

# Key Amendments to Malaysia's Corporate Rescue Mechanism

## SCHEME OF ARRANGEMENT

1

### Restraining Orders

- Restraining orders extended to related companies if integral to compromise or arrangement.
- Prohibition on consecutive orders within 12 months.
- Automatic orders provide immediate relief upon application filing.

2

### Super Priority Rescue Financing

- Court empowered to grant orders securing debts from rescue financing, prioritizing them in company winding-up scenarios.

3

### Pre-Packed Schemes of Arrangement

- Companies can obtain court approval for proposed schemes without creditors' meetings.
- Court approval is contingent upon demonstrating that at least 75% of creditors would have approved the scheme.

4

### Cross-Class Cramdown Mechanism

- Prevents dissenting creditors from halting scheme implementation.
- Conditions require 75% creditor approval and court satisfaction of fair treatment.

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### Involvement of Insolvency Practitioners

- Mandatory appointment in specific scenarios like super priority financing and pre-packed scheme applications.
- Roles include viability assessment, chairing scheme meetings, and access to company records.

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## SCOPE OF EXCLUSION

Companies excluded from JM are limited to those regulated by Central Bank of Malaysia, approved or registered under Part II, Part III, Part IIIA or Part VIII of Capital Markets and Services Act 2007, and approved under Part II of Securities Industry (Central Depositories) Act 1991.

## EXTENSION OF JM ORDER

Court now has discretion to extend JM orders beyond six months.

## JUDICIAL MANAGEMENT (JM)

## RIGHT OF SECURED CREDITOR

- Secured creditors must notify the judicial manager before enforcing security or repossessing goods.
- Enforcement conditions include non-requirement by the company, high risk due to JM order, or value decrease due to JM order.

## SUPER PRIORITY RESCUE FINANCING

Empowers court to grant orders securing debts from rescue financing, prioritizing them in winding-up scenarios.

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## CORPORATE VOLUNTARY ARRANGEMENT (CVA)

### Enhancements in CVA Eligibility

- Exclusions from eligibility will be limited to licensed institutions, companies regulated under Part II, Part III, Part IIIA or Part VIII of the Capital Markets and Services Act 2007, and companies approved under Part II of the Securities Industry (Central Depositories) Act 1991
- These amendments have yet to come into force.

### Right of Secured Creditor to Enforce Security

- Secured creditors retain rights over company assets during CVA.
- Requirements include notification to and consent from nominees before taking possession of secured property.
- Enforcement conditions include non-requirement by the company, high risk due to moratorium, or value decrease due to the moratorium.

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