

**COMPANIES ACT 2016: PRACTICE DIRECTIVE NO. 6/2020****EXTENSION OF TIME FOR ANNUAL GENERAL MEETING AND
LODGEMENT OF FINANCIAL STATEMENTS**

This Practice Directive is issued pursuant to section 20C of the Companies Commission of Malaysia Act 2001 and Practice Note No. (PN) 3/2018.

OBJECTIVE

2. This Practice Directive serves to clarify the powers of the Registrar relating to the application for the extension of time—
- (a) to hold annual general meetings under section 340(4) of the Companies Act 2016 (CA 2016);
 - (aa) to circulate the financial statements and reports under PN 3/2018;
 - (b) to lodge the financial statements and reports under section 259(2) of CA 2016; and
 - (c) to waive the application fee for extension of time made under section 340(4), PN 3/2018 or section 259(2) of CA 2016,
- for companies which are affected by the COVID-19 pandemic.

BACKGROUND

3. As a result of the COVID-19 outbreak that has plagued the country and worldwide, the Government has implemented the Movement Control Order (MCO) issued under the Prevention and Control of Infectious Diseases Act 1988.

4. Following the implementation of the MCO from 18 March 2020, companies are required to comply with this directive including cancelling the notice of annual general meetings or deferring to hold the annual general meeting at a later date.

5. In addition, SSM has received feedback from companies, practitioners and trade associations that companies are unable to prepare and audit the financial statements and reports as a result of the MCO implementation. This will cause the affected companies to fail to comply with the specified timeframe to lodge their financial statements and reports with the Registrar.

REQUIREMENTS OF THE LAW

Lodgement of Financial Statements and Reports

6. Section 259(1) of CA 2016 provides that a company must submit a financial statement and reports:

- (a) in the case of a private company, within 30 days from the date the financial statements and reports are circulated to the shareholders; and
- (b) in the case of a public company, within 30 days from the date of the company's AGM.

7. Section 259(2) of CA 2016, however, allows the Registrar to extend the period of filing of the financial statements and reports upon an application made by the company before the expiry of the periods specified in paragraph 6.

Annual General Meeting

8. Section 340(2) of CA 2016 provides that every public company must hold an AGM within six (6) months from the date of its financial year end and not later than 15 months from the date of its last preceding AGM.

9. However, section 340(4) of CA 2016 provides that a company may apply to the Registrar for an extension of the time required to hold their AGM by giving grounds to the satisfaction of the Registrar.

Circulation of Financial Statements and Reports

9A. Section 258(1) of CA 2016 provides that a company must circulate its financial statements and reports to its members:

- (a) in the case of a private company, within six (6) months of its financial year; and
- (b) in the case of a public company, shall be at least 21 days before the date of its annual general meeting.

9B. Through PN 3/2018 the Registrar has provided a procedure to extend the period for circulating the financial statements and reports upon an application made by the company before the expiry of the periods specified in paragraph 9A.

Fees for the application for extension of time

10. In the applications for extension of time as referred to in paragraphs 7, 9 and 9B above, the company is required to pay a fee of RM100 as specified under items 19, 23 and 40 of the Schedule to the Companies Regulations 2017 (CR 2017), respectively.

11. However, pursuant to Regulation 8(4) of the CR 2017, the Registrar may reduce or waive, partly or in wholly, any fees specified under the Schedule.

SPECIAL PROCEDURE FOR APPLICATION FOR EXTENSION OF TIME FOR LODGEMENT OF FINANCIAL STATEMENTS AND ANNUAL GENERAL MEETING FOR COMPANIES AFFECTED BY COVID-19 PANDEMIC

12. In support of the Government initiatives to ease the economic pressures faced by the corporate community arising from the COVID-19 pandemic, the Registrar invokes the following:

- (a) To grant an extension of time for companies affected by the MCO to hold an AGM for a period of 90 days in accordance with the powers under section 340(4) of CA 2016;
- (b) To grant extension of time to companies having financial year ending **AFTER** 31 August 2019 to 31 July 2020 to lodge financial statements and reports for a period of 90 days in accordance with the powers under section 259(2) of CA 2016;
- (ba) To grant extension of time to companies having financial year ending **AFTER** 31 August 2019 to 31 July 2020 to circulate

its financial statements and reports for a period of 90 days in accordance with the powers under PN 3/2018; and

- (c) To waive the application fee of RM100 for each application respectively in accordance with the powers under Regulation 8(4) of CR 2017.

13. Notwithstanding the 'blanket approval' for extension of time under paragraph 12, the following procedures must be observed:

- (a) affected companies are still required to lodge an application to Registrar by completing the information in Appendix C; and
- (b) the application must be addressed to eot2021@ssm.com.my.

14. The Registrar will grant an extension of time as follows:

- (a) for lodgement of financial statements and reports, the 90 days period will be effective from the date the financial statements and reports were supposed to be lodged with the Registrar;
- (ab) for circulation of financial statements and reports, the 90 days period will be effective from the date the financial statements and reports were supposed to be circulated;
- (b) for holding of AGM, the 90 days period will be effective from the date the AGM was supposed to be held.

14A. Applications must be submitted to the Registrar by 15 November 2020 to be eligible for an extension of time given pursuant to this Practice Directive.

14B. (Deleted on 22 October 2020).

14C. (Deleted on 27 January 2021).

14D. (Deleted on 27 January 2021).

14E. Notwithstanding paragraph 14A, **ONLY** companies having financial year ending **AFTER** 31 March 2020 to 31 July 2020 can submit their applications to the Registrar by 31 March 2021.

14F. Notwithstanding paragraph 14, if the last day of the period of time that the financial statements and reports were supposed to be lodged with the Registrar or the approved extended period of time by the Registrar for the lodgement of financial statements ends after 31 December 2020 to 31 March 2021, the company can lodge its financial statements and reports with the Registrar without any late lodgement fees provided it is lodged during the period from 27 January 2021 to 31 March 2021.

14G. For the purposes of paragraph 14F, the company is deemed to have complied with the required time frame under Sections 258 and 340 of the Companies Act 2016 if the company lodges the financial statements and reports to the Registrar during the period from 27 January 2021 to 31 March 2021.

15. This Practice Directive clarifies the special procedures for companies to apply for an extension of time to hold an AGM or to submit a financial statement and reports in respond to the economic stimulus package announced by the Government to address the impact of COVID-19 pandemic.

REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
27 January 2021

APPENDIX A

(Deleted on 22 October 2020)

APPENDIX B

(Deleted on 27 January 2021)

APPENDIX C

Please copy this format into your email and complete all required particulars. Do not attach any document in your email if the application is for five (5) companies or less.

If the application is between six (6) to a maximum of 10 companies, you can attach the information in a document and email SSM with 10 companies maximum per attachment per email. All applications must follow the format below.

EXTENSION OF TIME COVID-19 INITIATIVES

APPLICATION FOR EXTENSION OF TIME FOR *CIRCULATION OF FINANCIAL STATEMENTS AND REPORTS/ **HOLDING OF ANNUAL GENERAL MEETING/ *LODGEMENT OF FINANCIAL STATEMENTS AND REPORTS. (Delete whichever is not applicable please.)

Company Name:

Company Number:

Financial Year End:

Expiry/last date for Financial Statements (FS) circulation:

**Expiry/last date for Annual General Meeting (AGM):

Expiry/last date for FS lodgement:

FS circulation date after Covid-19 Initiative (90 days extension):

**AGM date after Covid-19 Initiative (90 days extension):

FS lodgement date after Covid-19 Initiative (90 days extension):

Declaration:

I confirm that the facts and information stated in this document are true and to the best of my knowledge.

Name of company secretary:

License No/ Membership No.:

SSM Practicing Certificate No.:

Note: All dates must be in **dd/mm/yyyy** format.

* - You can apply for extension of time for one or all of the initiatives, (if they are applicable to you).

** - AGM extension of time applicable for a public company only.