

COVID-19 Guidance for Businesses: Your strategy to manage manpower, reduce costs and secure financial support from the government

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1. Overview

Since the COVID-19 outbreak, businesses across Singapore have been experiencing disruption on their normal business operations. This disruption has put a lot of pressure on businesses' cash flow which could mean that for some, keeping their current staff numbers won't be feasible for much longer.

Considering the regional and global developments of the situation, the Singapore government has introduced new measures and enhanced existing ones to support businesses manage their manpower and help them release some of this pressure.

In spite of these support measures, which may not be available to some businesses, internal measures to manage excessive manpower may become necessary. In this regard, the Ministry of Manpower ("MOM"), the National Trades Union Congress ("NTUC"), and the Singapore National Employers Federation ("SNEF") have updated their guidelines, suggestions and measures for employers to adopt and consider.

The purpose of this guidance paper is to provide you with an overview of the current support schemes available and possible strategies to adopt in order to manage current operational challenges. This version includes both, the original "Unity Budget" 2020 as well as the supplementary "Resilience Budget" 2020 and the "Solidarity Budget" 2020. In our view, the "Job Support Scheme", "Tax Benefits and Reliefs" as well as the "Loan Programmes" outlined below are of particular interest to ease cash flow challenges.

2. What kinds of support does the Singapore government provide for employers?

As part of the (Supplementary) Budget 2020, the Ministry of Finance ("MOF") introduced a temporary Jobs Support Scheme and other support measures such as support for self-employed persons. In addition, MOM provides support to those employers whose employees have been served with a Quarantine Order ("QO"), Leave of Absence ("LOA") or Stay-Home Notice ("SHN").

2.1 Enhanced: Jobs Support Scheme

The Job Support Scheme ("JSS") is a temporary measure for 2020 introduced to aid businesses to keep their local employees through the economic uncertainty.

Under the enhanced JSS introduced by the resilient Budget 2020, a **cash grant of 25%** (increased from 8%) **on the first SGD 4,600** (up from SGD 3,600) of the gross monthly wages¹ of **every Singapore Citizen or Permanent Resident** employee will be paid to employers by the government.

The JSS will also be extended to cover **9 months of employees' wages** (increased from 3 months).

¹ Gross monthly wages include employee CPF contributions, but exclude employer CPF contributions.

In addition, under the JSS introduced by the Solidarity Budget 2020, a cash grant of 75% on the first SGD 4,600 of the **April 2020 gross monthly wages**¹ of every Singapore Citizen or Permanent Resident employee will be paid to employers by the government.

Procedure: Employers do not need to apply for the scheme since the grant will be calculated based on the Central Provident Fund (CPF) contributions. Employers eligible for the additional tiers of support will be informed by IRAS closer to the date of the first pay-out.

The employer will be considered as a qualifying employer if they have made CPF contributions for their qualifying employees.

Please note, the grant will be treated as taxable revenue at the level of the recipient.

Below is an example on how the grant would be calculated under the enhanced JSS for the said relevant months:

	October 2019	November 2019	December 2019	Total
Wages paid to local employee (excluding employer CPF)	SGD 4,000	SGD 4,500	SGD 5,000	SGD 13,500
Qualifying wage (capped at SGD 4,600)	SGD 4,000	SGD 4,500	SGD 4,600	SGD 13,100
Jobs Support payout to employer (25% of qualifying wage)	SGD 1,000	SGD 1,125	SGD 1,150	SGD 3,275

Source: MOF Budget measures, Stabilisation and Support Package.

With regards to the payment of the JSS, the government has introduced 2 more periods and amended the existing one. This payment schedule is now as follows:

	JSS will cover wages paid in:	CPF contributions for the relevant months must be made by:	JSS will be paid out by:
Tranche 1 (Enhanced)	October - December 2019	14 February 2020	End-April 2020
Tranche 2 (New)	February - April 2020	14 May 2020	End-July 2020
Tranche 3 (New)	May - July 2020	14 August 2020	End-October 2020

Source: IRAS JSS Tranches.

The pay-out for the wages paid in April 2020 will be calculated based on wages paid in October 2019. The second and third pay-outs will be adjusted if there is a difference between the wages paid in April 2020 and the wages paid in October 2019.

In addition to this increase, the government has introduced new support for those sectors which have been severely affected. This additional support will be provided to the aviation and tourism² (75% cash grant of the first SGD 4,600) as well as to the food services³ sectors (50% cash grant on the first SGD 4,600).

2.2 Wage Credit Scheme

The Wage Credit Scheme was first introduced in 2013 for those employers who provided wage increases for Singapore Citizen employees. Currently under said scheme, the government co-funds wage increases for **Singapore Citizen employees** earning a gross monthly wage of up to SGD 4,000.

The wage ceiling has been increased by the 2020 Budget to SGD 5,000 for **wage increases given in 2019 and 2020**. The government will also increase the co-funding ratio from 15% to 20% for wage increases from 2019 and from 10% to 15% for wage increases from 2020.

This scheme is applicable to all employers giving wage increases in 2013 - 2020 to Singapore Citizen employees who:

- received CPF contributions from a single employer for at least 3 calendar months in the preceding year;
- have been on the employer's payroll for at least 3 calendar months in the qualifying year (i.e. employer must have paid employee CPF contributions for at least three calendar months in qualifying year);
- have at least SGD 50 gross monthly wage increase (up to the Gross Monthly Wage ceiling); and
- must not also be the business owner of the same entity (i.e. sole proprietor of the sole proprietorship, or a partner of the partnership, or both a shareholder and director of a company).

² Types of businesses which will be supported by the enhanced JSS: Airlines, Airport ground handlers, Airport operators, Qualifying licensed hotels, Qualifying license travel agents, Qualifying gated tourist attractions, Cruise lines and cruise terminal operators and Purpose-built Meetings, Incentives, Conferences and Exhibitions venue operators.

³ Licensed food shops and food stalls – including hawker stalls.

Year	Under First Extended WCS (2016 - 2017)		Under Second Extended WCS & Budget 2020 (2018 - 2020)			
	2016	2017	2018	2019		2020
Qualifying Wage Increase	\$300	\$800	\$600	\$800		\$900
Govt Co-Funding	20% x \$300 = \$60/mth	20% x \$800 = \$160/mth	20% x \$600 = \$120/mth	15% x \$800 = \$120/mth	The additional 5% x \$800 = \$40/mth	15% x \$900 = \$135/mth
Amount of Wage Credit	\$60 x 12mths = \$720	\$160 x 12mths = \$1,920	\$120 x 12mths = \$1,440	\$120 x 12mths = \$1,440	\$40 x 12mths = \$480	\$135 x 9mths = \$1215
To be Paid in	Mar 2017	Mar 2018	Mar 2019	Mar 2020	Jun 2020 (Budget 2020 Supplementary payout)	Mar 2021

Source: IRAS Wage Credit Scheme.

Any payment received under this scheme is also treated as taxable revenue of the company.

Procedure: Application is not required. IRAS will notify eligible employers by post of the Wage Credit payable to them by end March of the payout year. Payouts will be given to employers by 31 March of the payout year. Qualifying employers benefitting from Budget 2020 enhancements for the 2019 wage increases will receive a supplementary payout by end Jun 2020.

Payouts will automatically be credited to employers' GIRO bank account for Income Tax/GST. For those without GIRO accounts, the payout will be credited to their bank account that is registered with PayNow Corporate. Employers who are not already on these direct crediting modes have to sign up for these modes to receive their payouts.

2.3 **Enhanced: Support for Self-Employed Persons (“SEPs”)**

MOM and the National Trades Union Congress (“NTUC”) have agreed to develop a Self-Employed Person Income Relief Scheme (“SIRS”) to support them and their business through these rough times.

Under the SIRS, the eligible SEPs will receive three quarterly cash pay-outs of SGD 3,000 each in May, July and October 2020.

The eligibility criteria to benefit from the SIRS are the following:

- be a Singaporean SEP;
- started to work as an SEP on or before 25th March 2020;
- earn a Net Trade Income of no more than SGD 100,000;

- live in a property with an annual value of less than SGD 21,000;
- do not own individually or with his/her spouse two or more properties;
- if married, the Assessable Income of the spouse does not exceed SGD 70,000.

The Ministry of Finance has also announced that the SIRS will include SEPs who also earn a small income from employment work.

Singaporeans SEPs aged 37 and over in 2020 who declared positive SEP income to the Inland Revenue Authority of Singapore and CPF Board for Work Year 2018 do not need to apply and will be automatically notified via letter and SMS. Other eligible SEPs may apply for SIRS. The Supplementary Budget 2020 also intends to extend the Self-Employed Person Training Support Scheme to December 2020 along with enhancing the hourly training allowance from SGD 7.50 to SGD 10, with effect from 1 May 2020. This measure is being enhanced in order to encourage SEPs to use the downtime to train and further their skills.

2.4 Measures introduced by the Ministry of Manpower

2.4.1 Quarantine Order Allowance (“QOA”)

A QO is issued under the Infectious Diseases Act to isolate those individuals who are, or suspected to be, infected or carriers of the disease. There are severe penalties involved if the individual does not comply with the order.

The employer must treat their local or foreign employees who are issued with a QO, as being on paid hospitalisation leave and pay their salaries as normal.

Employers can apply for a daily SGD 100 allowance per affected employee for the duration of the QO. Please note that employers can only apply for said allowance at the end of the quarantine.

For self-employed persons, they can only apply if they are either a Singapore Citizen or a Permanent Resident.

2.4.2 Leave of Absence and Stay-Home Notice Support Programme

From 18 February 2020, the government stopped issuing LOAs to those employees who were returning from “affected regions” and started issuing a much stricter SHN. Under the LOA employees were advised to stay away from the workplace but were still allowed to attend to urgent matters and leave their place of residence.

However, under the SHN, the employee is no longer allowed to leave their residence and will have to receive support from their employer if they are unable to access basic daily necessities. From the business’ perspective, this could entail further disruptions since the employee could potentially be unable to work if placed under the SHN.

Depending on the nature of the business, the employer could consider flexible working arrangements for their affected employee. MOM has decided to support those businesses which cannot implement flexible working arrangements through the LOA/SHN Support Programme.

Under the LOA/SHN Support Programme, eligible employers can apply for a daily allowance of SGD 100 per affected worker for the duration of paid LOA or SHN. Eligible employers will also qualify for levy waiver for affected foreign workers for the LOA or SHN period.

In order to qualify as an eligible employer the following must be met:

- The employer must be a company registered in Singapore;
- The affected employees must be Singapore Citizens, Permanent Residents, or work pass holders (incl. Employment Pass and S Pass holders) but excluding Foreign Domestic Workers;
- The employer must have granted additional paid leave to the affected employee for the LOA or SHN period on top of their annual leave entitlement or had treated the duration of LOA or SHN as paid hospitalisation leave;
- The affected employees must have complied fully with LOA or SHN requirements;
- The employer must have obtained MOM's prior approval for the affected employee who is a work pass holder to return from abroad;
- The affected employees should not have been able to perform work remotely;
- In addition, the employee must have been working for the employer before returning from any of the affected areas and being placed on LOA or SHN.

The employer will not be eligible for support if the employee has travelled to a region after it was deemed as an "affected region" by the government i.e. travelled to Spain after 15 March 2020.

Self-employed persons can also apply for a daily SGD 100 support if they meet the criteria: be a Singapore Citizen or a Permanent Resident and be placed on LOA or SHN. They will not be eligible if they have travelled to a region after it was deemed as an "affected region" by the government.

Employers who (proactively) have imposed a **company LOA** on their employees who returned from overseas between the 14 and 20 March 2020 **will also be eligible for to receive this support**. MOM will conduct checks on employees who are placed on company-imposed LOA, in order to ensure its compliance during the period. In order to be eligible for the support for company-imposed LOA the employer needed to notify MOM by 26 March 2020.

2.4.3 Temporary Scheme to Help Businesses Managing Manpower Disruption

This scheme was introduced by MOM from 2 March 2020 to support companies in the manufacturing and services sectors and giving them flexibility to manage their manpower. This new measure will be in place for the next 6 months.

The main feature of this scheme is that businesses in the above mentioned sectors will be able to hire existing People's Republic of China work pass holders who are already working for other companies in Singapore. This way, businesses which are in need of manpower can take on those workers from business which are suffering an excess.

The Singapore Business Federation (“SBF”) will help with facilitating the transfer of workers between companies through the duration of the scheme.

2.4.4 Enhanced: Levy Waiver and Payment Extension

On 24 March 2020 MOM introduced levy waiver and payment extension measures to further support businesses cope during this period. In detail, those measures entail:

- Three month extension of the levy payment timeline to small-and-medium size enterprises (SMEs⁴): Currently, the payment for the foreign worker levy is due by the 14th of the following month from when its incurred and employers who fail to make payment on the due date will have their new and renewal work pass applications rejected. Two consecutive months of late or non-payment of levies will result in all existing work passes being revoked. Under this new levy payment deferment measure, SMEs have up to 5 months to pay their levies incurred every month. Employers who fail to make the payment by the end of the 5th month before revocation action kicks in. Please note, deferment in levy payment is considered late payment and will attract, as usual, a late payment penalty of 2% per month (capped at 30% of total outstanding levy). **No application is required.**
- Levy waiver for up to 90 days for foreign workers on overseas leave: Under the current system, MOM allows a levy waiver of 60 days for foreign workers on overseas home leave for at least 7 consecutive days. MOM will now extend this waiver to up to 90 days for foreign workers who are currently on overseas leave. **Application with the CPF Board is required.**
- Man-Year Entitlement (“MYE”)⁵ refund for affected construction companies with effect from 1 April 2020: MOM along with the Building and Construction Authority (“BCA”) have been working on a temporary scheme under which constructions firms will be able to make use of the refunded MYE within the next year to hire new employees or renew the existing ones. This

⁴ SMEs refers to companies incorporated in Singapore employing not more than 200 workers.

⁵ The MYE is a Work Permit allocation system for workers from non-traditional source (NTS) countries and the People's Republic of China. The NTS countries are: India, Sri Lanka, Thailand, Bangladesh, Myanmar and Philippines

The MYE shows the number of work permits holders a main contractor is entitled to employ based on the value of projects or contracts awarded by developers or owners.

will be available for 6 months from 1 April 2020. Companies will be able to apply for the MYE refund through the BCA.

On top of the above measures, on 6 March, MOM introduced a waiver of the Foreign Worker Levy (FWL) due in April 2020 and a FWL rebate of SGD 750 in April 2020 for the levies paid this year for each Work Permit and S Pass holder.

3. What are employers' options for managing manpower and reducing costs?

3.1 Focus on Training and Skills Upgrade

Training and skills upgrading of employees is one of the key strategies recommended by the Tripartite Advisory to implement during this period. Under certain conditions, employers may also receive absentee payroll subsidies for employees undergoing training. Employers can tap on training support scheme under the SkillsFuture movement, redeployment programmes under the Adapt & Grow initiative and other government grants. This will not only help in retaining employees but would also increase business productivity by preparing for business demands in the future when operations resume as usual.

3.2 Implement a Flexible Work Schedule

Employers are encouraged to implement flexible work arrangements which allow them to be exempted from certain requirements under the Employment Act in relation to mandatory overtime pay for work done during rest days and public holidays.

For employees who are entitled to overtime payment under the Employment Act ("Part IV employees"), employers can consider implementing a Flexible Work Schedule ("FWS") or reduce working hours in order to help the company optimise the use of manpower in the company while keeping unused working hours to offset any subsequent overtime hours in the future.

Under a FWS, employers can reduce weekly working hours without adjusting wages, by creating a "timebank" of unused working hours. This means, that the employee continues to receive his/her basic monthly wage based on 44 hours of work and applicable allowances. However, the hours that are not worked are accumulated either as hours "not worked" or as hours "already paid". Then these accumulated hours "not worked" or hours "already paid" can be drawn down in the future when the employee clocks overtime hours.

While the employee draws down the accumulated work hours, the maximum hours of work under the Employment Act must still be complied with. Further, the FWS allows for employers to seek exemption from statutory provisions for work done on rest days, public holidays, and overtime payment rates.

Procedure: Employers that would like to adopt a FWS **need to seek the support of the unions and employees and** thereafter have to make an **application to the Commissioner for Labour** in order to be exempted from the above mentioned statutory provisions. MOM has made certain exceptions to

expedite the FWS application procedure by introducing a simplified application procedure for short-term approvals of up to 4 months. We are happy to assist you on the application procedure.

3.3 Implement Flexible Work Arrangements

For employees who are not eligible for overtime, alternative Flexible Work Arrangements (“FWAs”) such as part-time employment or job-sharing may be more practical ways of implementing work flexibility. **Implementing those FWAs requires consent of the respective employees.**

There are also some general grants available for employers who adopt FWAs, however these are not tailored to the current situation and are rather designed as long term incentives.

3.4 Defer salary increases, bonuses or Annual Wage Supplements (AWS)

Coincidentally, the COVID-19 crisis is appearing at a time where most businesses are wrapping up their financial years, along with decisions on salaries and bonuses.

In cases of companies which are severely impacted by the COVID-19 crisis, employers may consider a temporary reduction or freeze of salary increments, bonuses or annual wage supplements in order to reduce operational costs while preserving basic monthly income for its employees.

In Singapore, while it may not be common for employment agreements to provide for mandatory contractual payment of bonuses and increments which are usually discretionary and key performance indicators based, **careful consideration of the individual contractual arrangements would still be required.** We are happy to assist.

3.5 Temporary Layoff / Shorten Work Weeks / Reduction in Salary

In order to respond to a temporary decline in business activities, employers may wish to consider temporary layoffs or reducing working hours and pay of its employees. A temporary layoff is a period when an employer ceases to provide work and compensation to an employee temporarily, but both parties nevertheless treat the employment relationship as ongoing, with the understanding that the work/compensation would resume in the near future.

Please note that such measures would require the employee’s consent, and are also subject to various restrictions including the following:

3.5.1 Legal Requirements for Temporary Layoffs

Any layoff period implemented must not last for more than one month in any one instance. Employers should review the layoff again after the lapse of this one month against its business needs. Employees should not be asked to take more than 50% of their earned annual leave, and employers should pay the affected employees no less than 50% of their wage during the layoff period.

3.5.2 Legal Restrictions for Shortened Work Weeks

Further to the above, an employer may implement shorter work weeks as long as the work week is not reduced by more than 3 days in a week. A reduction of 3 days should only be implemented if the company's performance is severely affected. Any reduction in work week must not last for more than 3 months. Employers should review such reduction in work week after the lapse of the 3 month period against its business needs. Employees should not be asked to take more than 50% of their earned annual leave, and employers should pay the affected employees no less than 50% of their wage on the day(s) when the employees are not working.

3.5.3 Legal Restrictions for Reduction of Salary

Please note that from 12 March 2020 onwards, employers that are currently employing at least 10 employees and are registered in Singapore **must notify MOM** if they want to **implement any cost-saving measures that affect or reduce the salaries of their employees** (such as temporary layoffs or shortening work hours). This does not include any adjustments to discretionary salary payments (e.g. salary increments and bonuses). The notification must be done within 1 week after implementing the cost-saving measures.

Employers that implement **cost-saving measures during the Circuit Breaker** between 7 April and 4 May 2020 (inclusive) must notify MOM if the cost-saving measures result in more than 25% reduction in the salaries of their employees and the employer has at least 10 employees.

For employers that are seeking to adjust the salaries of **foreign employees**, they would have to first **seek approval from the Controller of Work Passes**.

3.6 Direct Wage Reductions / No Pay Leave

If your business is suffering from extremely poor or uncertain business conditions that are likely to be long term, employers can consider making direct adjustments to wages to further reduce manpower costs, with management leading by example. As these measures would result in wage cuts over an extended period of time, severely impacting the livelihood of employees, **employers should engage and seek the consent of unions and employees** before implementing these measures.

Companies with a flexible wage system in place may consider adjusting wage components such as the annual wage increment, monthly variable component or other allowances.

Employers are advised to set clear guidelines to restore basic wage cuts through future wage increases or adjustments when business recovers. As far as possible, employers should endeavour to pay their employees the Annual Wage Supplement ("AWS"). Further, any reduction in wages should be applied to local and foreign employees fairly.

As a last resort, employers can consider putting employees on no-pay leave in order to reduce redundancies and save jobs.

Please note: Measures that affect salaries **require notification of MOM / approval from the Controller of Work Passes** as indicated under 3.5.3 above.

3.7 Contingent Workforce

Employers can consider making use of this opportunity to look to the long-term and begin building a pool of a contingent workforce consisting of self-employed consultants, contractors, agency workers and zero-hours staff. From our experience, such arrangements can be easily flexed upwards or downwards, and offer business significant flexibility in terms of staffing needs and requirements over a period of time.

3.8 **Last resort: Responsible Retrenchment**

If retrenchment is necessary despite all of the above measures and wage adjustments, all employers are reminded to conduct retrenchment exercises in a responsible manner and comply with the prevailing guidelines set out in the Tripartite Guidelines. **Please do consult with us before considering this option.**

In the event any redundancy is planned, it is mandatory to submit a retrenchment notification to MOM where an employer has a business registered in Singapore, employs at least 10 employees, and retrenches 5 or more employees within a period of 6 months. Retrenchment includes the termination of employees due to redundancy or reorganisation of the employer's profession, business, trade or work. This includes situations where companies undergo liquidation, receivership or judicial management.

3.9 Frequently Asked Questions on Implementation of Cost-Saving Measures

3.9.1 **Can an employer force an employee to adopt any of the cost-saving measures proposed by the employer?**

In general, an employer and an employee are free to agree on cost-saving measures proposed by an employer. Employers are not allowed to unilaterally implement cost-saving measures without a clear contractual right to do so. An employer must also ensure that the employee consents to the measures and voluntarily adopts them before implementation. Otherwise the employer may potentially face claims for breach of contract, constructive dismissal and unlawful deduction from wages.

3.9.2 **How can an employer carry out the implementation of the cost-saving measures without breaching the employment contracts with the employees?**

An employer may set out an employee's amended employment terms pursuant to the implementation of cost-saving measures in a supplemental offer letter to the employee. The supplemental offer letter should expressly set out that it supplements and/or varies the current employment contract with the employee. In cases where the cost-saving measures affect many employees across the business, the employer may opt instead to issue a standard supplemental letter to the affected employees. Given the current unprecedented circumstances, we recommend employers to seek legal advice on what a

supplemental offer letter should contain in order to ensure that the employer's interests are protected in the best possible way.

3.9.3 How can employers encourage employees to adopt any of the cost-saving measures?

To encourage employees to agree to the proposed measures, an employer may consider communicating to the employees (for example, by issuing a public announcement) that the proposed measures are company-wide schemes to protect jobs and reduce the likelihood of having to retrench employees, and assuring employees that the schemes are offered to all or most employees with no intention to discriminate against any group(s) of employees. Senior management should lead by example, including by accepting cost-saving measures earlier and/or bigger pay cuts. An employer may also approach this issue by providing assurances that the original employment contract terms will apply when business conditions improve.

That said, any impression that employees were forced or under any pressure or duress to agree to the proposed measures should be avoided at all costs.

3.9.4 Do I need to seek legal advice?

Complex legal and operational issues arising from the COVID-19 emergency are only just emerging. Employers need to be taking steps now to prepare for disruptions to their workforce and business-as-usual environment. We would recommend that employers take note of the suggestions above, and seek legal advice at an early stage to ensure that any responses adopted do not create additional sources of legal exposure.

4. What kinds of general financial support does the Singapore government provide for businesses?

As part of the (Supplementary) Budget 2020 the Singapore government has introduced a Stabilisation and Support Package in order to support the Singaporean economy and help businesses to maintain their cash flow during the times of the COVID-19. The package provides financial support measures such as tax treatment measures, loan programmes and sector specific measures.

4.1 Tax Benefits and Reliefs

4.1.1 Corporate Income Tax Rebate

All companies taxable in Singapore under the Corporate Income Tax ("CIT") will benefit from a CIT rebate of 25% of tax payable for the Year of Assessment ("YA") 2020, meaning financial year ending 2019. The amount of the rebate will be capped at SGD 15,000.

Procedure: This **rebate will be applied automatically** and will lead to a deduction of 25% (capped at SGD 15,000) from a company's tax payable.

For example, if a company's taxable income (after exemptions, if any) is SGD 300,000, the amount of tax payable will be $(\text{SGD } 300,000 \times 17\%) - (\text{SGD } 300,000 \times 25\%) = \text{SGD } 38,250$. However, as the CIT rebate is limited to SGD 15,000, if a company's taxable income (after exemptions, if any) is SGD 500,000, the amount of tax payable will be $(\text{SGD } 500,000 \times 17\%) - \text{SGD } 15,000 = \text{SGD } 70,000$.

4.1.2 Automatic Extension of Instalment Payments and Deferment of Income Tax Payable

Companies that have to file their Estimated Chargeable Income ("ECI") will benefit from an additional two months of interest-free instalments to pay their CIT, provided that they comply with the following conditions:

- a. the company is filing its ECI within two months from its Financial Year end;
- b. the company is paying its CIT by GIRO;
- c. the company files its ECI between 19 February 2020 and 31 December 2020 or before 19 February 2020 and has ongoing instalment payment to be made in March 2020.

Procedure: IRAS will inform companies accordingly; benefit will apply automatically to companies that pay by GIRO.

To further ease the cash flow needs for companies in the immediate period, it was announced in the Supplementary Budget on 26 Mar 2020 that all companies with CIT payments due in the months of April, May and June 2020 will be granted an **automatic three-month deferment** of these payments. The CIT payments that are deferred from April, May and June 2020 will be collected in July, August and September 2020 respectively. This relief measure complements the automatic extension of two months interest-free instalments as stated above.

Procedure: Eligible companies can expect to receive a letter from IRAS by 15 April 2020.

4.1.3 Carry Back of the Unabsorbed Capital Allowances and Trade Losses

Currently, the companies taxable in Singapore under the CIT are only allowed to carry back their unabsorbed capital allowances and trade losses to one immediate preceding YA.

Under the Stabilisation and Support Package, they will be able to carry them back up to three immediate preceding YAs within the limit of SGD 100,000.

This option is limited to the YA 2020. Only if a company incurs losses or has unabsorbed capital allowances in YA 2020, these can be carried back to the preceding three years.

4.1.4 Option to Accelerate Write-Off and Deduction

The companies taxable in Singapore under the CIT will be given the option to accelerate:

- the write-off of the cost of acquiring plant and machinery during the FY 2020 and incurred for FY 2021 over two years;

- the deduction of expenses incurred on renovation and refurbishment in FY 2020 and incurred for FY 2021 in one year.

4.1.5 Property Tax Rebate

Certain commercial properties badly affected by COVID-19 (such as hotel buildings; serviced apartment buildings; meetings, incentives, conventions and exhibitions spaces; premises of international airport/cruise/regional ferry terminal; shops and restaurants; premises of tourist attractions) will be granted a Property Tax (“PT”) rebate of 100% during the period between 1 January 2020 to 31 December 2020.

Other non-residential properties such as offices and industrial properties will get a 30% rebate.

The following premises are excluded if they are used or intended to be used:

- for any residential purposes; or
- as a facility for the exclusive use of residents of residential premises such as gym, function and meeting space and club lounge, whether with or without their guests.

Further, no rebate will be given for property tax on vacant land or land under development.

Procedure: IRAS will inform owners of qualifying non-residential properties on their property tax rebates by 31 May 2020. Owners are not required to submit any claims for the rebate. Owners of qualifying properties can expect to receive their refunds by 30 Jun 2020.

4.2 For tenants, please note that the Minister for Law will introduce a Bill to ensure that property owners pass on the PT rebate in to their tenants and directly ease the cash flow and cost pressures faced by tenants. For properties that are eligible for 100% property tax rebate, this is equivalent to more than one month’s rental. We are happy to assist you with your communication with your landlord in order to enquire about respective rental reductions. Loan Programmes

4.2.1 Enhanced: Enterprise Financing Scheme – SME Working Capital Loan

The Small and Medium Enterprise (“SME”) Working Capital Loan (“WCL”) was introduced in October 2019 under the Enterprise Financing Scheme (“EFS”) to help SMEs access financing for their working capital needs. The Enterprise Financing Scheme – SME Working Capital Loan (“EFS-WCL”) is available to SMEs⁶ across all industries from March 2020 to March 2021.

⁶ For “SME Working Capital”, the SME definition refers to maximum group revenue of SGD 100 million or maximum employment of 200 employees.

Under the EFS-WCL, SMEs can now take up a **loan of up to SGD 1 million** (instead of usually SGD 300,000) for a **maximum period of 5 years**. In addition, the government's risk-share will be enhanced to 90% (instead of usually 50% to 70%).

In addition, SMEs may now request for **deferral of principal repayment for 1 year**, subject to assessment by the participating financial institutions.⁷

Companies interested to benefit from the EFS-WCL can apply with the participating financial institutions, provided they fulfil the following requirements:

- be a business entity registered and physically present in Singapore⁸;
- at least 30% owned directly or indirectly by Singapore Citizen and/or Singapore PRs, determined by the ultimate individual ownership;
- maximum Borrower Group⁹ revenue cap of SGD 500 million for all enterprises; and
- maximum group revenue of SGD 100 million or maximum employment of 200 employees.

Procedure: The approval of the loan and **the interest rate remains subject to the discretion of the financial institution**. We are happy to assess your eligibility and assist with the loan application process.

4.2.2 **Enhanced: Enterprise Financing Scheme – Trade Loan**

Administered by Enterprise Singapore, the Enterprise Financing Scheme – Trade Loan ("EFS-TL") supports Singapore-based enterprises' trade financing needs, which include the financing of short-term import, export, and guarantee needs.

The EFS-TL, which is available to enterprises in all industries, will be enhanced for one year, from 1 April 2020 to 31 March 2021. Qualifying enterprises can now take up a **maximum loan of SGD 10 million** (from usually SGD 5 million) for a **maximum period of 1 year**. The government's risk share will be increased to 90% (from usually 70%).

Companies interested to benefit from the EFS-WCL can apply with the participating financial institutions¹⁰, provided they fulfil the following requirements:

⁷ CIMB Bank Berhad, DBS Bank Ltd, Ethoz Capital Ltd, Hong Kong and Shanghai Banking Corporation, Hong Leong Finance Ltd, IFS Capital Ltd, Maybank Singapore Ltd, ORIX Leasing Singapore Ltd, Oversea-Chinese Banking Corporation Ltd (OCBC Bank), Resona Merchant Bank Asia Ltd, RHB Bank Berhad, Sing Investments & Finance Ltd, Singapura Finance Ltd, Standard Chartered Bank, United Overseas Bank Ltd (UOB Bank).

⁸ ACRA registered Sole Proprietorship, Partnership, Limited Liability Partnerships and Companies.

⁹ Borrower Group consists of the following: (i) borrower and (ii) corporate shareholders that hold more than 50% of the total shareholding of the company and any subsequent corporate parents and subsidiaries.

¹⁰ DBS Bank Ltd., Hong Kong and Shanghai Banking Corporation, Hong Leong Finance Ltd., IFS Capital Ltd., Maybank Singapore Ltd., Oversea-Chinese Banking Corporation Ltd. (OCBC Bank), Resona Merchant Bank Asia Ltd., RHB Bank Berhad, Standard Chartered Bank, United Overseas Bank Ltd. (UOB).

- be a business entity registered and physically present in Singapore¹¹;
- at least 30% owned directly or indirectly by Singapore Citizen and/or Singapore PRs, determined by the ultimate individual ownership; and
- maximum Borrower Group¹² revenue cap of SGD 500 million for all enterprises.

Procedure: The approval of the loan and the **interest rate remains subject to the discretion of the participating financial institutions**. We are happy to assess your eligibility and assist with the loan application process.

4.2.3 **Enhanced: Temporary Bridging Loan Programme**

The Temporary Bridging Loan Programme (“TBLP”) was introduced in March 2020, initially to provide additional cash flow support to tourism sector enterprises for 1 year. However, it has now been extended to all sectors, and is available until 31 March 2021.

Eligible enterprises may borrow up to **SGD 5 million** under the TBLP, with the **interest rate capped at 5% per annum**. The Government will provide 90% risk-share on these loans.

Eligible enterprises under the TBLP may also apply for up to **1 year deferral of principal repayment** to help manage their debt, subject to assessment by the participating financial institutions.

Companies interested to benefit from the EFS-WCL can apply with the participating financial institutions¹³, provided they fulfil the following requirements:

- be a business entity registered and physically present in Singapore¹⁴;
- at least 30% owned directly or indirectly by Singapore Citizen and/or Singapore PRs, determined by the ultimate individual ownership.

Procedure: Those companies interested to benefit from the TBLP can apply with the participating financial institutions. We are happy to assess your eligibility and assist with the loan application process.

4.2.4 **Loan Insurance Scheme**

¹¹ ACRA registered Sole Proprietorship, Partnership, Limited Liability Partnerships and Companies.

¹² Borrower Group consists of the following: (i) borrower and (ii) corporate shareholders that hold more than 50% of the total shareholding of the company and any subsequent corporate parents and subsidiaries.

¹³ CIMB Bank Berhad, DBS Bank Ltd., Ethoz Capital Ltd., Hong Kong and Shanghai Banking Corporation, Hong Leong Finance Ltd., IFS Capital Ltd., Maybank Singapore Ltd., ORIX Leasing Singapore Ltd., Oversea-Chinese Banking Corporation Ltd. (OCBC Bank), Resona Merchant Bank Asia Ltd., RHB Bank Berhad, Sing Investments & Finance Ltd, Singapura Finance Ltd., Standard Chartered Bank, United Overseas Bank Ltd.

¹⁴ ACRA registered Sole Proprietorship, Partnership, Limited Liability Partnerships and Companies.

The Loan Insurance Scheme (“LIS”) was introduced to help SMEs to secure short-term trade financing loans by having commercial insurers co-share loan default with the participating financial institutions¹⁵. A portion of the insurance premium is supported by the Government.

As announced at Supplementary Budget 2020, **support for the LIS insurance premium will be increased to 80%** (from 50%) until 31 March 2021.

Enterprises can apply for the LIS to secure short-term trade financing for the purpose of:

- Inventory/ stock financing facility
- Structured pre-delivery working capital
- Factoring/ bill or invoice or accounts receivable discounting with recourse
- Overseas Working Capital Loan
- Banker's Guarantee
- Companies interested to benefit from the LIS can apply with the participating financial institutions, provided they fulfil the following requirements:
 - be a business entity registered and physically present in Singapore¹⁶;
 - at least 30% owned directly or indirectly by Singapore Citizen and/or Singapore PRs, determined by the ultimate individual ownership; and
 - maximum Borrower Group¹⁷ revenue cap of SGD 100 million for all enterprise or a maximum of 200 employees.

Procedure: The LIS is administered directly by the participating financial institutions. The amount of the loan, its approval and its interest rate remains subject to the discretion of the commercial insurers and the participating financial institutions. We are happy to assess your eligibility and assist with the application process.

4.3 Other Sector Specific Measures

In addition to all the measures detailed above, the government initially implemented measures specific to the aviation sector, the cargo industry, the cruise and ferry ships, and the hawker centres and markets and now announced additional measures for the tourism sector, the land transport sector, and

¹⁵ Bibby Financial Services (Singapore) Pte. Ltd., CIMB Bank Berhad, DBS Bank Ltd., Hong Kong and Shanghai Banking Corporation, Hong Leong Finance Ltd., Maybank Singapore Ltd., Oversea-Chinese Banking Corporation Ltd. (OCBC Bank), RHB Bank Berhad, Standard Chartered Bank, the Bank of East Asia Ltd., United Overseas Bank Ltd. (UOB).

¹⁶ ACRA registered Sole Proprietorship, Partnership, Limited Liability Partnerships and Companies.

¹⁷ Borrower Group consists of the following: (i) borrower and (ii) corporate shareholders that hold more than 50% of the total shareholding of the company and any subsequent corporate parents and subsidiaries.

the arts and culture sector. Please do approach us for further information on these sector specific measures.

5. What are the options to deal with disruptions to your contractual obligations?

In addition to the challenges outlined above, the current situation is putting pressure on a wide range of contractual obligations such as sales and services agreements, supply chain contracts, consultancy agreements and lease agreements, to name a few. Business are advised to carefully review their contractual obligations and to consider their legal options to mitigate financial burden and liability risks. Clear and timely communication is advised to discuss options such as extension of deadlines, reductions, rebates or holidays for rents of office space, machinery etc.

Further, options to terminate contractual obligations should be reviewed. At a first step it should be considered whether there are explicit provisions in the contract that allow a party to terminate under the current circumstance. Partly, contracts contain a “force majeure” clause. Force majeure clauses are generally intended to enable a contract to be amended or terminated if a party to the contract is unreasonably impeded in adhering to the contract due to external events that are unforeseeable, have no operational connection and cannot be averted even by extreme, reasonably expected care. Force majeure typically includes natural disasters, riots, revolutions, acts of war or embargos. The question whether the disruptions caused by the coronavirus outbreak and the resulting government precautionary measures are covered by the force majeure clause will first and foremost be determined by the wording of the specific clause.

If the contract in question does not provide for a force majeure clause or the scope of the clause does not cover the specific reason for delay or non-performance, the affected party may still be able to rely on general principles of law. While in some legal systems there might be the option to rely on a general legal doctrine of force majeure, in most jurisdictions, another doctrine worth considering would be the concept of “frustration of contract”.

Generally speaking, frustration occurs when, without the default of either party, a contractual obligation has become physically or commercially incapable of being performed because the circumstances in which the performance is called for would render it radically different from that which was undertaken by the contract. The threshold for the contract to be considered to be frustrated is usually very high. Not every event which prevents the performance of a contract will constitute frustration. The event must be fundamentally different from one originally contemplated by the parties.

However, where frustration applies, the contract is automatically discharged, meaning neither party has to comply with future obligations.

Finally, the Ministry of Finance has announced on 7 April that the Minister for Law will introduce a Bill to let businesses and individuals defer certain contractual obligations, such as paying rent, repaying loans, or completing work, for a period. It will, in that way, provide temporary cash-flow relief for these businesses and individuals who may otherwise have to pay damages or risk having their deposits or assets forfeited.

The Bill also increases the monetary thresholds and time limits for bankruptcy and insolvency.

The measures will cover relevant contractual obligations that are to be performed on or after 1 February 2020 for contracts that were entered into or renewed before 25 March 2020. The measures will be in place six months from the commencement of the Act at first instance and may be then extended to a year.

6. What kinds of support can Luther LLP provide?

We can offer you comprehensive legal advice and support as well as practical guidance on how to handle the current operational challenges. In particular, we can support you with:

- Sector specific legal advice and guidance
- Advice on requirements and procedures of above mentioned measures
- Assistance with applying for the support measures introduced by the government
- Support with implementation and communication of measures to employees
- Draft templates for announcements, offer letters, variation agreements etc.
- Assist in negotiating and implementing flexible work arrangements
- Review contracts; assist with termination agreements and notices
- Mediate potential conflicts with employees
- Mediate potential conflicts with customers, suppliers and other business partners
- Provide comprehensive tax advice

Please do not hesitate to contact us for support in the current situation. Our team of international and locally qualified lawyers will be happy to assist.

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