



KETTANI LAW FIRM

## KLF Newsletter Series

### *Measures adopted following the Covid-19 pandemic outbreak in Morocco*

*Second Edition — April 24, 2020*

The state of sanitary and health emergency with quarantine in Morocco has been extended by decree n°2-20-330 (published on April 19, 2020) until **May 20, 2020 at 6p.m.**

The health crisis generated by the Covid-19 has had a devastating effect on the private sector in Morocco. According to recent studies conducted by the Moroccan High Commissioner of Plan (HCP), approximately 142,000 businesses, or 57% of all businesses, confirmed that they had ceased operations temporarily or permanently (more than 135,000 companies had to temporarily suspend their activities while 6,300 have ceased their activities permanently).

According to the Moroccan Center for Economic Outlook (CEO), the economic growth rate in Morocco may be at - 3.2% in 2020 whereas the HCP considers that such growth rate will be at -7%.

On a more positive side, a number of Moroccan companies are able to produce around 3 million protective masks per day and no less than 500 artificial respirators are currently being manufactured, which shows the paramount effort made of the Moroccan government and certain companies in the private sector during these challenging times.

## The Economic Watch Committee (EWC)

During its latest and fifth meeting held on April 20, 2020, the EWC decided on a number of additional measures listed as follows:

- ◆ Establishment of zero-rate loans for self-employed entrepreneurs (*auto-entrepreneurs*), impacted by the Covid-19 crisis, up to an amount of 15,000 Moroccan Dirhams. Available starting from April 27, 2020, the loan is repayable over a period of up to three years with a grace period of one year.
- ◆ Exceptional accounting exemptions in regards to donations and charges relating to the period of the state of health emergency over five years.
- ◆ Extension of the "*Damane Oxygène*" mechanism to companies operating in the real estate sector and whose cash flow has deteriorated due to the decline in their activity.
- ◆ Facilitation of the procedures relating to the declaration of employees affiliated to the CNSS who are on cessation of work.

The members of the Committee also pointed out that the preparation of a first draft on the different scenarios for the gradual restart of the various sectors of activity and economic recovery had been started, taking into account the selected **de-containment approach**. The resulting action plans will be presented at the next EWC meeting scheduled on **April 29, 2020**.

Royaume du Maroc

Ministère de l'Economie et des Finances

## Bank Al-Maghrib

During the meeting of Bank Al-Maghrib's council dated March 17, 2020, it was decided to lower the key rate from 2.25% to 2%. This decision was based on an analysis of recent economic developments and the current macroeconomic outlook.

According to the Wali of Bank-Al-Maghrib, the current level of foreign exchange reserves is sufficient and can cover the equivalent of more than five months of imports of goods and services. Mr. Abdellarif Jaouhri also recalled that in a preventive approach, Bank Al-Maghrib drew on the Precautionary and Liquidity Line (LPL) for US\$ 2.9 billion to reinforce the stock of reserves which already covered around five months as specified above. Based on recent interviews with Mrs. Fouzia Zaaboul, the director of the National Treasury, Morocco has never withdrawn from the LPL.

In addition to this withdraw, Morocco, as a member of the IMF, can always resort, if necessary, to the resources of the Fund or to other entities such as the World Bank or the African Development Bank. Likewise, Morocco can target the international market where, as was the case last year, it can use its rating to obtain favorable conditions. Therefore, according to the Wali of Bank Al-Maghrib, Moroccan has a choice in terms of external loans, especially since the external debt ratio of the Moroccan Treasury is relatively low. In case all of the above would be considered as insufficient, the country could temporarily halt or even tighten up the exchange rate liberalization process but it must be a temporary action, recommended Mr. Abdellarif Jaouhri.

The next meeting of the Board is scheduled for **June 16, 2020** but it may decide to meet exceptionally prior to this date and examine any additional necessary measures.

## Social Security & Labor

### ◆ CNSS Indemnities — Eligibility restrictions

The House of Representatives adopted unanimously, on **April 21, 2020**, the bill of law n°25.20 enacting exceptional measures for the benefit of employers affiliated to the CNSS and their declared employees, affected by the repercussions of the spread of the "Covid-19".

As mentioned briefly in the first edition of our newsletter, the aforementioned bill aims to enact support measures for employers in a difficult situation due to the spread of the Covid-19 and provides for, *inter alia*, the suspension of payment of contributions due to the CNSS for the period starting from March 1, 2020 until June 30, 2020, as a condition of eligibility to benefit from the indemnities paid by the CNSS, as well as services of the compulsory health insurance scheme, for the benefit of employees and trainees in integration training.

Pursuant to the bill of decree n° 2.20.331 approved in application of law n°25-20 by the government council on April 17, 2020, the conditions and criteria which define a company in difficulty are as follows:

- ⇒ The cessation of the company's activity by administrative decision following the decree 2.20.293 announcing the state of health emergency;
- ⇒ The company's turnover having dropped to not less than 50% during the period provided for the indemnity (i.e. from April 1 to June 30) compared to the turnover achieved during the same period in 2019. The number of employees on cessation of work declared to the CNSS during the month of February 2020 should not however exceed 500 employees;

The requests of companies whose turnover dropped between 25% and less than 50% or whose number of employees exceeds 500 will be sent, by the CNSS, to the commission composed of representatives from the Ministries of Finance, Employment, the supervisors of the concerned sectors as well as the CGEM in order to study it.

The law n°25-20 is yet to be published in the Official Gazette and the website specifically created by the National Social Security Fund for the management of the covid-19 related declarations ([covid19.cnss.ma](https://covid19.cnss.ma)) is still under maintenance since April 11th, 2020.

### ◆ Labor law highlight — Limited term employment agreements (CDD)

Unless otherwise agreed by the parties, the fixed-term employment agreement may only be terminated before the end of its term in the event of gross negligence or "force majeure".

A question arose during this pandemic relating to whether or not the employers are allowed to terminate fixed-term employment agreements on the grounds that the Covid-19 crisis is considered as a case of force majeure.

Article 269 of the Code of Obligations and Contract defines the case of force majeure as an event which is, cumulatively, exterior, unpredictable and irresistible.

The strict and unprecedented measures ordered by the authorities, as well as the statements by the WHO, could constitute arguments to maintain that the current pandemic constitutes a force majeure event. However, it will be up to the Moroccan judges to decide whether this unprecedented crisis is considered as a case of force majeure or not should the employees challenge the termination of their contract.

## The Moroccan Foreign Exchange Office (FEO)

Pursuant to the provisions of the exchange regulations in Morocco, economic operators, natural or legal persons, are required to declare to the FEO their foreign commercial and financial transactions within a period of four months following the end of the year.

However, given the current state of emergency, the FEO has published a press release in which it postpones the deadline for filing annual foreign exchange transaction declarations until **June 30, 2020**.

The FEO also established a platform named SMART (Système de Management des Autorisations, Reportings et Traitements) which allows concerned persons to submit their authorization requests online and remotely monitor the progress of its processing by entering their registration number.

The platform is available 24/7 and allows the declaration of foreign exchange transactions online.

According to our research, if one requires any further information on the various declarations and authorizations within the FEO during this time of crisis, one may contact the following e-mail address: [benchelh@oc.gov.ma](mailto:benchelh@oc.gov.ma).



## The Moroccan Capital Market Authority (AMMC)

To fulfill their information obligations during this health emergency period, the AMMC recommends that issuers proceed with their publications via the electronic platforms of legal notices. Issuers must also transmit any published information to the AMMC in order for the latter to ensure their publication on its website.

It must also be reminded that companies making public offerings are required to:

- ◆ Publish a press release immediately following the governance body meeting which approves the corporate and/or consolidated accounts for the 2019 financial year. The press release must contain, in particular, the turnover and net income, accompanied by an explanation regarding the achievements of the period;
- ◆ Publish the annual financial report, the content of which is set in article 2.9 of the AMMC Circular n°03/19, within four months after the end of the 2019 financial year; and
- ◆ Publish all important information within the meaning of article 15 of law n°44-12, in particular with regard to the significant impacts identified in connection with the pandemic situation (according to the AMMC).

The AMMC donated 15 million Moroccan dirhams to the special fund for managing the Covid-19 pandemic. A contribution to which are added the individual contributions of the AMMC employees.



## The National Commission for Data Protection (CNDP)

### ◆ Declaration and authorization requests

Based on our research and after contacting the CNDP on an informal basis, it has been confirmed that declaration and authorization requests to be filed in accordance with the provisions of the law 09-08 relating to the protection of individuals with regards to the processing of personal data may, temporarily, be sent to the following e-mail addresses : [contact@cndp.ma](mailto:contact@cndp.ma) and [notification@cndp.ma](mailto:notification@cndp.ma).

The CNDP also informed us, verbally, that a virtual registry office will be established to which the declaration/ authorization requests shall be submitted and which will automatically generate and transmit acknowledgments of receipt.

### ◆ Contact tracing

Following the implementation of a mobile application named "Contact tracing" deployed by the General Directorate of National Security (DGSN) and used to ensure that citizens comply with the containment provisions, the CNDP has created, on April 22, 2020, a special committee to study such mobile application and certified its compliance with law 09-08 relating to the protection of individuals with regards to the processing of personal data.

### ◆ Moratorium

The CNDP decided to extend the moratorium on facial recognition to December 31, 2020.



## Customs and Indirect Taxation

Through a press release, the Customs and Indirect Taxes administration informed its customers and users that, until further notice, the access to its offices is currently limited and will only be authorized in case of absolute necessity of a physical presence on the premises.

It should be reminded that many services can be performed directly online (formalities for customs goods clearance, exchanges with inspectors handling declarations, request for a certificate of origin, payment of customs claims, etc.).

Likewise, information requests or claims, can be sent directly online to the administration via electronic forms accessible through the link [www.douane.gov.ma/requetes](http://www.douane.gov.ma/requetes) or by phone at eco number 0801.00.70.00 or the hotline 05.37.56.57.57.

In order to help curb the spread of the virus, customers and users are strongly invited to use the aforementioned services and to limit their trips to the customs offices as much as possible.



## The Moroccan Tax Administration (DGI)

On April 21, 2020, the DGI published a circular note relating to the tax treatment on the allowance allocated by a company in difficulty to its employees on temporary cessation of work.

The purpose of this family assistance allowance, provided for by article 57-2° of the General Tax Code, is to help employees on sick leave to support their family.

In regards to such allowance, the circular provides for a 50% ceiling on the average net salary relating to the first two months of 2020, excluding compensation and bonuses granted on an ad hoc or exceptional basis. However, in case the employee would have benefited from the lump sum compensation granted by the CNSS, such compensation is included in the calculation of the aforementioned 50% ceiling. No other remuneration should be paid to the employee in any capacity whatsoever.

The circular also specifies the eligibility criteria and the sanctions incurred in the event of an infringement.



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DIRECTION GÉNÉRALE DES IMPÔTS

## The Finance and Economic Development Committee

The Finance and Economic Development Committee within the House of Representatives held a meeting, on April 23, 2020, to examine and vote the bill of law n°27.20 laying down specific provisions relating to the joint stock companies' administrative bodies and meetings of their general assemblies during these unprecedented times.

The bill of law n°27-20 is intended to fill the gaps of law n° 17.95 governing joint stock companies which does not allow, in particular, the holding of boards of directors by means of videoconference to remotely close the company's accounts, hold general meetings to approve the accounts and/or launch public loans (*emprunts publics*).

For example, with respect to **Board Meetings**, companies which did not hold their boards of directors at the date of the publication of the law n°27.20 in the Official Bulletin, will be able to hold them by videoconference, during the state of health emergency, to close the accounts and convene the meeting of shareholders or bondholders.

With respect to companies that do not have the means to use these telecom tools, the CEO or chairman of the board of directors may prepare provisional summary statements for 2019, usable by third parties during the state of health emergency. Such provisional summary statements must be submitted to the auditor (s) to prepare the reports to be submitted to the general meeting.

The law n°27-20 is specific to joint stock companies and does not provide any solution for limited liability companies which constitute the major part of our economic fabric.

If you need any more information, do not hesitate to contact us on our email address below.

### KETTANI LAW FIRM

8, Rue Lahcen Basri  
Casablanca 20000  
Morocco

Landline : +212 522 438 900  
Email : [contact@kettlaw.com](mailto:contact@kettlaw.com)