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Significant Investments Review Bill Tabled in Parliament - New Investment Management Regime for Entities Critical to Singapore

Introduction

On 6 November 2023, the [Significant Investments Review Bill](#) ("**Bill**") was introduced in Parliament. The Bill sets out a new investment management regime which seeks to strengthen the resilience of Singapore's economy and enhance Singapore's national security by ensuring the continuity of critical entities. Moreover, to provide a level playing field for all investors, the new investment regime will apply to both local and foreign investors. The approach of the new law is to address national security threats whilst still preserving Singapore's attractiveness to foreign investors.

To achieve this, only entities that are critical to Singapore's national security interests will be designated under this new regime ("**Designated Entities**") and be regulated, rather than adopting an entire sector approach for regulation. Entities that have not been designated but have acted against Singapore's national security interests may also have their transactions reviewed under certain circumstances. This means that the designation is not finite and could potentially be undertaken ad hoc.

The Bill complements existing sectoral legislation, which extends to entities in sectors such as banking, insurance, telecommunications and utilities, where approvals are required for acquisitions that cross certain pre-fixed thresholds. The nature of the approval varies from sector to sector, with some akin to detailed market information being provided and the fact of competition not being affected being established. The approval approach for transactions involving a Designated Entity remains to be seen.

In this Update, we consider the key aspects of the Bill.

Key Aspects of the Bill

The Second Reading of the Bill is likely to be in January 2024. We briefly summarise salient aspects of the Bill below:

- **Designated Entities:** Entities that are critical to the national security interests of Singapore but are not caught by the existing sectoral legislation will be Designated Entities under the new



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regime. The entities must be incorporated, formed, or established in Singapore; carry out activities in Singapore; or provide goods and services to persons in Singapore. This suggests that even foreign entities could be designated as critical to national security to the extent that they provide goods and services to persons in Singapore. Practically, however, this would be difficult to enforce. MTI has indicated that entities expected to be designated will be informed by the relevant Government agencies.

- **Ownership and control requirements applicable to Designated Entities:** Designated Entities will be subject to, among others, the following ownership and control requirements:
 - (a) A person who becomes a 5% controller of the Designated Entity must notify the Minister for Trade and Industry ("**Minister**").
 - (b) A person must seek the Minister's approval before becoming a 12%, 25%, or 50% controller, an indirect controller, or acquiring as a going concern (parts of) the business or undertaking of the Designated Entity.
 - (c) A person who intends to sell his/her stakes in the Designated Entity which would result in him/her ceasing to be a 50% or 75% controller of the Entity must seek the Minister's approval before doing so. This requirement puts a positive onus on the seller to not simply notify but to obtain approval.
 - (d) Designated Entities need to notify the Minister of the above-mentioned changes in ownership and control of the Designated Entities after becoming aware of the events.
 - (e) Designated Entities must seek approval for the appointment of key officers such as the chief executive officer, directors, and the chairperson of the Board of the Directors of the Designated Entities. Whilst not entirely unusual, this requirement means that parties must plan ahead, which must include building in appropriate timelines.
 - (f) Designated Entities must not be voluntarily wound up or dissolved without the Minister's consent.
 - (g) If national security issues arise or if the delivery of essential services is disrupted, to ensure the continuity of the Designated Entities, special administration orders can be given to direct the assumption of control of the Designated Entities' affairs, business and property.
- **Entities that act against national security interests:** The Minister can review ownership or control transactions involving an entity that has acted against Singapore's national security interests even if the entity has not been designated. Targeted actions, such as directing the

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transacting party to dispose of his equity interest in the entity, can be taken. Given that repercussions here can be serious, businesses in or serving industries which are potentially sensitive must be alert to how and who it undertakes its business with, so as not to create a perceived security risk.

- **Reconsideration requests and appeals:** The new law is intended to be business-friendly. There will be clear processes for parties seeking reconsideration of decisions by the Minister, and for further appeals to an independent Reviewing Tribunal. Each Reviewing Tribunal will consist of three individuals appointed by the President on the advice of the Cabinet, including the chairperson who must be a Supreme Court judge.
- **Office of Significant Investments Review:** An Office of Significant Investments Review will be set up under the MTI. This will function as a dedicated one-stop touchpoint for stakeholders.

The Bill, if passed, will be implemented in 2024. Furthermore, by only selecting targeted critical entities, rather than a sectorial approach, the Bill limits the additional regulatory regime to the scrupulously calibrated few.

Concluding Words

In gist, the introduction of the Significant Investments Review Bill represents a crucial step in bolstering Singapore's economic resilience and national security. This legislation establishes a comprehensive investment management regime applicable to both local and foreign investors, fostering a fair and secure environment.

The Bill reflects Singapore's proactive and adaptive approach to economic and security challenges, positioning the nation as a global leader in responsible and secure investment practices. It also follows the growing trend worldwide for governments to carefully screen foreign investments in sensitive sectors.

When promulgated, the law will be another regulatory barrier that companies will have to be aware of when investing into Singapore.

Please feel free to contact our Partners below if you wish to discuss this development further.

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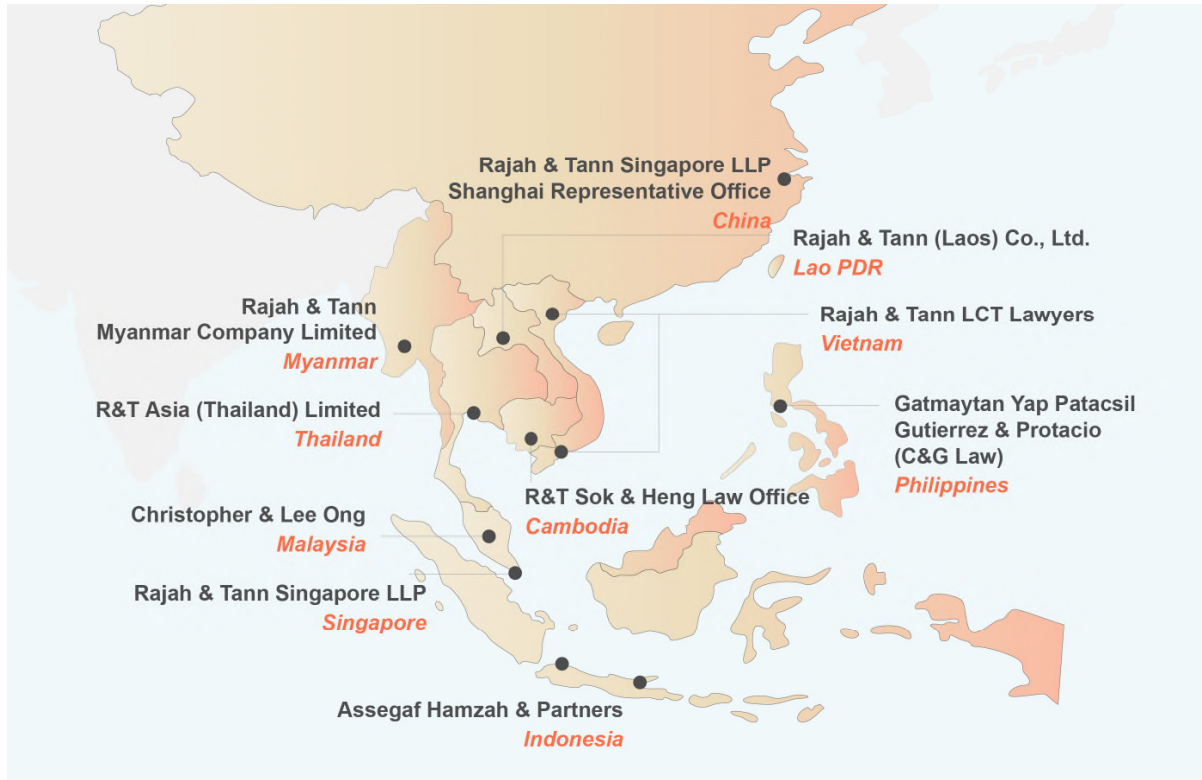
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