

Banking & Finance

SME Loan Financing Obligations Amidst Covid-19

Introduction

On 31 March 2020, the Monetary Authority of Singapore ("**MAS**") announced a set of relief measures meant to ease the financial strain on small and medium enterprises ("**SMEs**") in Singapore. Such relief measures include support for SMEs to defer the payment of principal on their secured loans and the provision of loans to SMEs at potentially lower interest rates.

Furthermore, on 7 April 2020, the Parliament passed the COVID-19 (Temporary Measures) Act 2020 ("**Act**"), which provides for support and protection for SMEs which are unable to perform their obligations under scheduled contracts due to the ongoing COVID-19 outbreak. Such measures include a six-month moratorium period during which SMEs are provided broad protection against legal action and enforcement of security in respect of certain scheduled contracts and temporary modifications to the insolvency regime to limit certain insolvency proceedings.

COVID-19 (Temporary Measures) Act 2020

Six-month Moratorium

The list of scheduled contracts is set out in the Schedule to the Act. The measures under the Act will cover contractual obligations under the scheduled contracts that have to be performed on or after 1 February 2020, and where the scheduled contract was entered into before 25 March 2020. Currently, the relief is intended to last for six months starting from 20 April 2020, but may be extended by the Government for up to one year ("**prescribed period**").

During the prescribed period, a party who is unable to perform its obligations under the scheduled contracts (provided the inability to perform such obligations is, to a material extent, caused by the COVID-19 event) and has given a "Notification for Relief" to the counterparty and its guarantor (if any), will be granted temporary relief from performing those obligations for the prescribed period. In addition, lenders will be prohibited from, *inter alia*, commencing or continuing legal actions, enforcement of certain security, execution processes, insolvency proceedings etc. against a protected borrower and its guarantor (if any). However, it is noted that the banks' and finance companies' contractual rights to

Contribution Note: This Client Update was contributed by Norman Ho (Senior Partner, Corporate Real Estate) and Angela Lim (Head, Banking and Finance), with assistance from Lorraine Ang (Associate, Banking and Finance) and Dickson Lim (Practice Trainee, Corporate Real Estate).



Client Update: Singapore

2020 APRIL

Banking & Finance

charge fees and interest for non-payment or late payment of loan obligations remain unaffected. MAS has thus urged SMEs seeking protection under the Act to be mindful that they still continue to incur interests and may end up paying more in respect of their loan obligations in the future.

The "Scheduled Contracts" for SME loans

There are a few requirements to be satisfied in order to qualify as a "scheduled contract" under the Act. In relation to SME loans, the two main requirements are in relation to (i) the parties to the loan facility, and (ii) the specific type of security to which the loan facility is secured against.

Firstly, the loan facility must be granted by either a bank licensed under the Banking Act or a finance company licensed under the Finance Companies Act. The loan facility must also be granted to an "enterprise". An "enterprise", as defined under the Act, is one where (i) not less than 30% of its shares or other ownership interest is held by citizens of Singapore and/or permanent residents of Singapore, and (ii) the turnover of the group to which it belongs does not exceed S\$100 million in the latest financial year.

Secondly, the loan facility must be secured (whether partially or wholly) against either (i) a commercial or industrial immovable property located in Singapore, or (ii) any plant, machinery or fixed asset located in Singapore which is used for manufacturing, production or other business purposes.

Temporary Changes to Insolvency Regime

In relation to the insolvency regime, the Act also provides for (i) an extension of time to satisfy or set aside statutory demands from 21 days to six months, and (ii) an increase in threshold amounts for insolvency actions. The monetary threshold for a creditor to petition for the winding up of a company has been increased from S\$10,000 to S\$100,000.

Furthermore, directors will be temporarily relieved from their obligations to prevent their companies from trading whilst insolvent if the debt or other liabilities are incurred (i) in the ordinary course of business, (ii) during the prescribed period, and (iii) before the appointment of a judicial manager or liquidator of the company.

It is further noted that the Singapore Courts will only be hearing essential and urgent matters from 7 April 2020 to 4 May 2020. Debt recovery and insolvency proceedings (save for certain applications for extension of time or variation of court orders) are not listed as essential and urgent matters.

Deferment of Principal Payments on Secured Loans

MAS announced a package of measures on 31 March 2020 which helps to relieve the financial strain on SMEs. Under the measures, SMEs may opt to defer principal payments on their secured term loans as well as interest accrued thereon (although interest will continue to accrue) up to 31 December 2020. Alternatively, they can opt to defer principal payments on their secured term loans but continue to pay interest accrued thereon. This is, however, subject to the banks' and finance companies' assessment of the quality of the SMEs' security and whether they are in good standing with their respective banks

Client Update: Singapore

2020 APRIL

Banking & Finance

and finance companies (i.e. the loan repayments not being more than 90 days past due as of 6 April 2020). SMEs will also be able to extend the tenure of their loans by up to the corresponding period during which the principal repayments are deferred, if they wish.

MAS has stated that the relief measures should minimally apply to customers with either (i) annual sales turnover of up to S\$100 million, or (ii) employment size of up to 200 workers. This is different from what is defined as an "enterprise" under the Act.

MAS has further clarified that SME borrowers are not subject to Total Debt Servicing Ratio ("**TDSR**") requirements when applying for deferment of their payments under their secured property loans. Businesses that take up Mortgage Withdrawal Equity Loans secured against properties are also not subject to TDSR and Loan-to-Value limits.

Lower Interest on SME Loans

MAS has, on 31 March 2020 and 20 April 2020, announced a new low-cost funding facility for banks and finance companies. MAS, in partnership with Enterprise Singapore ("**ESG**"), will grant Singapore dollar loans to eligible financial institutions at a rate of 0.1% per annum, to support their loans to SMEs at an affordable rate. These loans will be granted under the ESG SME Working Capital Loan Scheme and Temporary Bridging Loan Programme (further described below). The aforesaid MAS loan facility will have a two-year tenor and is available for application until April 2021.

Loan Schemes

The following loan schemes by ESG have been further enhanced and the government risk share has been increased from 80% to 90% for loan applications initiated from 8 April 2020 until 31 March 2021. The eligibility requirements differ depending on the loan scheme in question.

- **Enterprise Financing Scheme – SME Working Capital Loan:** Maximum quantum of S\$1 million with one-year deferment of principal repayment subject to assessment by participating financial institutions ("**PFIs**").
- **Enterprise Financing Scheme – Trade Loan:** Maximum loan quantum of S\$10 million per borrower group with no deferment of repayment.
- **Temporary Bridging Loan Scheme:** Maximum quantum of S\$5 million with one-year deferment of principal repayment subject to assessment by PFIs.

Conclusion

Given the suite of measures rolled out through various Governmental agencies, SMEs who face cash flow difficulties should thus assess their needs accordingly and consult with their advisers to actively explore the various options available.

Banking & Finance

Reference Materials

For more details, please visit the following links:

- [COVID-19 \(Temporary Measures\) Act 2020](#)
- [MAS press release dated 31 March 2020 on "MAS and Financial Industry to Support Individuals and SMEs Affected by the COVID-19 Pandemic published 31 March 2020"](#)
- [MAS press release dated 7 April 2020 on "MAS Clarifies Loan-to-Value and Total Debt Servicing Ratio Rules for Residential Mortgages and Mortgage Equity Withdrawal Loans published 07 April 2020"](#)
- [Singapore Government press release dated 6 April 2020 on "Solidarity Budget 2020: Further support for businesses through the circuit breaker period published 06 April 2020"](#)
- [MAS press release dated 20 April 2020 on "New Facility at interest rate of 0.1% to help banks and finance companies lower cost of loans to SMEs"](#)
- [MAS SGD Facility for ESG Loans](#)

Rajah & Tann Asia COVID-19 Resource Centre

For more information on the COVID-19 (Temporary Measures) Act 2020, please refer to our Client Updates titled "[Temporary Relief for Breach of Contract under the New COVID-19 Bill](#)" and "[Measures and Relief against COVID-19 and their Impact on Property Owners and Tenants](#)".

For more articles and updates from our teams across the region on COVID-19 and related legal issues, please visit [Rajah & Tann Asia's COVID-19 Resource Centre](#).

Banking & Finance

Contacts



Angela Lim
Head, Banking & Finance

T +65 6232 0189

angela.lim@rajahtann.com



Norman Ho
Senior Partner, Corporate
Real Estate

T +65 6232 0514

norman.ho@rajahtann.com



Chou Ching
Partner, Corporate Real Estate

T +65 6232 0693

chou.ching@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP
T +65 6535 3600
sg.rajahtannasia.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office
T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**
T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong
T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited
T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*
Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

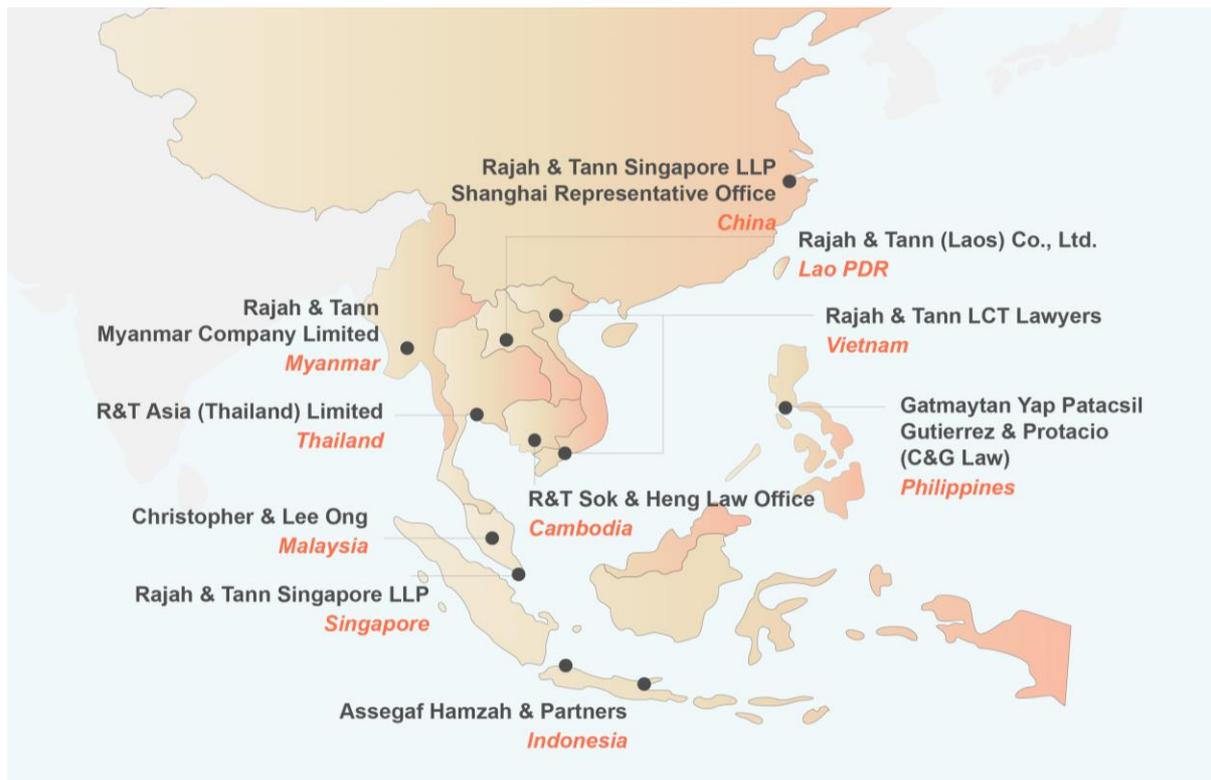
Hanoi Office

T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in South-East Asia. Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This Update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this Update.

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge & Risk Management at eOASIS@rajahtann.com.