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## Philippine Regulation Updates in Response to Covid-19 (as of April 7, 2020)

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\*This article is based on information available as of April 7, 2020.

### I. Extension of the Enhanced Community Quarantine to 30 April 2020

In a press conference on 7 April 2020, Cabinet Secretary Karlo Nograles announced that the President has extended the enhanced community quarantine (“ECQ”) period until 30 April 2020, 11:59 pm. All exemptions granted by the President or the Inter-Agency Task Force remain in effect for the duration of the extended ECQ.

### II. Implementation of the Bayanihan Act

Following the approval of the Bayanihan Act, President Duterte, through the relevant government agencies, has exercised various powers granted by the Bayanihan Act to the President. Some updates to the exercise of these powers in relation to the commercial sector are as follows:

#### 1. Rent Relief

On 4 April 2020, the Department of Trade and Industry issued Memorandum Circular No. 20-12 (“DTI Memorandum”) imposing the guidelines to concessions on residential rents and commercial rents of micro, small, and medium enterprises (“MSMEs”). An MSME is any business activity or enterprise engaged in industry, agribusiness and/or services, whether a single proprietorship, cooperative, partnership or corporation whose total assets (inclusive of those arising from loans but exclusive of the land on which the particular business entity’s office, plant, and equipment are situated) have a value falling under any of the following categories:

micro	: not more than PhP3,000,000.00
small	: PhP3,000,001 to PhP15,000,000.00
medium	: PhP15,000,001 to PhP100,000,000.00

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The guidelines apply to (i) all residential rents falling due within the period of the ECQ and (ii) all commercial rents falling due upon MSMEs that have temporarily ceased operations within the period of the ECQ.

Following the extension by the President, the ECQ period is now imposed from 17 March 2020 to 30 April 2020 unless otherwise lifted or extended (“**ECQ Period**”). The DTI Memorandum orders the granting of a minimum thirty (30) day grace period (from the last rent due date falling within the ECQ) without incurring interests, penalties, fees, and other charges. The cumulative amount of rent falling due shall be equally amortized over the six (6) month period following the end of the ECQ and shall be added to the rents due on those succeeding months, without interest, penalties, fees, and charges.

<i>Example</i>		
<b>ECQ Period</b>	17 March 2020 to 30 April 2020	
<b>Rent due date</b>	every last day of the month	
<b>Rent due per month</b>	PhP20,000.00	
<b>Rent due during ECQ Period (2 months)</b>	PhP40,000.00	
<b>Amortized rent over a six (6) month period</b>	6,666.66/month (40,000/6)	
<b>Rent to be paid during the ECQ Period</b>	March 31	PhP0.00
	April 30	PhP0.00
<b>Rent to be paid following the ECQ Period</b>	May 31 to October 31	PhP26,666.66/month

Note however that lessors are not obligated to return rent which the tenant has already paid during the ECQ Period.

## 2. Loan Relief

On 1 April 2020, the Central Bank of the Philippines issued Memorandum No. M-2020-017 (“**BSP Memorandum**”) implementing Section 4(aa) of the Bayanihan Act which granted President Duterte the power to direct banks and other financial institutions to implement a grace period for the repayment of loans.

The BSP Memorandum applies to all Philippine lenders, public or private, whether under the supervision of the Central Bank of the Philippines, the Securities and Exchange Commission, the Cooperative Development Authority, the Government Service Insurance System, the Social Security System, or the Home Development Mutual Fund (“**Covered Institutions**”).

The BSP Memorandum requires all Covered Institutions to implement a thirty (30) day grace period for all loans with principal and/or interest falling due within the ECQ Period without incurring interest on interest, penalties, fees, and other charges. No documentary stamp tax will apply to credit extensions, credit restructurings, or micro-lending. The initial thirty (30) day grace period will automatically extend if the ECQ Period is extended by the President.

During the thirty (30) day grace period, Covered Institutions are also prohibited from (i) charging or applying interest on interest, fees, and charges related to future payments or amortizations of individuals, households, MSMEs, and corporate borrowers, and (ii) requiring their clients to waive the application of the provisions of the Bayanihan Act, including the mandatory thirty (30) day grace period. Any waiver that was already executed covering payments falling due during the ECQ is invalid.

The borrower may pay the accrued interest for the thirty (30) day grace period on a staggered basis over the remaining life of the loan. Nevertheless, the borrower may also choose to pay the accrued interest in full on the new date following the application of the 30 day grace period.

### 3. Penalty

Lessors and Covered Institutions who refuse to comply with the DTI Memorandum and the BSP Memorandum respectively shall be penalized with imprisonment of at least two (2) months and/or a fine of at least PhP10,000.00, at the discretion of the court.

## III. Other Updates

### 1. Department of Labor and Employment

#### a. Holiday pay for April 2020

On 1 April 2020, the Department of Labor and Employment (“DOLE”) issued Labor Advisory No. 13-A, Series of 2020 (“LA 13-A”) allowing employers to defer payment of holiday pay for work performed on 9, 10, and 11 April 2020 as applicable until such time that the present emergency situation has been abated and the normal operations of the establishment have been reinstated. LA 13-A does not specify a deferment period, so affected establishments should closely follow updates issued by the DOLE. Establishments that have totally closed or ceased operations during the ECQ are exempted from payment of the holiday pay for 9, 10, and 11 April 2020.

#### b. Probationary employment

Under Labor Advisory No. 14 dated 30 March 2020, the DOLE also clarified that the ECQ Period is excluded from the determination of the six (6) month probationary period. Under the Labor Code, probationary employment periods in the private sector must not exceed six (6) months from the date the employee begins working.

### 2. Securities and Exchange Commission

The Securities and Exchange Commission (“SEC”) has issued SEC Memorandum Circular No. 9, Series of 2020 providing the guidelines for the filing of the general information sheet (“GIS”) during the Covid-19 outbreak and the ECQ (“Guidelines”):

#### a. Where election of directors or officers **was held**

The company shall file its GIS within thirty (30) days from the actual meeting through ordinary or registered mail, private courier, or email at mlmliwanag@sec.gov.ph, mtdmabuyo@sec.gov.ph, or cmdnotice@sec.gov.ph.

#### b. Where the annual shareholders’ meeting and election of directors or officers **was not held**

If the company was unable to hold an annual shareholders’ meeting and election of directors or officers due to health and safety reasons in relation to Covid-19 and the company has no facilities for remote communication, it shall report such fact to the SEC within thirty (30) days from the original meeting date either through mail, courier, or by electronic means to cmdnotice@sec.gov.ph.

If the company is unable to hold an annual shareholders’ meeting and election of directors or officers for reasons other than Covid-19 concerns, it should also report such fact to the SEC within thirty (30) days from the original date of the meeting. If the SEC finds that the non-holding of a meeting is unjustified (including if it verifies that the non-holding of an election is not related to Covid-19 when initially reported to be so), it will issue an order directing the issuance of a notice stating the time and place to hold a shareholders’ meeting and an election.

The report sent to the SEC should include the following information:

- i. company name,

- ii. SEC registration number,
- iii. date of annual meeting per the by-laws of the company,
- iv. intended date of actual meeting (which should be within sixty (60) days from the originally scheduled date),
- v. reason for the non-holding of the meeting, and
- vi. venue of the intended meeting.

The report should be signed and dated by the corporate secretary of the company. If the ECQ Period is extended beyond the intended date of the actual meeting, this date should also be extended.



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