



MORATORIUM ENDS ON SEPTEMBER 30 – THE TARGETED EXTENSION

Introduction

It is undeniable that the Covid-19 pandemic has greatly impacted the global economic sector. In Malaysia, our Prime Minister had announced the implementation of the Movement Control Order (MCO) which started on 18 March 2020 whereby only sectors categorized under the **essentials** were allowed to operate. This has resulted on numerous employee retrenchments and small vendors to suffer losses in their business. Even though the MCO phases have been gradually scaled down which leads to the current Recovery Movement Control Order (RMCO) phase, the impacted economy to the general public is still significant. Nevertheless, the implemented moratorium on loan repayments by our government has made Malaysia the first country to introduce a **six-month** moratorium. The six-month moratorium announced by our Prime Minister in late March took off on 1 April 2020 and will end on 30 September 2020.

What is a Moratorium?

Moratorium is any suspension of activity, particularly voluntary suspension of collections of debts by a private enterprise, or by government or pursuant to Court Order. In Bankruptcy, it is a halt to the right to collect a debt. In times of an economic crisis or natural disasters, there may be a moratorium on foreclosures of mortgage payments until the public is able to return conducting normal activities and earnings.¹ Generally, the Government bodies may declare moratoria for a broad range of reasons. However, many State Legislatures have passed moratorium legislation during emergencies in response to the demands of the public for debt relief.

Legality of the Moratorium

The legality of the moratorium is determined by using two-pronged analysis. Firstly, the Court will consider the effect of the moratorium on the rights of parties to the impaired contract. If the moratorium only changes the remedy of the breach and not the terms of the contract, then it is generally will be upheld.² Secondly, if the moratorium is a response to a bona fide emergency, it is upheld. In *Johnson v Duncan*³, the Court upheld the moratorium passed when British invaded Louisiana in 1814.

Why Did Malaysia decide to pass a six-month Moratorium?

Generally, the six-month moratorium was passed by the Government to ease the burden of individuals as well as businesses which are significantly impacted by the Covid-19 pandemic. When the Government first announced the implementation of the moratorium,

¹ Moratorium. (n.d.) *West's Encyclopedia of American Law, edition 2*. (2008). Retrieved August 11 2020 from <https://legal-dictionary.thefreedictionary.com/Moratorium>

² *Sturges v. Crowninshield*, 17 U.S. [4 Wheat.] 122, 4 L. Ed. 529 [1819]

³ *Johnson v. Duncan*, 3 Mart. 530 [La. 1815].

it was to be made effective automatically without the need for the Banks' customers to submit any application to their respective Banks. The moratorium on the loan repayments extended by the Financial Institution which came into effect on 1 April 2020, is estimated to be worth RM62.8 billion as of 24 July 2020.

Finance Minister, Tengku Datuk Seri Zafrul Abdul Aziz mentioned that from this amount, RM21.9 billion had benefited the business sector while RM40.8 billion aided the public. Nonetheless, the six-month moratorium will come to an end this coming 30 September 2020 despite the fact our country is still combating this pandemic and adapting to the new norm. Due to this, on July 29, our Prime Minister had announced a targeted extension for the moratorium extension of three months until 31 December 2020.

The Targeted Extension

The three-month moratorium extension and assistance up to December 31 were announced by the Prime Minister to targeted groups in view of these tough economic times. The targeted groups for the moratorium extension refer to the following: -

- i) Individuals who have lost their jobs in the year of 2020 and remain jobless. After the three months, the moratorium could be extended further at the Bank's discretion depending on the Borrower's situation;
- ii) Those who are employed and have had their salaries reduced due to Covid-19 pandemic will be granted lower loan instalments in tandem, depending on the types of borrowings. For example, for home or personal loans, the monthly instalments will be reduced at the same rate as the salary reductions. This assistance is for a period of at least six months and an extension can be given subject to the current salary situations of the individuals concerned; and
- iii) Apart from the two groups, other affected borrowers including traders, hawkers, self-employed individuals and businesses could also make similar arrangements with their banks.

The Banks have expressed their commitments to helping all borrowers, both individuals and small and medium-sized enterprises, who are affected by Covid-19 outbreak and may allow Borrowers to make interest payments only for a period of time on a case by case basis.

Among the Banks' Approaches

1. Maybank

Maybank has made available three easy options for their Customers to apply for the Repayment Assistance Packages which are: -

- i) Apply online via Maybank2u for Individual Customers excluding Hire-Purchase;
- ii) Apply via email to weassisst@maybank.com for Individual Customers or SMErelief@maybank.com for SME Customers; and
- iii) Call or visit any of its branches, SME Centres or Auto Finance Centres nationwide.

The Repayment Assistance Packages may include extension of moratorium for those who lost employment in 2020, rescheduling of their loan/financing facility to extend or restructuring of their loan/financing to a structure which is more in line with their capabilities.

2. Bank Rakyat

As part of its proactive measures, the Bank has identified about 190,000 potentially affected accounts and is currently contacting the account owners in stages. The moratorium extension is specifically aimed at Customers who have been laid off from their jobs in 2020 and yet to be re-employed, as well as those who have been put under unpaid leaves by their employers. In addition, Customers who had to undertake pay cuts may also apply to reduce their monthly instalments proportional to their salary reduction for a minimum period of six months.

Apart from that, the Bank also offering targeted assistance for affected self-employed individuals as well as small and medium-sized enterprises which includes extending the financing period to reduce the monthly instalments.

Conclusion

Moratorium is among the initiatives provided by the Government to ease the burden of the people for loan repayments during the Covid-19 outbreak. On the other hand, the public is expected to not entirely depend on the Government to bear the debts forever. Sooner or later, we will still have to resolve our loans and financing on our own while adapting to the new norm.

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