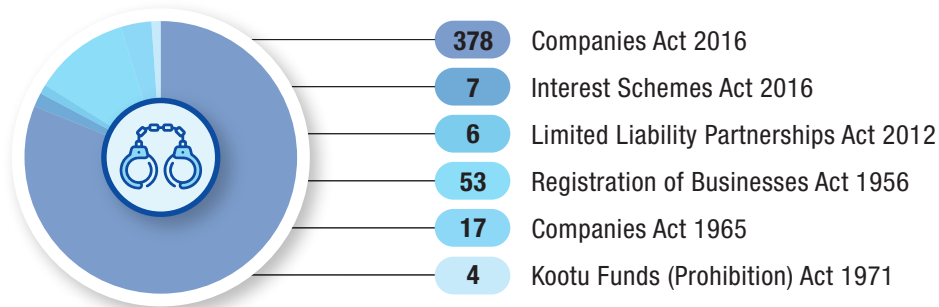
STATISTICS ON EP/ IP



TYPES OF OFFENCES



TYPE OF OFFENCES ACCORDING TO THE ACTS GOVERNED BY SSM



SSM has established strategic partnerships with various government departments and agencies to gather evidence and obtain witness information to assist investigations carried out by SSM.

STATEMENTS RECORDED 1613 sessions		PROSECUTIONS 14 cases under the provisions of the CA 1965/ 2016		BLACKLISTED 10 blacklisted actions	
NOTICES 1,707 Notices under section 111 of the Criminal Procedure Code for statement recording		270 Notices under section 27B(2)(a) of the CCMA 2001 to obtain information	221 Notices under section 27B(2)(b) of the CCMA 2001 to obtain document(s)	EXHIBIT MANAGEMENT 152 Exhibits registered	
INFORMATION SEARCH					
30 MALAYSIAN DEPARTMENT OF INSOLVENCY	7 COURT	87 BANK	31 DEPARTMENT OF CHEMISTRY MALAYSIA	43 ROAD TRANSPORT DEPARTMENT MALAYSIA	
54 NATIONAL REGISTRATION DEPARTMENT	466 TELECOMMUNICATION COMPANIES	59 IMMIGRATION DEPARTMENT OF MALAYSIA	1 FACEBOOK ADVERTISEMENT	369 COMPANY SEARCH	
INSPECTIONS					
37 REGISTERED ADDRESSES		131 WITNESS AND SUSPECT RESIDENTIAL ADDRESSES		MEETING WITH ENFORCEMENT AGENCIES 	

COLLABORATION BETWEEN SSM AND THE NATIONAL ANTI-FINANCIAL CRIME CENTRE

The collaboration between SSM and the National Anti-Financial Crime Centre (NFCC) began in 2011 through the *Pasukan Petugas Khas* (PPK) (PPK) platform under the Prime Minister's Department. This collaboration aimed to recover lost national revenue and control leakages related to illegal activities. Since 2019, SSM has been appointed as NFCC Permanent Executive Committee Member, contributing to the direction and coordination of NFCC's activities.

SSM actively participates in integrated operations with other enforcement agencies, overseen and coordinated by NFCC, to combat financial crime in Malaysia. As a sign of SSM commitment to this collaboration, SSM and NFCC signed a Memorandum of Understanding (MOU) on 9 August 2022.



Both agencies collectively decided the scope of cooperation which includes the following:

1

Sharing of relevant data and information related to domestic or international financial crimes for the purpose of profiling and analysis of financial crimes

2

Joint analysis in identifying the scope of investigations involving operations to be determined and agreed upon by both parties

3

Joint intelligence and investigation activities through integrated operations for cases selected by the Executive Committee (JKE) of the NFCC

4

Initiative to submit mutual recommendations on policy improvements for financial crime prevention

5

Community prevention and awareness programmes regarding financial crimes

6

Initiatives to conduct joint trainings/ development of Human Capital Management


7

Consultation services in managing seized and forfeited properties

EDUCATIONAL MODULE UNDER SECTION 591 OF THE COMPANIES ACT 2016

The development of these modules were in line with the enforcement of section 591 of the CA 2016. The modules primary objective are to offer ongoing education and knowledge to the general public and stakeholders, with a particular focus on promoting and ensuring good corporate governance practices.




In 2022, a total of four (4) modules were developed and implemented as part of this initiative. Among these, three (3) modules were made accessible to the public and corporate practitioners through the Corporate Talk programme organised by COMTRAC.

01	<p>Module 1 Common offences under the Companies Act 2016 investigated by SSM</p> 	03	<p>Module 3 Enhanced Customer Due Diligence (EDD) & Ongoing Customer Due Diligence (ODD)</p> 
02	<p>Module 2 Customer Due Diligence (CDD)</p> 	04	<p>Module 4 The Importance of individual protection: The appointment and resignation of directors and shareholders of the company without their consent</p> 

ENHANCEMENT OF INFORMATION ON THE E-INVESTIGATION LINK AT THE SSM OFFICIAL WEBSITE

SSM has taken a proactive approach to disseminate information and raise awareness among stakeholders, particularly the general public, regarding financial fraud, including illegal investments and unregistered schemes. To facilitate this, an e-Investigation link has been made available on SSM's official website, accessible through the following URL: <https://www.ssm.com.my/Pages/Services/Other-Services/e-Investigation.aspx>.

The e-Investigation link has been enhanced with three (3) additional types of information as follows:

01	 <p>Educational and Awareness Materials Contain pamphlets and videos regarding SSM.</p>	02	 <p>SSM Scam Alert Material Contains information about awareness activities related to fraud crimes.</p>	03	 <p>Links to Government/ Enforcement Agencies websites Contains information about official links of Ministries and Enforcement Agencies.</p>
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REGISTRATION OF COURT CASES IN 2022

In 2022, there was an increase in the number of prosecution cases registered in court by SSM. Specifically, SSM registered 6,082 cases in court during that year, whereas in 2021, the number of

registered cases stood at 5,732. This reflects a 6.12% increase in the number of prosecution cases from 2021 to 2022.

CATEGORY OF CORPORATE GOVERNANCE OFFENCES	NUMBER OF CASES REGISTERED		
	2022	2021	2020
Section 12(1)(d) of the ROBA 1956: Making or furnishing the Registrar with false information.	2	–	1
Section 7D(5) of the CA 1965: Failure to justify reason for non compliance of 7D(1) notice from Registrar.	–	–	–
Section 89 of the CA 1965: Interests to be issued by companies only.	–	–	–
Section 91(1) of the CA 1965: No issue without approved deed.	–	–	2
Section 125(1) of the CA 1965: Undischarged bankrupts acting as directors.	–	2	–
Section 128(2) of the CA 1965: Removal of directors without special notice.	–	–	–
Section 131(1) of the CA 1965: Failure to disclose interest to the company in an Annual General Meeting.	–	–	–
Section 132(1) of the CA 1965: Failure to exercise power as director of a company in the best interest of the company.	–	–	–
Section 132(2)(c) of the CA 1965: A director or officer of a company shall not, use his position as such director or officer without the consent or ratification of a general meeting.	–	–	4
Section 132(2)(a) of the CA 1965: A director or officer of a company shall not, use the property of the company without the consent or ratification of a general meeting.	14	–	–
Section 132(2)(d) of the CA 1965: 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.	–	–	–
Section 364(2) of the CA 1965: Person making or authorising the making of a statement that is false or misleading in any material particulars, knowing it to be false or misleading.	1	1	3
Section 370(1) of the CA 1965: Default penalty proceedings for continuous default.	–	–	–

CATEGORY OF CORPORATE GOVERNANCE OFFENCES	NUMBER OF CASES REGISTERED		
	2022	2021	2020
Section 167(2) of the CA 1965: Failure to keep company accounting records for 7 years.	-	-	1
Section 198(1) of the CA 2016: Undischarged bankrupt acting as director.	-	3	2
Section 593(a) of the CA 2016: Person making or authorising the making of a statement that is false or misleading in any material particulars, knowing it to be false or misleading.	1	1	-
Section 593(b) of the CA 2016: Person making or authorising the making of a statement false or misleading in any material particulars, knowing it to be false or misleading.	-	-	1
Section 591(2)(a) of the CA 2016: False statement that is misleading.	5	2	5
Section 27B(1)(a) of the CCMA 2001: Failure to comply with notice to attend private hearing before the Registrar.	-	-	-
Section 80(1) of the LLPA 2012: False statement and misleading.	-	1	-
Section 484(6) of the CA 2016: Failure to disclose liabilities in Statement of Affairs.	-	-	-
Section 245(9) of the CA 2016: Failure to keep accounting records.	-	-	1
Section 3(2)(a) of the Interest Schemes Act 2016: Restriction to not issue any advertisement inviting to participate in an unregistered and unauthorized scheme.	-	-	-
Section 3 of the Kootu Funds (Prohibition) Act 1971: Carry on business of promoting kootu funds to the public.	-	-	1
Section 597(1) of the CA 2016: Any person carrying on business under any name or title of which "Berhad" or "Limited" is the final word or abbreviation without approval.	-	-	1
Section 230 of the CA 2016: Fees and benefits payable to directors of public company or listed company and its subsidiaries shall be approved at a general meeting.	-	2	-
TOTAL	23	12	22

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		
	2022	2021	2020
Section 143(1) of the CA 1965: Failure to hold Annual General Meeting.	163	214	131
Section 169(1) of the CA 1965: Failure to table accounts at the Annual General Meeting within the prescribed period.	43	66	121
Section 165(4) of the CA 1965: Failure to lodge Annual Return.	585	1,528	1,610
Section 68(1) of the CA 2016: Failure to lodge Annual Return.	4,589	3,413	2,508
Section 121(1)(b) of the CA 1965: Failure to print company name and number on official documents.	–	–	–
Section 121(3) of the CA 1965: Failure to display company name on all offices.	–	–	–
Section 369(1)(c) of the CA 1965: General Offences.	–	–	–
Section 588(1)(c) of the CA 2016: General Offences.	–	–	–
Section 12(1)(a) of the ROBA 1956: Carrying on business without registration.	–	5	34
Section 12(1)(b) of the ROBA 1956: Carrying on business after expiry of business registration.	8	36	63
Section 12(1)(c) of the ROBA 1956: Failure to give information to the Registrar.	–	–	–
Section 12(2) of the ROBA 1956: Failure to display Certificate of Registration.	1	65	76
Section 17A(1)(b) of the ROBA 1956: Failure to submit change of registered business particulars.	6	3	12
Section 17A(2) of the ROBA 1956: Failure to display signboard.	–	62	118
Section 30 (1)(b) of the CA 2016: Company to display registered name and company registration number at every place where business is carried on.	4	–	–
Section 259(1)(a) of the CA 2016: Duty to lodge Financial Statements and reports with the Registrar.	660	328	43
TOTAL	6,059	5,720	4,716

SSM has jurisdiction to conduct prosecution cases in Court for offences under the CA 1965, CA 2016, 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		
	2022	2021	2020
Section 91(1) of the CA 1965: Issuing of interests without an approved deed.	-	-	-
Section 94(1)(b) of the CA 1965: Failure to comply with a covenant contained in a deed.	-	-	-
Section 7D(5) of the CA 1965: Failure to comply with notice 7D(1) to provide reasonable excuse to the Registrar.	-	-	-
Section 125(1) of the CA 1965: Undischarged bankrupt acting as director.	-	1	-
Section 132(1) of the CA 1965: Failure to exercise power as director of a company in the best interest of the company.	-	-	-
Section 132(2)(a) of the CA 1965: Use of company property without the consent or ratification of a General Meeting.	14	2	-
Section 132(2)(c) of the CA 1965: 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	-
Section 363(3) of the CA 1965: Offering shares for subscription or purchase to the public.	-	-	-
Section 364(2) of the CA 1965: Persons who made or authorised the making of a statement false or misleading in any material particulars knowing it to be false or misleading.	3	-	1
Section 364A(1)(a) of the CA 1965: An officer knowingly and wilfully authorises the making of any false or misleading statements to members of the corporation.	-	-	-
Section 198(1) of the CA 2016: Undischarged bankrupt acting as director.	-	-	1
Section 593(a) of the CA 2016: Persons who made or authorised the making of a statement that is false or misleading in any material particulars knowing it to be false or misleading, on the affairs of a corporation.	1	-	-
Section 593(b) of the CA 2016: Persons who made or authorised the making of a statement that is false or misleading in any material particulars knowing it to be false or misleading, on any matter or thing required by the Registrar.	-	-	4
Section 245(9) of the CA 2016: Failure to keep accounting records.	-	-	1
Section 12(1)(d) of the ROBA 1956: False declaration to the Registrar.	2	-	1
Section 3 of the Kootu Funds (Prohibition) Act 1971: Carry on business of promoting kootu funds to the public.	-	-	1
Section 597(1) of the CA 2016: Any person carrying on business under any name or title of which "Berhad" or "Limited" is the final word or abbreviation, the person, unless duly incorporated with limited liability.	-	-	1
Section 591(2)(a) of the CA 2016: False or misleading statement.	4	1	-
TOTAL	24	6	10

Statistics for cases of non-compliance 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		
	2022	2021	2020
Section 143(1) of the CA 1965: Failure to hold Annual General Meeting.	230	242	204
Section 169(1) of the CA 1965: Failure to table accounts at the Annual General Meeting within the prescribed period.	10	37	26
Section 165(4) of the CA 1965: Failure to lodge Annual Return.	526	546	1,412
Section 165A of the CA 1965: Failure to attach Auditor's Statement.	–	–	–
Section 68(1) of the CA 2016: Failure to lodge Annual Return.	6,838	5,279	3,135
Section 370(1) of the CA 1965: Default penalty proceedings for continuous default.	–	–	–
Section 139C of the CA 1965: Disqualified secretary.	–	–	–
Section 12(1)(a) of the ROBA 1956: Carrying on business without registration.	–	522	1
Section 12(1)(b) of the ROBA 1956: Carrying on business after expiry of business registration.	11	149	30
Section 12(2) of the ROBA 1956: Failure to display certificate of registration.	20	120	17
Section 17A(1)(b) of the ROBA 1956: Failure to submit Change of Registered business particulars.	5	2	1
Section 17A(2) of the ROBA 1956: Failure to display signboard.	24	168	22
Section 17A(3) of the ROBA 1956: Uses undesirable name without consent of the Minister.	1	–	–
Section 259(1)(a) of the CA 2016: Duty to lodge Financial Statements and reports with the Registrar.	715	160	–
TOTAL	8,380	7,225	4,848

LANDMARK CASES IN 2022

In 2022, SSM recorded a total of 181 convictions. A summary of the important cases conducted by SSM are as follows:

PARTIES	DESCRIPTION OF OFFENCE	OFFENCE (SECTION)	SUMMARY
Public Prosecutor v Aziz bin Intan	Director or officer of the company used the property of the company to directly gain a benefit for himself And Director or officer of a company used his position to directly gain a benefit for himself	Section 132(2)(a) of the CA 1965 And Section 132(2)(c) of the CA 1965	The Respondent pleaded guilty to both charges in the Kangar Sessions Court and was initially sentenced to a fine of RM3,000 for each charge in lieu of three (3) months imprisonment. SSM, dissatisfied with the fines imposed and filed an appeal at the Kangar High Court. The Kangar High Court reviewed the case and imposed a higher fine of RM10,000 in lieu of six (6) months imprisonment for the first charge and a fine of RM15,000 in lieu of nine (9) months imprisonment for the second charge.
Public Prosecutor v Mohd Nor Shahidan Bin Sazali	Giving false information to the Registrar	Section 12(1)(d) of the ROBA 1956	The accused pleaded guilty to the two (2) charges laid out against him. The Seremban Sessions Court convicted and sentenced the accused to a fine of RM4,000 for each charge in lieu of two (2) months imprisonment.
Public Prosecutor v NWP Holdings Berhad	Payment of directors' fees without obtaining approval in a general meeting	Section 230(1)(b) of the CA 2016	The accused had served a written representation to SSM for the two (2) charges against him. The accused was issued a compound of RM100,000 for each charge.
Public Prosecutor v Lim Wei Khim	Undischarged bankrupt acting as director	Section 125(1) of the CA 1965	The accused pleaded guilty to the charge against him. The Ayer Keroh Sessions Court convicted and sentenced the accused to a fine of RM20,000 in lieu of three (3) months imprisonment.
Public Prosecutor v Lim Wei Khim	Undischarged bankrupt acting as director	Section 198(1) of the CA 2016	The accused pleaded guilty to the charge against him. The Ayer Keroh Sessions Court convicted and sentenced the accused to a fine of RM24,000 in lieu of two (2) months imprisonment.
Public Prosecutor v Wu Yap Long	Business owner continues to carry on business after expiry of registration	Section 12(1)(b) of the ROBA 1956	The accused pleaded guilty to the charge against him. The Shah Alam Sessions Court convicted and sentenced the accused to a fine of RM4,000 in lieu of three (3) months imprisonment.

PARTIES	DESCRIPTION OF OFFENCE	OFFENCE (SECTION)	SUMMARY
Public Prosecutor v Wu Yap Kun	Business owner continues to carry on business after expiry of registration And Liability of business partner	Section 12(1)(b) of the ROBA 1956 And Section 17(3) ROBA 1956	The accused pleaded guilty to the charge against him. The Shah Alam Sessions Court convicted and sentenced the accused to a fine of RM3,000 in lieu of three (3) months imprisonment.
Public Prosecutor v Tan Siew Ying	Business owner continues to carry on business after expiry of registration	Section 12(1)(b) of the ROBA 1956 (Case 1)	The accused pleaded guilty to the charge against him. The Georgetown Sessions Court convicted and sentenced the accused to a fine of RM7,000 in lieu of five (5) months imprisonment.
Public Prosecutor v Tan Siew Ying	Business owner continues to carry on business after expiry of registration	Section 12(1)(b) of the ROBA 1956 (Case 2)	The accused pleaded guilty to the charge against him. The Georgetown Sessions Court convicted and sentenced the accused to a fine of RM7,000 in lieu of five (5) months imprisonment.

PROSECUTION CONVICTIONS FROM 2020 TO 2022

Statistics of convictions by Court are as follows:

CATEGORIES	CORPORATE GOVERNANCE OFFENCES			NON-COMPLIANCE OFFENCES		
	2022	2021	2020	2022	2021	2020
Company	–	–	–	170	90	309
Director	3	8	3	–	–	–
Owner/ Individual Businesses	2	–	1	6	18	34
TOTAL	5	8	4	176	108	343

SSM ENFORCEMENT CONFERENCE (ECON) 2022

SSM had organised the Enforcement Conference (ECON) 2022 from 30 November to 2 December 2022. ECON 2022 was attended by 71 officers from SSM Headquarters, State Offices and Branches. The theme chosen for ECON 2022 is 'Modernising SSM Enforcement Dynamics through Technology Advancement.'



LITIGATION

STATISTICS FOR CIVIL CASES

The following is a statistical comparison of civil cases for the years of 2020 to 2022:

YEAR	TOTAL OF FILES HANDLED	TOTAL OF FILES CLOSED
2022	422	157
2021	519	307
2020	678	386
TOTAL	1,619	850

The types of civil cases among others cover the following matters:

- (a) Application to reinstate the name of a company in the Company's Register under section 555 of the CA 2016;
- (b) Applications for extension of time and amendments to particulars related to charges under section 361 of the CA 2016;
- (c) Application for declaration of void dissolution of a company under section 535(1) of the CA 2016;
- (d) Application to rectify the Members' Register under section 103 of the CA 2016;
- (e) Applications for rectification of documents under section 602 of the CA 2016;
- (f) Cases involving applications by Companies Limited By Guarantee (CLBG) under section 45 of the CA 2016;
- (g) Cases relating to insolvency matters and assets of dissolved companies under the CA 2016;
- (h) Cases involving Interest Schemes under the Interest Schemes Act 2016;

- (i) Application to rectify the Business Register under section 7 of the ROBA 1956; and
- (j) Cases involving writ of summons on injunctions, negligence and damages against SSM.

The statistics of the new cases above shows that even though the country is currently in the transition phase of the COVID-19 from pandemic to endemic, there is an increase in the numbers of litigation cases handled by SSM in various courts in Malaysia involving SSM as a party. Most of these new cases involve companies' application to the High Court to seek extension of time to register Charges or to amend particulars of Charges as well as applications to reinstate a company to Company's Register. In 2022, a total of 678 new cases were handled by SSM (an increase by 30.63%) as compared to only 519 cases in 2021.

KEY CASES INVOLVING SSM IN 2022

Throughout the year 2022, SSM dealt with several notable cases that had impact on its functions as a registrar and regulator for companies and businesses in Malaysia. Among the notable cases are listed as below:

- (a) Johor Bahru High Court Originating Summons No: JA-24NCVC-272-04/2019 (Puncak Mahawangsa Sdn Bhd & 22 Ors v Suruhanjaya Syarikat Malaysia);
- (b) In the Federal Court Putrajaya, Civil Appeal, No: 08(F)-286-05/2022(W) (KAJ Development Sdn Bhd v Sinohydro Corporation (M) Sdn Bhd & Suruhanjaya Syarikat Malaysia); and
- (c) Kuantan High Court Originating Summons No: CA-24NCC-8-7/2022 (Sheikh Saidey Nor bin Sheikh Abdul Rahman & Anor v Pendaftar Syarikat, Suruhanjaya Syarikat Malaysia).

Johor Bahru High Court Originating Summons No: JA-24NCVC-272-04/2019 (Puncak Mahawangsa Sdn Bhd & 22 Ors v Suruhanjaya Syarikat Malaysia)

The First Plaintiff and First Defendant are the directors and shareholders of the Second Plaintiff (the Company), with the shareholding of 80% and 20% respectively. Pursuant to an EGM held on 30 August 2017 that convened by the First Plaintiff, certain resolutions were passed, which included appointment of new directors and the removal of the First Defendant as director of the Company. Although notices were sent to both the First Plaintiff and the First Defendant, the First Defendant was absent. The First Plaintiff, therefore, exercised his power as a majority shareholder to hold the meeting and to decide the agenda in the absence of the First Defendant.

The First Defendant lodged a complaint against the First Plaintiff to the Companies Commission of Malaysia (SSM) alleging that the First Plaintiff had held the EGM without a quorum, and as a result thereof, the resolutions passed were void and invalid. SSM conducted investigations and discovered that the First Plaintiff had in fact directed the company secretary to call for an EGM on 30 October 2017. As a result, thereof, in early 2019, SSM had charged the First Plaintiff at the Johor Bahru Sessions Court, for contravention of section 328(4) and (5) of the CA 2016, which amounts to an offence under section 588 of the CA 2016.

Subsequent to the charge in the Sessions Court, the Plaintiffs filed an application for a declaration order that the appointment of new directors of the Second Plaintiff on 30 October 2017 in accordance with the terms of the agreement dated 27 August 2015 was valid, effective and enforceable; that the Extraordinary General Meeting (EGM) held on 30 October 2017 was valid and in order; and that the parties present at the EGM held on 30 October 2017 was of sufficient quorum under section 328 of the CA 2016 for the First and the Second Plaintiffs to proceed with the meeting.

The pith of the Plaintiffs' contention was premised on the doctrine of condonation whereby, the Plaintiffs alleged that SSM, through one of its officers had advised the Company Secretary of the Second Plaintiff and had given her the assurance that EGM could proceed in the absence of the Second Defendant.

The Court dismissed the Plaintiffs' application on the grounds that the First Plaintiff had violated the provisions of the CA 2016 and as such, SSM had proffered charges against him. The First Plaintiff's defence of condonation was untenable as there was no proof of any representation made by SSM's officer, and even it was indeed made, it was not a formal representation made in writing and, therefore, could not be relied upon. As such, allowing this Application would be tantamount to condoning the First Plaintiff's breach of the provisions of the CA 2016.

In the Federal Court Putrajaya, Civil Appeal, No: 08(F)-286-05/2022(W) (KAJ Development Sdn Bhd v Sinohydro Corporation (M) Sdn Bhd & Suruhanjaya Syarikat Malaysia);

The Appellant in this case, namely KAJ Development Sdn Bhd (KAJ), has filed a motion for leave to appeal to the Federal Court against the entire decision of the Court of Appeal dated 21 April 2022 through Appeal No. W-01(NCC)(A)-663-12/2020.

At the High Court, KAJ had filed an Originating Summons WA-24NCC-312-06/2019 for an order that the Statement of Particulars to be Lodge with Charge

dated 8 February 2018 by the First Respondent namely Sinohydro Corporation (M) Sdn Bhd (Sinohydro) as the chargee is misleading, inaccurate and wrong and for the Second Respondent (SSM) to rectify the register of charge by expunging the said Statement of Particulars to be Lodge with Charge dated 8 February 2018 from the company register.

The First Respondent, Sinohydro, then filed a counterclaim for a declaration that there is an equitable charge on the charged land and applied for the rectification of the Statement of Particulars to be Lodge with Charge under section 361 of the CA 2016. KAJ argued that as the charge documents could not be perfected and be registered under the National Land Code, there is no charge created and, therefore, they should not be lodged with SSM and or accepted to be registered as charge under the CA 2016.

The Honourable High Court Judge Ong Chee Kwan had on 4 December 2020, dismissed KAJ's appeal and ruled that any agreement to give or execute a charge has created a charge and such charge can be registered under the provisions of the CA 2016. Dissatisfied with the decision, KAJ appealed to the Court of Appeal and the Court of Appeal had on 21 April 2022, dismissed the appeal and affirmed the decision of the High Court.

At the Federal Court level, the Honourable Judges concurred with the decisions of both the Court of Appeal and the High Court that the charge has been correctly registered at the SSM and the registration of the charge should reflect the creation of the charge duly registered. Therefore, the application for leave to appeal filed by the Appellant was dismissed by the Federal Court.

Kuantan High Court Originating Summons No. CA-24NCC-8-7/2022 (Sheikh Saidey Nor bin Sheikh Abdul Rahman & Anor v Pendaftar Syarikat, Suruhanjaya Syarikat Malaysia)

This case is about the Plaintiffs' application filed under section 555 of the CA 2016 for the reinstatement of Yayasan IHG (the Second Plaintiff) to the Company register of the Defendant. The Second Plaintiff is a Company Limited by Guarantee (CLBG) incorporated on 4 December 2015 under the CA 1965. Yayasan IHG has two (2) directors namely Sheikh Saidey Nor bin Sheikh Abdul Rahman (First Plaintiff) and Sofia binti Affendi. In 2016, Yayasan IHG and its directors were investigated by PDRM under section 4 of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLATFPUA).

Yayasan IHG bank account was frozen and seized under the AMLATFPUA. In 2017, the two directors were remanded and detained under the Prevention of Crime Act 1953 (POCA) and the First Plaintiff was charged under section 420 of the Penal Code and section 4(1) of

the AMLATFPUA. The First Plaintiff was discharged but not amounting to acquittal (DNAA) in 2018. In February 2020, the directors were discharged from the Police Supervision Order. The bank account was released from seizure in February 2022.

Yayasan IHG and/ or its directors have failed to comply with the provisions of sections 68, 248(1)(b), 258(1)(b), 259(1)(b) and 340(2) of the CA 2016 i.e. for failing to prepare and lodge the Financial Statements and Annual Returns with the SSM since 2017 and failure to hold the Annual General Meetings. Due to the said failure, SSM has reasonable grounds to believe that Yayasan IHG was not doing business or was not operating. Therefore in 2021, SSM initiated an action to strike off Yayasan IHG from the companies register pursuant to section 551 CA 2016 and on 22 October 2021, Yayasan IHG was dissolved.

The Plaintiffs filed an Originating Summons pursuant to section 555 of the CA 2016 seeking for an order *inter alia* that Yayasan IHG be reinstated to the company register and that the Plaintiffs be exempted from filing the outstanding Audited Financial Statements and Annual Returns with SSM. The application was made on the grounds that Yayasan IHG still had money in the bank account.

SSM objected to the Plaintiffs' application on the grounds that the process of striking off of Yayasan IHG were done in accordance with the provisions of the law i.e. filing of Annual Returns and Audited Financial Statements is mandatory according to the provisions of the CA 2016; any asset of the dissolved company whether movable or immovable is vested with the Registrar (SSM); and the Director of a CLBG must be of a "fit and proper person."

The Plaintiffs relied on the maxim of *novus actus interveniens* and claimed that as several new circumstances/ events had intervened where Yayasan IHG and its directors were investigated by PDRM under section 4 of the AMLATFPUA, the directors were arrested under POCA and Yayasan IHG's bank account was frozen and seized under the AMLATFPUA which prevents them from complying with the CA 2016 provisions.

SSM has issued a guideline for the establishment of a Company Limited by Guarantee known as the Guidelines on Company Limited by Guarantee dated 27 September 2021. Paragraph 10 of the CLBG Guidelines states that CLBG directors must be fit and proper and not disqualified under the CA 2016. Paragraph 11 of the CLBG Guidelines states that for the purpose of determining whether a person is fit and proper, the Registrar may conduct security checks on directors and the security checks shall be conducted by the Royal Malaysian Police (PDRM) and/ or other agencies.

SSM has obtained confirmation from PDRM that the directors of the Yayasan IHG did not pass the PDRM security screening. Therefore, on 13 October 2022, the Kuantan High Court Judge dismissed the Plaintiffs' application with costs to SSM.