

## Client Alert

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## Mandatory reporting to MOM on cost-saving measures affecting salaries and updates to the Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment

### Executive Summary

From 12 March 2020, employers are required to notify the Ministry of Manpower (“**MOM**”) if they implement any cost-saving measures that affect monthly salaries of their employees, and indicate that they have done so fairly.

The Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment (the “**Advisory**”) has also been updated in view of business slowdowns faced by employers due to the COVID-19 situation. The Advisory emphasises that retrenchment should always be the last resort in the management of excess manpower, and suggests alternatives to retrenchments.

### 1. Mandatory notification of reporting to MOM on cost-saving measures affecting salaries

From 12 March 2020, all employers must notify MOM if they

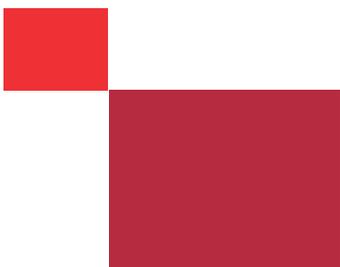
- (a) Implement any cost-saving measures affecting employees’ monthly salaries (excluding adjustments to discretionary payments such as bonuses and increments);
- (b) Are registered in Singapore; and
- (c) Have at least 10 employees.

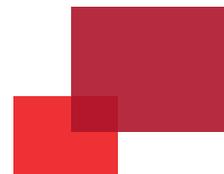
Notification is performed on the MOM’s website at <https://form.gov.sg/#!/5e609fc6835c4b0016dc47e8>. The notification deadline is 1 week after the cost-saving measures are implemented.

Employers are reminded that approval from the Controller of Work Passes must be sought before implementing salary adjustments for foreign employees working in Singapore on work passes.

### 2. Updates to the Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment

The Advisory states that retrenchment should always be the last resort in the management of excess manpower, and suggests alternatives to retrenchments.





These alternatives can be broadly categorised based on the severity of impact to employees:

- (a) Adjustments to work arrangements without wage cuts;
- (b) Adjustments to work arrangements with wage cuts;
- (c) Direct adjustments to wages; and
- (d) No-pay leave.

The Advisory emphasised that in implementing these measures, employers should consult and seek the consent of unions and employees early and communicate the impact of the measures clearly. Employers should review and restore any adjustments made when their businesses recover.

### **(a) Adjustments to work arrangements without wage cuts**

#### Training and skills upgrading of employees

The Advisory recommends that businesses utilise spare capacity due to business slowdowns to send employees for training and skills upgrading. Employers may apply for absentee payroll subsidies on the SkillsFuture Singapore Agency website for employees undergoing training.

#### Redeployment of employees to alternative areas of work within the company

The Advisory suggests that excess manpower can be redeployed to alternative jobs within the company. Relevant training should be provided to redeployed employees.

Where there are no available jobs for excess manpower within the company, employers can consider outplacing the excess manpower to suitable jobs in other companies.

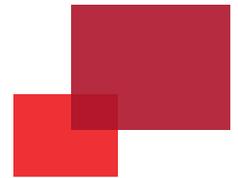
#### Flexible Work Schedule (“FWS”)

FWS is most relevant to companies with employees eligible for overtime payments and/or covered under Part IV of the Employment Act. Employees covered under Part IV of the Employment Act are:

- (a) Workmen whose monthly basic salary does not exceed S\$4,500; and
- (b) Non-workmen whose monthly basic salary does not exceed S\$2,600, other than managers and executives.

FWS allows companies to optimise the use of manpower resources when they go through cyclical troughs and peaks in manpower demands. Employees are assured of a stable monthly income during the period of FWS.

For example, the employer and its employee (covered under Part IV of the Employment Act) agrees to reduce weekly working hours from 44 hours to 40 hours for 4 weeks and the accrued 16 hours are then used to offset the increase in work hours (above 44 hours) in the next 4 weeks. In offsetting the overtime pay incurred in the next 4 weeks, the employee and employer may agree on the



rate at which the accrued hours are to be valued. Employers who wish to implement FWS need to seek the support of unions and employees and thereafter apply to the Commissioner for Labour. Other than overtime exemption, the employer may apply to be exempted from the Employment Act provisions on pay for work on rest days and public holidays, provided that certain conditions including the safety and health of employees, are met.

### **(b) Adjustments to work arrangements with wage cuts**

#### Part-time work, sharing of jobs or other work arrangements

The Advisory suggests that employers with excess manpower may consider implementing alternative work arrangements such as part-time work, sharing of jobs, or other flexible work arrangements with accompanying wage cuts.

#### Shorter work week

Another adjustment the Advisory suggests is implementing a shorter work week which translates into the reduction of work hours. Employers may:

- (a) Request employees to take up to 50% of their earned annual leave;
- (b) Implement the reduction in work week such that it does not exceed 3 days in a week (a reduction of 3 days should only be implemented if the company's performance is severely affected) and does not last for more than 3 months at any one instance subject to review; and/or
- (c) Pay the affected employees not less than 50% of their wage on the day(s) when the employees are not working, during the period when the shorter work week is implemented.

#### Temporary layoff

The Advisory states that temporary layoffs can be a result of facility shutdowns where a work site is closed for a designated period while some administrative functions are still performed or applied broadly across the whole company.

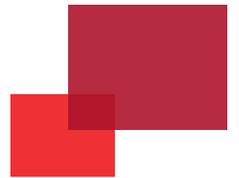
Employers may:

- (a) Request employees to take up to 50% of their earned annual leave;
- (b) Implement the layoff period such that it does not exceed one month at any one instance subject to review; and/or
- (c) Pay the affected employees not less than 50% of their wage during the layoff period.

### **(c) Direct adjustment to wages**

The Advisory suggested that employers with flexible wage systems in place may consider adjusting the wage components in the following manner.

- (a) Reducing annual wage increments or introducing wage freezes;
- (b) Reducing bonus payments;



- (c) Reducing annual wage supplements, which is usually one month's wage to be paid at the employer's year-end; and/or
- (d) Reducing monthly variable components of wages and / or other allowances.

**(d) No-pay leave**

The Advisory states that placing employees on no-pay leave should be a last resort before retrenchment. In implementing no-pay leave,

- (a) Employers should have considered/implemented other measures, and consulted their unions and employees;
- (b) Employers should recognise the impact on rank-and-file employees in determining the extent and duration of the measure;
- (c) Senior management should lead by example, by accepting earlier and/or deeper cuts in cost-saving measures; and
- (d) Employers may consider applying no-pay leave in conjunction with other cost-saving measures.

## **Conclusion**

The updates to the Advisory focuses on alternatives to retrenchment and reveals the MOM's focus on job preservation in light of the business slowdown arising from the COVID-19 situation. The Advisory's wage adjustment suggestions show that while the MOM is focused on employee job security, it also has a realistic view of the difficulties faced by employers. The new reporting requirement to the MOM on cost-saving measures affecting salaries is a way for the MOM to monitor the impact of the economic slowdown on employee wages. The MOM also opined that such reporting will encourage responsible implementation of such measures, prevent downstream salary disputes, and enable the provision of support to both employers and employees when needed. The new reporting requirement is a temporary measure in place until the economy recovers.

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