



HOW DOES SOCIAL ENTERPRISE LEGISLATION DIFFER ACROSS ASEAN?

For most ASEAN Member States, a social enterprise may be legally registered as either a for-profit company or a non-profit entity. Currently, Vietnam is the only ASEAN Member State that legally recognises Social Enterprises (SEs) as part of the Enterprise Law (Law No.68/2014/QH13).

The information found in this infographic was retrieved from the publication released by ASEAN CSR Network, ASEAN Business Advocacy Council, Oxfam and AVPN in September 2017, titled "Towards Inclusive and Sustainable Growth in the ASEAN Economic Community". (For more info: www.asean-csr-network.org)

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BRUNEI

There is no specific law regulating SEs in Brunei. SEs can be set up in Brunei Darussalam under a for-profit or non-profit legal structure.



For-Profit Structures

1) Sole Proprietorship:

- A business owned by one person
- Foreigners not eligible

2) Partnership:

- Two or more business partners
- Applications by foreigners subject to clearance by the Immigration Department

3) Private Limited Company:

- No minimum share capital
- 2 to 50 shareholders
- Shareholders need not be citizens

4) Public Company:

- No minimum share capital
- At least seven shareholders
- Shareholders need not be citizens. May issue shares to public



Non-profit Structures

Society:

Includes any club, company, partnership or association of 10 or more persons, except the following:

- a) Any company, association or partnership registered under the law for the time being relating to companies, or formed and maintained for the sole purpose of carrying on lawful business
- b) Any trade union registered under any written law
- c) Any government or school registered under the law

CAMBODIA

SEs are not legally recognised, and must be registered as a private company or NGO.



For-Profit Structures

1) General Partnership:

- A contract between 2 or more persons
- Each partner shares in profits and losses
- All partners are jointly liable for obligations

2) Limited Partnership:

- A contract between 2 or more persons
- Each limited partner is entitled to receive his share of profits and liable only to the extent of the value of property he agrees to contribute
- The general partners are jointly liable for the debts of the partnership to third parties

3) Private Limited Company:

- Between 2 to 30 shareholders
- Shareholder's liability to the company is limited to the price of the shareholder's subscription



Non-Profit Structures

1) Association:

- A membership organisation representing and protecting the interests of members without generating profits
- Minimum of 3 members

2) NGO:

- A non-membership organisation that provides funds and services for the public interest without generating or sharing profits
- At least 3 members must be of Khmer nationality

INDONESIA

There is no specific law regulating SEs in Indonesia. Most SEs are established in the legal form of private limited company or cooperative.



For-Profit Structures

1) Limited Liability Company:

- Must be established by 2 or more persons by a notarial deed in the Indonesian language
- Shareholders are not personally liable for the company's losses in excess of the shares they own

2) Cooperative:

- A primary cooperative shall be established by at least 20 people, while secondary cooperatives consist of at least 3 primary cooperatives
- Cooperatives may raise capital from: bequest, participation share, loan capital and other legitimate sources



Non-Profit Structures

1) Foundation:

- A non-membership legal entity established based on the separation of assets and intended as a vehicle for attaining certain purposes in the social, religious or humanitarian fields

2) Association:

- Any association (incorporated or ordinary) must be formed by at least 3 Indonesian citizens
- Individuals wishing to create incorporated associations must submit articles of association to the Minister of Law and Human Rights

LAOS (1)

SEs are not legally recognised in Laos; they usually opt for either a for-profit or a non-profit legal structure.



For-Profit Structures

1) Sole-Trader:

- Operates under the name of its owner who holds unlimited liability for the debts of the enterprise

2) Partnership:

- Contract between at least two investors who contribute capital

3) General Partnership:

- Jointly operated based on mutual trust
- All partners have joint and unlimited liability for the debts of the enterprise

4) Limited Partnership:

- General partners have unlimited liability for debts of the enterprise
- Limited partners have limited liability



Non-Profit Structures

1) Association:

- Non-profit organisation set up on a voluntary basis
- Operates on a permanent basis to protect the rights and interests of the association, its members and communities

2) Foundation:

- Non-profit social organisation registered as a legal entity
- Works for public interests in cultural, educational, environmental, health, sports, scientific, charity, humanitarian and other purposes

LAOS (2)

SEs are not legally recognised in Laos; they usually opt for either a for-profit or a non-profit legal structure.



For-Profit Structures

5) Company:

- Established through the division of its capital into shares
- Shareholders are not personally liable for the company's losses in excess of the shares they own

6) Limited Company:

- 2 to 50 shareholders
- A limited company with a single shareholder is called a "one-person limited company"

7) Public Company:

- At least 9 shareholders who are the promoters
- Company's shares can be freely transferred and openly offered to the public

MALAYSIA

Similar to the majority of ASEAN member states, there is no specific legislation governing SEs in Malaysia. SEs in Malaysia may choose from a range of for-profit and non-profit structures.



For-Profit Structures

1) Sole Proprietorship:

- A business wholly owned by a single individual who is personally responsible for the company's liabilities

2) Partnership:

- Partners are personally liable and responsible for the business's liabilities

3) Limited Liability Partnership:

- LLPs combine the characteristics of a company and a partnership
- Debts and obligations borne by assets of LLP, not partners

4) Private Company Limited by Shares:

- Shareholders' liability is limited to the amount of capital held by the shareholders



Non-Profit Structures

1) Company Limited by Guarantee:

- Liability of members limited by the memorandum of association of the company

2) Society:

- Inclusive of any club, partnership or association of 7 or more people
- Accountable to Registrar of Societies

3) Trust:

- Legal arrangement where asset ownership is transferred from settlor to trustee
- Trustees are chargeable for all property that they are responsible for

4) Co-operative Societies:

- Governed by the Co-operative Societies Act 1993 and regulated by the Malaysia Co-operative Societies Commission

MYANMAR

As there is no legislation governing SEs, such enterprises can be legally registered as a private company or a non-profit association.



For-Profit Structures

1) Partnership:

- Consists of not more than 20 partners
- Is of unlimited type

2) Private Limited Liability Partnership:

- 2 to 50 shareholders

3) Cooperative Society:

- Minimum of 5 members needed
- May carry out economic and social activities; net profits accrued are to be apportioned according to decision of members



Non-Profit Structures

Association:

- May be formed by 5 or more persons and registered at any level of the registration system under the Ministry of Home Affairs

PHILIPPINES

There is no specific legislation governing SEs, so they can be established as a for-profit entity or a "non-stock, non-profit corporation or organisation".



For-Profit Structures

1) Single Proprietorship:

- A business owned by an individual
- The owner is liable, and has full control of all assets

2) General Partnership:

- Partners have unlimited liability for the debts and obligations of the partnership



Non-Profit Structures

Non-stock, Non-profit Corporation:

- Created exclusively for: religious, charitable, scientific, athletic, cultural, rehabilitation of veterans, and social welfare purposes
- No part of the net income or asset shall belong to or inure to the benefit of any member or any specific person

SINGAPORE (1)

As there is no legislation governing SEs, such enterprises can be legally registered as a private company or a non-profit association.



For-Profit Structures

1) Sole-Proprietorships:

- Owned by one person, no partners and administrative requirements

2) General Partnership:

- Business formed by more than one individual
- Maximum number of partners is 20
- Must be registered with the Accounting and Corporate Regulatory Authority

3) Limited Company:

- Liabilities of limited partners are limited to their individual contributions to the venture



Non-Profit Structures

1) Company Limited by Guarantee:

- The liability of members is limited by its constitutional documents to such amount as the members undertake to guarantee

2) Society:

- Has to submit its proposed constitution to the Registry of Societies for approval before it may be formed

3) Charitable Trust:

- Not a separate legal entity, so trustees are liable for liabilities incurred by the trust
- However, trustees are only chargeable for money they receive

SINGAPORE (2)

As there is no legislation governing SEs, such enterprises can be legally registered as a private company or a non-profit association.



For-Profit Structures

1) Limited Liability Partnership:

- LLP gives partners the flexibility of operating as a partnership while protecting their investments like private limited companies

2) Private Limited Company:

- Has a separate legal personality from its owners
- Liability of members is confined to individual capital contributions towards the company



Non-Profit Structures

Association:

- Governed by the Co-operatives Societies Act (Chapter 62) and the Co-operatives Societies Rule 2009
- Has to be registered with the Registry of Co-operative Societies

THAILAND

SEs can be registered as either a for-profit or non-profit legal entity, both of which are governed under the Thai Civil and Commercial Code.



For-Profit Structures

1) Unregistered Ordinary Partnership:

- Partners are jointly and wholly liable for all obligations of the partnership
- Not a juristic entity, treated as an individual for tax purposes

2) Registered Ordinary Partnership:

- Legal entities that are separate from individual partners

3) Limited Partnership:

- Individual liability restricted to capital contributions, or
- One or more partners have joint liability without any limitation

4) Private Limited Company:

- Formed by 3 or more persons
- Liability of shareholders is limited to the par value of authorised capital



Non-Profit Structures

1) Association:

- Legal entity conducting any activity which is to be done collectively by persons other than that of sharing profits or incomes earned

2) Foundation:

- Consists of property specially appropriated to public charity, religions, art, science, education or other purpose for public benefit
- Requires at least a committee consisting of 3 members

VIETNAM

Under the Enterprise Law No.68/2014/QH13, an SE is defined as a registered enterprise that aims to address social and environmental issues for community benefits.



For-Profit Structures

1) Partnership:

- Minimum of 2 members
- Unlimited liability partners are liable for all the company's obligations to the extent of all their assets
- Limited liability partners are only liable for the company's debts to the extent of their capital contributions

2) Limited Liability Partnership:

- Maximum of 50 members
- Members are liable for the company's debts and obligations to the extent of their capital contributions

3) Shareholding Company:

- 3 or more shareholders, who are liable for the company's debts and obligations to the extent of their capital contributions



Non-Profit Structures

1) NPO:

- Organisation that mobilises and allocates capital for charitable, religious, educational, societal or similar purposes and not for the purpose of profit

2) Social/Charity Fund:

- Organised and operated on a not-for-profit basis
- Must be founded by a minimum of 3 Vietnamese citizens, although foreigners can contribute assets