

Plenary Session 4: SSM Talks

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INITIATIVES BY SSM IN 2021

INITIATIVE 6 – Increasing the value of Indebtedness of a company from RM10,000 to RM50,000 effective 1st April 2021.

- ✓ The amount of indebtedness threshold of a company was increased to an amount in excess RM50,000 against the previous threshold value of indebtedness of RM10,000 was important to ease the burden of the company facing cash flow issues from winding actions. The increase is now permanent.
- ✓ It is also to help troubled companies to pay its creditors as a result of the Covid-19 pandemic in which the cashflow is significantly affected.

INITIATIVES BY SSM IN 2021

INITIATIVE 8 – Proposed amendments to the Companies Act 2016 related to Corporate Rescue Mechanism (CRM) and Scheme of Compromise or Arrangement.

- ✓ To obtain new sources of financing (rescue financing) to sustain the company's operations.
- ✓ Enables the Court to approve the scheme of arrangement and at the same time protecting the rights of existing creditors.
- ✓ Widening access to the Corporate Rescue Mechanism to all categories of companies including public listed companies.

INITIATIVES BY SSM IN 2021

INITIATIVE 9 – Introducing provisions relating to Corporate Rescue Mechanisms (CRM) under the Limited Liability Partnerships Act 2012.

- ✓ Enhancing the existing legal framework related to corporate rehabilitation for Limited Liability Partnerships (LLP).
- ✓ Amendments and enhancements on the application of CRM will assist financially troubled LLPs to apply for the corporate rehabilitation process to continue its operations (stay afloat).
- ✓ This initiative is essential to assist financially troubled limited liability partnerships, especially those who are affected from the COVID-19 pandemic, to stay afloat and continue to operate and generate income for the nation.
- ✓ To introduce provisions strengthening the policy pertaining to a comprehensive beneficial ownership reporting framework.

- ✓ **SCHEME OF ARRANGEMENT**
- ✓ **CORPORATE RESCUE MECHANISM**

CRM – APPLICATIONS RECEIVED

Categories		2018	2019	2020	2021*	Total
1.	Application for Judicial Management Order in Court	16	9	36	10	71
2.	Application for Corporate Voluntary Arrangement	3	1	1	1	6

**As at April 2021*

RESTRAINING ORDERS UNDER S. 368 CA 2016

2018	2019	2020	2021*
32	5	14	28

**As at May 2021*

POLICY PROPOSAL - SOA (1 of 3)

<p>POLICY</p>	<p>Enhancements on the Scheme of Arrangement (SOA) relating to Restraining Order (s. 368)</p>	<p>Empowering the Court to restrain proceedings against related company</p>
<p>OBJECTIVE</p>	<ul style="list-style-type: none"> • 2 months moratorium period <i>from the date of application</i> for a restraining order (RO) of a compromise or arrangement against the applicant company. • Granting of the initial 3 months of RO will not be subjected to conditions under s. 368(2). 	<ul style="list-style-type: none"> • If a related company plays a necessary and integral part in the compromise and arrangement of the applicant company, the related company can apply for a restraining order. • Maximum period must not exceed the RO period granted to the applicant company.

POLICY PROPOSAL - SOA (2 of 3)

<p>POLICY</p>	<p>Super priority for rescue financing for a compromise or arrangement.</p>	<p>Empowering Court to approve a SOA without a meeting of creditors</p>	<p>Allowing creditors to apply to Court to review decision of companies post approval of SOA</p>
<p>OBJECTIVE</p>	<p>To assist company to get financial aid during the scheme.</p>	<ul style="list-style-type: none"> • The Court can approve a compromise or an arrangement without meeting of creditors subject to certain conditions. • To simplify the process and to reduce cost and compliance burden. 	<ul style="list-style-type: none"> • The creditors can apply to the Court to review decisions of the company once a compromise or arrangement has been approved. • To protect creditors' interest.

POLICY PROPOSAL - SOA (3 of 3)

POLICY	Empowering creditor to restrain disposition of properties during moratorium	Power of Court to cram down
OBJECTIVE	<ul style="list-style-type: none"> • Restrain the company from disposing its assets or transferring any shares of the company except in good faith in the course of business of the company. • To ensure creditors' rights are protected. 	<ul style="list-style-type: none"> • To enable the proposal be improved and implemented successfully even with objections from dissenting creditors. • To provide protection to creditors so that the creditors would receive at least a value equal or better to the allowed amount of their claims as compared to the value if the company is in liquidation.

CORPORATE RESCUE MECHANISM

Strengthening the existing CRM framework

- (a) Giving more companies to access CVA and JM;
- (b) Empowering secured creditors to recover property during moratorium of CVA/JM under certain circumstances; and
- (c) Continuation supply of essential goods and services.
 - provision allowing continuation of essential supplies (relief to companies) during a moratorium in a SOA, voluntary arrangement or judicial management process.

Thank you

