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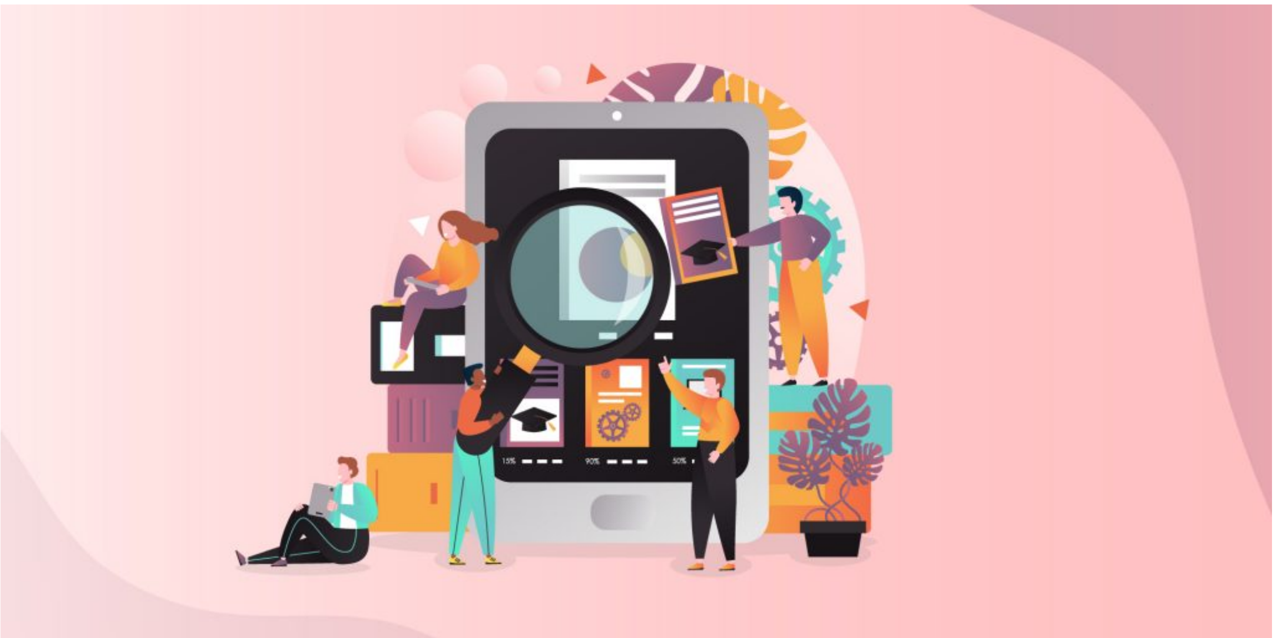
MIA Launches First Interactive E-Book on MPERS

at-mia.my/2020/12/15/mia-launches-first-interactive-e-book-on-mpers

December 15, 2020



Members who desire anytime, anywhere access to Malaysian Private Entities Reporting Standard (MPERS) guidance can now purchase MIA's firstever interactive e-book, available through the MIA website and accessible through either apps or the MIA e-library. The e-book is entitled the Interactive E-Book of the MIA Illustrative MPERS Financial Statements, with Commentaries and Guidance Notes (MPERS Interactive E-Book), where MPERS refers to the Malaysian Private Entities Reporting Standard.

The e-book is a digitalised and augmented version of the 2nd edition of the MIA Illustrative MPERS Financial Statements, with Commentaries and Guidance Notes, written by Mr Tan Liong Tong. The original print version was published in 2018 and has been very well received in the market and by members and member firms.

As members make greater use of digital tools for work and daily life, the launch of this e-book is very timely. More than just a digital copy of the original physical book published in 2018 in an A4 size with over 300 pages, the e-book has interactive features such as Informative videos, audio commentaries and quizzes to engage reader's attention actively and enhance reader's understanding.

The e-book is readily available on Windows, Android and iOS and as such it can be accessed from laptops, smartphones and tablets anywhere, anytime. In line with MIA's comprehensive digital initiatives under the MIA Digital Technology Blueprint, this e-book is available as part of our new e-Library which we launched in July 2020. This furthers MIA's ongoing advocacy to develop the technical and digital competencies of our members, especially SMEs, and to digitalise the profession to ensure its future relevance.

It is hoped that this e-book will benefit and upskill members of the accountancy profession, particularly those entities using MPERs, in these challenging times. MIA will continue to look for opportunities to adapt our services and initiatives to future-proof the profession in a digital economy.

To purchase the e-book and access the e-library, please visit https://eknowledge.mia.org.my/mia/index.html.

The steps are as follows:

1. Please click on this link: https://eknowledge.mia.org.my/mia/index.html
2. Members can straight away log in to the website. Please use the email address you use to receive notifications from MIA and the corresponding password used to access the MIA Member Services Portal.
3. Non-members must first register with the website to create an account. Upon registration, you will receive an activation email.
4. Once your account is activated, you can proceed to purchase the e-book.
5. To purchase the eBook, please login, click on the MPERS book on the Purchase Catalog, click Buy Now and follow the steps for payment. Once payment is done, you will receive a payment confirmation from MIA.

Watch the launching gambit of the e-book:

Watch Video At: https://youtu.be/7p1uOAQQFaM

3 Things to Consider When Looking for a Cloud Based HR Software

at-mia.my/2020/11/25/x-things-to-consider-when-looking-for-a-cloud-based-hr-software

November 25, 2020

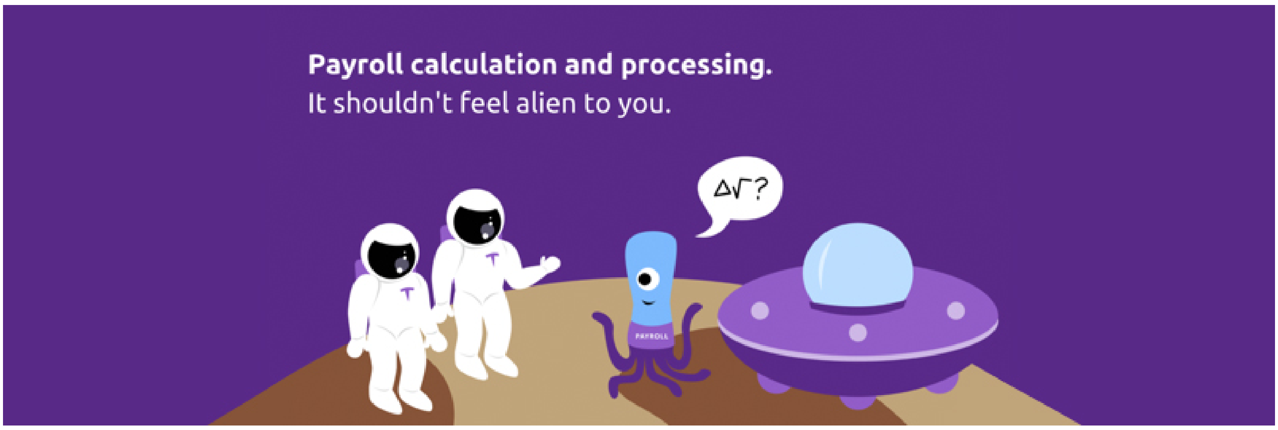
By Wong Hern Yee

The last thing a business wants to do is adopt a new HR software that brings new problems. Many already face the problem of not knowing what to do when it comes to issuing payslips and how to efficiently update or archive them. This includes entrepreneurs, SME business owners, HR administrators with no prior experience, finance controllers of MNCs and even outsourcing consultants with a portfolio of clients.

Good software can simplify the entire process such that you need only decide how many pairs of eyeballs are necessary to be confident that the final amount is always accurate.

So, **what are the 3 things to consider when looking for a cloud-based HR software** in Malaysia?

Calculation Logic



There are several very important calculations that a cloud-based HR software must factor in when processing payroll for companies in Malaysia. These include the following:

1. Proration of salary. When a monthly-rated full-time employee has incomplete months of work (typically for new hires or departures), a cloud-based HR software should help you calculate the employee's salary for an incomplete month of work. The common practice is to use workdays in a month for calculation.

2. Salary payment in arrears (i.e. money that is owed and should be paid earlier). There may be instances when the employer and a new hire mutually agree that the new hire's first salary payment can be carried over to the following month. In this case, any Employees Provident Fund (EPF) / Kumpulan Wang Simpanan Pekerja (KWSP) contribution due should still be calculated for the first month of work. A smart cloud-based HR software will ensure that this is carried out.

3. Pay frequency. This includes –

- Monthly Pay: Typically allocated to full-time employees.
- Weekly, Bi-weekly or Bi-monthly Pay: These are practised by businesses with significant numbers of part-time employees and/or a preference for more frequent pay disbursement.

It would be good to have a HR software that supports your employees' weekly and bi-monthly pay due to EPF considerations (contribution amount is determined by a full calendar month's salary). A good HR software will help you withhold the maximum amount of EPF for employee contribution to ensure that when such employees resign, there will be enough buffer for EPF contribution.

4. Rate of pay. Hourly/daily rated with varying rates based on the day of the week or rest days and public holidays. While this isn't a common feature, a smart system should factor in the hourly/daily rate of pay. After all, it is common practice among companies that employ part-timers.

5. Additional payments and deductions. Examples are reimbursement, allowance, bonus, commission, overtime, leave encashment, loans, and unpaid leave. Apart from capturing these pay items, it's crucial to determine if they are part of the payments that contribute to EPF and Tax calculations. Most software typically tag common items accordingly while some utilise an open-ended feature for users to determine the appropriate contribution.

6. Statutory contributions. A HR system must help you ensure that the treatment of decimal places is applied correctly when calculating the following statutory contributions for each employee:

- Employees Provident Fund (EPF), also known as Kumpulan Wang Simpanan Pekerja (KWSP) contribution.
- Social Security Organisation (SOCSO), also known as PERKESO (Pertubuhan Keselamatan Sosial).
- Monthly Tax Deduction (MTD), also known as Potongan Cukai Bulanan (PCB).
- Human Resources Development Fund (HRDF) / Pembangunan Sumber Manusia Berhad (PSMB) levy submissions.

User Functions

1. Mass data upload. If you have too many entries to key in individually, having a feature that helps you upload data in bulk is a real time-saver. However, the challenge lies in how well the data is sorted within the software. A smart process should require minimal data massaging, with the option for user-defined formatting and naming conventions.

2. Job grades. A job grade is a group of job positions with the same/similar level of responsibility in a company; it is often used to assign organisational structure and decide on the different levels of pay in a firm. In a sizeable workforce, it is useful to have a HR system that allows you to define job grades. After all, defined job grades are good for career progression mapping. It will also strongly assist in matching employees to predefined compensation packages.

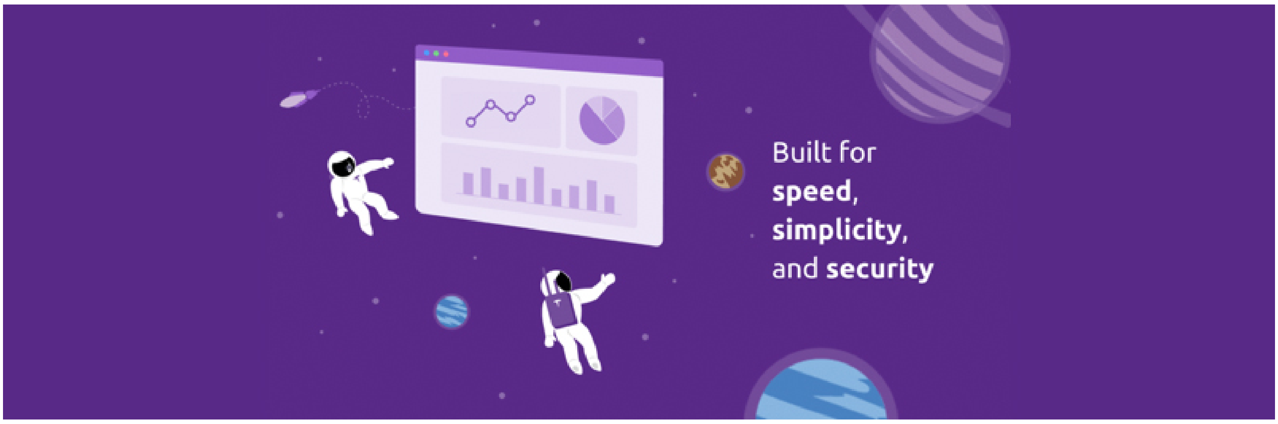
3. Reports. The bare minimum is a summary of all payroll items with sum totals. Building upon this, the variation in style becomes quite extensive. It would be good for the report view to rely on design (i.e. colour, layout, alerts) to facilitate checking without having to switch between reports/views. In the event that different reports are needed to serve a unique validation purpose, a smart HR system should allow this as well. Take for instance, employee leave reports. An intuitive HR software would allow you the flexibility of exporting a report that is either Leave Type based or employee-based – depending on which variables you'd prefer to keep track of.

4. Payslips. Most software should support individual access to be able to view the payslip online or forwarding of payslips to email.

5. Integration.

- The must-haves: Online submission compatibility with the top banks in Malaysia. Payroll features comply to requirements of all Malaysian statutory bodies like EPF, LHDN and SOCSO.
- The good-to-have: Integrated into accounting, Leave & Attendance tracking, and expense management software. Everybody loves an all-in-one software.

Architecture & Design



1. On the cloud. More users are adopting cloud software over on-premise installation. The advantage is data mobility plus no hassle over version updates, especially with regular statutory updates affecting calculation logic. With regulated data protection laws, any fuss over data security on a cloud database is quickly fading.

2. Speed. Some software's processing speed is affected by the total headcount captured. Modern cloud-based HR software using newer technology stacks should process thousands of records within seconds. If you think that HR tools are generally and naturally prone to hanging, just know that laggy systems don't have to be the norm.

3. Simple. A software with comprehensive computation logic coupled with enough user functions should be excellent right? Yes, functionally. But how simple is it to master? Simple enough that you can ignore the user manual and skip the training session? It's really worth considering. Intuitive product design speeds up learning, especially for the inexperienced user.

So, are you ready to look for the right HR software?

All in all, you just need to keep these three factors in mind when choosing a cloud-based HR Software- calculation logic, user functions, and architecture & design. This can make automation less mind-boggling and also ease your employees' concerns that new tools will be harder to use than their existing methods. Putting careful thought in adopting a suitable HR software will also help enormously in boosting your organisation's productivity.

Click here to learn more about running your HR processes.

Wong Hern Yee leads Talenox's content marketing campaigns and event management initiatives regionally.

Advance Pricing Agreement (APA): Ensuring Certainty in Uncertain Times

at-mia.my/2020/12/23/advance-pricing-agreement-apa-ensuring-certainty-in-uncertain-times

December 23, 2020

By Anil Gupta and Yogesh Mangla

Transfer Pricing (TP) risk has never been as high for MNEs as it is today due to additional reporting requirements and exchange of information emanating from Base Erosion and Profit Shifting (BEPS) action plans issued by the Organisation for Economic Co-operation and Development (OECD). This is evident from the inventory of tax dispute cases (primarily TP cases) between treaty partners which over a decade has increased from 2,897 in FY 2008 to 6,605 cases in FY 2018. Further, the unprecedented crisis caused by COVID-19 (C-19) has caused uncertainties in different economies and taxation systems, including TP, across the world.

In this scenario, APA may provide a potential solution for multinationals to proactively engage in discussion with tax authorities and mitigate the transfer pricing risk. An APA is an agreement entered into by taxpayers with tax authorities to determine TP methodology pertaining to intercompany transactions in advance, subject to certain terms and conditions (called 'critical assumptions'). The APA programme in Malaysia is applicable for corporate taxpayers satisfying the following conditions:

1. Assessable and chargeable to tax
2. Turnover exceeding RM100 Million
3. The value of the proposed covered transaction exceeds:
    - For sales – 50 per cent of total turnover
    - For purchases – 50 per cent of total purchases
    - For other transactions – RM25 Million
    - For financial assistance – RM50 Million
4. The covered transaction must relate to chargeable income, i.e. not tax-exempt.

An APA can be unilateral, bilateral, or multilateral.

- **Unilateral APA:** An APA between a taxpayer and the tax authority of the same jurisdiction;
- **Bilateral APA:** An APA between taxpayers and tax authorities of two different jurisdictions; and
- **Multilateral APA:** An APA between taxpayers and tax authorities of more than two jurisdictions.

The key benefits of entering into an APA are to get TP certainty, avoid the risk of double taxation, alleviate the compliance burden, and resolve TP issues in advance without any litigation. However, taxpayers subject to an APA based on pre C-19 facts and circumstances might be sceptical about the final outcome. An APA may also pose challenges to manage TP risks, specifically if there is a static pricing arrangement without any mechanism to adjust it for unforeseen circumstances. Though there can be an argument that an APA is for a long-term period, i.e. generally for 5-8 years (including roll-back) and business disruption is only for a few months, i.e., 2-3 months, nevertheless, C-19 may have a dire and long-lasting impact on different industries that cannot be envisaged at the moment. For example:

Company A is engaged in the manufacturing business in Malaysia and agreed on an APA with an arm's length range of mark-up on costs of 8-10 per cent. The cost of Company A comprises 60 per cent variable cost and 40 per cent fixed cost. Due to C-19 and the lockdown situation, Company A has operated at 50 per cent capacity for three months and resumes normal business post lockdown. The annual profitability of Company A, before and during the C-19 crisis is as follows:

Before C-19 Crisis

Particulars	Amount (in RM)
Sales (110*12) [A]	1,320
COGS and other variable costs (60*12) [B]	720
Fixed cost (40*12) [C]	480
Total Cost [D] = [B]+[C]	1,200
Profit [E] = [A]-[D]	120
Profit percentage [E]/ [D]	10%

During C-19 Crisis

Particulars	Amount (in RM)
Sales (110*9+55*3) [A]	1,155
COGS and other variable costs (60*9+30*3) [B]	630
Fixed cost (40*12) [C]	480
Total Cost [D] = [B]+[C]	1,110
Profit [E] = [A]-[D]	45
Profit percentage [E]/ [D]	4%

It can be observed from the above that due to the lockdown situation for a mere three months, the profit margin of Company A dropped from 10 per cent to 4 per cent, which is outside the agreed arm's length range with the tax authority. Besides, taxpayers might not be able to attain their normal sales even after lockdown due to fragile market demand. In such scenarios, an APA agreement entered by the taxpayer based on the pre C-19 facts might not be very fruitful.

FAQs from the IRBM

To avoid ambiguities arising in the APA domain due to the C-19 pandemic, the Inland Revenue Board of Malaysia (IRBM) issued FAQs on 16 June 2020 and further updated them on 7 October 2020. The salient points are as below:

A. New APA application: The IRBM will accept a new APA application only from taxpayers whose businesses are not significantly impacted by C-19.

B. Ongoing APA:

- Negotiation for ongoing APAs will be based on the pre C-19 situation;
- IRBM does not allow any amendment to an ongoing APA application as the full impact of C-19 is highly unpredictable;
- The application of the "Term Test" will be on a case-to-case basis depending on the facts and circumstances surroundings the covered transaction. Further, any compensating adjustment pursuant to the Term Test shall be made at the end of the APA covered period; and
- A taxpayer can either continue an ongoing APA or consider withdrawing if the business is significantly impacted by C-19.

C. Concluded APA:

- Needs to comply with all critical assumptions agreed previously with the IRBM with no exceptions; and
- A taxpayer can revise an APA or apply for cancellation.

D. Renewal of APA: Taxpayers will not qualify for the renewal of an APA if they are not able to fulfill the critical assumptions of existing APAs

Analysis of FAQs issued by the IRBM

A. Term Test: The Term Test refers to the testing of a transaction over a period of time rather than on a year-on-year ("y-o-y") basis. Considering the current pandemic situation, the reference to the Term Test by the IRBM is a welcome move. The Term Test may help to spread non-recurring or extraordinary cost/losses incurred by a taxpayer during the pandemic over a period of time (e.g. the covered period of the APA). For instance, if we apply the Term Test by assuming an APA period of five years in the abovementioned example, the outcome could be as follows:

Particulars	FY 2019 Amount (in RM)	FY 2020 Amount (in RM)	FY 2021 Amount (in RM)	FY 2022 Amount (in RM)	FY 2023 Amount (in RM)
Sales	1,320	1,155	1,090	1,320	1,500
COGS and other variable cost	720	630	520	720	855
Fixed cost	480	480	480	480	480
Total Cost	1,200	1,110	1,000	1,200	1,335
Profit	120	45	90	120	165
Profit percentage	10%	4%	9%	10%	11%

As can be observed from the above, if the IRBM applies y-o-y testing, Company A will not be able to meet the agreed arm's length range of 8-10 per cent for the C-19 impacted year. Conversely, by application of the Term Test, C-19's impact has been spread across the overall period covered in the APA and no TP adjustment may be warranted.

It is important to note that competent authorities of some of Malaysia's key trading partners, e.g. China and Japan, accept the Term Test for APA proceedings, and this would assist in providing TP certainty to MNEs operating in Malaysia. Nevertheless, it will be interesting to see the actual application of the Term Test by the IRBM, e.g., whether it will be applicable for rollback periods pertaining to pre C-19, and whether the taxpayer would be required to maintain profitability within a particular range to satisfy the Term Test criteria, etc.

B. Negotiation/renegotiation for ongoing APAs/concluded APAs

In the FAQs, the IRBM has mentioned that the full impact of C-19 is highly uncertain and the negotiation / review process of ongoing APA will be based on the pre C-19 situation.

Due to C-19 (or similar future event), the taxpayer might incur various extraordinary costs, e.g., additional employee benefits cost, expenditure on sanitisation and additional operational costs due to disruption in the supply chain, etc. and might be exposed to different risks that are not envisaged at the time of negotiating the APA. Accordingly, the taxpayer should take into consideration relevant current and potential circumstances in negotiating critical assumptions with the tax authority. Additional critical assumptions pertaining to an extraordinary decline in revenue or increase in costs due to extraneous factors would be of particular relevance in today's circumstances.

In case of a concluded APA, the taxpayer should inform the tax authority about the impact of C-19 on its business through the Annual Compliance Report, including information on unanticipated costs incurred, additional risks borne, etc. Proactive initiation of discussion with the tax authority on the above is recommended, and required, especially if there is a probability of breach of a critical assumption or any other terms of the APA.

C. Revision/cancellation of an APA

In the FAQs, the IRBM has mentioned that if the taxpayer is not able to fulfill the critical assumptions due to C-19, then it can apply for revision or cancellation of the APA. Accordingly, if the taxpayer anticipates that due to the economic and business impacts of C-19, it will not be able to meet critical assumptions stipulated in the APA, then it must notify the IRBM within 30 days of becoming aware of such a situation. The revision of an APA, depending on its type, i.e., unilateral, bilateral, or multilateral, requires the concurrence of the taxpayer, the IRBM, and/or the competent authority of the treaty partner(s). If all the parties together are not able to reach an agreement pertaining to the revision of the APA, then the IRBM may cancel the APA. The effective date of the cancellation of an APA will be from the beginning of the year of assessment wherein the taxpayer fails to meet the critical assumptions, as per the APA Rules 2012 and the APA Guidelines 2012.

Conclusion

We all are aware that the world is going through an unprecedented crisis, and there is no legal precedent / international guidance available to deal with TP in the current volatile environment. Accordingly, in such an uncertain environment, the taxpayer should:

- **Assess** – Taxpayers who have signed an APA or are in the process of negotiating an APA should assess the impact of C-19 on their business and prepare FAR (Function, Asset, and Risk) analysis based on the pre and post C-19 situation and y-o-y variance analysis of profit and loss statements to demonstrate the actual financial impact.
- **Engage** – After assessing the impact of C-19, taxpayers are encouraged to engage in proactive discussion with the tax authority, present all the relevant facts pertaining to their business, and impact on the overall industry.
- **Respond** – Based on discussion with the tax authority and forecasted business impact, taxpayers should make informed decisions taking into account the cost and resources employed by them in an APA proceeding.

The introduction of the Term Test by the IRBM is an encouraging move to tackle the C-19 situation. The Term Test would yield more utility value in an APA covering a longer period of time (i.e. 5 future years instead of 3 years), as any extraordinary costs/losses incurred by taxpayers would be spread out over the covered period of the APA. In conclusion, both taxpayers and the tax authorities should keep an open line of communication for an amicable conclusion on ongoing APA negotiations as well as adherence to concluded APAs.

Anil Gupta, Director and Yogesh Mangla, Senior Manager are from Deloitte Tax Services Sdn Bhd. Anil Gupta is also a member of MIA

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Aspirations for 2021

at-mia.my/2020/12/31/aspirations-for-2021

December 31, 2020

Dear Members,

On behalf of MIA, I would like to thank all of you for your patience, fortitude and support throughout 2020, which has been an unprecedented year in terms of turbulence, uncertainty and complexity.

MIA, however, was able to steer a steady course and remain resilient, agile and future-oriented through adoption of suitable workplans. We never lost sight of our ultimate purpose, which is to uphold good governance in the public interest and to future-proof the profession and accountancy professionals to be relevant and valued contributors to nation building.

Indeed during 2020, we achieved several noteworthy highlights even as we were coping with the onslaught of the COVID lockdowns — we were able to launch MIA's textbook on MFRS application for Islamic finance institutions and MIA's Illustrative MPERs e-book, roll out the multi-stakeholder eBank Confirmation platform (econfirm.my) and PLC Professional Liquidity Scheme, dedicated COVID-19 webpage with numerous COVID-19 related guidance and articles, enhance surveillance and enforcement activities and hold numerous webinars and online events as part of our continuing professional development service for our members.

Going into 2021, we will continue to prioritise key initiatives that support our regulatory and development agenda for the benefit of the profession and members. Of utmost importance is our continuing effort to reform the Accountants Act 1967, to strengthen MIA's effectiveness as the national accountancy regulator and for the profession to stand tall in the eyes of the world. We will also continue to implement programmes to support members' continuing professional development and wellbeing, as well as your business continuity and sustainability. I strongly encourage members to make full use of MIA's programmes and facilities to add value to your skillsets and portfolios, getting into position for 2021 and beyond when things pick up.

While we are cautiously optimistic, I would like to remind everybody that we are not out of the woods yet. Although vaccines are in the works, the need to manage the pandemic is still essential. Further, economic and social risks are still prevalent. Nevertheless, the outlook for 2021 is more bullish than 2020, with a projected upswing in growth for both the local and global economy. Do take advantage of the various stimulus and incentive programmes available to transform and scale up your business and organisations, in order to capitalise on upticks in growth and demand. It is also vital for members to look beyond Malaysia's small domestic market by exploring the opportunities emerging from the offshoring of business processes and supply chains and the implementation of trade pacts such as the Regional Comprehensive Economic Partnership (RCEP). Our advice is for members to remain vigilant, stay safe and function productively by using the tools at our disposal, especially technology supporting remote work. I hope that we can also continue to engage and collaborate positively through physical and virtual platforms to strengthen the profession and to support nation building in our own unique fashion.

On that note, I wish you prosperity, peace and good health as we ring in the New Year.

Dr Veerinderjeet Singh
President
Malaysian Institute of Accountants

NACRA 2020 Awards Celebrate Good Disclosure, Champion Sustainability

at-mia.my/2020/12/24/nacra-2020-awards-celebrate-good-disclosure-champion-sustainability

December 24, 2020

A total of 32 winners in different categories were announced out of a field of 48 participating organisations (see full list of winners below) at the 2020 National Annual Corporate Report Awards (NACRA) jointly organised by Bursa Malaysia Berhad (Bursa), Malaysian Institute of Accountants (MIA) and The Malaysian Institute of Certified Public Accountants (MICPA).

Now in its 30th year, NACRA 2020 continues to be a force for spurring continuing excellence and improvement in corporate reporting in Malaysia, in line with its evergreen theme, “Towards Accountability & Excellence”. Every year, NACRA guidelines are reviewed and enhanced to ensure that the standards and quality of the production of annual reports are in line with current requirements and the latest global developments. Earlier in 2020, NACRA introduced a new framework which integrates elements of sustainability and integrated reporting in line with evolving expectations.

Reflecting the pandemic zeitgeist, the awards presentation ceremony was held virtually. In his congratulatory message, Tan Sri Abdul Wahid Omar, Chairman, Bursa Malaysia highlighted the impact of COVID-19 and ESG (environmental, social and governance) issues on disclosure. “During this unprecedented health crisis, it has become more important for investors and shareholders to be kept apprised of the company’s financial condition, as well as the associated risks and outlook. This will help investors in determining their choice of action and in making informed investment decisions.”

He expects the focus on sustainability to accelerate as “this pandemic has proven the viability of the ESG agenda for both stakeholders and investors,” with investors pouring a record 12 billion dollars into ESG funds in the first four months of 2020 and 70% of ESG funds for all asset classes outperforming their competitors.

Dr.Veerinderjeet Singh, President of MIA and MICPA stated that enhancing corporate disclosure and reinforcing its use as a tool for communications, stakeholder engagement and comparison will ensure that corporate and financial reporting remains ever relevant, despite the changes in the business and economic landscape. “This in turn improves the demand for accountancy as the primary provider of corporate and financial reporting and enhances the long-term demand for accountancy services and the ensuing sustainability and resilience of the profession.”

Encik Ahmad Zahirudin Abdul Rahim, Chairman, NACRA 2020 Adjudication Committee explained the salient changes in the new NACRA 2020 framework, which include streamlining the adjudication process from two stages to just one and assessing companies’ annual reports against their peers within the same tier of market capitalisation. “Beginning with the NACRA 2020 awards cycle, companies competing for the Excellence Awards will be subdivided according to different tiers of market capitalisation.”

Notwithstanding the changes to the framework, there was an overall high standard of presentation of annual reports among the entries, with strong contenders from new entries as well. “The Committee and the panel of adjudicators had a challenging task in selecting the winners, as they were of a very high quality,” said Ahmad Zahirudin.

Other than affecting disclosure trends and expectations, the COVID-19 pandemic and compulsory social distancing norms required NACRA to adapt its organisational and logistical matters. Stanley Teo, Chairman, NACRA 2020 Organising Committee explained that the submission deadline had been extended from 29 May 2020 to 15 July 2020, in parallel with the extension of time granted by Bursa Malaysia on the filing of annual reports with financial year-ends of 31 December 2019 to 30 June 2020. The annual physical NACRA 2020 Awards Presentation Dinner was also cancelled and participation fees revised due to the dinner cancellation.

NACRA is open to all companies incorporated or registered in Malaysia as well as the public sector and other organisations established in Malaysia.

LIST OF AWARD WINNERS (NACRA) 2020

EXCELLENCE AWARDS

COMPANIES WITH MORE THAN RM10 BILLION IN MARKET CAPITALISATION

Platinum
PUBLIC BANK BERHAD

Gold CIMB GROUP HOLDINGS BHD	**Gold** RHB BANK BERHAD	**Gold** TENAGA NASIONAL BERHAD
Silver AXIATA GROUP BERHAD	**Silver** HONG LEONG BANK BERHAD	**Silver** NESTLÉ (MALAYSIA) BERHAD

COMPANIES WITH RM2 BILLION TO RM10 BILLION IN MARKET CAPITALISATION

Platinum
TELEKOM MALAYSIA BERHAD

Gold ASTRO MALAYSIA HOLDINGS BERHAD	**Gold** KPJ HEALTHCARE BERHAD	**Gold** SUNWAY REAL ESTATE INVESTMENT TRUST
Silver SIME DARBY PROPERTY BERHAD	**Silver** SUNWAY BERHAD	**Silver** YINSON HOLDINGS BERHAD

COMPANIES WITH LESS THAN RM2 BILLION IN MARKET CAPITALISATION

Platinum SUNWAY CONSTRUCTION GROUP BERHAD	**Gold** AXIS REAL ESTATE INVESTMENT TRUST

Silver DUOPHARMA BIOTECH BERHAD	**Silver** ECO WORLD INTERNATIONAL BERHAD	**Silver** KUMPULAN PERANGSANG SELANGOR BERHAD

NON-LISTED ORGANISATIONS

Platinum PETROLIAM NASIONAL BERHAD	**Gold** KULIM (MALAYSIA) BERHAD	**Silver** CREDIT GUARANTEE CORPORATION MALAYSIA BERHAD

SPECIAL AWARDS

BEST SUSTAINABILITY REPORTING

Platinum NESTLÉ (MALAYSIA) BERHAD	**Gold** PETRONAS CHEMICALS GROUP BERHAD	**Silver** AXIATA GROUP BERHAD	**Silver** FRASER & NEAVE HOLDINGS BHD

BEST ANNUAL REPORT IN BAHASA MALAYSIA

Platinum TELEKOM MALAYSIA BERHAD	**Gold** RHB BANK BERHAD	**Silver** FGV HOLDINGS BERHAD

BEST DESIGNED ANNUAL REPORT

Platinum PETRONAS GAS BERHAD	**Gold** NESTLÉ (MALAYSIA) BERHAD	**Silver** KLCCP STAPLED GROUP

Navigating Towards a New Normal After COVID-19

at-mia.my/2020/11/05/navigating-towards-a-new-normal-after-covid-19

November 5, 2020

By MIA Small and Medium Practices Department

The impact of COVID-19 is still unfolding. Firms should continue to take rapid action to protect themselves, their employees and their clients, and to consider how to future-proof their practice for a 'post crisis' world.

To help firms navigate the crisis, IFAC recently launched the Practice Transformation Action Plan – A Road Map to the Future. Transformation involves strong leadership, embracing technology, recruiting and retaining the next generation of accountants, approaching training and continued learning and development in new ways and identifying and meeting the needs of an evolving marketplace. Below are the recommended steps for practice transformation:

1. Embrace Change

Clients' expectation, demands and needs are changing. A key competency in the future will be the ability to see and anticipate trends on the horizon and advise clients on the implications of those trends. The advantage of a small practice is a close client relationship. Hence, a small firm is well-positioned to identify needs and customise services to meet demand and circumstances.

2. Leverage Technology

There are five key initiatives to successfully adopt and embed technology:

- **Conduct an Environmental Scan** – Firms should take the time to conduct an environmental scan of the technology they have and the technology they want, including engaging with clients to understand how the firm's processes can be more efficient.
  The starting point for the digital transformation journey is to establish the current level of digital maturity. In September 2019, the European Federation of Accountants and Auditors for SMEs (EFAA) launched a new tool, the Digital Competency Maturity Model (DCMM) to help SMPs rate and improve their digital competency. For more information about this DCMM, please refer to an article from EFAA.
- **Align with the Long – Term Strategy & Formulate a Realistic Implementation Plan** – The return on investment (ROI) should be calculated, but the risk of not investing (RONI) in new technology should also be considered. Sharing experiences with other similar firms can be mutually beneficial. There are various options to manage the investment, including exploring a subscription-based or monthly-renewal model to manage the costs and considering passing the cost on to clients.
- **Adopt the Cloud** – Firms with multiple offices can use the cloud to provide staff with an easy way to work virtually on the same client simultaneously in different offices. For cost-conscious firms, the cloud eliminates some extra costs. For example, the cost to do updates and back-ups will be unnecessary if online services are updated and backed-up automatically. While cloud is more secure than in-house servers, data management is key. The firm needs to know the providers and where they are storing the data to track how it is being secured.
- **Identify and Support an Internal Technology Champion** – The firm should identify and position a passionate team member as technology champion to take the lead in implementing a new technology initiative.
- **Involve Clients in Technology Decisions** – Involving clients in new technology upgrades through virtual meetings and client portals will build confidence and trust throughout the journey. This approach creates transparency and highlights a long-term vision for all involved.

3. Focus on Talent Management

Staff are the most valuable asset of any firm and hence, investment in talent management should be a top priority.

- Offer on-going learning and continuous development (lifelong learning)
- Empower staff to innovate
- Engage in transparent career progression conversations
- Introduce flex-time
- Use a variety of recruitment techniques

4. Evolve the Firm Operating Model and Build Advisory Services

- Move from transactional to strategic services
- Re-evaluate the services provided and marketing strategies

- Move into a niche market
- Use networks, associations and alliances to add value
- Conduct a regular strategic review

It is recognised that every firm will be different, and the actions taken by each firm will need to be tailored to its individual circumstances and objectives. The level of action to transform will depend on a range of factors, such as the lifecycle of the practice, partners' motivation, the size and services provided, the firm's location and the type and number of clients served.

IFAC has created a dedicated 'practice transformation' web page, featuring case studies and examples of how member organisations are supporting their firms to innovate and evolve, as well as additional tools and resources.

Supporting clients through crisis

Many businesses now face a prolonged period of changing circumstances, i.e. the "next normal" and continue looking for a new approach to resilience. Early on, the pandemic accelerated digitisation and transformed small businesses responding to drastic consumer behaviour shifts. The ability of small businesses to survive the current environment, and thrive in the future, will be greatly strengthened by support from their professional accountant. Small- and medium-sized practices (SMPs) have in-depth knowledge of their clients and can provide vital guidance for navigating these uncertain times.

To learn more, please refer to the following:

1. Accountancy Europe article on COVID-19: 5 key steps for accountants to guide SMEs through the crisis at https://www.accountancyeurope.eu/publications/covid-19-5-key-steps-for-accountants-to-guide-smes-through-the-crisis/. The same article was republished in e-AT in April 2020 for the benefit of members and readers.
2. IFAC's Small Business Continuity Checklist – How to Survive and Thrive Post Covid-19' is a diagnostic tool to navigate times of disruption, covering two key areas of Financial Management Tasks and Strategic Management Tasks. It is not intended to be an exhaustive checklist of requirements but rather a tool to help identify priority actions for immediate attention.
   With government stimulus measures, easier access to finance and businesses needing the business advice from accountants to get through the crisis, the coming months may see an influx of work for many practitioners who are able to turn crisis into opportunity.

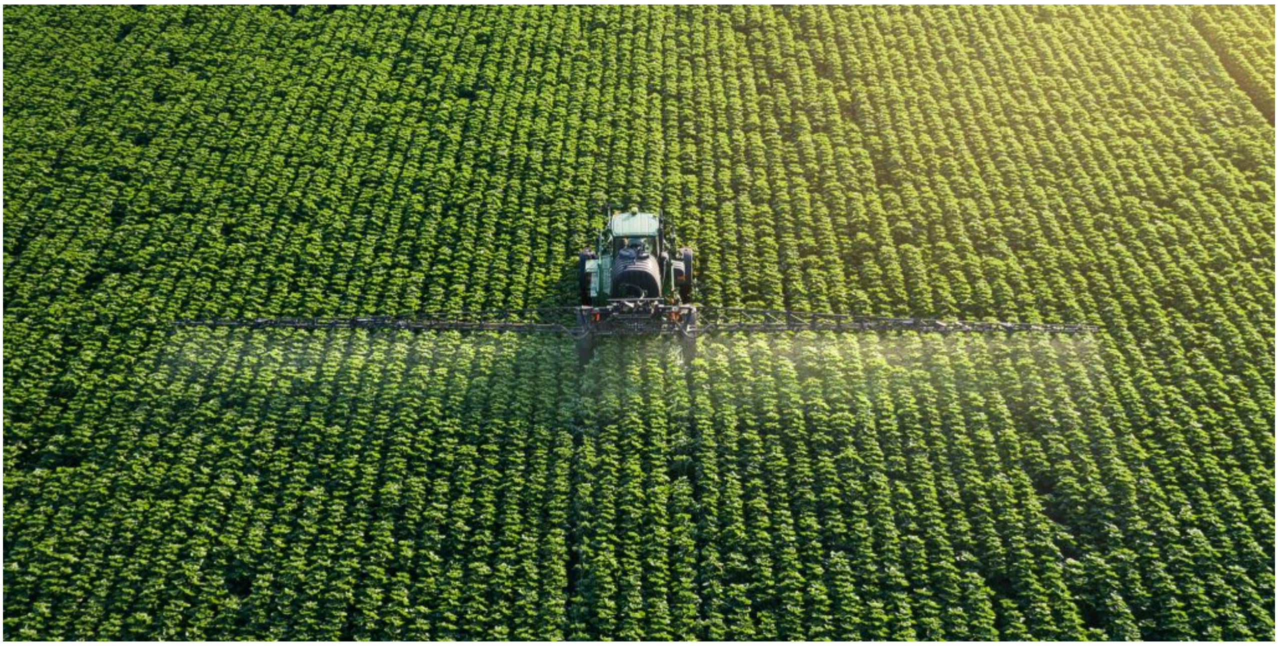
Do join our SMP Forum 2020 for ideas on how to reinvent your practice for the unpredictable new normal. Themed, "Future-proofing your practice in the new normal", this forum is specially geared to equip our practitioner members to embrace the necessary work norms, transformative technologies and strategies that can help build a sustainable practice and ensure the profession's continuity and future relevance.

For more information click here

Plugging the Gaps in the Audit of Biological Assets

at-mia.my/2020/11/16/plugging-the-gaps-in-the-audit-of-biological-assets

November 16, 2020



By MIA Practice Review Department

Auditors are expected to exercise a high degree of vigilance when conducting the audit of biological assets, an area where subjectivity, judgements and estimates abound. In the course of conducting practice reviews, the Practice Review Department (PRD) has identified gaps in the audit of biological assets.

Is it a Biological Asset?

Malaysian Financial Reporting Standard (MFRS) 141: *Agriculture* is applicable to biological assets (except for bearer plants), agricultural produce at the point of harvest and government grants related to biological assets. MFRS 141 and Appendix B of the Malaysian Private Entities Reporting Standard (MPERS) define agricultural activity as the management by an entity of the biological transformation and harvest of biological assets for sale or for conversion into agricultural produce or into additional biological assets, wherein a biological asset is defined as a living animal or plant. It is noteworthy to highlight that produce growing on bearer plants such as tea leaves, grapes, oil palm fruit and latex, is within the scope of MFRS 141, but not MPERS Section 34: *Specialised Activities*.

Certain biological assets such as livestock (e.g. broilers raised for sale at maturity) and aquaculture stocks such as fishes farmed in ponds are often not recognised as biological assets but as inventories, measured at the lower of cost and net realisable value. However, it was found that some auditors neglected to challenge the accounting policy adopted by management with respect to agricultural activity. It is a common Practice Review finding that auditors failed to identify, assess and evaluate the appropriateness of the recognition of such biological assets, which meet the definition of agricultural activity pursuant to MFRS 141 and MPERS Section 34. Auditors are required to document their consideration and judgement made in evaluating management's assessment on whether an agricultural activity falls within the scope of biological assets. It is critical for auditors to recognise and communicate to management, that adoption of the biological assets standards is not a matter of choice when the criteria set out in the accounting standards are fulfilled. Auditors should strive to improve their technical knowledge on biological assets in order to be able to aptly challenge their clients when such stark misstatements are identified, and consider whether any modification to the auditor's report is necessary, in accordance with International Standard on Auditing (ISA) 750 (Revised): *Modifications to the Opinion in the Independent Auditor's Report*. Indeed, auditors should only undertake or continue audit engagements involving biological assets where the audit firm is competent to perform such engagements and has the capabilities to do so.

Measurement at initial recognition – fair value or cost?

Biological assets are to be measured on initial recognition at its fair value less costs to sell. Para 30 of MFRS 141 states that there is a presumption that fair value can be measured reliably for a biological asset. However, that presumption can be rebutted only on initial recognition for a biological asset for which quoted market prices are not available and for which alternative fair value measurements are determined to be clearly unreliable. In such a case, that biological asset shall be measured at its cost less any accumulated depreciation and any accumulated impairment losses. MPERS Section 34, on the other hand, allows an entity to measure at cost less any accumulated depreciation and any accumulated impairment losses those biological assets whose fair value is not readily determinable without undue cost or effort.

The determination of whether fair value can be reliably measured is a point of subjectivity at initial recognition and auditors are required to critically evaluate the management's decision to measure biological assets at cost less any accumulated depreciation and any accumulated impairment losses, instead of using fair value accounting. Management's judgements that fair value measurements are *"clearly unreliable"* (per MFRS 141) or *"not readily determinable without undue cost or effort"* (per MPERS Section 34) must be clearly demonstrated and the auditors must ensure that sufficient appropriate audit evidence is obtained to support that fact.

Auditors should also take note that agricultural produce harvested from an entity's biological assets shall be measured at its fair value less costs to sell at the point of harvest. Such measurement is the cost at that date when applying MFRS 102: Inventories or MPERS Section 13: Inventories or another applicable Standard.

Is fair value fair?

Guidance on fair value is set out in MFRS 13: *Fair Value Measurement* and MPERS Section 34.6. Various fair value models are available to measure biological assets, depending on whether there exists an active market, whereby the quoted price is used; if an active market does not exist, other fair value techniques to be considered include the most recent market transaction price, market price for similar assets, sector benchmarks and the discounted present value of expected net cash flows from the asset. It is the management's role to determine the best-fit fair value measurement model for their biological assets.

The auditors' role is to audit the fair value of biological assets determined by management, including inter alia, the appropriateness of the fair value technique used, the assumptions made by management and inputs injected into the fair value model. The PRD has frequently observed that auditors failed to ensure that there is sufficient appropriate audit evidence obtained to substantiate their review of the fair value determined by management, as required by ISA 540: *Auditing Accounting Estimates, Including Fair Value Estimates, and Related Disclosures*.

The role of the auditors does not end when valuation experts are engaged by the management to determine fair value – it is imperative for auditors to evaluate the competence, capabilities and objectivity of the experts, on top of assessing the appropriateness of the valuation methods and inputs used by the valuation experts pursuant to ISA 500: *Audit Evidence*. Under circumstances where the auditor decides to use an auditor's expert to determine the fair value of biological assets, the auditor's responsibilities are stipulated in ISA 620: *Using the Work of an Auditor's Expert*.

What if biological assets are carried at cost model?

In circumstances where fair value measurements are *"clearly unreliable"* (per MFRS 141) or *"not readily determinable without undue cost or effort"* (per MPERS Section 34), biological assets shall be measured at cost less any accumulated depreciation and any accumulated impairment losses.

For biological assets carried using the cost model, it is mandatory for auditors to review the reasonableness of depreciation rates used and to perform a depreciation reasonableness test accordingly. In addition, auditors are required to assess whether the biological assets have been impaired in any way, and whether any impairment losses need to be made, for example, if the company is in a loss-making position or if other indicators of impairment exist. The lack of assessment of impairment is a recurrent area of negligence that the PRD has identified – auditors frequently failed to perform any assessment of impairment for biological assets carried at cost model, or do not adequately document their assessment in the audit working papers.

What are other audit procedures commonly omitted?

From the PRD's conduct of Practice Review on audit engagements involving biological assets, recurring deficiencies have also been identified in the audit of the following:

> Additions of biological assets such as the costs incurred in the breeding of livestock and cultivation of oil palm plantations;

Capitalisation of costs prior to maturity or harvesting of biological assets, such as direct labour, maintenance costs and borrowing costs (which can be capitalised under MFRS but are to be expensed to profit or loss under MPERS Section 25);

Verification of the existence of biological assets e.g. observation of physical count of livestock;

Derecognition of biological assets resulting from harvest; and

Disclosures of biological assets in the financial statements in accordance with the applicable financial reporting framework.

COVID-19: Any impact?[1]

Depending on each entity's specific circumstances, the COVID-19 pandemic has varying degrees of impact on the entity's operations and financial performance. As far as the audit of biological assets is concerned, the pertinent areas that auditors need to consider in the COVID-19 environment include, but are not limited to the following:

Assessment of audit risks and related audit procedures

Auditors should assess whether COVID-19 has affected audit risks identified in relation to biological assets or maybe even resulted in new audit risks such as impairment of biological assets. The potential consequences of COVID-19 on the audit procedures performed on biological assets should also be considered by auditors, e.g. practicality of attending observation of physical counting of biological assets, and the alternative procedures to be performed.

Evaluation of areas subject to judgements and estimation uncertainties

Determination of fair value and impairment losses are examples of areas that are subject to judgement and estimation uncertainties with respect to biological assets. The potential issues arising from COVID-19 undoubtedly require auditors to exercise greater professional skepticism and due care when evaluating the fair value of biological assets determined by management, particularly when management assumptions and cash flow forecasts/projections are involved. Likewise, the COVID-19 pandemic may result in higher risks of impairment of biological assets carried at the cost model, and auditors should be more vigilant when assessing indicators of impairment and the resulting provision for impairment losses, if any.

Assessing the impact of subsequent events

It is expected of auditors that they inquire from management on the existence of any subsequent events arising from the COVID-19 pandemic, be it adjusting or non-adjusting events that may require adjustment of or disclosure in the financial statements.

Review for omission and adequacy of disclosures in the financial statements

Auditors should consider the effects of COVID-19 on management's disclosures on biological assets in the financial statements, and review for any possible omissions or inadequacies in the disclosures.

Conclusion

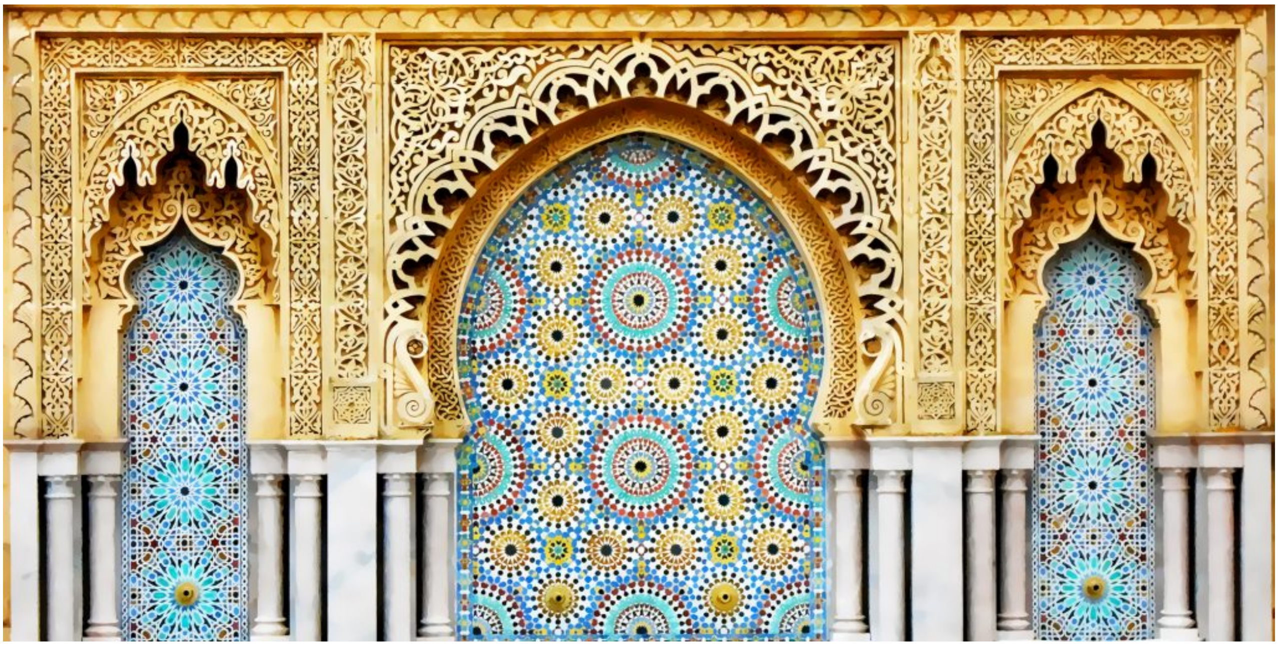
There is more than meets the eye in the audit of biological assets and the failure of auditors to ensure that sufficient appropriate audit evidence is gathered will inevitably result in gross audit deficiencies. It is vital for auditors to develop sound audit techniques in this area so as to raise the standard and plug the gaps in the audit of biological assets.

[1] The Malaysian Institute of Accountants' publication entitled "Covid-19: Frequently Asked Questions on Auditing" can be referred to for additional guidance.

Shariah Audit Conference 2020 – Mainstreaming Shariah Audit in Islamic Finance

at-mia.my/2020/11/18/shariah-audit-conference-2020-mainstreaming-shariah-audit-in-islamic-finance

November 18, 2020



The foundation of Islamic finance rests on its compliance with Shariah requirements to promote good governance and Islamic values. In the Malaysian market, a strong regulatory landscape and a robust Shariah governance framework support the growth trajectory of Islamic finance. In addition, Malaysia strongly advocates for Shariah Audits as a tool for Shariah governance.

The building blocks are in place. The next step is for all market players to embrace the importance of Shariah Audit in ensuring proper governance and compliance culture as they navigate the potentials and challenges in the Islamic finance industry. This virtual conference jointly organised by MIA together with IBFIM will provide participants with the latest updates on Shariah Audit developments.

Over an intensive two days, the programme will feature leading voices and industry practitioners in Islamic finance who will share their perspectives on Shariah Audit and its impacts on good governance and Shariah compliance in the Islamic finance industry.

Kicking off with a Keynote Address by Tan Sri Abdul Wahid Omar, a staunch proponent of good governance and currently Non-Executive Chairman, Bursa Malaysia & Chairman of Universiti Kebangsaan Malaysia (UKM), the programme will feature a special second-day address by Dr. Bello Lawal Danbatta, Secretary-General, Islamic Financial Services Board (IFSB) as well as four highly interactive panel sessions. Conference participants are highly encouraged to ask questions to maximise learning.

These sessions are:

Session 1, Day 1

Leaders' Forum on Shariah Audit explores tone at the top and the role of leadership in mainstreaming Shariah Audit as an instrument of good governance and building public trust. This panel features Datuk Nik Mohd Hasyudeen Yusoff, Group Managing Director and CEO, Lembaga Tabung Haji; Dato' Hj. Mohd Redza Shah Abdul Wahid, Chairman of The Board, Lembaga Amanah Yayasan Pembangunan Ekonomi Islam Malaysia (YaPEIM); Nazlee Khalifah,Chief Executive Officer, Affin Islamic Bank Berhad and Nik Shahrizal Sulaiman, Partner/Islamic Finance Leader, PwC Malaysia.

Session 2, Day 1

Institutional Integrity through Shariah Audit focuses on the systems and culture that should be in place to instil good Shariah governance throughout organisations, which will then cascade throughout the entire Islamic finance ecosystem. Prominent Shariah advisors from both the local and global market will discuss the latest developments in institutional Shariah governance. They include Datuk Dr. Mohd Daud Bakar, Chairman, Shariah Advisory Council Bank Negara Malaysia, Securities Commission of Malaysia & The Labuan Financial Services Authority; Dr. Hurriyah El Islamy, Executive Board Member, Foreign Investment and International Relations, Badan Pengelola Keuangan Haji & Member of Awqaf

Properties Investment Fund Supervisory Committee, Islamic Development Bank; Shaikh Muhammad Abdul Mubeen, Shariah Board/Committee Member for Standard Chartered Bank Pakistan & Malaysia and Mohd Khaidzir Shahari, Board of Governor, The Institute of Internal Auditors Malaysia.

Session 3, Day 2

Shariah Audit and Governance: Global Experience explores how different markets and institutions are implementing Shariah Audit as a tool for good governance. This session features leaders from global and domestic Islamic finance institutions as well as international standard setters and practitioners. Speaking will be Muazzam Mohamed, Chief Executive Officer, Bank Islam Malaysia Berhad; Dr. Muhammad Iman S Mihajat, Head of Shariah, Al Yusr Islamic Banking – Oman Arab Bank; Dr. Aznan Hasan, Chairman, Shariah Committee, Maybank Islamic Berhad; Member, Shariah Board, Accounting and Auditing Organisation of Islamic Financial Institutions (AAOIFI); and Chairman, Shariah Advisory Board; Barclays Capital (DIFC, Dubai) and Muhammad Syarizal Rahim, Partner, Ernst & Young Malaysia Islamic Financial Services.

Session 4, Day 2

Developing Talent in Shariah Audit focuses on how Islamic finance organisations can grow the talent pipeline and prepare accountants and audit professionals for the specialised work of Shariah Audits. The session will also delve into the potential use of digital tools in enhancing Shariah Audit processes to heighten efficacy. Featuring Yusry Yusoff, Chief Executive Officer, Islamic Banking & Financial Institute Malaysia (IBFIM), Prof. Dato' Dr. Mustafa Mohd Hanefah, Professor, Universiti Sains Islam Malaysia

(USIM), Khairul Nizam Md Som, Chief Executive Officer, Finance Accreditation Agency (FAA) and Dr. Nurmazilah Dato Mahzan, Chief Executive Officer, Malaysian Institute of Accountants (MIA).

For more information and to register, please click here

SMP Forum 2020 – Future-proofing Your Practice in the New Normal

at-mia.my/2020/11/05/smp-forum-2020-future-proofing-your-practice-in-the-new-normal

November 5, 2020

The COVID-19 pandemic has created an environment that is unprecedented and challenging for practitioners of all sizes. To navigate through this new normal, practitioners need to become more agile, creative, resilient and adaptable. This is the only recourse if SMPs are to be more sustainable and relevant in these uncertain times.

The Virtual MIA SMP Forum 2020 is specially designed to equip our practitioner members for the future. Join our expert speakers as they advise SMPs on how to best adopt the necessary work norms, transformative technologies and strategies that can help you to build a sustainable practice. As SMPs form a sizeable segment of the profession, revamping and upskilling SMPs will be crucial to ensuring the profession's continuity and future relevance.

Over the two days of the forum, participants will be exposed to the latest developments and pressing issues facing SMPs. Day 1 will focus on innovation and SMP transformation while Day 2 emphasises compliance and quality. Highlights of the SMP Forum are:

DAY 1 – TRANSFORMATION

A Roadmap to The Future of SMP – Robyn Erskine, Deputy Chair of the IFAC's SMP Advisory Group presents an overview of the Practice Transformation Action Plan prepared by IFAC with support and insights from its SMP Committee. This will guide SMPs on how to transform themselves to enhance their quality and services, in order to support clients and businesses in an increasingly demanding landscape.

Talent Management – Due to the COVID-19 crisis, many companies were pressured to accommodate remote work, with employees working from home and collaborating via digital technologies and tools. Many SMPs were unprepared for digital and remote work. This session helps SMPs to establish a practical remote and digitally-ready work setup that can help revive staff morale, motivation and productivity.

Practice Diversification – Developments such as audit exemption and digital disruption threaten SMPs' traditional service offerings. To future-proof income streams, SMPs are advised to explore new service offerings in business continuity, crisis management and digital. This session looks at how SMPs can offer services such as liquidation, judicial management, cashflow management and business restructuring and continuity to businesses affected by COVID-19. Digital-based services could include data intelligence and analytics, forecasting and blockchain consultancy.

Digital transformation: Where's my ROI? – addresses the challenge of justifying expenditure for critical digital transformation, starting with transforming non-digital or manual processes to digital processes. Get practical advice in this session on how to actively plan and monitor digital investments and how to develop and link both quantitative and qualitative ROI to the practice's overall strategy and goals.

Practice Leadership – Tone from the top and exemplary practice leadership are the keys to audit quality and SMP resilience. Expert speaker will share insights on how to develop an effective leadership style and skills to engage and motivate your people, while steering necessary changes for a sustainable practice.

DAY 2 – COMPLIANCE

Tax Investigations and Tax Audit during the Covid-19 Pandemic – The imposition of travel restrictions to contain Covid-19 infections may delay finalisation of tax investigations and tax audit cases. To manage these restrictions, tax practitioners are expecting assurance from the Tax Authority with regards to new approaches in carrying out audits/investigations during the Covid-19 pandemic. This session explains the precautionary steps that SMPs should adopt in preparation of tax returns to minimise the risk of tax audits/investigations, especially in dealing with the changes in legislations and new policies arising from the tax measures introduced by the Government in mitigating Covid-19 impacts.

Compliance of professional firms with Bank Negara Malaysia's (BNM) updated anti-money laundering legislation – On 31 Dec 2019, BNM issued a new guideline on Anti-Money Laundering, Countering Financing of Terrorist (AML/CFT) and Targeted Financial Sanctions for Designated Non-Financials Businesses and Professions (DNFBPs) and Non-Bank Financial Institutions (NBFIs), which took effect on 1 Jan 2020.

This session explains the obligations of DNFBPs1 (or professional firms), in their obligations as reporting institutions, with respect to the new guideline and requirements imposed under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA).

Preparation for an Audit in View of the Pandemic – The consequences of Covid-19 mean that preparing audit and financial statements will be more complex and challenging. This session will discuss the precautionary measures and actions that should be taken into consideration in preparing for an audit in pandemic times.

International Standard on Quality Management (ISQM) – Updates on the ISQM 1 (Revised ISQC 1), new ISQM 2 and ISA 220 (Revised) that were approved for exposure by the IAASB in December 2018, and their potential impacts on SMPs, practice risk management and audit quality.

Don't miss the SMP Forum 2020 for ideas on how to reinvent your practice for the unpredictable new normal. Enjoy 10% discount on total course fee for 3 pax and above from the same organisation.

To learn more, please <u>click here</u>.

Updates on International Tax Developments: Global Financial Centres

at-mia.my/2020/11/10/updates-on-international-tax-developments-global-financial-centres

November 10, 2020

By Nithea Nadarajah

Global tax laws are continuously evolving, impacting global financial centres as well as business activities of companies conducting cross-border businesses and presenting them with critical challenges to overcome. Therefore, an understanding of key tax considerations and their implications are essential for companies to map out effective tax strategies that will ensure tax compliance, efficiency and facilitate sound business decisions.

To educate the market, Labuan IBFC and PwC Malaysia recently held a webinar on "International Tax Developments: Impact on Global Financial Centres", covering how recent and upcoming global tax developments such as BEPS and BEPS 2.0 – digital economy is affecting global financial centres including Labuan IBFC.

The webinar commenced with presentations on recent and upcoming global tax developments impacting global financial centres and Labuan IBFC, followed by a panel discussion moderated by Farah Jaafar-Crossby, CEO, Labuan IBFC Inc and featuring Aurobindo Ponniah, Tax Director, PwC Malaysia and Jennifer Chang, Tax Partner, PwC Malaysia.

Following are some highlights of the webinar:

BEPS Project Updates

To promote equitable tax and mitigate tax arbitrage and legal profit shifting strategies practised by MNCs, there is a dire need for a cohesive and aligned global tax environment that plugs the tax loopholes enabling MNCs to leverage on favourable tax regimes.

Towards improved equitability, the Organisation for Economic Cooperation and Development (OECD) had launched the Base Erosion and Profit Shifting (BEPS) Project in July 2013, with 137 countries currently in collaboration.

Malaysia officially became an associate member of the BEPS Project in 2017 and along with Labuan (which is a federal territory of Malaysia), has committed to the implementation of the BEPS Project requirements. Throughout 2018 to 2020, Malaysia (including Labuan), had implemented a number of rules, many tax incentives, increased substance requirements, and reviewed permanent establishments as well as tax treaties, explained Aurobindo in his presentation.

The OECD emphasises that its member countries strive to implement a minimum of four (out of fifteen) standards under its BEPS Inclusive Framework (IF), as outlined below:

Implementing Country-by-Country Reporting Rules

Country-by-Country Reporting (CbCR) Rules, being one of OECD's main priorities, applies to MNCs with a consolidated group revenue of 750 million Euros or more (equivalent to around RM3 billion or more). MNCs that reach this threshold are expected to annually file a report with their home jurisdiction tax authorities, detailing key financial and non-financial information relating to their business undertakings which are duly segregated by jurisdictions. The information obtained will then be uploaded onto a shared system amongst tax authorities of other OECD member countries who have signed an exchange of information protocol. Access to such extensive and holistic information facilitates a better understanding of MNC structures which enable tax authorities to make informed assessments covering transfer pricing and other BEPS related risks. These action plans are also implemented in Labuan resulting in MNCs headquartered in Labuan being subject to similar requirements. In cases of non-compliance, there are financial sanctions or even imprisonment. Malaysia's financial sanctions range between RM20,000 to RM100,000 and/or six (6) months imprisonment (upon conviction). Labuan's financial sanctions are even higher, cautioned Aurobindo.

Countering harmful tax practices

In order to curb profit shifting activities, MNCs are required to demonstrate that profits generated are attributable to the locality of the underlying economic activity and value creation (substantial activity). Indicators of substantial activity would naturally be the existence of a physical office with employees equipped with the relevant skillsets as well as adequate level of investment outlay. In situations where tax gaps could be exploited in order to maximise revenue relating to Intellectual Properties (IPs), the 'Nexus' approach is applied which necessitates proof that the IP was actually developed in the jurisdiction which grants the tax incentive.

Economic substance requirements have been widely adopted by a number of financial centres (including Labuan), where the level of investment and annual business spend, as well as factors such as the number of employees, the location of the core business activity, decision making, documentation and physical office are duly considered.

Efforts are also being made to curb ‘Ring Fencing’, a form of inequality practised by a tax jurisdiction which either excludes domestic taxpayers from its regime or prevents other taxpayers from operating in domestic markets. Labuan entities were previously prohibited from transacting in Malaysian Ringgit and with Malaysian entities, a law which has now been removed in order to be in line with Malaysia’s adherence to OECD standards on BEPS.

Prevention of Treaty Abuse

In order to prevent the granting of treaty benefits under inappropriate circumstances, tax treaties should be reviewed and updated in accordance with the BEPS framework by ensuring that transparent tax requirements and anti-abuse provisions are duly inserted. The Multilateral Instrument (MLI) is a form of treaty instrument signed up by all the BEPS member countries which allows for the modification of existing bilateral treaties in a synchronised manner without the need to renegotiate each treaty separately. However, for the MLI amendments to take effect, both Contracting States party to a particular treaty arrangement should be on the same page.

Enhancing the Dispute Resolution Mechanism

The OECD Model Tax Convention provides an independent mechanism through which disputes can be resolved equitably and efficiently. The Mutual Agreement Procedure (MAP) is a provision which facilitates the process of resolving such disputes and its update is pertinent to ensure the swift resolution of tax-related disputes between countries so as to reduce any serious impact to cross border businesses.

BEPS and the Labuan Taxation System

OECD’s efforts to counter harmful tax practices have pushed preferential or low-tax regimes, such as offshore financial centres into the limelight. Labuan has duly aligned its tax framework to conform to OECD’s BEPS minimum standard requirements. Amendments to the Labuan tax regulations took effect on 1 January 2019 or the year of assessment 2020 (Labuan’s tax rules are based on preceding year basis), which are elucidated as follows:

- A Labuan business activity is defined as a Labuan trading or a Labuan non-trading activity carried on, in, from or through Labuan, excluding any activity which is an offence under any written law. Previous restrictions relating to trading with Malaysia have now been removed, thereby paving the way for Labuan companies to trade in any currency (including in Malaysian Ringgit) and with Malaysian residents. [Section 2(1) of the Labuan Business Activity Tax Act 1990 (LBATA) refers].
- Labuan non-trading activities are not subject to tax in Labuan. Whereas Labuan trading activities (including a combination of non-trading activities) are subject to a preferential tax rate of 3% on the net profits per the audited accounts (capital gains inclusive). Furthermore, zakat payments can be set-off against the final tax payable, explained Jennifer Chang.

- It is pertinent to note that Labuan entities (carrying on Labuan trading activities) no longer have the privilege to make an annual election to pay tax at the fixed amount of RM20,000 as the corresponding Section 7 under the LBATA has now been removed.
- Labuan entities (carrying on Labuan business activities) qualify for preferential tax rates only if the economic substance requirements stipulated under Section 2B(1)(b) of LBATA are duly complied with on an annual basis. These substance requirements expect a Labuan entity to have an adequate number of full-time employees based in Labuan and to incur an adequate amount of annual operating expenditure in Labuan (depending on the nature of activity undertaken). Non-compliance of this requirement will effectuate the application of the prevailing domestic tax rate under the Section 2B(1)(b) of LBATA, which is currently at the rate of 24%.
- Labuan entities that do not carry on Labuan business activities will be subject to tax under MITA at the prevailing tax rate of 24%.
- Income derived from royalty and other income from an IP right shall not qualify for tax under LBATA's preferential rates, but is subject to tax under MITA, with the prevailing tax rate of 24%.
- In light of the Covid-19 pandemic, Labuan entities were granted an extension until 28 October 2020 (under normal circumstances – 31 March annually) to submit their tax returns to the authorities. Furthermore, since physical travelling is curbed, virtual meetings held through video conferencing during this year are also acceptable in order to meet Labuan's 'control and management' requirements.

With the exception of the abovementioned amendments, Labuan's duty-free status and several exemptions covering stamp duty, withholding tax and indirect tax, as well as partial exemptions on housing allowances and managerial level employment income, remain unchanged.

BEPS 2.0 – Digital Economy

The tax system has always been built on the premise of brick-and-mortar. As such, technological changes have literally 'up-ended' the taxation system with immense difficulties faced in taxing an entity which earns from one jurisdiction but is based in another jurisdiction (leaving aside the concept of permanent establishment), said Aurobindo.

Difficulties faced in reaching a consensus under BEPS Action 1, relating to this matter of taxing rights along with other unresolved issues, necessitated the birth of BEPS 2.0 and its following pillars:

- Pillar One; applicable to digitalised and consumer-facing businesses, which looks at the allocation of new taxing rights for cross border activities based on the Nexus approach by using indicators such as the quantum of sales and the locality of customer base, amongst others.

- Pillar Two; applicable to a wider range of business activities, looks at introducing a new global anti-base erosion tax rules which seeks to impose a minimum rate of tax on all businesses operating internationally. Naturally, this is somewhat contentious as it may be attractive to developing countries but will create adverse reactions to most developed countries.

Two extensive reports (Pillar One and Pillar Two Blueprints) seeking public comments on all aspects of the tax challenges arising from digitisation were published by the OECD on 12 October 2020. This public consultation process (submitted via the public consultation document) will remain open until 14 December 2020, and thereafter, virtual consultation meetings (through prior registration) will be scheduled around mid-January 2021. It is imperative for MNCs to evaluate the potential implications of the BEPS 2.0 recommendations and participate in this ongoing consultative process as its implementation will be the mainspring of a paradigm shift in the global tax landscape, clearly moving well beyond the substance of digitalised businesses.

"We are grappling with the changes, knowing full well, that there will be more changes coming with the pandemic (COVID-19) a lot of things are going digital anyway. Presumably, there will be a stronger push by governments who want to adopt some kind of system that is a little bit more all-encompassing," summed up Farah.

As the voice of the Malaysian accountancy profession, MIA is pleased to feature this important discussion on International Tax Developments: Global Financial Centres that will support sustainable taxation in a digital world.