



**DIALOG TAHUNAN SSM
2023
MAKLUM BALAS ISU-ISU
BERTULIS (2)**



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MAKLUM BALAS ISU-ISU BERTULIS

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<p>We are not able to reach SSM officer most of times, neither via phone call nor email. Even we went up to SSM KL Sentral try to meet with the respective officer also no avail. They would say the officers are in the meeting whole day etc. It's really wasting our time if we have something to discuss or seek advice or clarification with the respective SSM officer.</p> <p>It is also very hard to get thru the SSM officers' hotline. Call numerous also no pickup. Some officers are good as they will reply to your email but some officers neither pick up phone nor reply email.</p> <p>Suggestion: If SSM officers are in the meeting or on leave, at least put an auto-reply email saying they are not available on which date, so we won't waste our time to call them all day long and went up to SSM office, ended up with nothing.</p> <p>Appreciate the officers can respond promptly or pick up the phone.</p>	<p>It is strongly recommended that all inquiries be made via email to the SSM Call Center at enquiry@ssm.com.my. All enquiries will be recorded and monitored.</p>
<p><u>Implementation of MBRS Financial Statements</u> What is the implementation plan for lodgement of financial statements via MBRS?</p>	<p>MBRS is being enhanced in preparation for the mandatory submission of Financial Statements, and the effective date for the mandatory submission of Financial Statements will be announced later.</p>
<p>Some suggestions for consideration by SSM:</p> <ul style="list-style-type: none"> (a) processing of straightforward application within 3 working days. (b) responding to query/appeal via email within 3 working days, if possible. (c) facilitate ease of telephone communication. (d) facilitate more face-to-face meetings, if possible. (e) facilitate more customer service or enquiry counters to address technical issues. 	<p>Thank you for the suggestion. All issues are being addressed under the SSM's "Projek Hala Tuju".</p>

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<p><u>MBRS System</u></p> <p>(a) The only way to lodge Annual Return with shareholders whereabouts unknown who are still keeping old NRIC would be to seek prior approval from SSM to lodge the Annual Return over the counter in view of MBRS can only recognise new NRIC</p> <p>(b) The Exempt Private Certificate (EPC) was not able to lodge via MBRS due to system maintenance, hence, such EPC was lodged over the counter. However, when the company attempted to lodge the EPC via MBRS in the following year, MBRS had rejected such lodgement. How can the EPC be lodged via MBRS again?</p> <p>(c) Need to facilitate system integration for MBRS for Financial Statements, due to challenges and difficulties faced by nonfinancial literate person to key in too many details. Even dormant company requires 1-3 hours to complete with more than 1 attempt due to errors in verification process being encountered.</p> <p>(d) Approval email will only be received for lodgement of statutory documents with payment, for lodgement of EPC, there is no approval email, can an acknowledgement be issued by the system</p> <p>(e) Instability of payment gateway especially during peak season, MBRS will auto-log out and take few hours/days before payment could actually be made and verified</p> <p>Wish to suggest that the MBRS be further enhanced to be more effective and efficient to even facilitate auto-approve lodgement of over the counter for certain circumstances</p>	<p>SSM MBRS is currently undergoing enhancement process towards providing a better service to its customers where the same will "Go Live" latest by end of 2024.</p> <p>In respect of payment, SSM will be introducing a new Revenue Management System (RMS) where all online payment to SSM will be fully integrated to minimise payment over the counter and widening the mode of payment to provide customer with more options. Under the RMS, the technical team is also looking at all current issues which include shortening of payment transaction to avoid time-out scenario and working closely with the Payment Gateway team to provide a better customers' experience.</p>
<p><u>Leveraging Technology to Deal with Query</u></p> <p>As practised in some jurisdictions, will SSM be able to leverage the SSM4U platform, emailing platform and e-query platform to send query to the company secretary instead of by normal post which takes a longer time to reach the company secretary and sometimes past the deadline to respond. This is also a step towards sustainability, efficiency and effectiveness.</p>	<p>SSM4U is in the process of providing a service that will integrate with various systems in SSM to notify customers through the inbox in the SSM4U system as an additional platform for customers to get the status of a matter or application.</p> <p>An issue to be studied further and to be strongly considered to ease the processes of query. Keeping up to the mode of online submissions and transaction, enhancing e-query platform to receive replies to query will be convenient and effective.</p>

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<p><u>Strengthen Internal Processes and Enhance Familiarity</u></p> <p>Received query letter to submit statutory documents (in fact, such document had been lodged in the first place, but SSM officer did not verify the documents correctly leading to issuing a query letter). However, received SSM query letter requesting to submit the statutory documents, upon clarification, SSM officer realised that such document already been lodged in the first set of documents.</p> <p>Hopefully this is a one-off incident. However, it is envisaged that the internal processes and standard operating procedures for lodgement of the requisite statutory documents and verification for different types of corporate exercises could be further strengthen. The familiarity of the procedures and statutory documentation requirements be further enhanced.</p>	<p>SSM take note on this matter and thank you for the suggestion.</p>
<p><u>Supervisory Program</u></p> <p>Can SSM share regarding any scheduled AML compliance supervisory reviews on Company Secretaries?</p>	<p>The company secretary will be notified officially prior to the on-site inspection on CA 2016 and AML/CFT requirement for them to make necessary preparation of information and document for the inspection. It is not a surprise visit.</p> <p>The inspection will assess the company secretary's understanding and compliance with Part IV of the AMLA 2001 and the Anti-Money Laundering, Anti-Terrorism Financing and Targeted Financial Sanctions Policy Document for Non-Financial Businesses and Professions (DNFBP) and Non-Bank Financial Institutions (NBFI).</p> <p>Throughout the inspection, the company secretary will be examined on:</p> <ul style="list-style-type: none"> (i) The understanding on AMLCFT risk & obligation; and (ii) The adequacy of AMLCFT compliance programme in place; <p><i>For further information, you may refer to SSM Annual Dialogue 2023 presentation slides - "Proposed Guidelines Relating to the Obligations Company Secretary as a Reporting Institutions under AMLA 2001", uploaded in SSM's website.</i></p>
<p>Is a subsidiary or even a wholly owned subsidiary of a listed entity (exempted entity) required to conduct BO identification of its listed entity?</p>	<p>Yes. For more information, please refer to SSM's FAQ available on SSM's website. https://www.ssm.com.my/Pages/FAQ/FAQ-Beneficial-Ownership.aspx</p>
<p>If a wholly owned subsidiary of an exempted entity is required to state details of the senior management as BO, is this wholly owned subsidiary required to send section 56 notice to the listed entity to identify and verify the BO?</p>	<p>Yes.</p>

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<p><u>BO Identification</u></p> <p>Can SSM provide guidance to identify BO for shares of clients which are held by Private Equity funds with numerous LLPs, consisting of various Limited Partners and General Partners?</p>	<p>SSM will issue a new guideline under the Companies (Amendment) Bill 2023 which will provide more scenario or case study as guidance to assist companies in complying with the beneficial ownership reporting framework. However, there are certain class of companies will be exempted from the Guideline because those companies are subjected to similar reporting obligations under other written laws regulated by other regulators e.g., companies which are regulated under the securities laws and companies whose shares are quoted in a stock exchange but, they will still have to declare their exemption status and provide information of its senior management.</p> <p>For more information on exempted entities, please refer to the Beneficial Ownership Guideline available on SSM's website.</p> <p>https://www.ssm.com.my/Pages/Legal_Framework/Companies-Act-2016.aspx</p>															
<p>Seek the goodwill of SSM to organise more advocacy session to guide stakeholders in meeting the requirements of new BO reporting under the New Bill rather than the hard way of imposing a penalty.</p>	<p>BO Guideline was issued on 1 March 2020 and transitional period is introduced for more than 3 years to prepare and ensure companies in Malaysia fully understand the reporting requirements. In doing so, no enforcement actions are being taken by SSM up until the enforcement of beneficial ownership provisions under the Companies (Amendment) Bill 2023.</p> <p>From the year 2020, SSM has conducted the following programs:</p> <table border="1" data-bbox="1095 852 2051 1171"> <thead> <tr> <th>Year</th> <th>No. of Program</th> <th>No. of Participants</th> </tr> </thead> <tbody> <tr> <td>2020</td> <td>6</td> <td>332</td> </tr> <tr> <td>2021</td> <td>15</td> <td>3083</td> </tr> <tr> <td>2022</td> <td>20</td> <td>1475</td> </tr> <tr> <td></td> <td>41</td> <td>4890</td> </tr> </tbody> </table> <p>In addition to above trainings, SSM has planned more awareness programs relating to the new beneficial ownership provisions introduced under the Companies (Amendment) Bill 2023 from 2024 onwards to further strengthen the understanding of our stakeholders to fully comply with the requirements.</p>	Year	No. of Program	No. of Participants	2020	6	332	2021	15	3083	2022	20	1475		41	4890
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	<p>SSM wishes to highlight that most of the policies relating to beneficial ownership under the current Companies Act 2016 and Guidelines are maintained with some clarity under the Companies (Amendment) Bill 2023 except for a new provision relating to the notification of beneficial owners of their status.</p> <p>Please note that SSM will issue a new Guideline to complement the amendments made under the Bill.</p>
<p>Process of company closure with foreign directors - How to proceed if can't find the foreign directors to sign the documents</p>	<p>An application to the Registrar to strike off a company under section 550 CA 2016 can be made by either members or directors of the company provided all requirements under section 549(1) (a) of the CA 2016 and the Guidelines on Application by Directors or Members to Strike off the Name of a Company under Section 550 of the CA 2016 are complied with.</p> <p>In the event the whereabouts of any of the director or member of the company could not be traceable, the applicant may resort to paragraph 5 of the Guidelines as stated below:</p> <p><i>"(a) The resolution of the shareholders have been passed for the initiation of the application to strike off the name of the company from the register on the basis that the company is not carrying on business or not in operation</i></p> <p><i>The resolution passed pursuant to section 290 of the CA 2016 must be enclosed together with the application to reflect the consent of the majority shareholders in respect of the striking off application.</i></p> <p><i>If the requisite majority cannot be obtained due to shareholder(s) who is untraceable, the application may still be submitted to SSM provided that attempts have been made to trace the whereabouts of the shareholder(s) by writing to him at the residential address as stated in the Registrar's records or any other records.</i></p> <p><i>These attempts must be made by way of registered post. Where the notification from the postal agency is being relied on as a proof, this should be submitted as an attachment to the application. Proof of any other modes of attempt (if any) must also be attached to the application."</i></p>

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<p><u>Key Management Deemed BO</u></p> <p>Is Part 2, Section 2, SSM BO Guidelines, as extracted below, for disclosing senior management as BO is applicable to all entities not restricted to only exempted entities for the purpose of identification of BO?</p> <p>"Exempted entities are exempted from identifying and maintaining the BO Register including lodging the BO information with SSM so long as the entity remains exempted.</p> <p>However, despite being exempted, such entities are still required to declare their exempted status in their annual returns and annual declarations and submit the name of its senior management as BO, as the case may be, to SSM."</p> <p>On reporting of key management personnel (KMP) for the BO reporting, can SSM consider the same disclosure format as provided in the BO Reporting Framework for disclosing the Minister of Finance ie the designation (Managing Director or CEO etc) in lieu of the full details of the KMP as the details of the Managing Director or CEO are already provided under "Managers" in the Annual Returns.</p> <p>Alternatively, to auto-populate/auto-generate from the Section 58 and/or Annual Return whenever the company lodges the change in "Managers"</p>	<p>The exemption provided in the Guideline is given to companies which have similar reporting BO obligations with other regulators based on their written laws. Thus, SSM exempts those companies to avoid duplicity in reporting. However, those exempted entities will still have the obligation to declare its exempted status with the Registrar for verification purposes and to provide information of its senior management.</p> <p>In the case of Government/State Owned Companies, the declaration of "the office of the Minister of Finance", "the office of the Chief Minister" or "the office of the Secretary of State" is sufficient as the ultimate owners for both are the Government or the State Government.</p> <p>This MUST be differentiated with other companies where senior management must be named in place of beneficial owners in the following circumstances:</p> <ul style="list-style-type: none"> (i) Where the company has no BO; (ii) Where BO cannot be identified; or (iii) Where the company is in the process of obtaining BO information. <p>Please note that the declaration of senior management must be made by the company itself under the beneficial ownership reporting framework and must not be self-assumed by the Registrar through other requirements, such as declaration of senior management under section 58.</p>
<p>SSM kini memberi 2 format nombor kepada syarikat. Format mana yang harus diguna pakai?</p>	<p>Entiti perniagaan masih boleh menggunakan nombor pendaftaran sedia ada. Ia masih boleh digunakan bagi urusan yang melibatkan agensi lain serta di surat rasmi, inois, papan tanda dan cetakan lain-lain dokumen. Namun begitu penggunaan nombor pendaftaran berformat baharu adalah digalakkan.</p> <p>Format baharu nombor pendaftaran akan digunapakai sepenuhnya sehingga dimaklumkan kelak.</p>
<p>Bilakah nombor pendaftaran syarikat lama tidak akan digunakan lagi?</p>	<p>Pelaksanaan format nombor syarikat baharu (penamatan penggunaan nombor syarikat lama) akan dimaklumkan selepas pelaksanaan sistem teras SSM yang baharu. SSM akan memberi makluman awal berhubung pelaksanaan ini supaya semua dapat membuat persediaan yang sewajarnya.</p>

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<p>Adakah perancangan untuk menubuhkan satu platform sendiri daripada <i>Law Enforcement Agencies</i> di peringkat negeri untuk bertukar informasi dan juga data?</p>	<p>SSM telah mempunyai platform yang menghubungkan kerjasama antara agensi-agensi utama seperti PDRM, LHDN, KASTAM, Jabatan Audit Negara, Jabatan Perangkaan Malaysia menerusi pembekalan maklumat kepada Kementerian, Jabatan dan Agensi Kerajaan Persekutuan (KJAKP) di samping perolehan perkongsian data menerusi sistem MyCoID SSM.</p>
<p>Based on section 459(5) of the companies act 2016 (CA 2016), on the expiration of three months after the lodging of the return with the registrar and with the official receiver, the company shall be dissolved.</p> <p>The status of most of the companies were not automatically updated in the SSM's system after three months from the date of filing the abovementioned return with SSM. In most of the cases, our members are required to inform or remind SSM to update the status of the company.</p>	<p>Please be informed that the company status under section 459(5) CA 2016 is updated via the system scheduler.</p> <p>If the company status has not changed despite the lodgment of the return under Section 459(5), kindly email to enquiry@ssm.com.my.</p>
<p>Keperluan syarikat asing berdaftar dengan SSM</p>	<p>Syarikat asing tidak boleh menjalankan perniagaan di Malaysia melainkan syarikat tersebut didaftarkan sebagai syarikat asing di Malaysia. Syarat-syarat pendaftaran syarikat asing di Malaysia adalah seperti berikut:</p>
<p>Syarat-syarat pendaftaran syarikat asing</p>	<ul style="list-style-type: none"> (a) permohonan tempahan nama syarikat perlu dibuat melalui sistem MyCoID; dan (b) setelah kelulusan nama syarikat diperolehi, pemohon perlu mengemukakan dokumen-dokumen berikut di di kaunter SSM Ibu Pejabat/Negeri/Cawangan: <ul style="list-style-type: none"> (i) Borang Seksyen 562(1) - <i>Registration of Foreign Company</i>; (ii) Notis/emel kelulusan nama syarikat di sistem MyCoID; (iii) <i>Memorandum or Power of Attorney Appointment of Agent</i>; (iv) <i>Statement by Agent of Foreign Company</i>; (v) Salinan diakui sah Sijil Pemerbadanan syarikat asing; (vi) Salinan di akui sah perlembagaan syarikat asing; (vii) <i>Affidavit Verifying Memorandum of Appointment</i>; (viii) <i>Translated evidence of incorporation</i> - jika dokumen selain dari Bahasa Inggeris; dan (ix) <i>Memorandum stating the powers of local directors</i> - jika pengarah dilantik merupakan orang tempatan (jika ada). (c) Fi pendaftaran adalah mengikut Peraturan-Peraturan-Peraturan Syarikat 2017 iaitu mengikut syer modal adalah RM5,000 (minima) - RM70,000 (maksima).

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<p>Dicadangkan data dan urusan syarikat dan perniagaan dilakukan dalam Blockchain agar keterjaminan serta ketelusan data dapat dipertingkatkan.</p>	<p>Terima kasih atas cadangan-cadangan yang telah dikemukakan. SSM mengambil maklum cadangan-cadangan tersebut dalam penambahbaikan sistem dan proses kerja.</p>
<p>Amalan shelf company yang dibuat oleh Setiausaha Syarikat hendaklah dihentikan sama sekali. Ini kerana SSM telah pun memudahkan serta mempercepatkan penubuhan syarikat dalam 3 hari berkerja. Oleh yang demikian, amalan ini wajar dihentikan sama sekali. Selain itu ianya juga menyusahkan apabila nak buat pendaftaran baharu maka caj tambahan yang dikenakan seperti pertukaran nama pengarah serta pemegang saham serta duti setem yang akan menyebabkan kos awalan adalah mahal.</p>	
<p>Terdapat link antara <i>credit rating agency</i> yang datanya diperkemaskini secara realtime berbanding sekarang. Ini kerana data yang CR tidak dikemaskini secara realtime dan memerlukan kos serta masa apabila didapati maklumat yang diberikan tidak betul. Oleh yang demikian, adalah wajar, keterjaminan keaslian dan kekinian maklumat daripada SSM hendaklah sentiasa diselaras dengan CR ini, ini akan membolehkan maklumat yang diperolehi dalam bentuk terkemas kini.</p>	
<p>Link SSM dengan semua <i>Financial Institution</i> hendaklah dibuat secara capaian Internet dan dapat dilakukan dengan tidak kurang 1 jam agar pembukaan akaun perbankan syarikat dapat dilancarkan kurang daripada 1 jam berbanding dengan tempoh dan amalan sekarang. Perbankan tidak perlu lagi menggunakan khidmat pihak ketiga bagi mendapatkan pengesahan maklumat syarikat apabila membuka akaun perbankan dengan mana-mana institusi perbankan, pembiayaan mahupun koperasi. Ini akan membantu dalam "ease of doing business policy".</p>	

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<p>Pertukaran status daripada milikan tunggal ke perkongsian, milikan tunggal ke sendirian berhad, perkongsian ke sendirian berhad, dari segi SSM apa perubahan yang berlaku?</p>	<p>Penjelasan status-status syarikat dalam sistem/rekod SSM:</p> <table border="1" data-bbox="1093 292 2063 1356"> <thead> <tr> <th data-bbox="1093 292 1377 355">Status</th> <th data-bbox="1377 292 2063 355">Penerangan</th> </tr> </thead> <tbody> <tr> <td data-bbox="1093 355 1377 419"><i>Existing</i></td> <td data-bbox="1377 355 2063 419">Syarikat masih wujud dalam rekod SSM.</td> </tr> <tr> <td data-bbox="1093 419 1377 531"><i>Ceased</i> (syarikat asing)</td> <td data-bbox="1377 419 2063 531">Syarikat asing terhenti mempunyai suatu tempat perniagaan atau menjalankan perniagaan di Malaysia.</td> </tr> <tr> <td data-bbox="1093 531 1377 651"><i>Removed</i> (syarikat asing)</td> <td data-bbox="1377 531 2063 651">Pendaftar mengeluarkan nama syarikat asing daripada daftar setelah habis tempoh dua belas bulan selepas serah simpan <i>Notice of Cessation of Business</i>) di bawah Seksyen 578.</td> </tr> <tr> <td data-bbox="1093 651 1377 715"><i>Winding up</i></td> <td data-bbox="1377 651 2063 715">Syarikat di dalam proses penggulungan.</td> </tr> <tr> <td data-bbox="1093 715 1377 810"><i>Existing (Striking off in process)</i></td> <td data-bbox="1377 715 2063 810">Syarikat sedang dalam proses pemotongan nama.</td> </tr> <tr> <td data-bbox="1093 810 1377 930"><i>Dissolved</i></td> <td data-bbox="1377 810 2063 930">Syarikat telah bubar. Ia merujuk kepada status akhir syarikat yang telah melalui proses penggulungan atau pemotongan nama.</td> </tr> <tr> <td data-bbox="1093 930 1377 1026"><i>Existing under CVA</i></td> <td data-bbox="1377 930 2063 1026">Syarikat yang berstatus <i>Existing</i> dan diletakkan di bawah tempoh moratorium Perkiraan Sukarela Korporat (CVA).</td> </tr> <tr> <td data-bbox="1093 1026 1377 1153"><i>Winding up under CVA</i></td> <td data-bbox="1377 1026 2063 1153">Syarikat di dalam proses penggulungan dan diletakkan di bawah tempoh moratorium Perkiraan Sukarela Korporat (CVA).</td> </tr> <tr> <td data-bbox="1093 1153 1377 1273"><i>Existing under JM (CVA)</i></td> <td data-bbox="1377 1153 2063 1273">Syarikat yang diletakkan di bawah Perintah Pengurusan Kehakiman (JM) dan kemudiannya diletakkan di bawah tempoh moratorium Perkiraan Sukarela Korporat (CVA).</td> </tr> <tr> <td data-bbox="1093 1273 1377 1356"><i>Existing under Interim JM</i></td> <td data-bbox="1377 1273 2063 1356">Syarikat yang berstatus <i>Existing</i> yang baharu memfailkan dan menyerah simpan Permohonan Pengurusan Kehakiman</td> </tr> </tbody> </table>	Status	Penerangan	<i>Existing</i>	Syarikat masih wujud dalam rekod SSM.	<i>Ceased</i> (syarikat asing)	Syarikat asing terhenti mempunyai suatu tempat perniagaan atau menjalankan perniagaan di Malaysia.	<i>Removed</i> (syarikat asing)	Pendaftar mengeluarkan nama syarikat asing daripada daftar setelah habis tempoh dua belas bulan selepas serah simpan <i>Notice of Cessation of Business</i>) di bawah Seksyen 578.	<i>Winding up</i>	Syarikat di dalam proses penggulungan.	<i>Existing (Striking off in process)</i>	Syarikat sedang dalam proses pemotongan nama.	<i>Dissolved</i>	Syarikat telah bubar. Ia merujuk kepada status akhir syarikat yang telah melalui proses penggulungan atau pemotongan nama.	<i>Existing under CVA</i>	Syarikat yang berstatus <i>Existing</i> dan diletakkan di bawah tempoh moratorium Perkiraan Sukarela Korporat (CVA).	<i>Winding up under CVA</i>	Syarikat di dalam proses penggulungan dan diletakkan di bawah tempoh moratorium Perkiraan Sukarela Korporat (CVA).	<i>Existing under JM (CVA)</i>	Syarikat yang diletakkan di bawah Perintah Pengurusan Kehakiman (JM) dan kemudiannya diletakkan di bawah tempoh moratorium Perkiraan Sukarela Korporat (CVA).	<i>Existing under Interim JM</i>	Syarikat yang berstatus <i>Existing</i> yang baharu memfailkan dan menyerah simpan Permohonan Pengurusan Kehakiman
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<p>Penjelasan status syarikat dalam SSM (status <i>existing</i>, <i>ceased business</i> dan lain-lain), ada berapa status semuanya dan apakah yang dimaksudkan dengan status-status itu.</p>																							

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		di Mahkamah/SSM adalah diletakkan di bawah tempoh interim moratorium Pengurusan Kehakiman.
	<i>Existing under JM</i>	Syarikat yang telah mendapat Perintah Pengurusan Kehakiman dan diletakkan di bawah tempoh moratorium Pengurusan Kehakiman.
	<i>Existing under Receivership (JM)</i>	Syarikat yang berstatus <i>Existing Under Receivership</i> dan telah mendapat Perintah Pengurusan Kehakiman untuk diletakkan di bawah tempoh moratorium Pengurusan Kehakiman.