

**SSM'S ANNUAL DIALOGUE 2015  
ISSUES – KUALA LUMPUR**

No.	Organisation	Summary of Issues	SSM's Response
<b>ISSUES ON NAME SEARCH</b>			
1.	<b>QUALITY ORACLE MANAGEMENT SERVICES</b>	<p>In name search, SSM always require the meaning of words chosen even though there is no meaning to the words. The promoters ended up having to think hard in "creating" meaning for those words.</p> <p>Promoters should be encouraged to come up with invented words to be used as company name and subsequent as trade mark of the company.</p>	<p>Section C of Form 13A (Request for availability of name), must be completed by the applicant. Items 1 &amp; 2 of Section C require clarification for single letter/alphabet, if the proposed name is not in Bahasa Malaysia or English, as in this case an invented word, the meaning of the words used should be stated.</p> <p>If there is a dispute with regards to the use of names, Form 13A will be used as an evidence in court. Therefore it is a requirement for Section C to be filled up.</p>
2.	<b>SMART BUSINESS CONSULTANCY SDN BHD</b>	<p>Banyak carian nama yang ditolak sedangkan sepatutnya boleh dikueri sahaja. Harap dapat lebih bertolak ansur.</p>	<p>Pemohon hendaklah memastikan Borang 13A lengkap sebelum di hantar kepada SSM bagi mengelakkan nama di tolak. Kebanyakan permohonan nama yang ditolak bagi nama rekaan adalah kerana tidak menyertakan bersama surat kebenaran daripada syarikat yang sediada.</p> <p>Secara amnya, permohonan yang lengkap dan sekiranya nama syarikat boleh digunakan, permohonan akan diluluskan.</p>

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<b>ISSUES ON COMPANIES BILL AND INTEREST SCHEME BILL</b>			
3.	<b>STRATEGIC INNOVATIVE MANAGEMENT SDN BHD</b>	Manual untuk makluman setiausaha dan pegawai syarikat tentang perubahan di bawah Akta Syarikat yang baru ke atas borang-borang dan dokumentasi yang diperlukan dan untuk serah simpan dan kriteria berkenaan.	SSM akan mengeluarkan garis panduan, pekeliling dan nota amalan untuk membantu setiausaha dan intermediari korporat memahami kehendak-kehendak di bawah Akta Syarikat yang baharu. SSM juga bercadang untuk mengadakan 'roadshow' ke seluruh Negara untuk memberi penerangan berhubung kehendak perundangan yang baharu di bawah Rang Undang-undang Syarikat dan Rang Undang-undang Skim Kepentingan.
4.	<b>MALAYSIAN ASSOC OF GOLF &amp; RECREATIONAL CLUB OWNERS BHD</b>	<p><b>ISSUES RELATING TO GOLF/RECREATIONAL CLUB INTEREST SCHEMES</b></p> <p>Currently, the golf/recreational club industry does not have any major issues relating to the policies administered by the SSM.</p> <p>However, we understand that the New Companies Bill and New Interest Schemes Bill will be presented to Parliament shortly. We also understand that it is the intention of the SSM to replace the current Policy Guidelines (which have been in place since 1992) with the new Policy Guidelines. The new Policy Guidelines are expected to include specific guidelines which will be drafted to regulate the different sectors of the interest scheme industry.</p>	<p>The introduction of the proposed Policy Guidelines will help to strengthen the overall regulatory framework of the interest scheme industry and elevate the level of confidence amongst the holders of interest or consumers. This in turn will benefit the industry as a whole. The proposed policy guidelines will be issued for public consultation within this week.</p> <p>SSM will conduct public consultation session with the industry including MAGRO before the new guidelines is finalised.</p>

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		<p>With regard to the golf/recreational club industry, we wish to present our view that the current Policy Guidelines have served our industry very well despite the fact that they have been in place for the past 23 years. We find that the Policy Guidelines are comprehensive and yet practical which are suitable for our business operations in Malaysia. In fact, our entire business structure comprising the legal, accounting and membership rules are based on the appropriate legislation within the Companies Act and Policy Guidelines regulating our industry.</p> <p>As such, any major changes to the current Policy Guidelines which are retrospective and affect existing schemes will be a major setback and will affect the financial viability of our schemes.</p> <p>We hope that the SSM will use the current Policy Guidelines as a base model for the new Proposed Policy Guidelines and that new regulation will only be included to take account of new developments in the industry.</p> <p>We wish to reiterate that the golf/recreation industry is a recreational product which caters to people who participate in recreational and social activities for the enjoyment of members and their families. It is not an investment/financial product whereby dividends/interest are accrued to members on a regular basis.</p>	

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		<p>We therefore urge the SSM to differentiate our industry with those of other investment/financial schemes which may be regulated more tightly to protect the interest of investors.</p> <p>Finally, we request that our Association, MAGRO will be invited to present our views and/or suggestions on the new Policy Guidelines at the appropriate time.</p>	
5.	<b>SMART BUSINESS CONSULTANCY SDN BHD</b>	<p>Mohon SSM pertimbangkan untuk syarikat-syarikat yang dormant supaya tidak perlu membuat audit, cukup sekadar memfailkan penyata tahunan ke SSM kerana syarikat dormant memang tiada bisnes dan tidak mampu membayar audit fee dsbnya.</p>	<p>Di bawah Rang Undang-undang Syarikat, Pendaftar diberi kuasa untuk mengecualikan kategori-kategori syarikat daripada keperluan audit. SSM sedang mempertimbangkan kategori-kategori syarikat termasuk syarikat dormant.</p>
6.	<b>NEW ERA PROFESSIONAL SERVICES</b>	<p>Update and briefing by SSM of the Companies ACT (Amendment 2015)</p>	<p>Updates will be given during presentation.</p>
<b>ISSUES ON COMPLIANCE AND COMPOUND</b>			
7.	<b>NOBLE MANAGEMENT PARTNERS SDN BHD</b>	<p>It is laudable that efforts has been made by SSM to blacklist individuals with outstanding compounds that had remained unpaid by disallowing the filing of Form 49, incorporation of new companies and appointment of these individuals who had defaulted in payment of compound.</p>	<p>The blacklisting exercise is extended to individuals with 2 or more outstanding compounds for the period 2014 and earlier.</p> <p>With regards to the filing of Forms 48B, 48C and 48E will only be affected <b><u>if the secretaries themselves are blacklisted.</u></b> Please be mindful that the secretaries</p>

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		<p>However, it is disappointing that SSM has extended the punishment to query licensed secretaries and non-allowing the filing of Form 48B and 48C or 48E as;</p> <p>(a) often, Company Secretaries are also victims because those individuals who does not pay up the compound are also not paying the fees owing;</p> <p>(b) Licensed Company Secretaries who are not able to contact these individuals may end up <b>not only</b> not being able to collect their fees for services rendered <b>but may</b> have to cough out money to settle the compounds to enable them to proceed for application for renewal of license - Borang 48C; and</p> <p>(c) the new ruling will wipe off the only venue left for licensed secretary to vacate office of these ignorant individuals who does not respond to any notices send requiring them to comply to provisions of the Companies Act , 1965.</p> <p><b>PROPOSAL:</b></p> <p>(1) Disallowing filing of <b>all documents</b> of companies with these individuals names who had defaulted payment of compound and to barred their exit from the country.</p> <p>(2) Disallow these individuals to register as sole</p>	<p>will only be blacklisted for compounds issued to them in their capacity as secretaries and/or directors.</p> <p>The compound to the company directors (your clients) will <b>NOT</b> have any effect on the company secretaries at all and vice versa.</p> <p>As to the submission of form 48C – this is subject to the legal and other requirements e.g. fulfilment of CPE points, fit and proper test as well as the additional requirement the applicant has no outstanding compound with SSM.</p> <p>Likewise the similar approach is applicable in the case of submission of Form 48E to SSM.</p>

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		<p>proprietor or partnership businesses unless they settle their outstanding compounds.</p> <p>(3) Allow renewal of license under Borang 48C (unless unqualified) and continue to allow licensed secretaries to file in form 48E to exit the companies of these blacklisted individuals.</p>	
8.	<b>SMART BUSINESS CONSULTANCY SDN BHD</b>	<p>(1) Kompaun syarikat - minta dipercepatkan urusan mencetak surat kompaun, memadai hanya tandatangan dari pihak setiausaha syarikat untuk surat permohonan cetak kompaun.</p> <p>(2) Surat jawab status syarikat untuk setiausaha - minta pihak SSM emailkan juga kerana sesetengah surat tidak diterima. Bila tak jawab, setiausaha pula kena kompaun. Sangat membebankan.</p> <p>(3) Minta pihak SSM panjangkan lagi tempoh diskaun kompaun kepada syarikat dan</p>	<p>Cetakan semula notis kompaun hanya akan dilakukan jika ada merit dan permohonan rasmi daripada penama yang dinamakan dalam notis tersebut.</p> <p><b>Cadangan:</b> Sila gunakan modul semakan e-kompaun untuk mendapatkan nombor rujukan notis kompaun dan datang ke Pejabat SSM yang berhampiran untuk semakan seterusnya.</p> <p>Setiap notis pematuhan perlu dikemukakan melalui pos biasa atau berdaftar ke alamat berdaftar syarikat. Dalam konteks ini, pihak SSM mengambil maklum cadangan menggunakan email bagi tujuan peringatan tambahan kepada setiausaha syarikat.</p> <p>Kegagalan menjawab notis 7(11) adalah merupakan satu kesalahan di bawah Akta Syarikat 1965.</p> <p>Tempoh insentif kompaun tidak akan dilanjutkan. Tindakan pendakwaan akan dimulakan ke atas syarikat</p>

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		<p>pengarah.</p> <p>(4) Syarikat yang sudah lama tidak <i>update</i>, minta pihak SSM terus tutup sahaja (hantar surat penutupan pada setiausaha dan cc pada setiap pengarah).</p>	<p>dan pegawai syarikat termasuk pengarah syarikat yang masih gagal menjelaskan kompaun tertunggak selepas tamat tempoh insentif.</p> <p>Syarikat yang gagal menyerahsimpan Penyata Tahunan dan Penyata Kewangan bagi 3 tahun berturut-turut, disyorkan untuk diambil tindakan pembatalan nama dari Daftar Pendaftar di bawah seksyen 308(1) Akta Syarikat 1965.</p> <p>Walau bagaimanapun, Pendaftar boleh mempertimbangkan sesuatu permohonan pembatalan nama syarikat atas budibicaranya jika terdapat merit untuk pemotongan nama tersebut.</p> <p>Sebelum sesuatu permohonan pemotongan nama dipertimbangkan, SSM akan mengambilkira kriteria berikut:</p> <ol style="list-style-type: none"> <li>a. Tiada aset dan liabiliti;</li> <li>b. Tiada tunggakan cukai atau liabiliti lain dengan mana-mana jabatan atau agensi kerajaan</li> <li>c. Tiada gadaian dalam Daftar Gadaian;</li> <li>d. Tidak terlibat dalam apa-apa prosiding perundangan yang masih berjalan atau yang akan diambil samada di dalam atau luar Malaysia;</li> <li>e. Tidak mempunyai kompaun atau penalti tertunggak;</li> <li>f. Syarikat bukan syarikat induk; dan</li> </ol>

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			<p>g. Syarikat bukan <i>guarantor corporation</i>.</p> <p>Dalam Rang Undang-undang Syarikat yang baharu, syarikat yang gagal menyerahkan Penyata Tahunan 3 tahun berturut-turut, Pendaftar mempunyai kuasa untuk membatalkan syarikat tersebut daripada daftar.</p>
9.	<b>METROXYLON PROFESSIONALS SDN BHD</b>	Is there any future plans to allow us to directly obtain and print the Compound Letter copy by clicking on the Compound Number 'CMC####' found via the SSM's E-compound search instead of requesting a copy through email?	<p>At this moment, there is no plan to allow users to print out the compound letter via the e-compound search module. The basis are as follows:</p> <ul style="list-style-type: none"> <li>• The e-compound search is accessible to the public and as such if the information is printable it may lead to abuse etc; and</li> <li>• The information contains in the notice is sensitive in nature and as such it is prudent not to make the same easily available via open platform in the website.</li> </ul>
10	<b>CHARTERED SECRETARIES MALAYSIA (MAICSA)</b>	In cases of companies which have not filed annual returns and audited financial statements for a few years, MAICSA suggests that SSM call and/or write to all the Directors to follow up on their reasons why it was not done so.	SSM would like to reiterate that the compliance to legal provisions of the law is mandatory and as such any reasons for failing to abide to the mandatory legal requirements if any only provide as mitigation to the ensuing legal sanction.



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<b>ISSUES ON WINDING UP AND STRIKING OFF</b>			
11	<b>SMART BUSINESS CONSULTANCY SDN BHD</b>	<p>(1) Penutupan syarikat - Harap diberi kelonggaran/permudahkan untuk syarikat dorman <i>paid-up</i> bawah RM100,000.00 dan diberi maklumbalas secepat mungkin jika ada kueri dan sebagainya.</p> <p>(2) Mohon kerjasama dari pihak SSM untuk memaklumkan status syarikat yang ditutup oleh SSM di bawah S.308 sekiranya penutupan tersebut telah ditarik balik.</p>	<p>Permohonan pembatalan nama syarikat di bawah Seksyen 308 hendaklah mematuhi Garis Panduan Pembatalan Nama Syarikat yang dikeluarkan pada 12 Januari 2007.</p> <p>Semakan ke atas akaun syarikat adalah penting memandangkan di antara syarat-syarat utama yang terkandung dalam Garis Panduan tersebut adalah syarikat tidak menjalankan perniagaan/tidak beroperasi dan mempunyai tidak mempunyai aset dan liabiliti.</p> <p>Pemohon boleh menyemak status pemohon 308 di laman sesawang ssm di <a href="http://www.ssm.com.my">www.ssm.com.my</a>: klik e-servis, kemudian klik status 308.</p> <p>Buat makluman sedang menambahbaik semakan status 308 untuk memasukkan kolum No Further Action (NFA) bagi permohonan-permohonan 308 yang ditarik-balik dan memuat naik status permohonan secara 'real time'.</p>
12.	<b>UNITED OVERSEA BANK (MALAYSIA) BHD</b>	<p><b>Striking off exercise</b></p> <p>(1) Can a clean nominees company be strike off under Section 308 of Companies Act 1965 instead of members' voluntarily winding up?</p>	<p>The directors/shareholders of companies can apply to strike off the name of companies in accordance with the "Guidelines On Application To Strike off the Name</p>

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		<p>(2) Can a clean subsidiary company be strike off?</p> <p>(3) How long is the duration process for striking off a company upon submission to CCM?</p> <p>(4) If the striking off application is rejected, does the Company still need to hold its AGM and file in its annual return and audited accounts with CCM prior to the winding up exercise?</p> <p>(5) Will the filing of its AGM documents to CCM attract late penalty or fine?</p> <p><b>Winding Up exercise</b></p> <p>(1) What is the implication for error in the winding up process, i.e. the advertisement published in a newspaper is not published throughout Malaysia</p>	<p>of a Company" dated 12 January 2007. The main criteria under this guideline is that the company is not carrying on business or is not in operation.</p> <p>Yes. Apart from complying with the requirements of the 2007 Guidelines, the subsidiary company must also attach a letter of consent to strike off the company, from the holding company. If the subsidiary company is co-owned by other shareholders, the letters of consent from all shareholders must also be attached.</p> <p>The duration of the process of striking off is approximately 6 months from the date of application (do not have any query) which is in accordance with the period of notices/gazettes issued under Section 308(1), (2) &amp; (4) of the CA 1965.</p> <p>Yes, the company needs to observe the statutory obligations of Section 143, 169 and 165(40) of the CA 1965.</p> <p>Yes.</p> <p>Section 272(2) of the CA 1965 provides that the meeting shall be called by advertisement publishes in a newspaper circulating generally throughout Malaysia.</p>

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		<p>for its final meeting and dissolution.</p> <p>(2) Is the Company's winding up still valid?</p> <p>(3) Does the Company need to restart its whole winding up process again?</p> <p>(4) What is the minimum and maximum penalty that will be imposed on the Company?</p>	<p>The non-compliance with this requirement will render the meeting void.</p> <p>The winding up process is still valid.</p> <p>No. The company needs to reconvene the meeting in accordance with Section 272(2) of the CA 1965.</p> <p>The penalty is Ringgit Malaysia One Thousand and default penalty of Ringgit Malaysia Two Hundred for each day of continued offence. (Section 370 of the CA 1965)</p>
13.	<b>ITAS MANAGEMENT CONSULTANTS</b>	<p>There is a defunct developer private limited company undergoing members' voluntary winding-up.</p> <p>The present situations are:</p> <p>(1) No liquidator is acting for the company;</p> <p>(2) The sole liquidator of the company has passed away and the absence of any substitution is more than one (1) year upon the death of such liquidator;</p> <p>(3) The whereabouts of all the Directors and shareholders of the company are unknown; and</p> <p>(4) The company had entered into agreements to sell its properties (Apartment units) to purchasers. The strata titles of the properties are now registered in the name of the company and all the purchasers have already obtained the</p>	<p>The power of the Registrar to strike off company under Section 308(3) (a), (b) or (c) is discretionary in nature and is exercised on a case to case basis.</p> <p>Upon the dissolution of the company, the purchasers can make an application under Section 309 of the CA 1965 for the Registrar to act as representative of the defunct/dissolved company.</p>

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		<p>vacant possession of the properties. The purchasers have fully paid the purchase price according to the sale and purchase agreements but the instruments of transfer have yet to be executed by the company.</p> <p>Issue:</p> <p>My enquiry is can the purchasers of the aforesaid properties request/apply with supporting documents, in particular under section 308(3) and 309 of the Companies Act 1965, for the Registrar of companies to act as representative of this defunct company to execute the instruments of transfer.</p>	
14.	<b>CHARTERED SECRETARIES MALAYSIA (MAICSA)</b>	<p>In some instances queries especially on Section 308 were sent out after 1 year when the application was first filed. We wish to seek clarification with SSM on the process timing of such application as with the elapse time of 1 year is far too long and we might not be able to reach the directors to reply to such queries.</p>	<p>This is an isolated case. SSM requests full details of the application i.e. the name and company number to enable SSM to check further.</p>
<b>ISSUES ON DOCUMENT LODGEMENT AND SUPPLY OF INFORMATION</b>			
15	<b>SMART BUSINESS CONSULTANCY SDN BHD</b>	<p>Sila <i>upgrade</i> sistem <i>express filing</i> dan kemaskini <i>print out</i> terkini dengan segera kerana banyak kes <i>client</i> tak dapat buka bank akaun sebab <i>print out</i> tidak dikemaskinikan.</p>	<p>Sekiranya dokumen yang diserahkan adalah sempurna proses verifikasi dan dikemaskini dalam sistem CBS dilaksanakan dalam tempoh 3 hari bekerja sebagaimana piagam pelanggan yang ditetapkan.</p>

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			Untuk membolehkan dokumen dikemaskini dalam masa yang ditetapkan, dokumen hendaklah lengkap, sempurna dan tiada kueri (termasuk kueri-kueri lain yang masih belum diselesaikan)
16	<b>METROXYLON PROFESSIONALS SDN BHD</b>	In E-info, when typing a company's name in Capital Letters to apply for a computer printout, the company concerned doesn't appear. The Company only appears when the name is typed in small letters.	e-Info search can be made by using lowercase (small letters) or uppercase (capital letters). The information will not be displayed if the name is not available. The complainant should contact SSM through the e-Info call center should he/she face the same problem.
<b>ISSUES ON MYCOID</b>			
17	<b>KHAZANAH NASIONAL BERHAD</b>	<p>MyCoID</p> <p>Issue: Annual Renewal.</p> <ul style="list-style-type: none"> <li>a) Renewal should be made automatically. If a renewal fee were to be imposed, billing can be sent to the Co Sec who will then be alerted that the registration had expired.</li> <li>b) Co Sec might not be aware of this annual renewal requirement and will face problems when her name cannot be found in the system.</li> </ul> <p>Issue: Incorporation</p> <ul style="list-style-type: none"> <li>c) Too many restricted fields in the online incorporation: <ul style="list-style-type: none"> <li>1. Restriction in M&amp;A:</li> </ul> </li> </ul>	<p>(a) &amp; (b)</p> <p>The user registration fees under MyCoID system were waived since its implementation. In order to continue with their application, the Company Secretary is required to log in to the system and click to payment 'promo' button.</p>

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		<p>(i) Compulsory to fill in maximum of directors.</p> <p>(ii) Limited number of characters in object clauses.</p> <p>(iii) Deletion of Regulations 71 and 90 of Table A by default and inclusion of Article 3(d) by default.</p> <p>2.Payment upfront:            (iv) Payment has to be made upfront before you can proceed with incorporation. As such, the number of authorised capital cannot be changed after payment.</p> <p>3.Missing data:            (v) Some information such as a certain wordings on director's address are missing after you have logged out from the system.</p>	<p>(i) Applicant is required to fill the maximum number of director as reflected in the Articles of Association (AA).</p> <p>(ii) 3 object clause is allowed during incorporation. Currently the system has allocated 500 characters to describe the object clause for one business activity and 3 business descriptions equivalent to 1,500 characters. Companies are advised to manage the drafting of object clauses based on the allocated characters.</p> <p>(iii) This is a standard template built in the MyCoID system for incorporation. If there is any changes in the Article, the company can pass a resolution and submit the amendment to SSM.</p> <p>(iv) Payment Upfront            After payment has been made, any changes is not allowed. Thus, applicant must ensure the application is checked before submission.</p> <p>(v) Missing Data            Applicant is advised to view the pdf form before submission. To ensure that no data is missing, please click the 'save' button and view the pdf form before logging out from the MyCoID</p>

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			system. There are three buttons i.e. 'cancel', 'save' and 'save and proceed' to choose from that page. Should there be any problem, kindly contact our Call Centre.
18.	<b>METROXYLON PROFESSIONALS SDN BHD</b>	Thank you for continuously improving MyCoid. I hope that the time when MyCoid cannot be accessed (sometimes up to 1-2 days) could also be further reduced.	There has been no incident reported about non-accessibility of MyCoID.
19	<b>NEW ERA PROFESSIONAL SERVICES</b>	MYCOID:  (1) MYCOID: No entry for corporate shareholder information in new incorporation of company need to do it "OTC" (2) MYCOID: For change of company name, after name search in MYCOID need to do it "OTC"	(1) & (2)  SSM is aware of this issue and will consider the same in the development of the new system under the SSM Transformation Program.
<b>GENERAL, TECHNICAL AND POLICY ISSUES</b>			
20	<b>SMART BUSINESS CONSULTANCY SDN BHD</b>	Perketatkan syarat kemasukan syarikat milik <i>foreigner</i> bagi membolehkan syarikat milik <i>foreigner</i> yang betul-betul hendak buat bisnes sahaja yang dibenarkan.	SSM berpendapat, rangka kerja undang-undang semasa adalah mencukupi untuk menangani isu kemasukan orang asing bagi tujuan menjalankan perniagaan di Malaysia kerana ianya juga adalah tertakluk kepada undang-undang lain di bawah agensi-agensi yang berkaitan.

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			Setiausaha syarikat juga mempunyai obligasi untuk menjalankan <i>due diligence</i> terhadap orang asing yang hendak menjalankan perniagaan di Malaysia, selaras dengan peruntukkan <i>Anti-Money Laundering and Anti-Terrorism Financing Act 2001</i> (AMLATFA)
21	<b>NEW ERA PROFESSIONAL SERVICES</b>	SSM telephone answering responses	In the event that our officers are unable to attend to any calls, please contact them through email. The email addresses are available on the correspondences or alternatively on SSM's directory on our website.
22	<b>SMART BUSINESS CONSULTANCY SDN BHD</b>	Wujudkan semula 'lodge' penyata tahunan tanpa penyata kewangan seperti dulu dan penyata kewangan tersebut boleh dibentangkan kemudian. (AAGM)	Keperluan undang-undang sedia ada adalah jelas berhubung perkara ini seperti yang ditetapkan di bawah Jadual Kelapan Akta Syarikat 1965. Walau bagaimanapun, Rang Undang-undang Syarikat yang baharu membenarkan serahsimpan Penyata Tahunan dan Penyata Kewangan secara berasingan.
23	<b>KHAZANAH NASIONAL BERHAD</b>	(1) Redemption of Preference Shares – Form 27  Issue: SSM insisted on the submission of a copy of the cancelled share certificate together with the Form 27. a) Submission of cancelled share certificate is not a requirement under CA 65. b) Share certificate shall be deemed null and void after the redemption, so technically it does not need to return to the Company for cancellation. c) This may be a problem when the Pref	Submission of a copy of cancelled share certificate is currently required by SSM as a supporting document for lodgment of Form 27.  This is in accordance with Section 11(9)- that the Registrar may require the person to produce such other document for Registrar to form an opinion whether to refuse or register the Form 27.  Likewise in lodging Form 49 for appointment of director, submission of copy of identity card is not a



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		<p>Shareholders have lost their share certificates and start making declaration and asking the Company for re-issuance of shares for cancellation purposes before you can proceed with the redemption.</p> <p>(2) Notification on the change of Director's particulars – Form 49</p> <p>Issue: SSM will reject Form 49 with statements such as "<u>Notification</u> on change of address on ...." in the column '<i>Nature of Appointment, or Change and Relevant Date</i>'. SSM will only accept statements such as "<u>Change</u> on address on...", which might incur late penalty if the notification from the Director was received by the CoSec much later than the actual date of the change.</p> <p>a) Director may be late in notifying the company on the changes of his particulars at times.</p> <p>b) Technically, the particulars of the director in the Register of Directors kept by the Company which receives his notice will be updated on the day of receipt of the notification from the Director.</p> <p>c) By taking the notification date to the CoSec as the date of the change of particulars, it will be consistent with all previous disclosure/confirmation/submission</p>	<p>requirement under the Act, but it is necessary to validate authenticity.</p> <p>It is a legal obligation for directors to lodge Form 49 to update the Registrar on any changes in respect of his name, residential address or other prescribed particulars within one month from the date of the change.</p> <p>Section 141(6)(e) – 'Notifying' in this sub section means the lodgment of F49 and 'relevant date' in F49 refers to actual date of respective changes. What is required under the Act is notifying the Registrar of the changes in name, residential address etc (this of course includes the effective date of the changes), not notifying the Register on the date that the director notify the company on the changes.</p> <p>Company Secretaries should highlight this obligation to Board Members. Timely update is critical to ensure that companies comply with the requirements prescribed under section 141 of the Companies Act. This would ensure SSM is capable to update the companies' information promptly in its database; and subsequently able to supply updated corporate information to its customers.</p>

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		<p>regarding the Dir's particulars that could have been made by the Company prior to the date of being notified of the change. Otherwise, the Company will need to do declaration for amendments and re-submission of amended documents/confirmations/disclosure.</p>	
24	<p><b>METROXYLON PROFESSIONALS SDN BHD</b></p>	<p>Based on SSM's Practice Note 16/2013 where the extract of a resolution is required for appointment and removal of directors:</p> <p>(a) Can we have an option to submit an original Circular Resolution instead of an Extract Resolution?</p> <p>(b) If we can use an original Circular Resolution, does that resolution already signed by all the Directors still need to be certified by a director who is one of those who has signed it?</p> <p>Is there any discussion &amp; updates between Banks and the Immigration department about opening of bank accounts of a newly incorporated company which has both local and foreign directors? Banks want a work permit for the foreign director before allowing the company to open a bank account. However, immigration department wants a paid up capital of RM500,000 or 1 million before approving the work permit. Thus we need the bank account for the banking</p>	<p>(a) &amp; (b) No, only extract of a resolution is accepted to avoid potential abuse.</p> <p>SSM will escalate this issue to ABM and may refer to PEMUDAH to address this issue.</p> <p><b>REPLY FROM The Association of Banks in Malaysia (ABM)</b> ABM is not aware of the fact that banks require a work permit for the foreign director before banks would permit the opening of an account.</p>

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		<p>in of the paid up capital. This chicken and egg situation needs a solution.</p>	<p>The procedure for opening of an account very much would depend on the extract of resolution to be furnished to the bank for the purpose of the opening of a bank account and the operation of the same. For a start, the resolution should empower the persons named in the resolution (including the foreign directors) to open a bank account and to operate the same. Generally all that is required at this juncture is proof of the establishment of the company and the relevant Forms 24 and 49 as well as such other documents to enable the bank to satisfy the Know Your Customer requirements. The Form 49 would help establish that the foreign directors are in fact named directors of the company.</p> <p>In the event a bank were to be difficult, the account opening account resolution can empower local directors or senior management to open and operate a bank account for a start. After all, Section 122 of the Companies Act provides that every Malaysian company shall have at least two directors who each has his principal or only place of residence within Malaysia.</p> <p>Once the account is opened, the company can then make the relevant arrangements for the increase its paid-up share capital and, as the case may be, authorise additional persons including the foreign directors to operate the bank account.</p>

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25	<p><b>CHARTERED SECRETARIES MALAYSIA (MAICSA)</b></p>	<p>(1) Practice Note 1/2008 states that .....As the laying of the audited accounts is one of the ordinary businesses of an AGM, the AGM should only be called when the audited accounts are ready and sent to all members at least 14 days before the meeting or less if agreed to by all members as required under section 170 of the CA 1965. Therefore, the question of adjourning an AGM to a later date to lay the audited accounts only when they are ready does not arise.</p> <p>We agree that SSM will not accept Annual Return if it is not accompanied by the audited accounts as it is considered as incomplete. However, the question we have is on the holding of AGMs by companies without the audited accounts. Are such companies based on the Practice Note above being "forced" to breach the Act in particular Section 143 which stipulates that a company is required to hold its AGM annually? Please clarify.</p> <p>(2) Under Practice Note 16/2013 an extract resolution confirming the resignation or appointment of new directors and secretary would need to be signed by a Director or existing secretary. We wish to clarify with SSM as to who should be the secretary to sign such an extract? Should it be signed by the out-going secretary or the in-coming secretary or either one is</p>	<p>The phrase "the AGM <b>should only be called</b> when the audited accounts are ready" stated in the Practice Note is advisory in nature i.e. SSM strongly advise the company to prepare and audit the accounts before calling the AGM.</p> <p>However, if under any circumstances a company is unable to audit the accounts, the company is not prohibited from holding its AGM.</p> <p>The issue of incoming and outgoing company secretary does not come into picture as PN16/2013 clearly states that the existing company secretary is responsible to sign all extract resolutions except in cases where the whole board of directors was removed. In this case, PN 16/013 requires the company secretary at that material time of removal was made to sign the extract resolution. In any event, if the company secretary at</p>

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		<p>acceptable? Our concern is that the out-going may not have the locus standi to sign the extract if the resolution is dated as at the date of his or her resignation. However, on the other hand, we are concerned with corporate governance and potential corporate hijack issue if it is signed by the in-coming company secretary without the knowledge of the out-going secretary.</p>	<p>the point of removal is not willing to do so, the existing company secretary can sign the document and to provide justification.</p>
26.	<p><b>CHARTERED SECRETARIES MALAYSIA (MAICSA)</b></p>	<p>Annual Return Form 55</p> <p>(1) In the Annual Return Form there is a certificate relating to unclaimed moneys. What if the company has not complied with the Unclaimed Moneys Act but have certified otherwise? How would the public checked on this?</p> <p>(2) How do we classify a "society" in the Annual Return Form and where do we put the shareholding of a society in page 2 as it is neither an individual nor a corporate body?</p>	<p>(1) SSM registers Form 55 base on statement made by the company (Disclosure base). If there is a non-compliance, the public can refer to Bahagian Pengurusan Amanah &amp; Security, Jabatan Akauntan Negara Malaysia which administers the Unclaimed Moneys Act 1965.</p> <p>(2) Where the shareholder is a society, the particulars of the society need to be completed in the second column, last page of the Annual Return as follows :</p> <p>i. Nama: "Persatuan Penternak Ikan Air Tawar, Perak (represented by Ali bin Ahmad, President)"</p> <p>Kindly refer to Practice Note 11/2011.</p>