
Restructuring & Insolvency

Amendment to Insolvency Act 1967 to Mitigate Financial Ramifications of COVID-19 and Provide Individuals with Additional Protection From Bankruptcy

On 25 August 2020, the Insolvency (Amendment) Bill 2020 (“**Insolvency Bill**”) was passed with a simple voice majority in the Dewan Rakyat. It appears that the Insolvency Bill is intended to mitigate the financial ramifications of the unprecedented COVID-19 pandemic and to provide individuals with additional protection from the threat of bankruptcy.

Changes Introduced by Insolvency Bill

Increasing minimum debt threshold

Clause 2(a) of the Insolvency Bill seeks to amend the Insolvency Act 1967 (“**Act**”) by increasing the minimum debt threshold for the presentation of a bankruptcy petition, from RM50,000 to RM100,000. This represents the fourth amendment to the minimum debt threshold since the Act came into force in 1967, where the original minimum debt threshold was RM2,000. Since then, the minimum debt threshold has increased to RM10,000 in 1992, and then to RM30,000 in 2003, and subsequently to RM50,000 in 2017.

Additionally, Clause 2(b) of the Insolvency Bill also grants the Minister the discretion to further amend the minimum debt threshold for a specific time period, provided that:

- (a) there are special circumstances; and
- (b) it would not be contrary to public interest to do so.

Saving provision for pending bankruptcy petitions

Further, Clause 3 of the Insolvency Bill provides that only bankruptcy petitions which are presented and are still pending before the Insolvency Bill is enacted and comes into force shall continue as if the Act has not been amended by the Insolvency Bill. What this means is that once the Insolvency Bill is enacted and comes into force, unless a judgment creditor has presented a bankruptcy petition against a judgment debtor, any judgment debt below RM100,000 cannot be the basis of a bankruptcy action against a judgment debtor.

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Comparison with COVID-19 Bill

Separately, the Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Bill 2020 (“**COVID-19 Bill**”) was also passed by the Dewan Rakyat on 25 August 2020 in the same sitting. The COVID-19 Bill aims to provide temporary relief to reduce the impact of the COVID-19 pandemic and the effects of the Movement Control Orders that were implemented throughout the nation.

Clause 2(a) of the Insolvency Bill is consistent with Clause 20 of the COVID-19 Bill. Both clauses seek to increase the minimum debt threshold for the presentation of a bankruptcy petition from RM50,000 to RM100,000.

While the amendments introduced by the Insolvency Bill are largely in line with the amendments introduced by the COVID-19 Bill, there are certain differences between the Bills which warrant specific attention.

Clause 19 of the COVID-19 Bill only seeks a temporary increment to the minimum debt threshold from the date of publication of the COVID-19 Act (after the COVID-19 Bill is enacted) until 31 August 2021. On the other hand, the increment introduced by Clause 2 of the Insolvency Bill is not bound by a specific time frame, and the Minister also has the discretion to further amend the minimum debt threshold for a specific time period.

Therefore, it would appear that any exercise of the discretion of the Minister (under Clause 2(b) of the Insolvency Bill) to further amend the minimum debt threshold, between the date of publication of the COVID-19 Act until 31 August 2021, would, in order to prevent any inconsistency, require a corresponding amendment to effect a change to the minimum debt threshold under the COVID-19 Act.

It is envisaged that the increment to the minimum debt threshold pursuant to both Bills would have the largest impact on judgment creditors who are considering enforcing judgments for debts of between RM50,000 and RM100,000. Now is the opportune time for such judgment creditors to take decisive action to pursue bankruptcy proceedings before the Bills come into force and before it is too late.

Visit our [COVID-19 Resource Centre](#) for views from our lawyers across the region on common issues and legal implications brought about by COVID-19. For specific inquiries, please reach out to your relationship partner or send an email to our [COVID-19 Legal Team](#).

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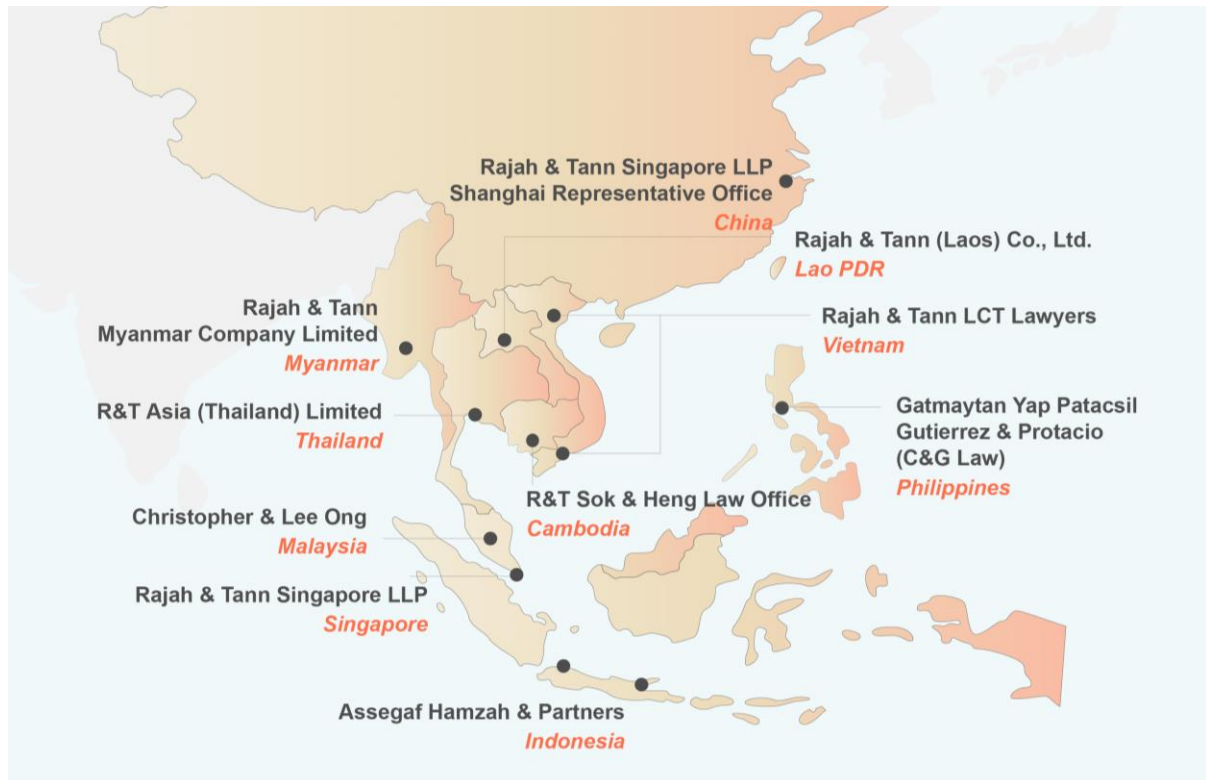
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