



**SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA**

COMPANIES ACT 1965: SSM'S PRACTICE NOTE NO 1/2008

**RE: REQUIREMENTS RELATING TO THE LODGEMENT OF
ANNUAL RETURN OF COMPANIES**

1. This Practice Note serves to inform the requirements under section 165 of the Companies Act 1965 (CA 1965) relating to the lodgement of annual returns with the Registrar of Companies.

Lodgement of Annual Returns

2. Section 165 of the CA 1965 requires all companies to lodge annual return within one (1) month after the annual general meeting (AGM). The annual return of a company shall be in accordance with the Eighth Schedule to the CA 1965 and be accompanied by such copies of documents as are required or such certificates or other particulars as prescribed in Part II of that Schedule.

3. Part II of the Eighth Schedule requires the following attachment:

- (i) a copy of the last audited accounts comprising the balance sheet and profits and loss accounts (including

every document required to be attached thereto);
and

- (ii) a copy of the auditor's report.

4. Part II of the Eight Schedule also stated that in the case of an exempt private company that is solvent, the attachment of the audited accounts may be substituted by a certificate signed by a director, a company secretary and auditor stating that:

- (a) the company is an exempt private company;
- (b) an audited accounts in compliance with the provisions of the CA 1965 has been tabled in the company's AGM; and
- (c) the company is able to meet its liabilities as and when they fall due as at the date of the audited profit and loss account.

5. The audited accounts must be certified by a director or a manager or a company secretary to be a true copy of such documents. The audited accounts or the certificate relating to exempt private company, as the case may be, must either be in '*Bahasa Malaysia*' or English and if they are in any other languages, the translation in '*Bahasa Malaysia*' or English must be provided.

6. Therefore, any lodgement of annual returns without the inclusion of an audited accounts or a duly signed certificate relating to exempt private company constitute an incomplete submission and will not be accepted by the Registrar.

7. The practice adopted by some companies which lodge annual returns without attaching the audited accounts is not in accordance with the requirements of the CA 1965 as well as the principles of good corporate governance. The statement/explanation that such documents is not ready and to be laid at an adjourned AGM does not justify the lodgement of annual return without the audited accounts.

8. 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.

Effective Date

9. Henceforth, annual returns with respect to AGMs held in the calendar year 2008 and thereafter would only be accepted for lodgement by the Registrar if they are accompanied with a copy of the relevant audited accounts or, where applicable, a duly signed certificate relating to exempt private company.

10. This Practice Note serves to reiterate SSM's stance for annual returns to be lodged together with audited accounts.

REGISTRAR OF COMPANIES

COMPANIES COMMISSION OF MALAYSIA

13 June 2008



**SURUHANJAYA SYARIKAT MALAYSIA
(COMPANIES COMMISSION OF MALAYSIA)**

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Tarikh : 15 Jun 2010

Kepada Presiden/ Setiausaha

Badan Profesional / Persatuan Setiausaha / Dewan Perniagaan

Y. Bhg. Tan Sri/ Dato'/ Datin/ Tuan/ Puan

**RE: ADDENDUM TO PN 1/2008 - GUIDING POLICIES ON
THE SUBMISSION OF ANNUAL RETURN OF PRACTICE
NOTE 1/2008**

Dengan hormatnya saya merujuk kepada perkara di atas.

2. Untuk makluman pihak Y. Bhg. Tan Sri/ Dato'/ Datin/ Tuan/ Puan, bersama-sama ini dilampirkan pengumuman Tambahan Nota Amalan 1/2008 yang dikeluarkan oleh Suruhanjaya Syarikat Malaysia (SSM) berkaitan dengan perkara yang disebut di atas.

3. Di sini kami ingin memohon perhatian dan jasa baik pihak Y. Bhg. Tan Sri/ Dato'/ Datin/ Tuan/ Puan untuk menyebarkan dan menghebahkan makluman ini kepada semua ahli persatuan melalui laman web, emel dan pos.

4. Sebarang maklumat lanjut bolehlah menghubungi kami di talian telefon 03-2299 5533/ 5525/ 5535 atau dengan melayari laman web SSM : www.ssm.com.my

Segala sokongan, perhatian dan kerjasama yang diberikan dalam perkara ini amat dihargai.

Sekian terima kasih.

"PERNIAGAAN ANDA BERMULA DI SSM"

Yang benar,

THRICHELVAM RASIAH

b/p Ketua Pegawai Eksekutif
Suruhanjaya Syarikat Malaysia



**SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA**

COMPANIES ACT 1965: SSM'S PRACTICE NOTE NO. 1/2008

**ADDENDUM TO PRACTICE NOTE 1/2008: GUIDING
POLICIES ON THE SUBMISSION OF ANNUAL RETURN
FOLLOWING THE ISSUANCE OF PRACTICE NOTE 1/2008**

INTRODUCTION

1. Practice Note No. 1/2008 (PN 1/2008) which was issued on 13 June 2008 requires a company to submit its annual return (AR) together with the audited accounts, or in the case of an exempt private company, the AR must be accompanied with a certificate relating to an exempt private company.

2. The rationale for PN 1/2008 is to re-align between the legal requirements under section 165 and the Eighth Schedule of the Companies Act 1965 (CA 1965) with the industry practice.

ISSUES RELATING TO THE IMPLEMENTATION OF PN 1/2008

3. The introduction of PN1/2008 was commended towards enhancing the level of corporate governance practice amongst the companies in Malaysia. The following guiding policies seek to address the implementation issues faced by the public to ensure uniformed interpretation and application of PN 1/2008.

POLICIES ON THE SUBMISSION OF ANNUAL RETURNS FOLLOWING THE ISSUANCE OF PN 1/2008

(i) Submission of AR with multiple sets of audited accounts

In cases where companies have failed to hold their Annual General Meetings (AGM) in the past and intend to rectify their reporting requirements, the companies are required to table the audited accounts of the past years together with the latest audited accounts corresponding to the AGM for the particular calendar year.

In such cases, the submission of AR with multiple sets of accounts will be accepted provided that it includes the corresponding set of audited accounts which was tabled at the AGM.

Such submission, however, will be subject to compound for the late tabling of audited accounts (section 169 of CA 1965) in respect of audited accounts of previous years.

Illustration:

X Sdn Bhd has not been holding its AGM in calendar years 2005, 2006, 2007 and 2008. In 2009, X Sdn Bhd held its AGM on 30 June 2009 and tabled the following:

- (a) audited account for financial year ending 31 December 2005;
- (b) audited account for financial year ending 31 December 2006;

(c) audited account for financial year ending 31 December 2007;
and

(d) audited account for financial year ending 31 December 2008.

X Sdn Bhd submitted its AR dated 14 July 2009 accompanied with four (4) sets of audited accounts including the corresponding audited accounts for financial year ending 31 December 2008.

X Sdn Bhd will be subject to compounds under section 169 of CA 1965 for the late tabling of audited accounts for financial years ending 31 December 2005, 31 December 2006 and 31 December 2007.

(ii) Submission of AR for previous years (prior to 13 June 2008)

In cases where companies have held their AGM in the past years but have not submitted their AR, such AR will be accepted even if the AR is not accompanied with the audited accounts or a certificate relating to an exempt private company.

The submission of AR for previous years is accepted provided that the AGM is held prior to the issuance of PN 1/2008. Such submission, however, will be subject to the relevant late lodgement fees under Item 26A of the Second Schedule of CA 1965.

Illustration:

Y Sdn Bhd held its AGM in respect of calendar years 2005, 2006 and 2007 in June of each year. However, Y Sdn Bhd did not submit its AR accordingly.

On 2 February 2009, Y Sdn Bhd submitted all the AR in respect of the AGMs held in 2005, 2006 and 2007 without the audited accounts.

Y Sdn Bhd will be subject to the late lodgement fees pursuant to Item 26A of Second Schedule of CA 1965.

(iii) Submission of audited accounts for previous years (prior to 13 June 2008)

In cases where a company has submitted its AR following an AGM held in previous years where the audited accounts has yet to be tabled, the submission of the audited accounts will be accepted for the purposes of completing the AR provided that the audited accounts has been tabled at an adjourned AGM.

Such submission, however, will be subject to compounds for the late tabling of audited accounts (section 169 of CA 1965) in respect of audited accounts of previous years.

Illustration:

Z Sdn Bhd held its AGM for calendar year 2006 on 30 June 2006. The audited accounts of the company for financial year ending 31 December 2005 which was supposed to be tabled at the AGM were

not ready and a resolution was passed to table the audited accounts at an adjourned AGM.

Subsequently, the audited accounts were ready and tabled at an adjourned AGM of Z Sdn Bhd on 30 June 2009. On 15 July 2009, Z Sdn Bhd submitted the audited accounts.

Z Sdn Bhd will be subject to compounds under section 169 of the CA 1965 for the late tabling of the audited accounts.

(iv) Late submission of audited accounts of previous years (prior to 13 June 2008)

In cases where a company has inadvertently forgotten to lodge the audited accounts for previous years, the submission of such audited accounts will be accepted provided that the audited accounts have already been tabled at the AGM of the respective calendar year and that the relevant AR has been filed.

Such submission, however, will be subject to a late lodgement fee pursuant to Item 26A of Second Schedule of CA 1965.

Illustration:

P Sdn Bhd has tabled its audited accounts for financial year ending 31 December 2005 at its AGM held on 30 June 2006. P Sdn Bhd submitted its AR without the said audited accounts on 28 July 2006. The audited accounts were only submitted to SSM on 28 July 2009.

The submission, however, will be subject to late lodgement fees under Item 26A of the Second Schedule of CA 1965.

CONCLUSION

6. These guiding policies serve to reiterate the importance to comply with the requirements as set out in PN 1/2008.

**REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
15 JUNE 2010**