

1. Please clarify if the entire Companies Act 2016 will be effected on 31 January 2017 or only the six services in MyCoID 2016 will be effected on 31 January 2017?

Answer:

Once enforced on 31 January 2017, all provisions in the Companies Act 2016 will take effect except section 241 and Division 8 of Part III. The six services under MyCoID is to facilitate the incorporation of companies under the new Act and related matters.

2. What is the procedure for filing Annual Returns for companies having AGMs prior to the commencement of the Companies Act 2016?

Answer:

- (a) For companies having AGM before 31 January 2017, the companies are required to submit the AR in accordance with the requirements under the Companies Act 1965.
- (b) With the exception of companies having the anniversary of the incorporation date on 31 January 2017, companies with anniversary of incorporation in January 2017 are not required to submit the Annual Return in 2017 as the Companies Act 2016 has yet to take effect. Such companies' first submission of Annual Return in compliance with the new Act will only happen in 2018.

3. With the decoupling of Financial Statements and Annual Returns submission, what will happen to the Financial Statements which have not been finalized and filed to Companies Commission Malaysia for previous years?

Answer:

Companies are still required to fully comply with the provisions under section 169 of the Companies Act 1965 in line with the transitional provision under subsection 620(4) of the Companies Act 2016.

Transitional Provisions Relating to Abolition of Nominal Value

4. Is a company which has no Share Premium account or Capital Redemption Reserve required to submit notification under subsection 618(8) or (9) with the Registrar? (updated on 31 January 2019)

Answer:

Such companies may submit such notification. If no notification is submitted the Registrar will invoke subsection 618(10) of the Companies Act 2016 at the end of the period referred to under subsection 618(8).

5. What is the period for lodging this notification? (updated on 7 March 2019)

Answer:

Pursuant to subsection 618(8), a company is required to submit the notice at any time before–

- (a) the date it is required to lodge its annual return after the end of the period referred to under subsection 618(3); or
- (b) the expiry of 180 days after the end of the period referred to under subsection 618(3),

whichever is the earlier.

However, it is advisable for a company to adhere to the following lodgement timeline provided the lodgement of the notice is in compliance with the requirements stated in subsection 618(8) of the CA 2016.

Anniversary Date	Lodgement Period
Company having anniversary date on or before 30 June 2019	31 January 2019 till 30 April 2019
Company having anniversary date on or after 1 July 2019	2 May 2019 till 31 July 2019

6. If a company has an amount standing to the credit of its share premium account and/or capital redemption reserve as at 30 January 2019, can the company lodge its annual return before submitting the notification under section 618(8) of the CA 2016 to the Registrar? (updated on 7 March 2019)

Answer:

No. The company is required to submit the notification under section 618(8) of the CA 2016 before submitting the annual return to the Registrar if the company has share premium and/or capital redemption reserve (CRR) balances as at 30 January 2019.

7. If a company does not have any amount standing to the credit of its share premium account and/or capital redemption reserve as at 30 January 2019 or never had these accounts, can the company lodge its annual return without submitting the notification under section 618(8) of the CA 2016 to the Registrar? (*updated on 7 March 2019*)

Answer:

Yes. The company has the following options:

1. Submit the notification of its share capital pursuant to section 618 of the CA 2016 *before* lodging its annual return to the Registrar; or
2. Do not submit the notification of its share capital pursuant to section 618 of the CA 2016 to the Registrar. However, if the company chooses not to submit the notification pursuant to subsection 618(8) of the CA 2016, Registrar will invoke subsection 618(10) of the CA 2016 after the expiry of the 180 days period as stated in subsection 618(8) of the CA 2016.

The annual return can be submitted and it must at all times comply with the time period for submitting the annual return to the Registrar under section 68 of the CA 2016.

8. What is the value of the shares to be included in the annual return (AR) lodgement? (*updated on 7 March 2019*)

Answer:

If the anniversary of a company's incorporation date falls on or before 30 January 2019, the value of the shares to be disclosed in the AR should not include share premium and/or capital redemption reserve amount.

If the anniversary of its incorporation date of a company falls on or after 31 January 2019, the value of the shares in the AR should be inclusive of the share premium and/or capital redemption reserve.

9. What information should the company provide on its Equity Structure as at 30 January 2019? (updated on 7 March 2019)

Answer:

The company is required to provide information on its share premium and/or capital redemption reserve ("CRR") accounts (wherever applicable) during the 24 months period as follows:

NO	TERMINOLOGY	REMARKS
1	Balance as at 30 January 2019 (RM)	<p>This is the balance as at 30 January 2019 pertaining to the unutilised share premium and/or CRR after deducting all utilisation during the 24 months period ending 30 Jan 2019.</p> <p>If the company never had any share premium/CRR account or has <i>fully utilised</i> its share premium and/or CRR during the 24 months period, please state "NIL".</p>
2	Utilised as at 30 January 2019 (RM)	<p>The information should be reflective of the amount of share premium and/or CRR <i>utilised</i> during the 24 months period from 31 Jan 2017 to 30 Jan 2019.</p> <p>If the company never had any share premium/CRR account or has <i>never utilised</i> its share premium and/or CRR amount during the 24 months period, please state "NIL".</p>

10. Is there a deadline or 'cut-off date' for the submission of documents regarding the company's share capital adjustment under subsection 618(8) or (9) (Notice of Share Capital)? *(updated on 10 March 2023)*

Answer:

Yes, pursuant to subsection 618(8), a company may file with the Registrar a notice of its share capital—

(a) at any time before—

- i. the date on which the company is required to submit its annual return after the end of the period mentioned under subsection (3); or
- ii. the expiry of 180 days after the end of the period mentioned under subsection (3),

whichever is earlier; or

(b) in such longer period as the Registrar may allow, if he thinks fit in the circumstances of the case.

The last day to submit is 31 December 2021 as permitted by Registrar. However, if there is a need for the company to make any amendments to the register at SSM after that date, the company may consider to make amendments to the SSM register through section 602 of CA 2016.

11. If as a result of the omission, and a company intends to make a submission under the requirements of subsection 618(8) or (9), ie Notice of Share Capital after 31 December 2021, what are the documents that need to be submitted together with section 602 Form? *(updated on 10 March 2023)*

Answer:

The company requires to submit the following documents:

- (a) Section 602(1)(c) – select “by reason of an omission or misdescription it has been duly completed”;
- (b) Annexure Statement by Company On Its Share Capital (include the attachment "annexure section 618(8) / (9) (Notice of Share Capital)";
- (c) Statutory Declaration.

12. Filing under section 602 requires the submission of documents with a registration fee. Will the fee charged under section 602 also apply to the filing requirements of subsection 618(8) or (9) (Notice of Share Capital)?
(updated on 10 March 2023)

Answer:

Yes, a fee of RM300 is applicable for application to rectify the register under section 602.