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Two Bills Introduced in Parliament to Overhaul Singapore's Gambling Regulatory Regime

Introduction

On 14 February 2022, the Gambling Control Bill ("**GC Bill**") and the Gambling Regulatory Authority of Singapore Bill ("**GRA Bill**") were read for the first time in Parliament. Their introduction marks the next stage of the reform of Singapore's gambling regime, which began in 2021 with the Ministry of Home Affairs' ("**MHA**") recommendation for a holistic update to Singapore's gambling laws. This was followed by further recommendations pursuant to a public consultation on MHA's proposed amendments to gambling laws in Singapore ("**Public Consultation**"), which we covered in our July 2021 Legal Update titled "[Public Consultation on Proposed Amendments to Laws Governing Gambling Activities](#)".

With the introduction of the GC Bill and the GRA Bill, Singapore has taken another step closer towards fully modernising its gambling regulation. If passed, the Bills will result in a significant overhaul and consolidation of the current regulatory regime. Key changes include the following:

1. Gambling Regulatory Authority of Singapore Bill

- a. The GRA Bill will establish a Gambling Regulatory Authority of Singapore ("**GRA**") to regulate the entire gambling landscape in Singapore.

2. Gambling Control Bill

- a. The GC Bill will consolidate and replace other gambling-related Acts, namely the Betting Act ("**BA**"), Common Gaming Houses Act ("**CGHA**"), Private Lotteries Act ("**PLA**") and Remote Gambling Act ("**RGA**").
- b. Substantively, the GC Bill will:
 - i. Update gambling laws and regulatory approaches to keep pace with the evolving gambling landscape;
 - ii. Legalise physical social gambling;
 - iii. Criminalise underage and proxy gambling; and
 - iv. Introduce new licensing regimes.

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In this Update, we will highlight the key changes introduced by both Bills.

Proposed Changes under GRA Bill

Currently, gambling regulation in Singapore is overseen by various Government agencies. The Casino Regulatory Authority regulates casinos; a unit within the Ministry of Home Affairs ("MHA") regulates online gambling, fruit machines and lucky draws; and the Singapore Totalisator Board regulates gambling services run by Singapore's only licensed betting and lottery operator, Singapore Pools.

Under the proposed new regime, the Casino Regulatory Authority will take over as the single regulator for all forms of gambling, and will be renamed as the GRA.

Proposed Changes under GC Bill

Given that the GC Bill seeks to consolidate, replace and modernise four pieces of existing legislation, it is a very lengthy piece of legislation, spanning 275 pages (including the Explanatory Statement to the Bill). We summarise some of the key changes introduced by the GC Bill below.

Expanded definition of "gambling"

The definition of the term "gambling" has gone through substantial amendments. The traditional three heads of gambling, namely betting, gaming and participating in lotteries, have been amended as follows:

- (a) **Betting:** The scope of betting has been enlarged beyond horse-races and sporting events to also include other similar events or processes taking place in Singapore or elsewhere, as well as to include placing a stake on the likelihood of anything occurring or not occurring in Singapore or elsewhere, or whether anything is or is not true.
- (b) **Engaging in gaming activity:** Gaming was previously defined as playing a game of chance for money or money's worth. The GC Bill expands and/or clarifies the definition of a game of chance to include a game that involves an element of chance that can be eliminated by superlative skill, and a game that is played with a gaming machine, being *inter alia* a device adapted, designed or constructed for betting, participating in a lottery or playing a game of chance. The concept of money's worth has also been replaced with money equivalent or any thing else of value.

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- (c) **Participating in lotteries:** The GC Bill makes it clear that lotteries include those arrangements, schemes, competitions or devices which do not require payment to participate, but instead require the participant's presence or some other condition or qualification. The GC Bill also stipulates that one of the key aspects of lotteries is that the distribution of prizes depends on an element of chance, even where other respects of the arrangements, schemes, competitions or devices involve a genuine or purported exercise of skill.

It is clear from these amendments that the authorities are seeking to adopt an extremely wide definition of the term "gambling". One of the reasons for this is to ensure that the definition of "gambling" is technology-neutral in order to capture existing and emerging gambling products. However, with such a wide definition, many activities could potentially be deemed to be "gambling", including even those not traditionally perceived to be "gambling". For instance, many competitive sports contain elements of chance, even though the result is usually determined by the skill of the player. Two examples would be snooker and chess, which are widely recognised as games of skill. In these games, the player who goes first would gain an advantage over the other player. Coin tosses (which constitute an element of chance) are usually used to determine who goes first. While a superior player who loses the coin toss may still emerge victorious due to his higher skill level, snooker or chess may nonetheless be deemed to be games of chance under the GC Bill. Accordingly, chess or snooker tournaments which accept entry fees and which distribute prizes may be deemed to be illegal.

While the GC Bill contains carve outs for certain activities, e.g. financial investments, claw machines which yield prizes of less than S\$100 etc., there still remains significant ambiguity about how many other activities not carved out in the Bill would be treated by the authorities.

Changes to what constitutes the conduct of gambling

In addition to the changes in the definition of "gambling", the Gambling Control Bill also seeks to introduce changes as to what constitutes the conduct of gambling in terms of activities. There is now greater clarity on the types of activities that would constitute the conduct of a betting operation, e.g. accepting or receiving bets, operating a totalisator, organising pool betting, and laying or offering odds.

The conduct of gaming now includes controlling or operating a computer server located in Singapore that allows persons, whether in or outside of Singapore, to play games of chance for a prize, and a computer server wherever located that allows Singapore residents to play games of chance for a prize. This could impact companies which provide hosting and/or maintenance services and whose customers include gambling operators.

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Legalisation of social gambling

While terrestrial gambling amongst family and friends is commonplace in Singapore, it has never been legally permitted. The GC Bill now seeks to legalise all forms of non-remote social gambling provided that **all** of the following criteria are met:

- (a) The gambling is conducted by an individual in premises that are either the individual's home or another individual's home in Singapore;
- (b) Participants are either family members or individuals who know each other personally;
- (c) The gambling is substantially spontaneous, even though it may occur regularly, habitually or by arrangement between the individuals involved;
- (d) The gambling is not promoted or conducted by or for the private gain of any person not participating in the gambling or in the course of any business; and
- (e) The gambling is conducted so that the only way a participant in the gambling can make a profit or gain any other benefit as a result of the gambling is by winning.

This represents a departure from the previous position set out in the Common Gaming Houses Act 1961 proscribing the operation of common gaming houses, which could technically include one's residential premises in which gaming activities are carried out.

It is clear that only **terrestrial** social gambling is exempted under the new laws, i.e. remote social gambling is still illegal under the GC Bill. This distinction is perhaps understandable as the explicit exemption of online social gambling could pose significant enforcement difficulties, particularly in determining whether individuals are sufficiently and meaningfully acquainted with each other personally. That said, the legalisation of non-remote social gambling is not without its own set of challenges. For instance, it remains to be seen how authorities will define what constitutes spontaneous non-remote gambling, or the yardsticks for assessing whether individuals know each other personally (e.g. social media contacts). Further clarification on the abovementioned criteria is necessary in order to clearly delineate legally permissible social gambling from unlawful gambling activities within residential premises.

New licensing regime for key gambling products, lower-risk gambling products

With its broadened powers, the GRA will be able to issue different types of gambling operator licences, including licences for the following:

- (a) specified kinds of gambling;
- (b) specified kinds of betting operations, conduct of gaming or conduct of lotteries;
- (c) gambling, or betting operations, conduct of gaming or conduct of lotteries, undertaken in or in connection with specified types of gambling venues;

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- (d) facilities of a specified nature, or adapted or presented in a specified way, and used for purposes of gambling;
- (e) specified types of gaming machines; and
- (f) specified types of gambling articles (other than gaming machines) or prizes.

For instance, the GRA is empowered to issue licences for key gambling products such as fruit machines, betting and lottery products such as those operated by Singapore Pools (both terrestrial and online), and gambling at private establishments. In determining the grant or renewal of licence to an applicant, the GRA will have regard to, *inter alia*, the financial capacity and ability of the applicant to provide the gambling service in accordance with the applicable requirements and standards, as well as the suitability of the applicant and all of its responsible executives and key officers. This is similar to the probity assessment carried out by the CRA on casino operators and international market agents under the Casino Control Act 2006. However, the ability of the GRA to issue licences does not suggest that Singapore is liberalising its strict anti-gambling policy, and this policy is likely to be maintained and reiterated during subsequent readings of the GC Bill in Parliament.

The GC Bill also provides for a new class licensing regime under which the Minister may issue such licences to operators offering lower-risk gambling products, such as mystery boxes (to which the earlier mentioned S\$100 prize cap applies). Such operators will no longer need to be individually licensed. Details will be provided in future subsidiary legislation which will specify the conditions applicable for the grant of such class licences, such as limits on gambling hours, advertisements requirements, frequency of the gambling service and management of the gambling service.

New offence of proxy gambling

It is presently possible for a punter, as the decision-maker, to send a proxy to gamble on the decision-maker's behalf in casinos or fruit machines rooms. Such an arrangement would defeat the purpose of entry checks for casinos and private clubs put in place to screen out individuals of concern, such as entry bans imposed by casinos.

The GC Bill now introduces provisions criminalising proxy gambling. In effect, both the decision-maker and the proxy may be arrested, and are liable to a conviction to a fine not exceeding S\$10,000 or an imprisonment term not exceeding 12 months.

New offences for underaged individuals

Under the new GC Bill, there are no changes to the minimum age for gambling. The minimum age for gambling remains at 21, except for gambling at Singapore Pools' branches and retail outlets which will remain at 18. However, two social safeguards pertaining to underaged individuals will be introduced. Firstly, it will be an offence for underaged individuals to gamble, whether with legal or unlawful

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operators. This is a step-up from the current set of regulations, where only the person who invites, causes, or permits the underaged person to gamble in Singapore will be committing an offence (but not the underaged person himself).

Secondly, it will also be an offence for underaged individuals to enter gambling areas, except where entry checks are not required (such as Singapore Pools' physical outlets). Underaged individuals are also prohibited from intentionally opening or re-opening an account with a licensed operator to engage in general remote gambling.

Under the GC Bill, an underaged individual who contravenes these prohibitions will be liable on conviction to a fine not exceeding S\$1,500.

Standardising advertising and promotion offences

Currently, the threshold for proving an advertising and promotion ("A&P") offence is lower for unlawful online gambling compared to unlawful terrestrial gambling. Notably, an A&P offence can be committed even if there is no online gambling involved, whereas there is a need to link an A&P offence to actual unlawful terrestrial gambling activities.

The new GC Bill is set to decrease the threshold of proof for such unlawful terrestrial gambling activities, and to standardise the treatment of A&P offences across gambling modalities.

Under the GC Bill, a person commits an offence if the person advertises unlawful gambling, or does anything else to promote unlawful gambling, or entices the public to participate in unlawful gambling. For the purpose of deterrence, this is a strict liability offence, meaning that no fault elements need to be shown in order for liability to be established. Significantly, this means that third parties have an obligation to ensure that they only advertise lawful gambling, or risk being liable under this offence.

There are several defences available in respect of advertising unlawful gambling. One of these defences is if the gambling advertisement was published as an accidental or incidental accompaniment to the publication of other matter not forming part of any promotion of gambling, and the publisher does not receive any direct or indirect benefit (whether financial or otherwise) for publishing that gambling advertisement. This would be applicable to broadcasters that accidentally display a gambling advertisement as part of regular broadcasting.

It is also notable that the GRA is empowered under the GC Bill to order that corrective measures be taken in relation to unlawful gambling advertisements, such as stopping the advertisement with immediate effect, or publishing a corrective advertisement containing such information or material that may be specified by the GRA. Failure to comply with such an order would make one liable on conviction to a fine not exceeding S\$50,000 or to imprisonment for a term not exceeding 2 years or to

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both. In addition, the GRA can take such steps as it deems reasonable and necessary to implement the requirements of the order and recover any costs and expenses it has reasonably incurred in doing so from the offender.

Family exclusion orders

Currently, families of problem gamblers may make an application to the National Council on Problem Gambling ("**NCPG**") for an exclusion order against these problem gamblers to *inter alia* bar them from entering into, remaining in or taking part in any gaming on casino premises, club jackpot rooms and with Singapore Pools for remote gambling in Singapore. The enforcement of exclusion orders is left up to the casinos, the clubs and Singapore Pools, and they may be subjected to disciplinary action should there be any breach of the exclusion orders. Under the GC Bill, it is now an offence for persons under an exclusion order to gamble or enter into gambling areas where the NCPG exclusions are applicable. If found guilty of doing so, they shall be liable on conviction to a fine not exceeding S\$10,000 or to imprisonment for a term not exceeding 12 months or to both. This provides exclusion orders with more bite, and serves as a deterrent against problem gamblers who wish to defy the orders.

Penalties

Finally, the GC Bill proposes to apply a three-tier penalty structure for unlawful gambling offences across both online and terrestrial unlawful gambling activity, differentiating between punters, agents, and operators in increasing order of penalties. This expands the scope of the present legislation, where this three-tier penalty is only applicable to remote gambling activities.

In addition, **agents** and **operators** who facilitate or operate unlawful gambling services shall be liable more onerous penalties including mandatory imprisonment terms, with aggravated penalties for these classes of repeat offenders:

- (a) An **agent** who facilitates others to gamble illegally shall be liable on conviction to a fine not exceeding S\$200,000 and shall also be punished with imprisonment for a term not exceeding 5 years. A repeat offender shall be liable on conviction to a fine not exceeding S\$300,000 and shall also be punished with imprisonment for a term not exceeding 7 years.
- (b) An **operator** of an illegal gambling service shall be liable on conviction to a fine not exceeding S\$700,000 and shall also be punished with imprisonment for a term not exceeding 10 years. A repeat offender shall be liable on conviction to a fine not exceeding S\$700,000 and shall also be punished with imprisonment for a term not exceeding 10 years.

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Concluding Remarks

The introduction of these Bills is the culmination of months of assessment, recommendation and reform efforts, and marks a significant milestone in the modernisation of Singapore's gambling regime together with the passing of the Gambling Duties Bill in January 2022. The Gambling Duties Bill harmonises the law on the levy and collection of duties on legalised betting and lotteries, and was covered in our January 2022 Legal Update titled "[Bill Amending Laws on Gambling Duties Passed in Parliament](#)".

The GC Bill consolidates and updates the laws relating to the conduct of gambling in Singapore. Once the GC Bill passes into law, the BA, CGHA, PLA and RGA will be repealed. Permits to operate fruit machines under the PLA, certificates of exemptions to offer remote gambling services granted under the RGA and website access blocking orders and payment blocking orders made under the RGA will continue to remain in effect save where such permits and exemptions are inconsistent with the provisions of the GC Bill. Exemptions granted under the BA, CGHA and RGA (save for certificates of exemption) for the provision of gambling services will continue to run for a grace period of 5 months to 12 months after the repeal of these legislation.

The GRA Bill also consolidates almost all of the power and responsibility for regulating gambling into the GRA. This brings efficiency and consistency to Singapore's regulation of gambling, as the GRA will possess specialised domain expertise and will be better placed to holistically take into account policy considerations and the nuances of various forms of gambling when making decisions on gambling regulation. The public will also benefit from such consolidation, as all queries relating to gambling may now be directed to this single authority.

The GC Bill and the GRA Bill will be read in Parliament for the second time in the coming months, and it is expected that many clarifications will be sought in respect of these bills then. We will monitor the Parliamentary debates and will provide further updates where appropriate.

For more information to the proposed amendments and how your business might be affected by it, please feel free to approach our team below.

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