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Global guide: Measures adopted to support businesses through the Covid-19 Crisis: Singapore

Aurelio GURREA-MARTINEZ

Singapore Management University, aureliogm@smu.edu.sg

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1. Government policy responses

After the outbreak of the coronavirus (COVID-19), the Singapore Government responded with a quick and comprehensive package of legal, economic and financial measures that sought to put the economy into hibernation and avoid the destruction of jobs and viable businesses, at least while companies were unable to generate revenues and cash-flows due to a variety of factors, including travel restrictions and lockdowns imposed in many countries around the world.¹ To that end, the Government spent SGD\$97.3 billion (that is, around 20% of the country's GDP) to support businesses, households and employees.² Most of this financial support was given in the form of wage subsidies, cash pay-outs and government-supported loans. Additionally, it also enacted the COVID-19 (Temporary Measures) Act 2020. This legislation sought to provide breathing space to debtors by temporarily changing certain rules governing contracts and insolvency proceedings.³

In the final quarter of 2020, however, the Government started to adopt a different regulatory strategy.⁴ Through a variety of measures, the Government decided to move from hibernation towards recovery.⁵ To achieve this goal, the Singapore Government decided not to extend most of the legal measures temporarily adopted to provide debtors with a breathing space.⁶ Moreover, it implemented new measures, including the adoption of a new simplified insolvency programme for micro and small companies, the enactment of a realign framework for the renegotiation of contracts, the promotion of special arrangements for the renegotiation of debts owed by sole proprietors and partnerships, and the approval of additional financial assistance to support businesses and employees.⁷ In the budget for 2021, the Government announced that it would be setting aside SGD\$11 billion for a COVID-19 Resilience Package.⁸

1.1 General fiscal stimulus measures adopted

Since the pandemic began, the Singapore Government has adopted various economic responses in the Unity Budget,⁹ Resilience Budget,¹⁰ Solidarity Budget,¹¹ and Fortitude Budget¹² designed to mitigate the impact of COVID-19 on businesses and individuals. The combined value of measures is an estimated SGD\$97.3 billion, amounting to about 19.2% of Singapore's GDP.¹³ A number of

these policies are supported by the COVID-19 (Temporary Measures) Act 2020 (the Act) which was passed by Parliament on 7 April 2020,¹⁴ and accounted for the heightened restrictions put in place in April (the Circuit Breaker Period)¹⁵ and the phased reopening of the economy in June.¹⁶

The Government's economic responses seek to achieve three primary goals. First, they intend to save jobs, support workers, and protect livelihoods of those impacted by COVID-19. Second, they seek to help enterprises overcome the immediate challenges generated by the pandemic. Third, these measures intend to strengthen economic, financial and social resilience so that Singapore can emerge stronger from this crisis. This report will mainly focus on those responses adopted to support businesses and employees. Therefore, it will not cover other economic measures implemented to support consumers and households.¹⁷

1.1.1 Support for employees

Unemployed

For people more severely affected by the COVID-19 pandemic, the Government announced a new COVID-19 Recovery Grant, which focuses on lower to middle income workers.¹⁸ It was launched on 18 January 2021, and eligible persons receive up to SGD\$700 a month for three months. The grant is targeted at those employees who have been retrenched, had their contract terminated, or have been placed on no-pay leave for at least three consecutive months, and are thus facing an income loss of at least 50% on average.

Self-employed

For self-employed persons, the Government put into place the Self-Employed Person Income Relief Scheme (SIRS) to provide direct cash assistance. The SIRS automatically included self-employed persons who earn a small income from employment work.¹⁹ The eligibility Annual Value threshold was set at SGD\$21,000 to include those who live in some condominiums and other private properties.²⁰ The Annual Value is calculated on the basis of the estimated gross annual rent of the property if it were to be rented out. Eligible self-employees received three quarterly cash pay-outs of SGD\$3,000 each in May, July and October 2020.

* Aurelio Gurrea-Martínez is an Assistant Professor of Law and Head of the Singapore Global Restructuring Initiative at Singapore Management University. For excellent research assistance, the author would like to express his sincere gratitude to Samuel Loh and Chiow Hui Min.

1. For an overview of the legal and economic responses adopted by the Singapore Government in the early stage of the COVID-19 pandemic, see Aurelio Gurrea-Martínez and Samuel Loh, 'Singapore's Legal and Economic Response to the Covid-19 Crisis: The Role of Insolvency Law and Corporate Workouts' (2020) 17 International Corporate Rescue, Issue 4, pp. 292-297.
2. Ministry of Finance, 'Breakdown of 2020 Budgets for Expenditure Items Amounting to \$100 Million and Above', Parliamentary Replies, 1 February 2021, available at: <https://www.mof.gov.sg/news-publications/parliamentary-replies/breakdown-of-2020-budgets-for-expenditure-items-amounting-to-100-million-and-above>.
3. Ministry of Law, 'Second Reading Speech by Minister for Law, Mr K Shanmugam, on the COVID-19 (Temporary Measures) Bill', Parliamentary Speeches, 7 April 2020 available at: <https://www.mlaw.gov.sg/news/parliamentary-speeches/second-reading-speech-by-minister-for-law-mr-k-shanmugam-on-the-covid-19-temporary-measures-bill>.
4. See Aurelio Gurrea-Martínez, 'Restructuring and Insolvency in the Recovery Phase of the COVID-19 Pandemic: Lessons from Singapore', Singapore Global Restructuring Initiative Blog, 23 January 2021 available at: <https://ccla.smu.edu.sg/sgr/blog/2021/01/22/restructuring-and-insolvency-recovery-phase-covid-19-pandemic-lessons>.
5. *Ibid.*
6. The temporary changes to the insolvency regime described in section 3 of this report expired on 19 October 2020. The relief period described in section 2.1.1 of this report was extended by minimally one month for all categories of contracts covered under the COVID-19 (Temporary Measures) Act 2020. The relief period was extended by more than one month for certain sectors that face longer-term effects due to the pandemic. See <https://www.mlaw.gov.sg/news/press-releases/extension-of-relief-periods-under-the-covid-19-temporary-measures-act-for-specified-categories-of-contracts>.
7. *Ibid.*
8. Singapore Government, 'Budget Speech 2021', available at: https://www.mof.gov.sg/docs/librariesprovider3/budget2021/download/pdf/fy2021_budget_statement.pdf.
9. Singapore Budget, 'Unity Budget' available at: https://www.singaporebudget.gov.sg/budget_2020/budget-speech (the Unity Budget).
10. Singapore Budget, 'Supplementary Budget Statement' available at: https://www.singaporebudget.gov.sg/budget_2020/resilience-budget/supplementary-budget-statement (the Resilience Budget).
11. Singapore Budget, 'Solidarity Budget Statement' available at: https://www.singaporebudget.gov.sg/budget_2020/solidarity-budget/solidarity-budget-statement (the Solidarity Budget).
12. Singapore Budget, 'Fortitude Budget Statement' available at: https://www.singaporebudget.gov.sg/budget_2020/fortitude-budget/fortitude-budget-statement (the Fortitude Budget).
13. See the Fortitude Budget.

14. The Covid-19 (Temporary Measures) Act 2020 can be viewed at: <https://sso.agc.gov.sg/Act/14-2020>.

15. Ministry of Health, 'Circuit Breaker to Minimise Further Spread of COVID-19' available at: <https://www.moh.gov.sg/news-highlights/details/circuit-breaker-to-minimise-further-spread-of-covid-19>.

16. Singapore Government, 'Ending circuit breaker: phased approach to resuming activities safely' available at: <https://www.gov.sg/article/ending-circuit-breaker-phased-approach-to-resuming-activities-safely>.

17. For an analysis of some of these measures, see Singapore Government, 'Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/fy2020_solidarity_budget_statement.pdf (Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures).

18. Ministry of Social and Family Development, 'Support for Singaporeans Affected By COVID-19', available at: <https://www.msfd.gov.sg/assistance/Pages/covid19relief.aspx>.

19. See Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures.

20. See Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures.

Self-employed individuals were encouraged to make full use of the downtime to upskill through various courses. While attending courses, the hourly training allowance was SGD\$10 per hour under the Self-Employed Person Training Support Scheme. These schemes were intended to ease the financial burden on self-employed individuals in the short to medium term.²¹

To assist individuals in finding gainful employment, the Government will create more opportunities through SGUnited Traineeships, SGUnited Jobs, SGUnited Mid-Career Traineeships, SGUnited Skills and other hiring incentives.²² These initiatives will do the following:

- *SGUnited Traineeships* – the Government will co-share manpower costs for up to 25,000 traineeships in 2020 across various industries and in both large and small enterprises. This is targeted at first-time jobseekers who may face difficulty finding employment as businesses reduce costs.
- *SGUnited Jobs* – the Government plans to create 40,000 new jobs over the next year. This will be in both the public and private sectors and it will also offer temporary, short-term jobs in COVID-19 related operations.
- *SGUnited Mid-Career Traineeships* – Government agencies will work with private companies to provide 4,000 traineeships for mid-career job seekers.
- *SGUnited Skills* – A training programme for 30,000 job seekers this year where participants can take training courses full time and at highly subsidised rates. Participants will receive a training allowance of SGD\$1,200 per month during the course of their training.
- *Hiring Incentives* – for eligible workers aged 40 and above, the incentive supports 40% of their monthly salary over six months and is capped at SGD\$12,000 in total. For eligible workers under the age of 40, the incentive supports 20% of their monthly of six months and is capped at SGD\$6,000 in total.

Employees

For people employed by companies, the preservation of jobs will also be achieved by providing

their employers with financial support to cover part of the employee's wages, as mentioned in section 1.1.2 below.

1.1.2 Support for businesses

The policies to support businesses are intended to address the three Cs – cash flow, cost and credit. This will be done through the following initiatives.

Cash flow

- *Financial support for wages* – under the Jobs Support Scheme (JSS), the Government co-funds wages for employees. This is aimed at reducing the overhead costs for businesses.²³ The JSS initially covered wages paid in October 2019 to August 2020 but was later extended for a further seven months to cover wages up to March 2021. There are five main JSS payouts – April 2020, July 2020, October 2020, March 2021 and June 2021, with an additional special payout in May 2020.²⁴ Generally, JSS supported 25% of the first SGD\$4,600 of gross monthly wages per local employee. Industries which have been hit harder by the pandemic, received greater support. The following industries received a higher support of 50% of the first SGD\$4,600 in wages until August 2020, and 30% from September 2020 to March 2021:

- Food services
- Retail
- Arts and Entertainment
- Land Transport
- Marine and Offshore

The following industries received a higher support of 75% of the first SGD\$4,600 in wages until August 2020, and 50% from September 2020 to March 2021

- Aviation and aerospace;

21. See the Resilience Budget.

22. See the Fortitude Budget.

23. Singapore Government, 'Fortitude Budget Statement – Annex B-1: Enhanced Jobs Support Scheme' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/fortitude_annexb1.pdf (Fortitude Budget – Annex B-1).

24. Inland Revenue Authority of Singapore (IRAS), 'Jobs Support Scheme', available at: <https://www.iras.gov.sg/irashome/schemes/businesses/jobs-support-scheme--JSS-/>.

- Tourism, hospitality, conventions and exhibitions; and
- Built Environment (which only received the 75% support from June to August 2020).²⁵

During the Circuit Breaker, the co-share levels were increased to 75% for all firms and also applied to directors of companies, who had an assessable income of less than SGD\$100,000, to take into account the elevated safe distancing measures.²⁶ During the phased reopening, businesses which were unable to resume operations continued to receive 75% co-funding until August 2020 or until they were allowed to reopen, whichever was earlier.²⁷ In the 2021 Budget, the Singapore Government announced that the JSS would be further extended to September 2021 for certain sectors that were harder hit. For the Aviation, Aerospace and Tourism sectors, the JSS will cover 30% of wages paid from April to June 2021, and 10% from July to September 2021. For the Retail, Arts and Culture, Food Services and Built Environment, the JSS will cover 10% of wages paid from April to June 2021.²⁸

- *Deferments of income tax and government fees and charges* – both companies and self-employed individuals enjoyed automatic deferment of income tax payments for the Year of Assessment 2020 for three months. Thus, income tax due in the months of April, May and June 2020 were collected in July, August and September 2020 respectively.²⁹ Further, all government fees and charges were frozen for one year.

Cost

- *Rental waivers* – the Government granted a two-month rental waiver for industrial, office and agricultural tenants of Government agencies. Stallholders in hawker centres enjoyed five months of rental waivers and commercial tenants received a four-month waiver.³⁰
- *Property tax rebate* – qualifying commercial properties such as hotels, serviced apartments and tourist attractions will not be required to pay property tax for the Year of Assessment 2020. The two Integrated Resorts enjoyed a 60% rebate while other businesses which are not as affected enjoyed a rebate of 30%.³¹ Landowners who enjoy the property tax rebate have the obligation to pass the benefit on to their tenants under the Act.

- *Foreign worker levy* – the monthly foreign worker levy was waived in April and May. In addition, businesses enjoyed a foreign worker levy rebate of SGD\$750 for each work permit or special pass holder.³² The waiver and rebate were extended to December 2021 for firms in the construction, marine shipyard and process sectors. The waiver was 100% until September and decreased by 25% for each following month, while the rebate was SGD\$750 in June, SGD\$375 from July to September, and \$90 from October 2020 until December 2021.³³
- *Deferring Increase in Central Provident Fund (CPF) Contribution for Senior Workers* – CPF is the national social security system which enables workers to set aside funds for retirement with a partial contribution from employers. The planned increase in CPF contribution rates for senior workers will be deferred from 1 January 2021 to 1 January 2022.³⁴
- *Cash grant* – a cash grant was provided to SME tenants and was disbursed by the property owner, starting from early August 2020. This new cash grant was disbursed automatically to qualifying property owners and was calculated based on the Annual Value of properties for 2020.³⁵

Credit

- *Enterprise Financing Scheme (EFS)* – the EFS was enhanced and extended in response to the pandemic's impacts. The maximum loan quantum for small and medium sized enterprises (SMEs) under the EFS-Working Capital Loan was raised to SGD\$1 million from SGD\$300,000. Additionally, the Government's maximum risk share was raised to 90% until 31 March 2021. Thereafter, the Working Capital Loan will lapse back to the original SGD\$300,000 quantum and a 50 or 70% risk share. SMEs may request a deferral of capital payments for one year, subject to assessment by Participating Financial Institutions.³⁶ The purpose of this loan is to assist SMEs in meeting their operational cash flow needs. The available EFS-Trade Loan, which supports SMEs' trade-financing needs, will be raised up to SGD\$10 million from the original SGD\$5 million.³⁷ The availability of the scheme has also been extended by six months, to 30 September 2021. The Government will have an increased maximum risk share of 90% for applications initiated between 8 April 2020 to 31 March 2021, and the risk share will be lowered to 70% from 1 April 2021.³⁸

25. See Fortitude Budget – Annex B-1.

26. Singapore Government, 'Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures – Annex B-1: Temporary Enhancement to the Jobs Support Scheme (JSS)' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/solidarity_annexb1.pdf; Ministry of Finance, 'Government to Continue Support Measures to Protect Livelihoods and Stabilise Businesses During Extended Circuit Breaker Period' available at: <https://www.mof.gov.sg/newsroom/press-releases/government-to-continue-support-measures-to-protect-livelihoods-and-stabilise-businesses-during-extended-circuit-breaker-period> (Government to Continue Support Measures to Protect Livelihoods and Stabilise Businesses During Extended Circuit Breaker Period).

27. See Fortitude Budget.

28. Singapore Government, 'Budget Speech 2021 – Annex B-2: Extension of the Jobs Support Scheme' available at: <https://www.mof.gov.sg/docs/librariesprovider3/budget2021/download/pdf/annexb2.pdf>.

29. Singapore Government, 'Supplementary Budget Statement – Annex B-4: Deferment of Income Tax Payments for Companies and Self-Employed Persons' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/supplementary_annexb4.pdf.

30. See Singapore Government, 'Fortitude Budget Statement – Annex B-2: Rental Relief for Tenants in Government and Private non-Residential Properties' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/fortitude_annexb2.pdf (Fortitude Budget – Annex B-2).

31. Singapore Government, 'Supplementary Budget Statement – Annex B-5: Enhanced Property Tax Rebate for Non-Residential Properties' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/supplementary_annexb5.pdf.

32. See Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures; Government to Continue Support Measures to Protect Livelihoods and Stabilise Businesses During Extended Circuit Breaker Period.

33. See Fortitude Budget.

34. See Fortitude Budget.

35. See Fortitude Budget – Annex B-2.

36. Singapore Government, 'Supplementary Budget Statement – Annex B-7: Enhanced Financing Support' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/supplementary_annexb7.pdf (Resilience Budget – Annex B-7). See also Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures.

37. See Resilience Budget – Annex B-7. See also Ministerial Statement on Additional Support Measures in Response to Elevated Safe Distancing Measures.

38. Enterprise Singapore, 'Enterprise Financing Scheme (EFS) Overview', available at: <https://www.enterprisesg.gov.sg/financial-assistance/loans-and-insurance/loans-and-insurance/enterprise-financing-scheme/trade-loan/overview>.

- **Loan Insurance Scheme** – the Loan Insurance Scheme assists SMEs in securing short-term trade loans by allowing Participating Financial Institutions to co-share the risk of loan default with commercial insurers. The subsidies available for businesses for their loan insurance premium will be up to 80% until 31 March 2021.³⁹
- **Temporary Bridging Loan Programme** – this loan scheme, which was initially intended to provide additional cash flow support to the tourism industry alone, was made available to all sectors with a maximum supported loan of SGD\$5 million. The Government will provide a maximum risk share of 90% for loans. Businesses may request a deferral of capital payments for one year, subject to assessment by Participating Financial Institutions.⁴⁰ In Budget 2021, the scheme was extended for another six months, to 30 September 2021. The maximum loan quantum will remain at SGD\$5 million until 31 March 2021 and will be lowered to SGD\$3 million thereafter. The Government's risk share will also be lowered to 70% after March 2021.⁴¹

While most businesses have been heavily hit by COVID-19, some industries have been hit harder. The following industries are receiving specific support from the Government:⁴²

- **Aviation Sector** – The Government announced a SGD\$870 million OneAviation Support Package in Budget 2021.⁴³ In addition to greater support for wages, funds are allocated for a SGD\$350 million enhanced aviation support package to support rebates on landing and parking charges and rental relief for airlines, ground handlers, and cargo agents. The Government committed an additional SGD\$84 million to extend the support until the end of March 2022.⁴⁴
- **Tourism Industry** – greater support under the JSS is provided to businesses in the tourism industry. In addition, various tourism grants under the Tourism Development Fund have been enhanced. The maximum support levels for qualifying costs under these grants will be increased by 10%.⁴⁵ The Government also announced that SGD\$320 million would be set aside to encourage domestic tourism. The funds were disbursed to each Singaporean in the form of SGD\$100 in SingapoRediscovered Vouchers, which may be spent on hotel stays, tickets to attractions and / or tours in Singapore until June 2021.⁴⁶

- **Heartland business and Hawkers** – the Government announced a partnership with Community Development Councils to give SGD\$100 vouchers to all Singaporean households. The vouchers are to be used at participating heartland shops and hawkers and are supported by a SGD\$150 million grant.⁴⁷
- **Built Environment Sector** – the Government will co-share the additional costs that will be incurred by businesses in order for them to resume their existing projects safely.⁴⁸
- **Other industries which involve high levels of human interaction** – businesses in the food and beverage industry receive greater support under the JSS. Private transportation businesses such as taxi services and private hire car drivers receive support under the Point-to-Point Support Package. Under this scheme, taxi drivers and private hire car drivers receive SGD\$300 per vehicle per month from a Special Relief Fund. The package was extended twice, and the Extended Special Relief Fund will last until 24 March 2021 for taxi drivers, and until 10 April 2021 for private hire car drivers.⁴⁹ There is an additional COVID-19 Driver Relief Fund, announced on 16 December 2020, which is a monthly payout to drivers. The payout is \$600 per vehicle from January to March, and \$450 per vehicle from April to June 2021. Private bus owners enjoy a one-year road tax rebate and a six-month waiver of parking charges at government-managed parking facilities.⁵⁰ As the petrol duty rates have been raised after Budget 2021, active taxi and private hire car drivers will receive a Petrol Duty Rebate of SGD\$360, to be distributed over four months.⁵¹

1.1.3 Emerging stronger

The following initiatives are introduced so that businesses are able to emerge stronger from this crisis:⁵²

- **Supporting industry-led initiatives** – introduction of the SG Together Enhancing Enterprise Resilience (STEER) Programme which will match SGD\$1 for every SGD\$2 raised by Trade Associations and Chambers or business groups for qualifying initiatives. These qualifying initiatives will help businesses overcome the challenges faced by COVID-19 and transform themselves in preparation for economic recovery. Possible uses for the STEER Programme

39. See Resilience Budget – Annex B-7.

40. See Resilience Budget – Annex B-7.

41. Enterprise Singapore, 'Extension of TBLP', available at: <https://www.enterprisesg.gov.sg/financial-assistance/loans-and-insurance/loans-and-insurance/temporary-bridging-loan-programme/overview>.

42. Singapore Government, 'Supplementary Budget Statement – Annex B-8: Providing Sector-Specific Support' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/supplementary_annexb8.pdf (Resilience Budget – Annex B-8).

43. Ministry of Transport, 'S\$870 Million OneAviation Support Package to Position the Singapore Aviation Sector for Recovery', Press Release, 17 February 2021, available at: <https://www.mot.gov.sg/news-centre/news/Detail/870-million-oneaviation-support-package-to-position-the-singapore-aviation-sector-for-recovery>.

44. Civil Aviation Authority of Singapore, 'Government to Provide Further Support to the Aviation Sector', Press Release, 29 December 2020, available at: <https://www.caas.gov.sg/who-we-are/newsroom/Detail/government-to-provide-further-support-to-the-aviation-sector/>.

45. Singapore Tourism Board, 'Resilience Budget' available at: <https://www.stb.gov.sg/content/stb/en/home-pages/resilience-budget.html>.

46. Singapore Tourism Board, 'Factsheet: SingapoRediscovered and Expanded Attractions Guidelines', Media Release, 16 September 2020, available at: <https://www.stb.gov.sg/content/stb/en/media-centre/media-releases/SingapoRediscovered-and-Expanded-Attractions-Guidelines.html>.

47. Singapore Government, 'Budget Speech 2021 – Annex D-1: Household Support Package' available at: <https://www.mof.gov.sg/docs/librariesprovider3/budget2021/download/pdf/annexd1.pdf>.

48. See the Fortitude Budget.

49. Land Transport Authority, 'Point-to-Point Support Package 3 (PPSP3)', available at: https://www.lta.gov.sg/content/ltagov/en/industry_innovations/industry_matters/LTA's%20Measures%20for%20COVID-19/point_to_point_support_package_3.html.

50. See Resilience Budget – Annex B-8.

51. Singapore Government, 'Budget Speech 2021', available at: https://www.mof.gov.sg/docs/librariesprovider3/budget2021/download/pdf/fy2021_budget_statement.pdf.

52. Singapore Government, 'Supplementary Budget Statement – Annex B-9: Building Capabilities and Resilience' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/supplementary_annexb9.pdf.

include business sustainability, business growth and capability upgrading.⁵³

- *Transforming businesses* – businesses can access the SMEs Go Digital Programme, the Productivity Solutions Grant (PSG) and the Enterprise Development Grant (EDG) to digitalise, restructure and transform. Support levels under the PSG and EDG were raised from 80% to 90% and made available to all businesses until 31 December 2020. This enhanced support was extended until 31 March 2022 under both the PSG and EDG, at the lower cap of covering up to 80% of qualifying costs.⁵⁴ The scope of solutions covered under these grants was expanded to help businesses implement COVID-19 business continuity measures. A Digital Resilience Bonus was introduced to provide eligible businesses with a pay-out of up to SGD\$5,000 if they adopt e-payments, e-invoicing and other business process or e-commerce solutions. There is an additional tier under the Digital Resilience Bonus of SGD\$5,000 for businesses to incorporate advance solutions.⁵⁵ An additional SGD\$250 million has also been set aside to assist businesses digitalise in partnerships with digital platform solution providers and industry champions. The Enterprise Leadership for Transformation was introduced as a three-year pilot to help the professional growth of SME business leaders.
- *Promoting E-Payments* – a cash bonus of SGD\$300 per month over five months is provided to encourage food and beverage services to use e-payments and avoid having to handle cash, under the Hawkers Go Digital Programme.⁵⁶

2. Legislative reforms impacting on stakeholders dealing with companies in financial distress

2.1 Hibernation phase of the COVID-19 pandemic

2.1.1 Contracting parties

Under the Act, temporary relief may be granted to parties who are unable to perform an

obligation in a scheduled contract (Party A), being an obligation that is to be performed on or after 1 February 2020, as a result of the COVID-19 crisis (the Relevant Obligation).⁵⁷ Contracts include:⁵⁸

- Secured SME loan facilities over:
 - commercial or industrial immovable property located in Singapore; and
 - plant, machinery or fixed assets located in Singapore which are used for business purposes.
- A performance bond granted pursuant to a construction or supply contract.
- A hire-purchase agreement, conditional sale agreement or lease where the relevant goods are:
 - plant, machinery or fixed assets located in Singapore and used for business purposes; or
 - a commercial vehicle.
- Event contracts.
- Tourism-related contracts.
- Construction or supply contracts.
- Leases or licences of non-residential immovable property.
- Options-to-purchase or sales and purchase agreements for housing accommodation or commercial property.

The Act provides the Minister of Law with the power to include additional categories of contracts to the Schedule.⁵⁹ This power will be exercised where it can be shown that it would be unfair to expect performance of obligations in this new category of contracts as a result of the impact from COVID-19.⁶⁰

53. Enterprise Singapore, 'Supplementary Budget 2020' available at: <https://www.enterprisesg.gov.sg/campaigns/supplementary-budget-2020>.

54. Ministry of Finance, 'Budget 2021 – Emerging Stronger Together', available at: https://www.mof.gov.sg/docs/librariesprovider3/budget2021/download/pdf/fy2021_business_booklet.pdf.

55. Singapore Government, 'Fortitude Budget Statement – Annex B-3: Support for Digital Transformation' available at: https://www.singaporebudget.gov.sg/docs/default-source/budget_2020/download/pdf/fortitude_annexb3.pdf.

56. Enterprise Singapore, 'Good progress for the Hawkers Go Digital programme', Media Release, 12 August 2020, available at: https://www.enterprisesg.gov.sg/-/media/esg/files/media-centre/media-releases/2020/aug-2020/esg-imda-sdo-media-release-update-on-hgd_final.pdf?la=en.

57. COVID-19 (Temporary Measures) Act 2020 section 5(1).

58. COVID-19 (Temporary Measures) Act 2020 Schedule.

59. COVID-19 (Temporary Measures) Act 2020 section 18(1).

60. Ministry of Law, 'Second Reading Speech by Minister for Law, Mr K Shanmugam, on the COVID-19 (Temporary Measures) Bill', Parliamentary Speeches, 7 April 2020 available at: <https://www.mlaw.gov.sg/news/parliamentary-speeches/second-reading-speech-by-minister-for-law-mr-k-shanmugam-on-the-covid-19-temporary-measures-bill>.

This relief will not be available to contracts entered into after 25 March 2020 as individuals and businesses who enter into contracts after this date did so being fully aware of the risk and potential impact of COVID-19. Therefore, they would have organised their affairs accordingly and cannot subsequently apply for temporary relief.⁶¹ The relief periods were originally six months long, from 20 April 2020 to 19 October 2020, but were extended several times, by at least one month for all categories of contracts. For certain sectors which were more greatly affected by COVID-19, further extensions of up to five months were made.⁶² For example, the relief period for options to purchase and sale and purchase agreements with developers was extended until 31 March 2021.⁶³

In order to obtain relief, Party A must serve a notification of relief on: (1) the counterparty to the contract (Party B); (2) any guarantor or surety of Party A to the obligation; and (3) such other person as may be prescribed. This temporary relief will continue until the earliest of the following occurs (the Relief Period). First, the expiration of the prescribed period. Second, the withdrawal of the notification of relief by Party A. Third, a determination by the panel of assessors that the facts fall outside the application for temporary relief.⁶⁴

Once notification has been received, this acts as a moratorium against the taking of certain actions against Party A and its guarantor or surety. Relevant actions include:⁶⁵

- The commencement or continuation of an action in court.
- The commencement or continuation of arbitral proceedings under the Arbitration Act.
- The enforcement of any security over any immovable property, or movable property used for business purposes.
- The making of an application for a scheme of arrangement.
- The making of an application for judicial management.
- The making of a winding-up application.

- The making of a bankruptcy application.
- The appointment of a receiver or manager over any property or undertaking.
- The commencement or levying of execution, distress or other legal process against any property, except with the leave of court and subject to such terms as the court imposes.
- The repossession of any goods under any chattel-leasing agreements, hire-purchase agreement, or retention of title agreement, where such goods are used for business purposes.
- The termination of a lease or licence of immovable property on the ground of non-payment of rent or other moneys.
- The exercise of a right of re-entry or forfeiture under a lease or licence of immovable property.
- The enforcement of a court judgment, arbitral award or a determination by an adjudicator under the Building and Construction Industry Security of Payment Act.

Additional prohibited acts were added on 12 May 2020.⁶⁶ Prohibited acts include the increase of any charges or interests which is not provided for in the scheduled contract, the unilateral imposition of any new charges, unilaterally requiring that any part of a security deposit be replaced, the withholding or forfeiture of an option to purchase and the termination of a sale and purchase agreement.

This moratorium does not apply to proceedings commenced for other matters which do not relate to the inability to perform the Relevant Obligation.⁶⁷ This includes actions pursuant to the Frustrated Contracts Act 2014 or a *force majeure* clause in the contract.⁶⁸ For secured SME loan facilities, the moratorium only applies in relation to the security or the part of the obligation that is secured by such security.⁶⁹ For ongoing proceedings before the court or arbitral tribunal before the receipt of notification of relief, a stay will be granted until the end of the relevant Relief Period.⁷⁰ This includes any insolvency-related proceedings.

61. COVID-19 (Temporary Measures) Act 2020 section 4(1); Ministry of Law, 'Frequently Asked Questions' available at: <https://www.mlaw.gov.sg/covid19-relief/faq>.

62. Ministry of Law, 'Extension of Relief Periods under the COVID-19 (Temporary Measures) Act for Specified Categories of Contracts', Press Release, 12 October 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/extension-of-relief-periods-under-the-covid-19-temporary-measures-act-for-specified-categories-of-contracts>.

63. Ministry of Law, 'Further Extension of Relief Periods under the COVID-19 (Temporary Measures) Act for Specified Contracts', Press Release, 16 November 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/further-extension-of-relief-periods-under-the-covid-19-temporary-measures-act-for-specified-contracts>.

64. COVID-19 (Temporary Measures) Act 2020 section 5(2).

65. COVID-19 (Temporary Measures) Act 2020 section 5(3).

66. COVID-19 (Temporary Measures) (Temporary Relief for Inability to Perform Contracts) (Amendment) Regulations 2020.

67. COVID-19 (Temporary Measures) Act 2020 section 5(5).

68. COVID-19 (Temporary Measures) Act 2020 section 5(13).

69. COVID-19 (Temporary Measures) Act 2020 section 5(6).

70. COVID-19 (Temporary Measures) Act 2020 section 5(8).

The Panel of Assessors acts as a safeguard against opportunistic behaviour by Party A. There are 12 panels, each headed by a State Courts Judge. In total, there are an estimated 100 Assessors who will be the watchmen in ensuring that individuals and businesses do not abuse the temporary relief afforded under the Act.⁷¹ Party B can apply to the Registrar to appoint an assessor to determine if either temporary relief ought to be given or, in the case of event and tourism-related contracts, whether it is just and equitable for the deposit to be forfeited.⁷² The assessor will consider the ability and financial capability of Party A to perform the obligation in order to arrive at a just and equitable outcome for the parties.⁷³ The decision of the assessors is final and there is no right of appeal.⁷⁴

It should be noted, however, that the contractual rights of lenders will not be affected by the notification of relief except to the extent of the moratorium. Therefore, interests will not be suspended, fees can be charged, and haircuts will not be applied unless debtors and creditors reach an agreement either out of court (e.g. workout) or as part of a formal reorganisation procedure (e.g. scheme of arrangement or judicial management).⁷⁵ However, the Government has put in place a cap on late payment interest or charges on arrears that arise due to COVID-19 under the scheduled contract.⁷⁶

Additional contracts were added to the schedule on 12 May 2020 and 9 October 2020.⁷⁷ These additions included options to purchase and sale and purchase agreements. For these contracts, relief is applicable for any contract entered into before 25 March 2020 and the inability to make the required payment under the option to purchase or payment under the sale and purchase agreement is due to COVID-19. Relief is inapplicable where the counterparty is not a housing developer, the inability to make payment is unrelated to COVID-19, payment was due before 1 February 2020 or the contract was already terminated. The effect of relief is that any consideration paid under the option to purchase cannot be forfeited, the sale and purchase agreement cannot be terminated, and the counterparty cannot impose new charges, increase charges or interest rates beyond what is provided for in the contract.⁷⁸

2.1.2 Implications of notification of relief on limitation periods

Any limitation period prescribed by any law or in any contract for the taking of an action in relation to the inability to perform the Relevant Obligation will be extended by a period equivalent to the Relief Period.⁷⁹

2.1.3 Construction contracts and supply contracts

Under the Act, Party B cannot make a call on a performance bond in relation to the inability to perform the Relevant Obligation except in the following circumstances. First, a call on the performance bond can be made seven days before the expiry of the bond. Second, a call on the performance bond can be made on the date of expiration following an extension of the term of the performance bond under the Act.⁸⁰ An application for extension can be made by Party A, not less than seven days before the expiry of the bond, to the issuer and a notice of the application to Party B. The term of the performance bond will be extended to seven days after the end of the prescribed period or such other date as may be agreed by Party A, Party B and the issuer.⁸¹

The restrictions to a call on a performance bond do not apply once the notification for relief has been withdrawn or where the panel of assessors makes a determination that relief is unavailable.⁸²

Any claim for liquidated damages will disregard the period during which the Act is in place in determining the period of delay in performing the Relevant Obligation.⁸³

The Act introduces a defence to a claim for a breach of contract. Where the Relevant Obligation is to supply goods or services in accordance with the terms of the contract, the fact that the inability to perform is materially caused by COVID-19 is a defence to a claim for breach of contract in respect of the Relevant Obligation.⁸⁴ This defence only applies to rights and obligations under the contract that accrues or arises from 1 February 2020 till the expiration of the prescribed period.⁸⁵

A new Part 8 of the Act came into force on 30 September 2020, providing a specific mechanism of relief for certain parties affected by delays or breaches in construction or supply contracts, if

71. Ministry of Law, 'Second Reading Speech by Minister for Law, Mr K Shanmugam, on the Covid-19 (Temporary Measures) Bill', Parliamentary Speeches, 7 April 2020 available at: <https://www.mlaw.gov.sg/news/parliamentary-speeches/second-reading-speech-by-minister-for-law-mr-k-shanmugam-on-the-covid-19-temporary-measures-bill>.

72. COVID-19 (Temporary Measures) Act 2020 section 13(1).

73. COVID-19 (Temporary Measures) Act 2020 section 13(2).

74. COVID-19 (Temporary Measures) Act 2020 section 13(10).

75. See Monetary Authority of Singapore, 'Comments by MAS on COVID-19 (Temporary Measures) Bill', Media Release, 1 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/comments-by-mas-on-covid-19-temporary-measures-bill>.

76. Ministry of Law, 'New Rental Relief Framework for SMEs', Press Releases, 3 June 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/new-rental-relief-framework-for-smes>.

77. COVID-19 (Temporary Measures) Act 2020 (Amendment of Schedule) (No.2) Order 2020.

78. Ministry of Law, 'Guide for Buyers in contracts with housing developers' available at: <https://www.mlaw.gov.sg/files/6-Buyers.pdf>.

79. COVID-19 (Temporary Measures) Act 2020 section 5(7).

80. COVID-19 (Temporary Measures) Act 2020 section 6(2).

81. COVID-19 (Temporary Measures) Act 2020 section 6(3).

82. COVID-19 (Temporary Measures) Act 2020 section 6(4).

83. COVID-19 (Temporary Measures) Act 2020 section 6(5).

84. COVID-19 (Temporary Measures) Act 2020 section 6(6).

85. COVID-19 (Temporary Measures) Act 2020 section 6(7).

materially due to COVID-19.⁸⁶ For affected contracts entered into before 25 March 2020 and in force any time between 1 February 2020 and 31 March 2021, parties may apply for relief.⁸⁷ These parties would include:

- renters of goods used for construction work who are liable for additional rental expenses;
- tenants of non-residential property who are unable to carry out or complete renovation or fitting out works during their rent-free period; and
- landlords who are unable to deliver possession or allow use of the property under a lease or licence of non-residential property.

Further, an application for relief filed under Part 8 triggers a moratorium on all other legal proceedings for the same matter.

2.1.4 *Event contracts and tourism-related contracts*

Under the Act, Party B, after being served with the notification for relief, cannot forfeit any deposit on the basis of the inability to perform the Relevant Obligation.⁸⁸ Where the deposit has been forfeited, Party B must restore the deposit or part of the deposit as if it had not been forfeited.⁸⁹ Issues concerning the restoration of the deposit can be referred to the Panel of Assessors for determination. Similarly, the aim is to resolve the issue in a just and equitable matter.⁹⁰

Similar to construction and supply contracts, the Act introduces a defence to a claim for the payment of a cancellation fee under a contract. Party A is not obligated to pay the cancellation fee due to inability to perform the Relevant Obligation.⁹¹

2.1.5 *Consequences of contravention*

Any person who contravenes, without reasonable excuse, the notification of relief, the restrictions on a call on the performance bond, the restrictions on forfeiture of deposits and failure to restore deposits which had been forfeited will be on conviction to a fine not exceeding SGD\$1,000.⁹² Any enforcement of security in breach of the moratorium will be void except against a bona fide

purchaser for value without notice of the notification of relief.⁹³

The following actions will be declared void:⁹⁴

- The appointment of a receiver or manager over any property or undertaking in breach of the moratorium.
- A call on a performance bond in breach of the restrictions above.
- The forfeiture of a deposit in breach of the restrictions above.

The following actions in breach of the moratorium will be declared invalid:⁹⁵

- The repossession of any goods under any chattel-leasing agreement, hire-purchase agreement or retention of title agreement.
- The termination of a lease or licence of immovable property where the Relevant Obligation is the payment of rent or other moneys.
- The exercise of a right of re-entry or forfeiture under a lease or licence of immovable property.

Failure to comply with the determination of the Panel of Assessors is an offence and can result in a conviction to a fine not exceeding SGD\$1,000.⁹⁶ Failure to restore the deposit after the determination of the Panel of Assessors is also an offence and can result in a conviction to a fine not exceeding SGD\$1,000.⁹⁷

2.1.6 *Property owners*

Owners of non-residential property enjoyed property tax-rebates for tax payable in 2020 under the Resilience and Unity Budget. This rebate is intended to help businesses reduce the overhead cost of rental. Some of these rebates may exceed more than one month of rent and provide much needed assistance to businesses. However, this rebate is granted to the property owner, and the businesses may not directly benefit from it. As such, the Act introduced an obligation on property owners to pass on the benefits to tenants.⁹⁸

86. Ministry of Law, 'Commencement of Amendments to COVID-19 (Temporary Measures) Act', Press Release, 30 September 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/2020-09-30-commencement-of-amendments-to-covid-19-temporary-measures-act>.

87. COVID-19 (Temporary Measures) Act 2020 section 36.

88. COVID-19 (Temporary Measures) Act 2020 section 7(2).

89. COVID-19 (Temporary Measures) Act 2020 section 7(3).

90. COVID-19 (Temporary Measures) Act 2020 section 13(1).

91. COVID-19 (Temporary Measures) Act 2020 section 7(4).

92. COVID-19 (Temporary Measures) Act 2020 section 8(1).

93. COVID-19 (Temporary Measures) Act 2020 section 8(3).

94. COVID-19 (Temporary Measures) Act 2020 section 8(4).

95. COVID-19 (Temporary Measures) Act 2020 section 8(5).

96. COVID-19 (Temporary Measures) Act 2020 section 13(11).

97. COVID-19 (Temporary Measures) Act 2020 section 13(12).

98. Ministry of Finance, 'Covid-19 Relief Measures: Upcoming Legislative Provisions to Impose Obligation on Property Owners to Pass On the Property Tax Rebate in Full to Tenants', Press Release, 2 April 2020, available at: <https://www.mof.gov.sg/newsroom/press-releases/covid-19-relief-measures-upcoming-legislative-provisions-to-impose-obligation-on-property-owners-to-pass-on-the-property-tax-rebate-in-full-to-tenants>. See also COVID-19 (Temporary Measures) Act 2020 section 29(2).

These benefits could be in the form of a reduction in rent or a cash payment to the tenant.⁹⁹ The passing of benefits could not be subject to any conditions, and any such conditions which the property owner purports to impose are void.¹⁰⁰ The property owner has to keep records evidencing that the benefit has been passed to the tenant for a period of three years.¹⁰¹ Failure to pass the benefits on to tenants or keep proper records is considered an offence, and a property owner may face a fine not exceeding SGD\$5,000.¹⁰²

Tenants are able to seek relief against property owners who do not pass on the benefits by applying to a Valuation Review Panel.¹⁰³ Any determination or further direction of the Panel is appealable to the High Court.¹⁰⁴

A new rental relief framework for SMEs was introduced in Parliament in the COVID-19 (Temporary Measures) (Amendment) Bill on 5 June 2020.¹⁰⁵ This new framework provided additional relief to those unable to fulfil their obligations due to COVID-19 by mandating co-sharing of rental obligations between the Government, landlords and tenants. SME tenants in qualifying commercial properties received two months' waiver of their base rental while SME tenants in industrial / office properties received one month's waiver of their base rental. SMEs which have experienced a significant drop in their monthly revenue could qualify for an additional two-month waiver of base rental for qualifying commercial properties and an additional one-month waiver of their base rental for industrial / office properties. These additional rental waivers would be borne by the landlord. The landlord could apply for an assessment of the tenant's eligibility for relief. This application was examined by an assessor. The landlord could also seek for an assessment on the ground of financial hardship if they were unable to provide the additional rental waiver. Landlords who obtain an exemption on the ground of financial hardship were only required to give half of the additional rental waivers.

SMEs could also have opted to serve notice on their landlords to take up a prescribed repayment scheme for a specified portion of rental arrears accumulated from 1 February 2020 to 19 October 2020. Under this scheme, tenants must have started payment of the first instalment no later than 1 November 2020. Tenants can pay for a specified portion of their arrears in equal instalments over a period of up to nine months or the remaining term of their tenancy, whichever is shorter.

The interest on such arrears will be capped at 3% per annum. If the tenant fails to make timely payment under the scheme, the entire statutory repayment scheme will be cancelled, and the landlord will be entitled to immediate payment of all outstanding arrears and allowed to take steps under the contract for unpaid rent.

Due to difficulties in vacating a property after the end of a lease or license, tenants can now serve a notification of relief which will ensure that the tenant is not liable to the landlord for failing to vacate the property on time.

2.1.7 *Conduct of meetings*

With effect from 27 March 2020, the Infectious Diseases (Measures to Prevent Spread of COVID-19) Regulations 2020 came into force, limiting attendance for non-prohibited events to ten individuals. Thus, meetings required under written law or legal instruments became difficult to conduct with this limitation. This resulted in uncertainty as to how compliance with such requirements could be obtained, until legal certainty on the holding of such meetings was introduced through the Act.¹⁰⁶

Under the Act, where personal attendance at any meeting is required under any written law or legal instrument, the Minister may by order prescribe alternative arrangements for the meeting if it would be inexpedient or impracticable for the meeting to be convened.¹⁰⁷ These alternative arrangements will be deemed to satisfy the requirements in relation to the conduct of meetings.¹⁰⁸ Further guidance is also provided by the regulator.

2.2 **Recovery phase of the COVID-19 pandemic**

2.2.1 *Termination of contracts*

The COVID-19 pandemic has significantly impacted the viability of some businesses and changed the assumptions upon which businesses entered into contracts before COVID-19. While the Government has allowed the calibrated resumption of economic and social activities, safe distancing and travel restrictions will continue to impact many sectors. Small businesses and

99. COVID-19 (Temporary Measures) Act 2020 section 29(3).

100. COVID-19 (Temporary Measures) Act 2020 section 29(4).

101. COVID-19 (Temporary Measures) Act 2020 section 29(5).

102. COVID-19 (Temporary Measures) Act 2020 section 29(6).

103. COVID-19 (Temporary Measures) Act 2020 section 30(2).

104. COVID-19 (Temporary Measures) Act 2020 section 30(11).

105. Ministry of Law, 'New Rental Relief Framework for SMEs', Press Releases, 3 June 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/new-rental-relief-framework-for-smes>.

106. Ministry of Finance, 'Covid-19 relief measures: upcoming legislative provisions to provide legal certainty on holding of meetings', Press Release, 31 March 2020, available at: <https://www.mof.gov.sg/Newsroom/press-releases/covid-19-relief-measures-upcoming-legislative-provisions-to-provide-legal-certainty-on-holding-of-meetings>.

107. COVID-19 (Temporary Measures) Act 2020 section 27(1).

108. COVID-19 (Temporary Measures) Act 2020 section 27(3).

individuals who have been significantly impacted by COVID-19 and need to review their business models and contractual obligations will benefit from the Re-Align Framework. The Framework entered into force on 15 January 2021 and required a party to serve a notice of negotiation on the other party by 26 February 2021. The Re-Align Framework provides a quick and fair way for businesses to realign and move forward by allowing selected contracts to be renegotiated by way of mutual agreement with the counterparties. If they are unable to agree, the contract may be terminated. Businesses will remain liable for outstanding obligations but will not need to pay early termination penalties.¹⁰⁹

3. Legislative reforms for companies in financial distress

3.1 Hibernation phase of the COVID-19 pandemic

3.1.1 *Presumption of inability to pay debts*

The Act made it more difficult for a company to be wound up compulsorily by the court on the basis that it is unable to pay its debts. Under the IRDA and Limited Liability Partnerships Act, there is a presumption that a company or LLP is unable to pay its debts where it owes a sum exceeding SGD\$15,000 and SGD\$10,000 respectively and has for three weeks after receipt of a written demand neglected to pay the sum.¹¹⁰ It is common for creditors to rely on this presumption when applying for winding-up. The Act increased the minimum sum owing from SGD\$15,000 or SGD\$10,000 to SGD\$100,000 in the context of companies and LLPs. Likewise, the statutory period to respond to demands from creditors was extended from three weeks to six months.¹¹¹ These new requirements will apply so long as the written demand is made after the Act is in force.¹¹² After the expiration of the Act, these measures will continue to apply to any written demand served during the prescribed period.¹¹³

Where a creditor has received a notification of relief under the Act, certain actions are prohibited. However, service of a written demand on the company is not within the list of prohibited acts. As

such, creditors can continue to serve a written demand on the company or LLP to commence the period of non-satisfaction. Therefore, the Act only makes it more difficult for the presumption to apply given the higher threshold amount and longer period of non-satisfaction. This may result in fewer winding-up applications given the higher burden associated with proving that the company or LLP is unable to pay its debts. However, this does not operate as a moratorium against such applications.

3.1.2 *Commencing insolvency-related proceedings*

The Act does not affect the rights of persons to commence insolvency-related proceedings generally. As such, a company or LLP can be compulsorily wound up by the court subject to the more stringent requirements mentioned in section 3.1.1. Likewise, the Act does not affect the commencement of a voluntary winding-up initiated by a shareholder resolution or partners resolution. Under the Act, the right to commence insolvency-related proceedings is only affected when a notification of relief has been received. In such situations, the notification of relief serves as a moratorium against commencing and continuing insolvency-related proceedings as mentioned in section 2.1.1.

3.1.3 *Liability for wrongful trading*

Currently, officers face personal liability where a company, LLP or Business Trust incurs debts or other liabilities without the reasonable prospect of meeting them in full.¹¹⁴ As such, this may deter officers from continuing operations and trading. The Act relieves this pressure on officers by introducing a defence against personal liability where they have incurred the debt in the ordinary course of business during the prescribed period and before the appointment of a judicial manager or liquidator in the case of companies, before the appointment of a liquidator for LLPs and before the passing of a resolution approving the winding-up or the making of a court order directing winding-up of a registered business trust.¹¹⁵ This safe harbour provision acts as a safety net which allows businesses to carry on trading even while insolvent. However, this defence does not protect an officer who has acted fraudulently. The defence remains available in respect of a contracted debt during the prescribed period, even after the expiration of the Act.¹¹⁶

109. Ministry of Law, 'Re-Align Framework to Renegotiate Contracts for Businesses Significantly Impacted by COVID-19', available at: <https://www.mlaw.gov.sg/realign/re-align-framework>.

110. IRDA section 125(2)(a); Limited Liability Partnerships Act Fifth Schedule paragraph 3(2)(a). Prior to the commencement of the IRDA, however, the sum generally required to put a company in insolvency was \$10,000. Therefore, the COVID-19 (Temporary Measures) Act increased this sum from \$10,000 to \$100,000. After the commencement of the IRDA, on 30 July 2020, the threshold generally required to put a company in insolvency was raised to \$15,000. However, while the COVID-19 (Temporary Measures) Act 2020 remained in force, the quantitative threshold was \$100,000.

111. COVID-19 (Temporary Measures) Act 2020 sections 22(1) and 24(1).

112. COVID-19 (Temporary Measures) Act 2020 sections 26(17) and 26(19).

113. COVID-19 (Temporary Measures) Act 2020 sections 26(20)(g), 26(20)(i) and 26(20)(k).

114. IRDA section 239; Limited Liability Partnerships Act Fifth Schedule paragraph 93(3); Business Trusts Act section 50(1).

115. COVID-19 (Temporary Measures) Act 2020 sections 22(2), 23(2), 24(2) and 25.

116. COVID-19 (Temporary Measures) Act 2020 sections 26(20)(h), 26(20)(j), 26(20)(i) and 26(20)(m).

3.1.4 Relevant periods for avoidance actions and assessment of damages against delinquent officers

The length of time for which a company enjoys temporary relief from contractual obligations under the Act has an impact on certain periods relevant to actions commenced during winding-up and for the purposes of judicial management. The following periods are extended by the duration of the Relief Period.¹¹⁷

- The relevant lookback period for transactions at an undervalue and unfair preference transactions is extended by the relevant Relief Period. Under the IRDA 2018, the relevant lookback period for transactions at an undervalue is three years. The lookback period for unfair preference transactions is two years for transactions with an associate and one year for other transactions.¹¹⁸
- The relevant period in which certain floating charges can be avoided is extended by the relevant Relief Period. Under the IRDA 2018, this period is two years, where the charge is created in favour of a person who is connected with the company, and one year, where the charge is created in favour of any other person.¹¹⁹
- The two-year period which the court will consider in assessing damages against delinquent officers is extended by the relevant Relief Period.¹²⁰
- Under the IRDA 2018, the relevant period of three years for extortionate credit transactions is extended by the Relief Period.¹²¹

3.2 Recovery phase of the COVID-19 pandemic

3.2.1 New Insolvency, Restructuring and Dissolution Act

The New Insolvency, Restructuring and Dissolution Act 2018 (IRDA) came into force on 30 July 2020.¹²² While most of the provisions of the new legislation were already in place, a significant volume of subsidiary legislation came into force along with the IRDA.

3.2.2 Simplified insolvency programme for micro and small companies

Despite the attractiveness of Singapore's insolvency and restructuring framework, the ordinary insolvency system might not be suitable for small businesses. Therefore, due to the importance of micro, small and medium-sized enterprises (MSMEs) for the Singapore economy, the Government decided to implement a simplified insolvency programme to support small companies.¹²³ This framework came into force on 29 January 2021, and it allows viable MSMEs to have access to an affordable, simplified and expedited restructuring process. Likewise, it also provides a simplified winding-up process for small companies that are no longer viable. Thus, by facilitating a quick exit, entrepreneurs will be able to start a new venture, and the assets of their companies can be reallocated towards more productive activities that can generate jobs and growth. The details of the SIP for micro and small companies will be provided in section 5.1.

4. Financial and regulatory measures

4.1 Ministry of Manpower (MOM)

On 11 March 2020, MOM, together with the National Trade Union Congress and the Singapore National Employers Federation, jointly updated the Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment (the Advisory).¹²⁴ This Advisory provides guidance to affected employers on the appropriate measures to manage excess manpower. Employers are to consider the following alternatives to retrenchment:¹²⁵

- *Send employees for training to upgrade their skills and employability* – by upgrading the skills of employees, productivity can be improved, excess manpower can be redeployed to vacancies in other areas and skilled employees can be retained to meet business demands when the economy recovers. Employers are able to rely on training support schemes offered by the Government such as the SkillsFuture movement.
- *Redeploy employees to alternative areas of work within the company* – to assist with

117. COVID-19 (Temporary Measures) Act 2020 sections 5(9) and 5(10).

118. IRDA 2018 section 226.

119. IRDA 2018 section 229(2).

120. IRDA 2018 section 240(2).

121. IRDA 2018 section 228(2).

122. For a summary of the new Insolvency, Restructuring and Dissolution Act 2018, see Aurelio Gurrea-Martinez, 'Singapore's New Insolvency Restructuring and Dissolution Act', Singapore Global Restructuring Initiative Blog, 22 January 2021, available at: <https://ccla.smu.edu.sg/sgri/blog/2020/07/23/singapores-new-insolvency-restructuring-and-dissolution-act>.

123. For a summary of the new simplified insolvency programme, see Chiow Hui Min, 'Singapore's New Simplified Insolvency Programme for Micro and Small Companies', Singapore Global Restructuring Initiative Blog, 1 February 2021, available at: <https://ccla.smu.edu.sg/sgri/blog/2021/02/01/Singapore-new-simplified-insolvency-programme-micro-small-firms>.

124. Ministry of Manpower, 'Tripartite partners update advisory on managing excess manpower and responsible retrenchment in view of Covid-19', Press Release, 11 March 2020, available at: <https://www.mom.gov.sg/newsroom/press-releases/2020/0311-tripartite-partners-update-advisory-on-managing-excess-manpower-and-responsible-retrenchment>.

125. Ministry of Manpower, 'Tripartite partners update advisory on managing excess manpower and responsible retrenchment in view of Covid-19', Press Release, 11 March 2020, available at: <https://www.mom.gov.sg/-/media/mom/documents/employment-practices/guidelines/tripartite-advisory-on-managing-excess-manpower-and-responsible-retrenchment.pdf>.

redeployment, employers can use redeployment programmes under the Adapt and Grow Initiative.

- *Implement flexible work schedules* – flexible work schedules allow employers and employees to agree on reduced working hours during this period. The reduction in working hours is set aside to offset against longer working hours after this period has ended. Employers that wish to implement a flexible work schedule must apply to the Commissioner of Labour and must meet certain requirements such as: (1) obtaining majority support from affected employees; and (2) putting in place profit-sharing or incentive schemes for participating employees.
- *Implement flexible work arrangements* – employers can consider instituting part-time work and sharing of jobs depending on the operational needs of the business and the severity of the downturn. In developing these arrangements, employers should adopt the Tripartite Standard on Flexible Work Arrangements and be guided by the Tripartite Advisory on Flexible Work Arrangements.¹²⁶ Employers are able to tap on the Work-Life Grant (WLG) for support when implementing flexible work arrangements. The WLG provides cash incentives for businesses to adopt flexible work arrangements.¹²⁷
- *Implement shorter work-weeks* – when reducing working hours each week, employers may: (1) request employees to take up to 50% of their earned annual leave; (2) reduce the work-week by not more than three days and this reduction cannot last for more than three months at any one instance – a maximum reduction of three days is permitted where the company's performance is severely affected; and (3) pay the affected employees not less than 50% of their wage on the day(s) when they are not working during the period when shorter work-weeks are implemented.
- *Implement temporary layoffs* – when introducing temporary layoffs in job-scopes which are closed, employers may: (1) request employees to take up to 50% of their earned annual leave; (2) implement the layoff period such that it does not exceed one month at any one instance subject to review; and (3) pay the affected employees not less than 50% of their

wage during the layoff period.

- *Adjust wages in line with Tripartite norms* – the following wage adjustments can be reduced or not given: (1) annual wage increments; (2) variable bonus payment; (3) annual wage supplement; and (4) monthly variable component and / or other allowances.
- *Implement no-pay leave* – this option should be a last resort before considering retrenchment. In implementing no-pay leave, employers should have done the following: (1) considered other measures and consulted with their unions and employees; (2) in determining the extent and duration of the no-pay leave, consider the impact on rank-and-file employees; (3) senior management should lead by example by accepting earlier and / or deeper cuts in cost-saving measures; and (4) apply no-pay leave in conjunction with other cost-saving measures.
- *Employers should support employees to take on a second job to make up for lost income* – where there are prohibitions in their current employment contracts from taking on other forms of work and / or where there are possible conflicts of interests, employers are encouraged to waive the contractual obligations and assist employees in resolving the conflict of interests. Employees have to ensure that they are able to take on both jobs without compromising the interests of either employer.¹²⁸

Where employers have no alternative but to retrench employees, the selection of employees for retrenchment must be conducted fairly and based on objective criteria. Employers have to abide by the Tripartite Guidelines on Fair Employment Practices and can face investigations by the MOM if complaints of discriminatory employment practices are received. Further, employers must comply with the Mandatory Retrenchment Notifications requirement under the Employment Act.¹²⁹

The above measures are consistent with the guidelines issued by the National Wages Council.¹³⁰

MOM introduced three additional measures on 24 March 2020 to assist businesses with their manpower capabilities:¹³¹

126. Ministry of Manpower, 'Tripartite Standard on Flexible Work Arrangements launched', Employment Practices, 6 October 2017, available at: <https://www.mom.gov.sg/newsroom/press-releases/2017/1006-tripartite-standard-on-flexible-work-arrangements-launched>.

127. Ministry of Manpower, 'Work-Life Grant (WLG) for flexible work arrangements', Employment Practices, available at: <https://www.mom.gov.sg/employment-practices/good-work-practices/work-life-grant>.

128. Ministry of Manpower, 'Guide on second job arrangements for employees with reduced work hours in response to Covid-19', Advisories on Covid-19, 30 March 2020, available at: <https://www.mom.gov.sg/covid-19/second-job-arrangements>.

129. Ministry of Manpower, 'Tripartite partners update advisory on managing excess manpower and responsible retrenchment in view of Covid-19', Press Release, 11 March 2020, available at: <https://www.mom.gov.sg/-/media/mom/documents/employment-practices/guidelines/tripartite-advisory-on-managing-excess-manpower-and-responsible-retrenchment.pdf>.

130. Ministry of Manpower, 'National Wages Council 2020/2021 Guidelines', Employment Practices, 30 March 2020, available at: <https://www.mom.gov.sg/newsroom/press-releases/2020/0330-national-wages-council-2020-2021-guidelines>.

131. Ministry of Manpower, 'Further measures to help companies cope with Covid-19 situation', Media Release, 24 March 2020, available at: <https://www.mom.gov.sg/newsroom/press-releases/2020/0324-further-measures-to-help-companies-cope-with-covid-19-situation>.

- *Three-month extension of levy payment timeline for SMEs* – any foreign worker levy incurred in any month is due for payment by the 14th of the following month and failure to make this payment will result in any new and renewal work-pass applications being rejected. Two consecutive months of late or non-payment will result in all existing work passes being revoked. SMEs are given a three-month extension to make levy payments. This provides a window of five months to make payments before work passes are revoked. This measure applied to all levies incurred in 2020.
- *Levy waiver for foreign works on overseas leave* – levy waivers are permitted for up to 60 days for foreign workers who are on overseas home leave for at least seven consecutive days. The levy waiver period was increased to 90 days for foreign workers who are currently on overseas leave, given that many may face travel restrictions.
- *Man-year Entitlement (MYE) refund for construction firms* – the MYE is a work permit allocation system for foreign workers in the construction industry. In the event of delay in construction, any unused MYEs are forfeited which may result in higher cost to contractors. To assist the construction industry, a temporary scheme was introduced to refund unutilised MYE due to work disruptions from COVID-19. This relief was available for a period of five months beginning on 1 April 2020.

Further, MOM, on 1 April 2020, announced that it will expand on the temporary scheme which allows businesses in the manufacturing and services sectors to hire foreign workers from other businesses with the agreement of their employers without the workers having to leave Singapore. This temporary scheme is enhanced to now permit inter-sectoral transfer of foreign workers across all sectors. Additionally, it permits transfer of foreign workers whose work permits are nearing expiry. This will provide firms in all sectors more flexibility in managing their manpower needs by allowing firms which are shorthanded to tap the existing pool of foreign labour.

4.2 Monetary Authority of Singapore (MAS)

On 30 March 2020, MAS announced a range of monetary policy measures aimed at alleviating the

economic pressures as Singapore starts to face a recession.¹³² It will maintain a 0% per annum rate of appreciation of the policy band starting at the prevailing level of the SGD Nominal Effective Exchange Rate. There will not be any change to the width of the policy band. This will provide stability to the trade-weighted exchange rate and assist in ensuring price stability over the medium term.

On 31 March 2020, MAS, together with the financial industry in Singapore, introduced various measures to ease the financial burden on individuals and SMEs.¹³³

4.2.1 Helping individuals with loan and insurance commitments

Defer repayment of property loans

Individuals with residential property loans could apply to defer either their principal payments or both principal payments and interest payments up to 31 December 2020. Interest only accrued on the deferred principal amount. Individuals were not be required to show any hardship in making payments as a result of COVID-19. Lenders were required to approve any request for deferment unless the individual had been in arrears for more than 90 days as of 6 April 2020.

Banks have extended payment deferment to individuals with commercial or industrial property loans.¹³⁴

Lower interest on personal unsecured credit

Individuals can apply to their respective lenders to convert their outstanding balances under personal unsecured credit facilities to term loans at lower interest rates which will be capped at 8%. The term of a converted loan can be up to five years. However, this option is only available to individuals who have suffered a loss of 25% or more of their monthly income after 1 February 2020 and face the risk of incurring substantial arrears.

Deferred life and health insurance premium payments

Individuals can apply to defer premium payments for their life and health insurance for up to six months while enjoying continuing insurance coverage. Deferral is available for all individual life

132. Monetary Authority of Singapore, 'MAS Monetary Policy Statement – April 2020', Monetary Policy Statements, 30 March 2020, available at: <https://www.mas.gov.sg/news/monetary-policy-statements/2020/mas-monetary-policy-statement-30mar20>.

133. Monetary Authority of Singapore, 'MAS and financial industry to support individuals and SMEs Affected by the Covid-19 pandemic', Media Release, 31 March 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-and-financial-industry-to-support-individuals-and-smes-affected-by-the-covid-19-pandemic>. See also Monetary Authority of Singapore, 'MAS and financial industry support measures' available at: <https://www.mas.gov.sg/-/media/MAS/News/Media-Releases/2020/Annex-on-MAS-and-Financial-Industry-Support-Measures-31-Mar.pdf>.

134. Monetary Authority of Singapore, 'MAS clarifies LTV and TDSR rules for residential mortgages and MWLs', Media Release, 7 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-clarifies-ltv-and-tdsr-rules-for-residential-mortgages-and-mortgage-equity-withdrawal-loans>.

and health insurance policies with a policy renewal or premium due date between 1 April 2020 and 30 September 2020.

Flexible instalment plans for general insurance

Individuals can apply to their insurance companies for an instalment payment plan for general insurance policies while enjoying continuing insurance coverage. Through the instalment plan, policyholders are able to enjoy coverage while paying their premium in smaller amounts.

Second support package for individuals¹³⁵

Individuals with commercial and industrial property loans were able to apply to defer their principal payments up to 31 December 2020. Lenders would approve this request so long as the individuals' loan repayments were current as of 1 February 2020.

Individuals with mortgage equity withdrawal loans that were granted on or after 6 April 2020 could apply to defer either their principal payment or both the principal and interest payments up to 31 December 2020. If an individual chose to defer both principal and interest payments, interest only accrued on the deferred principal amount.

Individuals with renovation or non-Ministry of Education student loans could apply to defer both principal and interest payments up to 31 December 2020. Interest would only accrue on the deferred principal amount.

Individuals with motor vehicle loans and hire-purchase agreements could request for payment deferments on their loans. If a payment deferment is granted, the loan tenure may be extended by the corresponding deferment period. This would ease the amount in each monthly instalment when they resume regular repayments.

Eligible individuals on an existing debt consolidation plan may apply to extend the loan tenure for up to five years. This will help lower the monthly instalment repayments.

Individuals who are unable to meet the relevant minimum average daily or monthly balances for their retail bank accounts could apply to have the fall-below service fee waived up to 31

December 2020. Those who use GIRO arrangements for automated payment deductions could have bank fees waived for any failed deductions up to 31 December 2020.

Enhanced credit relief for landlords¹³⁶

Landlords who are current on their loan repayments as of 1 February 2020 could defer both principal and interest repayments up to 31 December 2020 if they are required to provide rental waivers under the Act. This deferment was available to landlords who successfully apply for a reduction in rental waivers on the ground of financial hardship. Interest only accrued on the principal amount deferred and not the deferred interest payments. The landlord could also have opted to extend the loan tenure by up to the corresponding deferment period. Their credit scores will be unaffected if they decide to defer payment.

4.2.2 Supporting SMEs with continued access to finance

Defer payment of principal on secured SME loans

SMEs could choose to defer principal payments on their secured term loans till 31 December 2020. However, this was subject to the lender's assessment of the quality of the SME's security. SMEs could also have chosen to extend the term period of the loan by up to the corresponding principal deferment period. However, this is only available to SMEs which were not more than 90 days in arrears as of 6 April 2020. SME borrowers are not subject to the total debt-servicing ratio (TDSR) rules if they qualify for deferment.¹³⁷

Lower interest on SME loans

Lenders could apply for low-cost funding under a new MAS SGD Facility until 31 December 2020. In order to make use of this new low-cost funding, they must commit to pass on the saving in funding cost to their SME borrowers. This will potentially reduce the interest rate for SME loans.

Assistance with insurance premium payment

Corporate policyholders may opt for instalment payment plans with their insurers. This will allow companies to enjoy insurance coverage while paying smaller premium amounts.

¹³⁵ Monetary Authority of Singapore, 'MAS And Financial Industry Provide Additional Support for Individuals', Media Release, 30 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-and-financial-industry-provide-additional-support-for-individuals#1>.

¹³⁶ Monetary Authority of Singapore, 'Additional Loan and Cashflow Support for Landlords and Businesses Affected by COVID-19', Media Release, 3 June 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/additional-loan-and-cashflow-support-for-landlords-and-businesses-affected-by-covid-19>.

¹³⁷ Monetary Authority of Singapore, 'MAS clarifies LTV and TDSR rules for residential mortgages and MWLs', Media Release, 7 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-clarifies-ltv-and-tdsr-rules-for-residential-mortgages-and-mortgage-equity-withdrawal-loans>.

*Enhanced credit relief for landlords*¹³⁸

SME Landlords can apply to defer principal payments on their commercial and property loans.

4.2.3 Ensuring interbank funding markets remain liquid and well-functioning

To ensure sufficient liquidity to the Singapore Dollar (SGD) and the US Dollar (USD) funding markets in Singapore, MAS established a new USD facility to provide up to USD60 billion of funding to ensure stable USD liquidity conditions. Further, MAS increased its daily money market operations to ensure that there is ample SGD liquidity to the bank system.

4.2.4 Adjustment of selected regulatory requirements and supervisory programmes

On 7 April 2020, MAS announced that it will adjust selected regulatory requirements and supervisory programmes to enable financial institutions to focus on dealing with COVID-19-related issues and to support their customers during this period.¹³⁹

Adjustment of banks' capital and liquidity requirements

Banks are allowed to take full recognition of regulatory loss allowance reserves as Tier 2 Capital. This will support the banks capacity to lend. Banks may also utilise their liquidity buffer as necessary to meet liquidity demands. To support lending, MAS will adjust the Net Stable Funding Ratio requirement by reducing the amount of stable funding that banks must maintain for loans to individuals and businesses that are maturing in less than six months from 50% to 25%. Both changes will apply until 30 September 2021 and may be extended if necessary.

Adjustment of accounting loan loss allowances

Guidance has been provided to Financial Institutions that, when assessing COVID-19's impact on future economic conditions in estimating accounting loan loss allowances, they should also consider the measures taken by the Government to bolster economic resilience. Further, Financial Institutions are not expected to maintain higher accounting loan loss allowances solely because the COVID-19 relief measures apply to these loans. Instead, Financial Institutions should continue

to assess a borrower's risk of default holistically while considering the mitigating effects of the relief measures, and the borrower's ability to make full repayment based on the revised loan terms as well as its creditworthiness in the long term.

Deferring application of new regulations and policies

The implementation of the final set of Basel III reforms for banks in Singapore will be deferred by one year. This deferment is consistent with the announcement by the Basel Committee on Banking Supervision to delay the internationally agreed start date for the revised standards.

The implementation of the following standards will be deferred to 1 January 2023:

- Credit risk, operational risk, leverage ratio, output floor and related disclosure requirements – the accompanying transitional arrangements for the output floor will be extended to 1 January 2028.
- Market risk and credit valuation adjustments for supervisory reporting purposes.

The implementation of the final two phases of the margin requirements for non-centrally cleared derivatives will be deferred by one year. The new timelines are as follows:

- 1 September 2021 for a bank or merchant bank whose group's aggregate non-centrally cleared derivatives exposure is more than SGD\$80 billion.
- 1 September 2022 for a bank or merchant bank whose group's aggregate non-centrally cleared derivatives exposure is more than SGD\$13 billion and up to SGD\$80 billion.

The implementation of certain requirements under the Securities and Futures (Amendment) Act 2017 will be deferred. The transition period for these requirements will be extended to 8 October 2021. Requirements include:¹⁴⁰

- Licensing and conduct requirements for entities dealing in and advising on Over-the-Counter Derivatives.

¹³⁸ Monetary Authority of Singapore, 'Additional Loan and Cashflow Support for Landlords and Businesses Affected by COVID-19', Media Release, 3 June 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/additional-loan-and-cashflow-support-for-landlords-and-businesses-affected-by-covid-19>.

¹³⁹ Monetary Authority of Singapore, 'MAS takes regulatory and supervisory measures to help FIs focus on supporting customers', Media Release, 7 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-takes-regulatory-and-supervisory-measures-to-help-fis-focus-on-supporting-customers#footnote1-footnote-1>.

¹⁴⁰ Monetary Authority of Singapore, 'MAS takes regulatory and supervisory measures to help FIs focus on supporting customers – Annex A', Media Release, 7 April 2020, available at: <https://www.mas.gov.sg/-/media/MAS/News/Media-Releases/Annex-A---MAS-Takes-Regulatory-and-Supervisory-Measures-to-Help-FIs-Focus-on-Supporting-Customers.pdf>.

- Requirements relating to customer's moneys and assets in trust and custody accounts.
- Conduct requirements such as the provision of statement of accounts to customers and keeping of certain records.

The introduction of the following policies will be deferred once the extended ongoing consultations have closed:¹⁴¹

- Requirements on Controls Against Market Abuse.
- Guidelines on Individual Accountability and Conduct/Information Paper on Culture and Conduct Practices of Financial Institutions.
- Complaints Handling and Resolution Regulations.
- Requirements on Execution of Customers' Orders.

Extending reporting timelines and deferring non-urgent industry projects

MAS will provide more latitude on submission timelines for regulatory reports. This will be balanced against the need for timeline information to facilitate MAS's supervisory reviews. Additionally, non-urgent industry projects such as the launch of a new electronic system for banks and insurers will be deferred.

Suspension of regular onsite inspections and supervisory visits

All regular on-site inspections and supervisory visits to Financial Institutions will be suspended. Instead, the focus of MAS's supervisory review will be on how Financial Institutions are managing the impact of COVID-19 on their business and operations.

4.2.5 Application of loan-to-value (LTV) limits and TDSR rules for residential mortgages and mortgage equity withdrawal loans

LTV limits determine the maximum amount an individual can borrow from a Financial Institution for a housing loan. This limit varies according to the number of outstanding housing loans.¹⁴²

TDSR refers to the portion of a borrower's gross monthly income that goes towards paying back the monthly debt obligations, including the loan being applied for. The rules require a borrower's TDSR to be less than or equal to 60%.¹⁴³

For individuals

The TDSR rules will not apply to the following:¹⁴⁴

- *Deferment of mortgage repayments* – borrowers will not be subject to the TDSR rules when applying for payment deferrals for residential, commercial or industrial property loans under the MAS measures mentioned above.
- *Refinancing of owner-occupied residential mortgages* – borrowers will not be subject to LTV limits and TDSR rules when they refinance their loans for owner-occupied residential property. This will assist borrowers in obtaining a lower interest rate.
- *Mortgage equity withdrawal loan* – borrowers who take up mortgage equity withdrawal loans secured on their existing private residential or non-residential properties are not subject to the TDSR rules if the LTV ratio does not exceed 50%.
- *Unsecured credit facilities such as credit card and personal loans* – borrowers are not subject to TDSR rules when they take up unsecured credit facilities, such as personal loans and credit cards. However, there will be minimum income requirements to prevent excessive accumulation of debt by individuals.

For business owners and SMEs

The TDSR rules will not apply to the following:¹⁴⁵

- *Deferment of mortgage repayments* – SME borrowers are not subject to TDSR rules if they qualify for payment deferrals on their secured property loans under the MAS measures mentioned above.
- *Mortgage equity withdrawal loan* – businesses that take up mortgage equity withdrawal

141. Monetary Authority of Singapore, 'MAS takes regulatory and supervisory measures to help FIs focus on supporting customers – Annex B', Media Release, 7 April 2020, available at: <https://www.mas.gov.sg/-/media/MAS/News/Media-Releases/Annex-B---MAS-Takes-Regulatory-and-Supervisory-Measures-to-Help-FIs-Focus-on-Supporting-Customers.pdf>.

142. Monetary Authority of Singapore, 'Rules for New Housing Loans', Explaners, 5 July 2018, available at: <https://www.mas.gov.sg/regulation/explaners/new-housing-loans/loan-tenure-and-loan-to-value-limits>.

143. Monetary Authority of Singapore, 'Rules for New Housing Loans', Explaners, 5 July 2018, available at: <https://www.mas.gov.sg/regulation/explaners/new-housing-loans/msr-and-tdsr-rules>.

144. Monetary Authority of Singapore, 'MAS clarifies LTV and TDSR rules for residential mortgages and MWLs', Media Release, 7 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-clarifies-ltv-and-tdsr-rules-for-residential-mortgages-and-mortgage-equity-withdrawal-loans>.

145. Monetary Authority of Singapore, 'MAS clarifies LTV and TDSR rules for residential mortgages and MWLs', Media Release, 7 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-clarifies-ltv-and-tdsr-rules-for-residential-mortgages-and-mortgage-equity-withdrawal-loans>.

loans secured on residential or non-residential properties are not subject to TDSR rules and LTV limits. This is intended to facilitate the provision of credit to businesses especially those which may rely on mortgage equity withdrawal loans to finance their operations.

4.2.6 SGD\$125 million package for financial institutions and FinTech firms

On 8 April 2020, MAS announced a SGD\$125-million support package intended to sustain and strengthen Financial Institutions and FinTech firms.¹⁴⁶

Supporting workforce training and manpower costs

A new Training Allowance Grant (TAG) has been introduced to encourage Financial Institutions and FinTech firms to make use of the downtime in business activity by training and deepening the capabilities of employees. TAG supplements the JSS by providing training allowances for completing training courses accredited by the Institute of Banking and Finance. The training allowance is SGD\$10 per hour for self-sponsored individuals and SGD\$15 per hour for employees sponsored by Financial Institutions and FinTech firms. Course fee subsidies are up to 90% for the training courses and these subsidies will be extended to employees of FinTech firms.

MAS has also doubled the salary support for Financial Institutions to SGD\$2,000 per month to hire Singapore citizens who are fresh graduates or workers from other sectors and place them in talent development programmes under the Financial Associate Management Scheme.¹⁴⁷

Strengthening digitalisation and operational resilience

A new Digital Acceleration Grant (DAG) has been introduced to support digitalisation in small Financial Institutions and FinTech firms. The DAG can be used to support the adoption of digital solutions to strengthen operational resilience, process efficiency, risk management and customer service.

The DAG will have two tracks:

- *The Institution Project Track* – supports 80% of qualifying expenses for the adoption of digital

solutions by smaller Financial Institutions and FinTech firms. Qualifying expenses include hardware and software costs as well as cost for professional services. There is a cap of SGD\$120,000 per entity over the duration of the scheme. The funding period is also capped at one year.¹⁴⁸

- *The Industry Pilot Track* – supports collaboration among at least three smaller Financial Institutions to customise digital solutions for implementation within their institutions. 80% of qualifying expenses will be co-funded, capped at SGD\$100,000 per participating Financial Institution per project. The funding period is capped at two years from implementation.¹⁴⁹

Enhancing FinTech firms' access to digital platforms and tools

All Singapore-based FinTech firms were given six months' free access to API Exchange, an online global marketplace and sandbox for collaboration and sales. To qualify, firms had to sign up to the API Exchange platform by 31 December 2020, and the six-month period began running from the time of registration. Through this platform, FinTech firms and Financial Institutions can integrate and test solutions via a cloud-based architecture.

A new digital self-assessment framework will be developed with the Singapore FinTech Association which will help FinTech firms provide a first-level assurance to Financial Institutions about the quality of their solutions.

MAS-SFA-AMTD Fintech Solidarity Grant

A new SGD\$6 million grant was established to support Singapore-based FinTech firms.¹⁵⁰ The grant consists of two components. First, a Business Sustenance Grant which is aimed at providing eligible firms with a one-time grant for up to SGD\$20,000 to cover daily working capital expenditures. Second, a Business Growth Grant provides eligible firms with up to SGD\$40,000 for their first proof of concept and SGD\$10,000 for each subsequent proof of concept subject to a cap of SGD\$80,000 per firm. The grant also provides funding for salaries of undergraduate interns, capped at SGD\$1,000 per month per intern. This is expected to support 120 interns in the FinTech sector.

146. Monetary Authority of Singapore, 'MAS launches S\$125 million package for financial institutions and Fintech firms to strengthen long-term capabilities', Media Release, 8 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-launches-package-for-fis-and-fintech-firms-to-strengthen-long-term-capabilities>.

147. Monetary Authority of Singapore, 'MAS launches S\$125 million package for financial institutions and Fintech firms to strengthen long-term capabilities – Annex A: Enhancements to schemes for the financial sector workforce', Media Release, 8 April 2020, available at: <https://www.mas.gov.sg/-/media/MAS/resource/covid-19/ANNEX-A---ENHANCEMENTS-TO-SCHEMES-FOR-THE-FINANCIAL-SECTOR-WORKFORCE.pdf>.

148. Monetary Authority of Singapore, 'MAS launches S\$125 million package for financial institutions and Fintech firms to strengthen long-term capabilities – Annex B: Digital acceleration grant', Media Release, 8 April 2020, available at: <https://www.mas.gov.sg/-/media/MAS/resource/covid-19/ANNEX-B---DIGITAL-ACCELERATION-GRANT.pdf>.

149. Monetary Authority of Singapore, 'MAS launches S\$125 million package for financial institutions and Fintech firms to strengthen long-term capabilities – Annex B: Digital acceleration grant', Media Release, 8 April 2020, available at: <https://www.mas.gov.sg/-/media/MAS/resource/covid-19/ANNEX-B---DIGITAL-ACCELERATION-GRANT.pdf>.

150. Monetary Authority of Singapore, 'New S\$6 Million Grant Scheme to Support Singapore FinTech Firms', Media Release, 13 May 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/new-grant-scheme-to-support-singapore-fintech-firms>.

4.2.7 Assistance to Singapore Real Estate Investment Trusts

On 16 April 2020, new measures were introduced to specifically assist Real Estate Investment Trusts listed on the Singapore Exchange (S-REIT) by providing greater flexibility to manage their cash flows and raise funds.¹⁵¹

*Extending the permissible period for distribution of taxable income*¹⁵²

The timeline for S-REITs to distribute at least 90% of their taxable income derived from FY20 has been extended to 31 December 2021. For FY21, it will be extended to 31 December 2021 or 3 months after the end of the S-REIT's FY21, whichever is later. The extension will afford more flexibility in managing their cash flow needs.

Higher leverage limit and deferral of interest coverage requirement

The leverage limit for S-REITs will be increased from 45% to 50% to provide greater flexibility in managing their capital structure.

The implementation of a new minimum interest coverage ratio requirement, which required S-REITs to have a minimum interest coverage ratio of 2.5 times before being able to increase their leverage beyond the prevailing 45%, has been deferred to 1 January 2022.

To provide investors with timely information concerning the financial position of the S-REITs, disclosure of their leverage ratios and interest coverage ratio will be required in annual reports and interim financial results.

4.2.8 Restriction on dividends

On 29 July 2020, MAS called on locally-incorporated banks headquartered in Singapore (local banks) to cap their total dividends per share (DPS) for FY2020 at 60% of FY2019's DPS, and offer shareholders the option of receiving the dividends to be paid for FY2020 in scrip in lieu of cash.¹⁵³ While MAS believes that local banks have built up strong capital positions over the years and are well-placed to weather the risks and uncertainties ahead, it also suggested that

it would be prudent for local banks to put aside a greater portion of earnings during this period. This will bolster the local banks' ability to continue to support the credit needs of businesses and consumers as well as absorb economic shocks should a more adverse scenario materialise.¹⁵⁴

4.3 Singapore Stock Exchange (SGX) and the Accounting and Corporate Regulatory Authority (ACRA)

To ensure that issuers practise safe-distancing measures when conducting general meetings, SGX and ACRA, together with MAS, published a guidance note on 31 March 2020. It had earlier allowed time extensions for issuers which end their financial year on 31 December 2019 to hold their Annual General Meeting (AGM) by 30 June 2020.¹⁵⁵

Issuers going ahead with their AGMs before 30 April 2020 had to adopt alternative measures when conducting the meeting. First, alternative measures must provide shareholders with the opportunity to ask questions. This can be facilitated by inviting questions to be submitted in advance or organising a virtual information session to engage in questions with management and the board of directors. Second, the meeting must be streamed by a 'live' webcast. Third, it must allow for proxy voting.¹⁵⁶

These measures are supported by the Act. The Minister can permit alternative arrangements to be put in place where it would be inexpedient or impracticable for the meetings to be convened. Alternative arrangements include: (1) conducting the meeting online, with the option for real-time voting; (2) reducing the specified number for the required quorum; and (3) deferral of such meetings.¹⁵⁷

ACRA has granted further extensions on deadlines for holding AGMs and filing annual returns.¹⁵⁸ A 60-day extension of time was granted to all listed and non-listed companies whose AGMs were due between 16 April and 31 July 2020. Companies that have been granted extensions to hold their AGMs during this period were also granted a further 60-day extension from the last day of extension. The 60-day extension of time applied to filing due dates for annual returns for the period of 1 May 2020 to 31 August 2020 for both listed and non-listed companies. These extensions apply automatically.

151. Monetary Authority of Singapore, 'New Measures to Help REITs Navigate Operating Challenges Posed by Covid-19', Press Release, 16 April 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/new-measures-to-help-reits-navigate-operating-challenges-posed-by-covid-19>.

152. Monetary Authority of Singapore, 'Additional Loan and Cashflow Support for Landlords and Businesses Affected by COVID-19', Media Release, 3 June 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/additional-loan-and-cashflow-support-for-landlords-and-businesses-affected-by-covid-19>.

153. Monetary Authority of Singapore, 'MAS Calls on Local Banks to Moderate FY2020 Dividends', 29 July 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/mas-calls-on-local-banks-to-moderate-fy2020-dividends>.

154. Ibid.

155. Singapore Stock Exchange, 'SGX RegCo gives issuers up to 30 June 2020 to hold AGMs to approve FY Dec 2019 results amid 2019-nCoV situation', News Release, 7 February 2020, available at: <https://www.sgx.com/media-centre/20200207-sgx-regco-gives-issuers-30-june-2020-hold-agms-approve-fy-dec-2019-results>. See also Monetary Authority of Singapore, 'ACRA, MAS and SGX RegCo update guidance on general meetings', Media Release, 31 March 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/acra-mas-and-sgx-regco-update-guidance-on-general-meetings>.

156. Singapore Stock Exchange, 'ACRA, MAS and SGX RegCo update guidance on general meetings', News Release, 31 March 2020, available at: <https://www.sgx.com/media-centre/20200331-acra-mas-and-sgx-regco-update-guidance-general-meetings>.

157. COVID-19 (Temporary Measures) Act 2020 section 27.

158. Accounting and Corporate Regulatory Authority, 'ACRA's support measures and guidance for businesses during Covid-19', Press Release, 7 April 2020, available at: [https://www.acra.gov.sg/docs/default-source/news-events-documents/2020/press-release-extension-of-time-for-agm-and-ar-\(web\)](https://www.acra.gov.sg/docs/default-source/news-events-documents/2020/press-release-extension-of-time-for-agm-and-ar-(web)).

SGX, on 8 April 2020, announced further measures to support issuers during this period:¹⁵⁹

- Suspension of entry into the financial watch-list – this financial watch-list is used to compel companies to turn around their financial performance after three years of losses and when its market capitalisation falls below SGD\$40 million. To account for the challenging business climate, SGX provisionally suspended the half-yearly reviews to place issuers on the financial watch-list. For companies currently on the watch-list, they continue to be able to leave the watch-list once they meet the exit criteria.
- Mainboard issuers are allowed to seek a general mandate for an issue of pro rata shares and convertible securities of up to 100% of its share capital, excluding treasury shares and subsidiary holdings in each class. This is up from 50% previously. This enhancement will continue until 31 December 2021. This increase does not impact the aggregate number of shares and convertible securities issued other than on a pro rata basis which remains at not more than 20%. Issuers seeking to make use of this enhanced share issue limit will be subject to, among others, the following conditions: (1) the board of directors will have to confirm to the regulator that the share issuance is in the interest of the company and its shareholders; and (2) disclose this to the shareholders in the notice to conduct the general meeting.

On 13 April 2020, the COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings for Companies, Variable Capital Companies, Business Trusts, Unit Trusts and Debenture Holders) Order 2020 was issued to prescribe alternative arrangements for the conduct of meetings.¹⁶⁰

Compliance with the alternative arrangements is deemed to satisfy the relevant provisions of the written law or legal instrument requiring the meeting. All meetings have to continue to abide by the prevailing safe distancing measures.¹⁶¹

Amendments were made to the COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings) Orders, to extend the legislation to 30 June 2021. The amendments allowed for certain meetings, such as the general and board meetings of management corporations, to be deferred up to 31 December 2020. Other meetings, such as those of bankruptcy and insolvency-related meetings, could be deferred to 30 September 2020.¹⁶²

Given the enhanced safe distancing measures, the preparation of financial results may not always be feasible. Thus, SGX has granted an auto-extension for the release of the company's unaudited financial results.¹⁶³ For companies whose financial year ends in February and March, a two-month extension was granted whereas a month-extension was granted to companies whose financial year ends in April.

To facilitate rights issues and take-over or merger transactions, additional measures were announced on 6 May 2020 which will allow for the electronic dissemination of Offer Documents. This obviated the need to despatch hardcopy Offer Documents.¹⁶⁴

4.4 Enterprise Singapore (ESG)

To support SMEs which have little to no experience with e-commerce, ESG launched the E-Commerce Booster Package which aims to assist retailers in putting their business online to diversify their revenue streams. Under this package, 90% of the cost to onboard e-commerce platforms for domestic and/or overseas market will be covered, capped at SGD\$9,000. Further, 90% of the qualifying manpower cost will be covered for three months. The additional manpower can assist the businesses as they transition online.¹⁶⁵

4.5 Singapore Tourism Board (STB)

To support the tourism sector, STB has introduced new initiatives to assist with increasing customer engagement, strengthen business foundations and improve manpower capabilities.¹⁶⁶

A SGD\$20 million Marketing Partnership Programme was launched to support part of the marketing costs incurred by businesses. This ensures that the international presence of the tourism sector in Singapore remains strong and can build demand once the market recovers.

STB is also supporting the digital transformation of the tourism sector by providing necessary tools for businesses to assess their current state of transformation and also the means of sharing information on how to improve. Additional means of upskilling employees will also be provided through the form of online training.

159. Singapore Stock Exchange, 'SGX RegCo announces measures to support issuers amid challenging Covid-19 business climate', News Release, 8 April 2020, available at: <https://www.sgx.com/media-centre/20200408-sgx-regco-announces-measures-support-issuers-amid-challenging-covid-19>.

160. The COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings for Companies, Variable Capital Companies, Business Trusts, Unit Trusts and Debenture Holders) Order 2020 can be viewed at: <https://sso.agc.gov.sg/SL/COVID19TMA2020-S269-2020?DocDate=20200413>.

161. Monetary Authority of Singapore, 'Additional Guidance on the Conduct of General Meetings During Elevated Safe Distancing Period – Annex: Checklist for the Conduct of General Meetings During Circuit Breaker', Press Release, 13 April 2020, available at: <https://www.mas.gov.sg/-/media/MAS/News/Media-Releases/2020/Annex-Additional-Guidance-on-the-Conduct-of-General-Meetings-During-Elevated-Safe-Distancing-PeriodFI.pdf>.

162. Ministry of Law, 'COVID-19 Relief Measures – Refinements to Alternative Arrangements for Meetings', Press Release, 29 September 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/refinements-to-alternative-arrangements-for-meetings>.

163. Singapore Stock Exchange, 'SGX RegCo grants auto-extension for release of unaudited financial results for FYs ended Feb, Mar and April 2020', Media Release, 22 April 2020, available at: <https://www.sgx.com/media-centre/20200422-sgx-regco-grants-auto-extension-release-unaudited-financial-results-fys-ended>.

164. Monetary Authority of Singapore, 'Electronic Dissemination of Rights Issues and Take-over Documents Allowed Until 30 September 2020', Media Release, 6 May 2020, available at: <https://www.mas.gov.sg/news/media-releases/2020/electronic-dissemination-of-rights-issue-and-take-over-documents-allowed-until-30-september-2020>. See also Securities and Futures (Offers of Investments) (Temporary Exemption from Sections 277(1)(c) and 305B(1)(b)) Regulations 2020.

165. Enterprise Singapore, 'Enterprise Singapore rolls out E-Commerce Booster Package to drive business transformation and diversification of revenue streams among retailers', Media Release, 2 April 2020, available at: <https://www.enterprisesg.gov.sg/media-centre/media-releases/2020/april/esg-rolls-out-e-commerce-booster-package-for-retailers>.

166. Singapore Tourism Board, 'STB launches new initiatives to further support tourism businesses and workers', Media Releases, 24 April 2020, available at: <https://www.stb.gov.sg/content/stb/en/media-centre/media-releases/stb-launches-newinitiativesofurtherupporttourismbusinessesandw.html.html>.

To assist travel agents who have experienced a significant drop in the volume of sales and bookings, the minimum financial requirement has been dropped by 90% from 8 April 2020 to 31 December 2020. Auditor certified accounts can also be submitted in lieu of audited statement of accounts for the financial year ending on or after 1 March 2020 in order to free up cash flow.

5. Specific measures for micro and small businesses

5.1 Reforms adopted for micro and small companies

In October 2020, the Simplified Insolvency Programme (SIP) was introduced by the Singapore Government.¹⁶⁷ It was passed by Parliament on 3 November 2020, as an amendment to the IRDA. The SIP is a temporary measure targeted at micro and small companies (MSCs) affected by the COVID-19 pandemic. Applications opened on 29 January 2021, and the programme has initially been made available for 6 months – that is, until 28 July 2021. However, it may be extended should the need arise.¹⁶⁸

The SIP allows for MSCs to conduct faster, lower-cost and more efficient restructuring and insolvency proceedings. There are two separate programmes under the SIP – the Simplified Debt Restructuring Programme (SDRP) and the Simplified Winding Up Programme (SWUP) – which are both administered by the Official Receiver and any private insolvency practitioners he sees fit to assign.¹⁶⁹

Under the SIP, the MSC must meet the follow criteria:

- an annual sales turnover of not more than SGD\$10 million;
- company liabilities (including contingent and prospective liabilities) not exceeding SGD\$2 million;
- number of creditors not exceeding 50;
- number of employees not exceeding 30;

- incorporated in Singapore; and
- unencumbered assets of not more than SGD\$50,000 (only applicable for SWUP).

To prevent any abuse of the scheme, MSCs who are unlikely to be able to formulate and approve a restructuring plan within 90 days, or those who have creditors representing at least 1/3 of the company's creditors objecting to the programme, will not be suitable for the SIP. As the SIP is aimed at simpler cases, debtors with special complexity or requiring significant expertise may also be ineligible.

The SDRP facilitates the restructuring of debts and potential rehabilitation of viable MSCs. It adapts the existing pre-packed scheme of arrangement in the IRDA, by reducing the threshold requirement for creditors' approval under the scheme to two-thirds in value, down from requiring a majority in number holding 75% in value. The SIP also simplifies the process to require only one application to the High Court, instead of the two applications generally needed under the IRDA. Companies subject to the SDRP will also enjoy an automatic moratorium to protect them from creditors' actions, and there will be a temporary restriction of *ipso facto* clauses. The debtor remains in possession throughout the SIP, and will need to develop its restructuring plan within 90 days unless an extension is granted. The IRAS has specified that debts forgiven under the SDRP will be regarded as capital in nature, and thus not subject to income tax, given that the SDRP is intended to assist viable businesses in their debt restructuring and possible rehabilitation.¹⁷⁰

The SWUP is aimed at encouraging the orderly winding up of non-viable MSCs in an efficient and cost-effective manner. It adapts the existing creditors' voluntary winding up process in the IRDA, removing the need for a Court application to start the winding up procedure and allowing the MSC to make a direct application to the Official Receiver. The SWUP also provides that a company may be dissolved within 30 days if the liquidator views that the assets of the company are insufficient to meet the expenses of winding up, and its affairs do not require further investigation. This simplifies the timeline, and eliminates the need for the further steps such as the further realisation of assets and distribution of dividends. The scope of the liquidator's functions has

167. Ministry of Law, 'Financially Distressed Micro and Small Companies May Apply for Simplified Insolvency Programme From 29 January 2021', Press Release, 28 January 2021, available at: <https://www.mlaw.gov.sg/news/press-releases/simplified-insolvency-programme-commences>.

168. For more details on the new simplified insolvency programme, see Hui Min Chiow, 'Singapore's New Simplified Insolvency Programme for Micro and Small Companies', available at: <https://ccla.smu.edu.sg/sgri/blog/2021/02/01/Singapore-new-simplified-insolvency-programme-micro-smallfirms>.

169. Ministry of Law, 'Simplified Insolvency Programme', Press Release, 5 October 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/simplified-insolvency-programme>.

170. IRAS, 'Tax Treatment of Debts Forgiven under MinLaw's Simplified Debt Restructuring Programme', available at: <https://www.iras.gov.sg/irashome/COVID-19-Support-Measures-and-Tax-Guidance/Tax-Guidance/For-Businesses/Tax-Treatment-of-Debts-Forgiven-under-MinLaw-s-Simplified-Debt-Restructuring-Programme/>.

also been curtailed, to make the process more suitable for MSCs due to their simpler structure and need for lower-cost procedures. For example, no creditors' meetings will be convened under the SIP, and the liquidator may only commence legal proceedings to preserve the rights of the company. If the MSC is ultimately found to be unsuitable for the SWUP, the Official Receiver or an interested party may apply to place the company into a Court-ordered winding up under the IRDA instead.

5.2 Reforms adopted for personal bankruptcy

During the hibernation phase, the COVID-19 (Temporary Measures) Act 2020 raised the minimum aggregate debt which triggers a report by the Official Assignee on the unsuitability of an individual for a debt repayment scheme from SGD\$100,000 to SGD\$250,000.¹⁷¹ It also raised the aggregate debt level for a certificate of inapplicability to be issued by the Official Assignee from SGD\$100,000 to SGD\$250,000 in the case of any debt to which the debtor is subject at the effective date of the debt repayment scheme and any such interest on such debt which is payable before the effective date.¹⁷² It raised the threshold from SGD\$50,000 to SGD\$100,000 for the aggregate of the following debt with respect to the certificate of inapplicability: (1) any debt to which the debtor becomes subject after the effective date of the scheme but before the cessation of the scheme by reason of any obligation incurred before the effective date and any interest on such debt which is payable by the debtor for any period before the effective date; and (2) any debt being the balance due from the debtor after the security in respect of a secured debt owing by the debtor at the effective date of the scheme is realised at any time before the cessation of the scheme.¹⁷³

Similar to the changes for winding-up, the Act makes it more difficult for a bankruptcy application to be made. The aggregate amount of debt necessary to make a bankruptcy application has been raised from SGD\$15,000 to SGD\$60,000.¹⁷⁴ With respect to the presumption of inability to pay debts, the period of non-satisfaction was increased from 21 days to six months.¹⁷⁵

The Act increased the qualifying debt level for a debtor to be suitable for a debt repayment scheme from the maximum amount of SGD\$100,000 to SGD\$250,000.¹⁷⁶

The above measures do not apply to bankruptcy applications commenced and statutory demands served before the Act is in force.¹⁷⁷ After the expiration of the Act, the measures continue to apply to the relevant bankruptcy applications and statutory demands.¹⁷⁸

Last, it similarly introduced a safe harbour defence provision which allows debt to be incurred in the ordinary course of business during the prescribed period and before the making of an application for voluntary arrangement or bankruptcy.¹⁷⁹ This allows the individual to incur the debt without the expectation of being able to pay it.

The measures under the Act continued to apply even after the IRDA entered into force.¹⁸⁰ Therefore, bankruptcy applications can be disrupted by the notification of relief as mentioned in section 2.1.1. The notification of relief was extended by a period equal to the period established for corporate debtors.¹⁸¹

5.3 Other measures to support small businesses

Since the insolvency framework for MSMEs only applies to micro and small companies, a new relief scheme has been created to support sole proprietors and partnerships affected by the COVID-19 pandemic.

The Association of Banks in Singapore and the Ministry of Law launched the Sole Proprietors and Partnerships (SPP) Scheme in November 2020, to help eligible businesses restructure their unsecured business debts.¹⁸² It is intended to complement the SIP and provides targeted help for sole proprietors and partnerships who are having temporary difficulties in servicing their loan commitments. The SPP Scheme reduces the monthly instalment payment for unsecured business loans owed to participating lenders, by extending the loan repayment period to up to a maximum of eight years. The new interest rates will be based on the original contractual terms, up to a maximum of 7% per annum. To be eligible, the SPP's total unsecured debt must not exceed SGD\$1 million, and the unsecured debts must be owed to two or more lenders, who are participating lenders under the SPP Scheme.

To complement the SPP Scheme, the Monetary Authority of Singapore has introduced measures

171. COVID-19 (Temporary Measures) Act 2020 section 20(1)(a); Bankruptcy Act section 56B(2)(a).

172. COVID-19 (Temporary Measures) Act 2020 section 20(1)(b); Bankruptcy Act section 56L(a).

173. COVID-19 (Temporary Measures) Act 2020 section 20(1)(c); Bankruptcy Act section 56L(b).

174. COVID-19 (Temporary Measures) Act 2020 section 20(1)(d); Bankruptcy Act section 61(1)(a).

175. COVID-19 (Temporary Measures) Act 2020 section 20(1)(e); Bankruptcy Act section 62(a)(ii).

176. COVID-19 (Temporary Measures) Act 2020 sections 20(1)(h) and 20(1)(i); Bankruptcy Act sections 65(7)(a) and 67(3)(a).

177. COVID-19 (Temporary Measures) Act 2020 sections 26(1)-(8).

178. COVID-19 (Temporary Measures) Act 2020 sections 26(20)(a)-(f).

179. COVID-19 (Temporary Measures) Act 2020 section 20(2); Bankruptcy Act section 144.

180. COVID-19 (Temporary Measures) Act 2020 section 21.

181. COVID-19 (Temporary Measures) Act 2020 section 5(11).

182. Ministry of Law 'Sole Proprietors and Partnerships (SPP) Scheme launched to help businesses in financial distress', Press Release, 1 November 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/2020-11-01-sole-proprietors-and-partnerships-scheme>.

for SMEs facing cash-flow difficulties in 2021. The main measures are the Extended Support Scheme – Standardised (ESS-S) and the Extended Support Scheme – Customised (ESS-C).¹⁸³ The ESS-S allows eligible SMEs to defer 80% of principal repayment on their secured loans, hire purchase agreements and loans granted under Enterprise Singapore's loan schemes, while the ESS-C facilitates the restructuring of the SME's credit facilities across multiple banks and finance companies. The ESS-C, in particular, caters to those SMEs for which the SIP and SPP Scheme are not suitable.

6. Measures introduced by the courts to deal with increased insolvency cases

Various new measures have been implemented to encourage social distancing while ensuring that the courts function effectively and efficiently. This would have a large implication on restructuring and insolvency-related matters which often involve multiple creditors and counsel. Measures include:

- Adjourning all matters from 7 April 2020 to 4 May 2020 unless it was assessed to be essential and urgent. Any hearing conducted during this period was conducted through electronic means, unless otherwise directed by the court. Essential and urgent matters include, among others:¹⁸⁴
 - an application for an urgent injunction or to set aside an injunction;
 - an application for the arrest or release of a vessel;
 - an application for the discharge of dangerous or perishable cargo;
 - an application for the judicial sale of a vessel, where the safety of the crew is a concern;
 - certain applications for extension of time or variation of court orders relating to insolvency and restructuring matters; and
 - an application for a stay of execution of a civil judgment.

- Greater use of teleconferencing, videoconferencing for hearings, written submissions and email. Bulk list hearings have been split into small case lists and staggered with physical hearings in order to minimise the congregation of court attendees.¹⁸⁵ Further, where physical attendance is appropriate before the court, no more than two lawyers / litigants per party may appear at the hearing. Where certain matters require more attendees, the parties can ask the court for an exemption for additional attendees to be present physically or attend via videoconferencing.¹⁸⁶
- The Act supports this by permitting expert witnesses and witnesses of fact to provide evidence remotely through electronic means under an order of court.¹⁸⁷ Parties must consent to the use of electronic means for witnesses of fact. Further, the court must be satisfied that there are sufficient administrative and technical facilities and arrangements in place for the witness to provide evidence and it must be in the interest of justice to do so.¹⁸⁸ The court will not grant an order permitting these alternative arrangements where to do so would be inconsistent with the court's duty to ensure that the proceedings are conducted fairly to the parties to the proceedings.¹⁸⁹ This will ease the number of witnesses present in court during hearings.
- Evidence provided through electronic means is subject to the provisions concerning the giving of false evidence under the Penal Code.¹⁹⁰ This means that witnesses who give false evidence either in person or through electronic means will be liable under the relevant offences.
- The Act also extends the scope of the contempt of court provisions under the Administration of Justice (Protection) Act 2016 which prohibits the making of an audio or visual recording in court, or to bring such devices into court, without leave of the court. This concept of court provision additionally covers locations where remote proceedings will be conducted including: (1) where any judge conducts proceedings remotely; (2) where an accused person or witness makes an appearance or provides evidence; or (3) where any person participates in, views or listens to the court proceedings.¹⁹¹

183. Association of Banks Singapore, 'Extended Support Scheme (ESS)', available at: <https://www.abs.org.sg/sme/relief-measures/ess>.

184. Supreme Court of the Republic of Singapore, 'Updates on Measures Relating to COVID-19 (Coronavirus Disease 2019) from 7 April 2020 to 4 May 2020', Registrar's Circular No 4 of 2020, 5 April 2020, available at: <https://www.supremecourt.gov.sg/docs/default-source/default-document-library/media-room/annex-a---rcs-of-the-judiciary.pdf>.

185. Chief Justice Sundaresh Menon, 'The Singapore Judiciary's response to COVID-19', 26 March 2020, available at: <https://www.supremecourt.gov.sg/docs/default-source/module-document/speech/message-from-cj-on-covid-19.pdf>.

186. Supreme Court of the Republic of Singapore, 'Information on Measures and Other Measures Relating to COVID-19 (Coronavirus Disease 2019) for Court Users and Visitors to the Supreme Court', Registrar's Circular No 3 of 2020, 27 March 2020, available at: <https://www.supremecourt.gov.sg/docs/default-source/module-document/registrar/circular/rc-3-2020---information-on-measures-and-other-matters-relating-to-covid-19-for-court-users-and-visitors-to-the-supreme-court.pdf>.

187. COVID-19 (Temporary Measures) Act 2020 section 28(1).

188. COVID-19 (Temporary Measures) Act 2020 section 28(2).

189. COVID-19 (Temporary Measures) Act 2020 section 28(7).

190. COVID-19 (Temporary Measures) Act 2020 section 28(9).

191. COVID-19 (Temporary Measures) Act 2020 section 28(11).

- The COVID-19 (Temporary Measures) Act 2020 allows debtors affected by the coronavirus to enjoy the protection of a moratorium against a variety of obligations and legal actions, including the commencement of insolvency proceedings. These measures, along with the more stringent requirements needed to presume the debtor's inability to pay debts, is expected to reduce the number of insolvency cases.
- Established the SGUnited Mediation Initiative which will refer suitable cases from for mediation at no charge to the parties. This will provide additional avenues for the resolution of disputes.¹⁹² Similarly, the Singapore International Medication Centre has launched the SIMC-COVID-19 Protocol to provide an additional avenue for resolution in the context of international commercial disputes.¹⁹³
- While the package of legal and economic reforms has not specifically dealt with workouts, it is also expected that the existence of various factors, including the temporary moratorium available for debtors affected by the COVID-19 pandemic, the concentrated debt structure of many Singaporean companies, and the culture of business rescue existing in the country,¹⁹⁴ will facilitate out-of-court debt restructurings.

The courts resumed hearing cases from 8 June 2020.¹⁹⁵ In order to facilitate cases which were adjourned and accumulated during the circuit breaker period, the court did not enter its usual recess in June. Remote hearings will continue to be used for various hearings. Safety measures such as limiting the number of people in court, temperature screenings and other social distancing measures will also continue.

7. Other pending reforms

There are no other pending reforms at present.

192. Supreme Court, 'SGUnited Mediation Initiative to help litigants move on from COVID-19' available at: <https://www.mediation.com.sg/wp-content/uploads/2020/05/Media-Release-SGUnited-Mediation-Initiative-FINAL.pdf>.

193. Singapore International Mediation Centre, 'New Mediation Protocol for Global Businesses to Manage Disputes During the COVID-19 Pandemic' available at: <http://simc.com.sg/blog/2020/05/18/new-mediation-protocol-for-global-businesses-to-manage-disputes-during-the-COVID-19-pandemic/>.

194. This culture of business rescue can be seen not only in the reforms of the Singapore's restructuring and insolvency framework that took place in 2017 and 2018 but also in several initiatives led by the private sector, such as the principles for facilitating out-of-court workouts promulgated by the Association of Banks of Singapore.

195. Supreme Court, 'The Judiciary's response to the exit of the "Circuit Breaker" period', 29 May 2020, available at: <https://www.supremecourt.gov.sg/docs/default-source/default-document-library/chief-justice-message--judiciary's-response-to-exit-of-the-circuit-breaker-period.pdf>.