



COMPANIES ACT 1965: PRACTICE NOTE NO. 15/2012

**RE: CLARIFICATION ON MINIMUM CAPITAL TO BE PAID
IN UPON INCORPORATION OF A COMPANY**

1. This Practice Note serves to clarify that there is no minimum paid in capital requirement upon incorporation of a company under the Companies Act 1965 (CA 1965).

BACKGROUND

2. The World Bank's Report on Doing Business which is issued annually has reported that in Malaysia there is a minimum capital requirement of RM2 to be paid upon incorporation of a company. This perception may have arisen as a result of the response received from respondents that at least a minimum of 2 shares must be subscribed and such shares in practice will typically have a nominal value of RM1 each.

3. The misperception of the requirement of the minimum paid-up capital has contributed towards Malaysia, in so far as starting a business is concerned, being less competitive compared to other jurisdictions which have similar legal framework but may adopt a different practice and understanding in relation to

minimum subscription of shares at the point of incorporation and the concept of paid in capital.

RELEVANT LEGAL PROVISIONS UNDER THE COMPANIES ACT 1965

4. The relevant provisions under the CA 1965 in substantiating that that there is no requirement in Malaysia for companies to have a minimum paid-in capital upon incorporation are found under subsections 14(1), 18(2), 18(3) and section 54.

5. Sub-section 14(1) of the CA 1965 states—

"(1) Subject to this Act any two or more persons associated for any lawful purpose may by subscribing their names to a memorandum and complying with the requirements as to registration form an incorporated company"

6. Further, sub-sections 18(2) of the CA 1965 states—

"(2) Each subscriber to the memorandum shall, if the company is to have a share capital, in his own handwriting state the number of shares (not less than one) that he agrees to take and, whether or not the company is to have a share capital, shall sign the memorandum in the presence of at least one witness (not being another subscriber) who shall attest the signature and add his address."

7. Sub-sections 14(1) and 18(2) of the CA 1965 merely explain the requirement for a company to have at least two

subscribers and in the case of a limited company, that each subscriber must agreed to take at least one share each.

8. The fact that a subscriber is not required to pay the share(s) that he has agreed to take is clarified in subsections 54(1) and (6) of the CA 1965 which states the following—

"(1) Where a company makes any allotment of its shares or any of its shares are deemed to have been allotted under subsection (6) the company shall within one month thereafter lodge with the Registrar a return of the allotments stating –

- (a) the number and nominal amounts of the shares comprised in the allotment;*
- (b) the amount, if any, paid, deemed to be paid, or due and payable on the allotment of each share;*
- (c) where the capital of the company is divided into shares of different classes the class of shares to which each share comprised in the allotment belongs; and*
- (d) the full name and the address of each of the allottees and the number and class of shares allotted to him.*

...

...

(6) For the purposes of this section any shares issued without formal allotment to subscribers to the memorandum shall be deemed to have been allotted to the

subscribers on the date of the incorporation of the company."

9. Based on paragraph 54(1)(b) of the CA 1965, it is clear that at the point of incorporation, subscribers are not required to pay any minimum amount to the shares that they have agreed to subscribe in the Memorandum . The amount of unpaid shares, if any, will remain a debt owed by the subscribers to the company.

10. The current prevailing practice requiring subscribers to pay at least a minimum amount of RM2 as paid up capital for newly incorporated companies is merely an industry practice and one which is not required under the law.

11. This Practice Notes serves to highlight that there is no minimum paid in capital requirement upon incorporation of a company in Malaysia under the CA 1965.

**REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
31 December 2012**