

Capital Markets

SGX RegCo Extends Expiry Date for Enhanced Share Issue Limit for Mainboard Issuers

Introduction

Back in April 2020, in the early days of the COVID-19 pandemic, the Singapore Exchange Regulation ("SGX RegCo") announced provisional measures to support issuers listed on the SGX-ST Mainboard ("Mainboard Issuers"). One such measure was to allow Mainboard Issuers to seek a general mandate for an issue of pro-rata shares and convertible securities for up to 100% of their share capital ("Enhanced Share Issue Limit"), instead of the limit of 50% prescribed in the SGX-ST Mainboard Listing Rules. The Enhanced Share Issue Limit is intended to facilitate and expedite the fund-raising process, and was to expire on 31 December 2021.

On 16 March 2021, SGX RegCo announced the extension of the availability of the Enhanced Share Issue Limit for Mainboard Issuers.

This Update provides a summary of the conditions for seeking the general mandate for the Enhanced Share Issue Limit while highlighting the updates set out in the SGX press release titled "[SGX RegCo allows Mainboard issuers up to 31 Dec 2021 to seek or renew Enhanced Share Issue Limit](#)" dated 16 March 2021.

Extension of Expiry Date

A Mainboard Issuer that intends to raise funds using the Enhanced Share Limit must seek shareholders' approval by way of an ordinary resolution either through obtaining a general mandate for the Enhanced Share Issue Limit at their annual general meetings ("AGMs") or specific shareholder approval by convening an extraordinary general meeting ("EGM").

A Mainboard Issuer will have up to 31 December 2021 to seek or renew a general mandate for the Enhanced Share Issue Limit. The Enhanced Share Issue Limit will expire either:

1. at the conclusion of the next AGM of the Mainboard Issuer following the approval of the general mandate for the Enhanced Share Issue Limit; or
2. on the date by which the next AGM is required to be held (whether by law or the SGX-ST Mainboard Listing Manual),

whichever is earlier ("**Expiry Date**").

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Issuers should note that any extension of time they might obtain to hold the next AGM, or any change to its financial year end, will be disregarded in determining the Expiry Date.

Upon the Expiry Date, the shares and/or convertible securities issued pursuant to the Enhanced Share Issue Limit must be listed, and no further shares and/or convertible securities may be issued under this limit. However, SGX RegCo highlighted that shares arising from the convertible securities may be issued and listed after the Expiry Date.

Conditions for Seeking Enhanced Share Issue Limit

As announced in April 2020 and updated in March 2021, a Mainboard Issuer must ensure that the following conditions are observed in seeking the Enhanced Share Issue Limit:

1. **Must be in the interest of issuers and shareholders:** The Mainboard Issuer's Board of Directors ("**Board**") must confirm with SGX RegCo that the Enhanced Share Issue Limit is in the interest of the issuer and its shareholders.
2. **Comply with legal requirements and constituent documents:** The Mainboard Issuer must comply with the legal requirements governing the issuer and the constitution/trust deed of the Mainboard Issuer (or the equivalent in the Mainboard Issuer's country of incorporation) arising from the Enhanced Share Issue Limit.
3. **100% limit not to be exceeded before next AGM:** The Mainboard Issuer must not issue more than 100% of its total number of issued shares (excluding treasury shares and subsidiary holdings in each class) by the Expiry Date.

The Enhanced Share Issue Limit does *not* apply to the aggregate number of shares and convertible securities that are issued on a non pro-rata basis. The limit for such shares and convertible securities remains at 20%.

4. **Prominent and adequate disclosure in notice of general meetings:** The Mainboard Issuer must ensure that the following matters are disclosed in the notice of general meeting:
 - Why the Board is of the view that the Enhanced Share Issue Limit is in the interest of the Mainboard Issuer and its shareholders and their basis for forming such views;
 - That the Enhanced Share Issue Limit will expire on the Expiry Date and any extension of time the Mainboard Issuer might obtain to hold the next AGM, or any change to its financial year end, will be disregarded in determining the Expiry Date.

By the Expiry Date, the shares and/or convertible securities issued pursuant to the Enhanced Share Issue Limit must be listed, and no further shares and/or convertible securities shall be issued under this limit; and

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- If the Mainboard Issuer is seeking shareholders' approval via an EGM and has utilised any part of the existing share issue mandate ("**Existing Amount Used**"), it must disclose, as at the latest practicable date (being the day before the EGM for the passing of the Enhanced Share Issue Limit resolution), the remaining balance that would be available under the Enhanced Share Issue Limit after deducting the Existing Amount Used.

A Mainboard Issuer is not required to clear the Notice of Meeting with SGX RegCo, and no circular is required.

5. **Notification to SGX RegCo:** The Mainboard Issuer will notify SGX RegCo by way of email to enhancedsharelimit@sgx.com when the general mandate for the Enhanced Share Issue Limit has been approved or renewed by shareholders, stating the name of the Mainboard Issuer and the date on which such general mandate is approved or renewed by shareholders.
6. **Disclosure in announcement on issuance of shares or convertible securities:** A Mainboard Issuer is required to disclose that it is utilising the Enhanced Share Issue Limit in its announcement of an issue of shares or convertible securities in this regard.

Practical Notes

Directors of a Singapore incorporated company have statutory as well as common law fiduciary duties to act in the interests of their companies. In the present context, the Board must ensure that the decision to issue shares pursuant to the Enhanced Share Issue Limit is commercially justifiable from the company's point of view. In making the decision, the Board must prioritise the interests of the company and shareholders collectively and not a fraction of the shareholders of the company.

If you have any queries or wish to know more about the above development, please feel free to contact our team members below who will be happy to assist.

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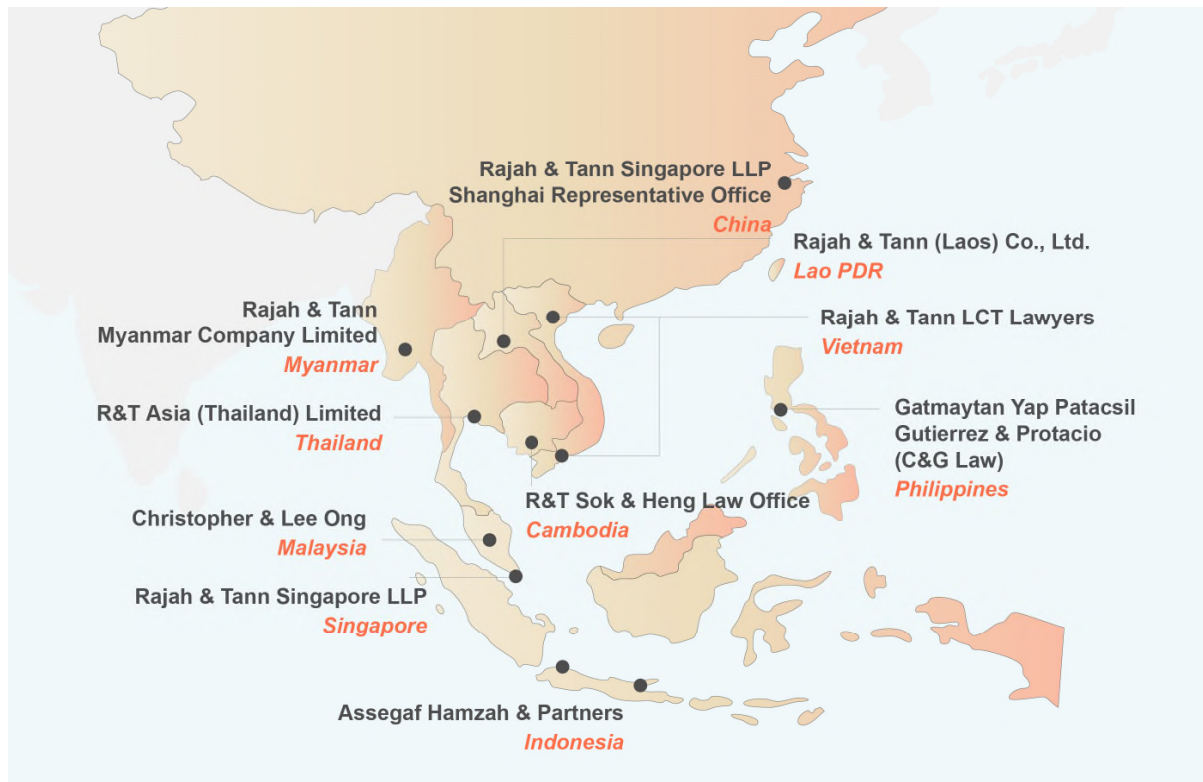
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