

Asia Newsletter



Malaysia Newsletter No. 4 - Movement Control Order Extended to 12 May 2020 Masato Yamanaka, Daisuke Maeshiro, Wan May Leong

***This article is based on information available as of 28 April 2020.**

Malaysia has decided to further extend the Movement Control Order until 12 May 2020.

For the past ten days, Malaysia has reported double digits in its daily new infections. If the COVID-19 cases continue to decrease during this Ramadan month, it is expected that the Government may relax the movement control in stages.

On 28 April 2020, the Ministry of International Trade and Industry announced that economy sectors which have been permitted to operate during Phases 1, 2, and 3 of the Movement Control Order may increase their operations to full capacity with no restriction on operating hours. This takes effect from 29 April 2020 and no application is required. Meanwhile, companies are advised to strictly follow the prescribed Standard Operating Procedure (SOP).

For existing essential services which are allowed to operate during the Movement Control Order period, please see https://www.jurists.co.jp/en/newsletters/asia_200413.html and https://www.jurists.co.jp/en/newsletters/asia_200414_2.html.

Initiatives by the Government

The Government of Malaysia has rolled out stimulus packages and initiatives to provide relief to individuals and businesses who face financial constraints arising from the COVID-19 pandemic. We have highlighted some of the initiatives and measures below:

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Companies Commission of Malaysia (CCM)

1. **Breathing room for statutory demands**

Section 466(1)(a) of the Companies Act 2016 provides that a company shall be deemed to be unable to pay its debts if the company is indebted in a sum exceeding the amount as may be prescribed by the Minister, and the company has neglected to pay the sum for 21 days after a creditor has served a notice of demand requiring the company to pay the sum due. Failure of a company to respond to the creditor's notice of demand allows the creditor to file a petition for winding up of the company.

To ease the burden and cash flow problems of the corporate community resulting from the Covid-19 pandemic, the Companies (Exemption) (No.2) Order 2020 has been passed to provide companies with a longer breathing period to respond to the notice of demand. In essence, for any notice of demand served between 23 April and 31 December 2020 (inclusive), the recipient company now has 6 months, instead of 21 days after the service of the notice of demand, to respond to the notice of demand.

Further, the Minister of Domestic Trade and Consumer Affairs has issued a directive dated 21 April 2020 to increase the prescribed amount of indebtedness under Section 466(1)(a) of the Companies Act 2016 from RM10,000 to RM50,000, with effect from 23 April 2020 to 31 December 2020.

2. **Moratorium to lodge affected statutory documents**

Companies and limited liability partnerships are automatically granted a moratorium of 30 days from the end of the Movement Control Order to lodge all the affected statutory documents with CCM. Late lodgment fees will be exempted and no application for the moratorium is required.

3. **Extension of time to lodge financial statements and to hold Annual General Meetings**

Companies with financial year ending after 31 August 2019 to 31 December 2019 are entitled to a 90-day extension to circulate to its members, and to lodge with CCM, their financial statements and reports.

Further, companies are also entitled to an extension of 90 days to hold Annual General Meetings.

Nonetheless, companies are required to apply for the time extension with CCM by 30 June 2020, but the application fee of RM100 will be waived.

For further updates and initiatives from CCM, please see <https://www.ssm.com.my/Pages/Announcement-Covid19.aspx>

Central Bank of Malaysia (BNM)

1. **Loans to individuals and small and medium sized enterprises (SMEs) - Deferment of 6 months**

All licensed banks, licensed Islamic banks and prescribed development financial institutions regulated by the BNM will offer a deferment of loans/ financing payment obligations for a period of 6 months to individual and SME borrowers, with effect from 1 April 2020.

This deferment only applies to loans denominated in Ringgit Malaysia (not including credit cards) which have not been in arrears exceeding 90 days as of 1 April 2020. Interest will continue to accrue on loans/ financing payments that are deferred and borrowers are required to honor the deferred payments in the future.

2. Loans to corporations

Corporations are encouraged to approach their banking institutions to discuss their repayment plans and the restructuring of credit facilities. Banking institutions will facilitate requests by corporations to defer or restructure their loans/financing repayments in a way that enables corporations to preserve jobs and swiftly resume economic activities when conditions improve.

For further information, please see https://www.bnm.gov.my/index.php?ch=en_press&pg=en_press&ac=5018&lang=en



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