

CLIENT ADVISORY CORPORATIONS

**Notice to Comply with the Mandatory 30-Days
Grace Period for Payment of Loans
(19 June 2020)**

Q: Who are covered by the Notice?

A: The Notice dated 02 April 2020 issued by the Securities and Exchange Commission (“SEC”) through its Corporate Governance and Finance Department is for: (1) Financing Companies (FC); (2) Lending Companies (LC); and (3) Microfinance Non-Government Organizations (MF-NGO).

Q: What is the notice about?

A: The said Notice requires the compliance of the covered companies to the Implementing Rules and Regulations of Section 4(aa) of Republic Act No. 11469 or the Bayanihan to Heal as One Act (“IRR”).

In an Advisory dated 16 April 2020, due to some reports and complaints about non-compliance with Section 4(aa) of Republic Act No. 11469 and its IRR, the SEC reiterated that FCs and LCs are strictly mandated to comply with the said law, and warned that any violation or non-compliance shall be dealt with to the full extent of the law.

Q: What is Section 4 (aa) of the Bayanihan to Heal as One Act (“Bayanihan Act”)?

A: Section 4(aa) provides that the President of the Philippines is shall have the temporary power to “Direct all banks, quasi-banks, financing companies, lending companies, and other financial institutions, public and private, x x x to implement a minimum of a thirty (30)-day grace period for the payment of all loans, including but not limited to salary, personal, housing, and motor vehicle loans, as well as credit card payments, falling due within the period of the enhanced Community Quarantine without incurring interests, penalties, fees, or other charges. Persons with multiple loans shall likewise be given the minimum thirty (30)-day grace period for every loan”.

Q: Who are required to grant a Mandatory 30-Day Grace Period for the payment of loans?

A: Under Republic Act 11469, also known as the Bayanihan Act and its IRR, all banks, quasi banks, non-stock savings and loan associations, credit card issuers, pawnshops, and other credit granting financial institutions under the supervision of the BSP, SEC, and Cooperative Development Authority, public or private including GSIS and Pag-Ibig Fund (“Covered Institutions”), are required to implement a 30-day grace period for all loans with principal and/or interest falling due within the Enhance Community Quarantine (“ECQ”) period, without incurring interest on interest, penalties, fees, and other charges.

Q: Can Covered Institutions charge interest during the Mandatory 30-Day Grace Period?

A: Yes. What is prohibited by the Bayanihan Act is the charging of **interest on interest, fees, charges** on the amount due during the Grace Period to future payments/amortizations falling during the 30-day grace period.

Q: How will the accrued interest be treated during the course of the loan payment?

A: The accrued interest for the mandatory grace period shall be paid by the borrower on **staggered basis** over the remaining life of the loan. However, this does not preclude any borrower from choosing to voluntarily pay the accrued interest in **full** after the mandatory grace period.

Q: To what kind of loans/borrowers will the Mandatory 30-Day Grace Period apply?

A: The Mandatory 30-Day Grace Period will apply to payments/amortizations of loans of individuals, households, micro, small and medium enterprises (“MSMEs”), corporate borrowers, and other counterparties

Q: Is the Mandatory 30-Day Grace Period applicable to Long Term Negotiable Certificate of Deposit’s (“LTNCD”) and/or bondholders?

A: No. Based on the pertinent provisions of the Bayanihan Act and the IRR, Covered Institutions are limited only to financial institutions regularly engaged in the business of lending. The said term does not extend to any LTNCDs and bondholders considering that interest payments on such instruments are classified as passive income on the part of the individual holders.

Note that the Bayanihan Act and the IRR specified their applicability to loans and not to other types of debt instruments.

Q: How will the Mandatory 30-Day Grace Period be applied for individuals and/or entities with multiple loans?

A: The Mandatory 30-Day Grace Period shall apply to **each** loan with principal and/or interest falling due during the ECQ.

Q: May a Covered Institution request a borrower to sign a waiver for the Mandatory 30-Day Grace Period

A: No. The Mandatory 30-Day Grace Period cannot be waived by any borrower.

However, a borrower is not precluded from paying his/her obligations, as they fall due during the ECQ, if he/she wishes to do so.

Q: Is there any Documentary Stamp Tax (“DST”) due for the application of the Mandatory 30-Day Grace Period?

A: No. No additional DST shall be imposed as a consequence of the mandatory grace period. No DST shall also be imposed on credit extensions and credit restructuring, micro lending including those obtained from pawnshops and extensions thereof.

Q: What is the consequence or penalty for Covered Institutions who refuse to grant the Mandatory 30-Day Grace Period to any of its borrowers?

A: Violation of the provisions of the Bayanihan Act and the IRR shall be subject to imprisonment of 2 months or a fine of not less than Php10,000.00, but not more than Php1,000,000.00, or both at the discretion of the court.

Q: Will the grace period be also given to loan payments that fell due, before the Bayanihan Act and its IRR was enacted, but within the ECQ?

A: Yes. The Mandatory 30-Day Grace Period is mandatory for all loans with principal and/or interest falling due during the ECQ.

Q: May Borrowers demand the refund of any/all previous payments made, on the loan principal and/or interest, before the passing of the Bayanihan Act and its IRR?

A: Yes. A Borrower may demand the refund of payments previously made before the effectivity of the Bayanihan Act and the corresponding IRR, provided, that the payment for the loan principal and/or interest fell due during the ECQ Period.

Prior to or upon refund of payment, Borrower shall acknowledge that it has availed of the Grace Period granted by the Bayanihan Act and commits to pay the deferred amount on a certain date after lapse of the Grace Period.

Q: Will grace period apply to past due loans?

A: Past due loans which have been declared in default status prior to the effectivity of the Bayanihan Act and its IRR are not entitled to the Mandatory 30 -Day Grace Period.

On the other hand, accounts which are considered as past due but are the subject of credit extensions or restructurings may be entitled to the 30-day Grace Period.

Q: For how long is the applicability of the Mandatory 30 -Day Grace Period?

A: The Mandatory 30-Day Grace Period is applicable during the ECQ period and shall be **automatically extended if the ECQ is extended by the President.**

However, please take note that the SEC issued a Notice dated 17 June 2020 for FCs, LCs, and MF-NGOs that **the Mandatory 30-Day Grace Period shall no longer apply starting 01 June 2020** in accordance with BSP Memo No. 045. In this regard, all loan payments with principal and interest falling due from 01 June 2020 onwards shall be due and demandable.

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