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Consultation on Bill to Enhance Oversight of Goods Passing through Free Trade Zones

Introduction

On 20 March 2023, the Ministry of Finance ("**MOF**") announced that it is proposing legislative amendments to the Free Trade Zones Act 1966 ("**Act**"). The amendments will update and strengthen the free trade zone ("**FTZ**") regime and thereby support Singapore's position as a trusted global trade hub by: (i) enabling the better detection, deterrence and prevention of money laundering, associated predicate offences and terrorism financing; and (ii) protecting Singapore's financial system against illegal activities and illicit fund flows.

MOF is seeking comments on the proposed amendments in the draft Free Trade Zones (Amendment) Bill ("**Bill**"). The draft Bill is released only for the purpose of the public consultation and does not represent the final legislation. The public consultation is open till **9 April 2023**.

In seeking to enable better oversight of goods passing through Singapore's FTZs while ensuring their efficient movement, the proposed amendments in the draft Bill include provisions:

- On the administration, maintenance and operation of FTZs by licensed FTZ operators instead of authorities;
- On a licensing regime for FTZ operators and FTZ cargo handlers;
- On requirements for FTZ operators, FTZ cargo handlers, shipping agents and air cargo agents to collect and transmit prescribed information for cargo visibility within a FTZ;
- To ensure the confidentiality of information being furnished under the Act;
- On the powers of the Minister for Finance ("**Minister**"), the Director-General of Customs ("**Director-General**"), and Customs officers in the administration and enforcement of the Act; and
- To ensure the compliance of licensed FTZ operators, licensed FTZ cargo handlers, shipping agents and air cargo agents and tenants of the FTZ with the Act.

In particular, this Update provides a summary of the key changes proposed in the draft Bill, namely: (i) the proposed requirements for licensed FTZ operators, licensed FTZ cargo handlers, shipping agents



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and air cargo agents; and (ii) the proposed regulatory and enforcement regime. Notably, with the draft Bill, the range of offences and severity of punishment will increase under the Act.

Requirements for Licensed FTZ Operators and Licensed Cargo Handlers

The draft Bill proposes the introduction of a licensing regime on FTZ operators and FTZ cargo handlers, as well as imposing of certain requirements on them, such as collecting and transmitting prescribed information and ensuring confidentiality. While some of these requirements apply only to licensed FTZ operators, others affect shipping agents and air cargo agents (as elaborated below).

Licensing regime for FTZ operators and cargo handlers

Licensing regime for FTZ operators

Under the draft Bill, appointed authorities will no longer undertake the administration, maintenance and operation of FTZs. Instead, FTZ operators will undertake these. They cannot do so unless licensed. The penalty for contravention is a fine of up to S\$10,000. The framework for the licensing of FTZ operators includes the following requirements:

- Applications for an FTZ operator licence or renewals must be made to the Director-General in the prescribed form;
- The Director-General may impose licence conditions, which may include requiring the licensed FTZ operator to:
 - construct, install, provide and maintain structures and facilities within the FTZ for security purposes;
 - monitor the activities of any person within the FTZ to ensure that unauthorised activities are not occurring within the FTZ; and
 - ensure that any lessee (including a licensed FTZ cargo handler) of any fixed property within the FTZ obtains the licensed FTZ operator's approval before sub-leasing;
- Prohibited persons are not allowed to carry out activities in, or enter or reside in the FTZ. These are persons that the Director-General has reasonable grounds to believe have engaged or are engaged in conduct that amounts to an offence involving fraud or dishonesty, in Singapore or elsewhere, or will prejudice the security of the FTZ; and
- Licensed FTZ operators can be issued such directions by the Director-General that it considers necessary to ensure compliance with the Act. The penalty for contravention is a fine of up to S\$10,000.

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During the transition period, appointed authorities will continue undertaking the administration, maintenance and operation of FTZs, until FTZ operators are licensed to do so in their place. Further proposed transitional provisions can be found in section 22 of the draft Bill.

Licensing regime for FTZ cargo handlers

Under the draft Bill, persons shall not provide any service or facility for the storing, processing or handling, in a FTZ, of goods brought into Singapore, unless they have been granted a FTZ cargo handler licence for that FTZ. The penalty for contravention is a fine of up to S\$10,000. The framework for the licensing of FTZ cargo handlers includes the following requirements:

- Applications for a FTZ cargo handler licence or renewals must be made to the Director-General in the prescribed form; and
- The Director-General may impose licence conditions, which may include requiring the licensed FTZ cargo handler to:
 - Be subject to conditions relating to monitoring and managing the movement of goods within the FTZ;
 - Implement systems and procedures to monitor and ensure the security of any premises within the FTZ; and
 - Provide information to any person in relation to any goods that are dangerous or prejudicial to the public interest, health or safety.

Requirements to collect and transmit relevant information within the FTZ

The draft Bill seeks to improve cargo visibility within FTZs. In doing so, the amendments include:

- **Submission of reports** - Licensed FTZ operators or licensed FTZ cargo handlers can be required to submit reports to the Director-General containing prescribed information and documents, whether or not on a periodic basis. There are also retention requirements for such reports. Non-compliance attracts a fine of up to S\$10,000 and/or a jail term of up to three years.
- **Suspicion of contraventions** - Where any licensed FTZ Operator or licensed FTZ cargo handler has reason to suspect that any goods in their possession, custody, charge or control contravene the Act or any other written law, they must notify the Director-General. Non-compliance attracts a fine of up to S\$5,000.
- **Provision of information by shipping agents and air cargo agents** - Shipping agents and air cargo agents for any goods brought or intended to be brought into a FTZ must give the licensed FTZ cargo handler for that FTZ prescribed information contained in the bill of lading or airway bill for those goods. Non-compliance attracts a fine of up to S\$10,000, and/or jail term of up to 12 months.

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Provisions to ensure confidentiality of information

The draft Bill proposes a confidentiality provision to prohibit prescribed persons from disclosing any information submitted for the purposes of the Act, unless there is prior written consent obtained from the person to whom the information relates. The prescribed persons include an authority, a licensed FTZ operator, a licensed FTZ cargo handler, a shipping agent, and an air cargo agent, as well as their officers or employees, amongst others. Non-compliance attracts a fine of up to S\$6,000, and/or jail term of up to 12 months.

Note that there are specific circumstances in which the information may be disclosed. These include doing so for the purposes of enabling a public agency to investigate any suspected offence under any prescribed written law, as well as to prosecute and enforce any prescribed offence.

Regulatory Framework – Actions and Enforcement

Regulatory actions in respect of FTZ licence holders

Under the draft Bill, the Director-General may suspend or revoke the licence of a licensed FTZ operator or a licensed FTZ cargo handler under various circumstances. These include, when:

- the Director-General is satisfied that there has been a contravention of a licence condition or the Act;
- the licence was obtained through fraud or misrepresentation;
- the licence holder is convicted of an offence under the Act that was committed during the licence term; or
- the public interest or national security of Singapore requires it.

Licence holders will be able to make written representations to the Director-General, who will notify them before any regulatory action is taken.

Enforcement powers

For the purpose of administering or enforcing the Act, or determining whether there has been a contravention of the Act, a Customs officer may enter any FTZ to, among other things:

- search, examine any activity, and check the operation of any thing;
- take photographs and videos;
- inspect, audit or stock check;
- require any person in the FTZ to provide information within their knowledge and take reasonable steps to provide documents;

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- inspect goods, documents, computers or computer outputs; and
- take possession of any thing in the FTZ where, in the Customs officer's opinion, the examination, inspection, checking, copying or extraction cannot be performed without taking possession.

Non-compliance with a requirement of a Customs officer attracts a fine of up to S\$10,000 and/or jail term of up to 18 months.

Other enforcement powers under the Act include the power to detain goods for inspection, require goods to be brought to the examination station for examination, powers of arrest and the power to require persons to provide information and documents.

Concluding Words

MOF will publish the consultation response on its [website](#) in April 2023, and will incorporate relevant feedback into the draft Bill.

The draft Bill will introduce significant changes that will affect industry players and impose on them a range of requirements. It is hence important for industry players to carefully review the draft Bill and provide comments or concerns, if any, about the changes. For example, if there are any operational issues anticipated, these ought to be highlighted.

Parties wishing to submit any feedback for the consultation, or otherwise discuss any issue in this regard, may feel free to contact our team.

Please click the following links for further information:

- MOF Public Consultations: [Public Consultation on Proposed Free Trade Zones \(Amendment\) Bill](#)
- [Draft Free Trade Zones \(Amendment\) Bill](#)

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