

Capital Markets

Key Legislative Changes to Align Regulatory Regimes for BTs with Companies and REITs From 12 March 2024

Introduction

The Business Trusts (Amendment) Act 2022 ("**Amendment Act**") contains changes to the Business Trusts Act 2004 ("**BTA**") which governs the registration and regulation of registered business trusts ("**BTs**"). A BT is a hybrid structure embodying the features of both a company and a trust. A key advantage of a BT is the ability to pay distributions to unitholders out of its profits, income or other payments or returns, unlike a company which may only do so out of profits. Given a BT's similarities with a company, many provisions of the BTA are based on the Companies Act 1967 ("**CA**"). Since the BTA came into effect, there have been various amendments to the CA to improve the regulatory regime for companies. As such, the Amendment Act introduces changes to amend the BTA to align with certain corresponding provisions in the CA to improve the regulatory regime for BTs, namely: (i) boost transparency and corporate governance; (ii) enhance the rights of unitholders; and (iii) facilitate the conduct of business and ease compliance. In addition, there are also amendments to strengthen regulatory safeguards for registered BTs, as well as those to streamline and clarify regulatory requirements.

The Monetary Authority of Singapore ("**MAS**") stated that changes under the Amendment Act will be implemented in two phases. Phase 1 amendments came into effect on 12 March 2024 and phase 2 amendments will be implemented concurrently with supporting subsidiary legislation. MAS intends to consult on supporting legislation for phase 2 amendments in Q2 2024, targeting implementation in Q4 2024. This Update gives a snapshot of salient key amendments to the BTA that came into force on 12 March 2024.

Key Changes

- **Requiring, in addition to the director of the trustee-manager ("**TM**") of a registered BT, the chief executive officer ("**CEO**") to disclose his or her interests in transactions or proposed transactions.**

Particulars of the interest of the director or CEO in the transaction or proposed transaction may be disclosed through a declaration at a meeting of the directors of the TM or by a written notice to the TM.



Capital Markets

- **Rights of unitholders and general meetings.** Changes include:
 - (i) expanding the scope of statutory derivative actions to include arbitration;
 - (ii) providing the court, in relation to certain applications for winding up a registered BT, with the ability to order a buy-out of the registered BT in lieu of winding up; and
 - (iii) lowering the threshold requirement for demanding a poll from 10% to 5% of the total voting rights of all the unitholders having the right to vote at the meeting.
- **Governance and right of compulsory acquisitions.** Changes include:
 - (i) prohibiting the improper use of position by an officer or an agent of the TM of a registered BT;
 - (ii) clarifying that, in the event of a takeover, individuals may exercise their right to compulsorily acquire units held by dissenting unitholders; and
 - (iii) introducing new provisions to govern joint offers and other matters.
- **Lower threshold to remove TM of registered BT.**

BTs share various structural similarities with real estate investment trusts ("**REITs**"), for instance, BTs and REITs are usually externally managed – the former by TMs and the latter by REIT managers ("**RMs**"). With the change, the removal threshold of the TM of a registered BT is lowered from approval by unitholders holding no less than three-fourths of the voting rights to a simple majority (similar to the removal of a RM).

Legislative Background

The Amendment Bill was first introduced in Parliament on 12 September 2022. You may read more about this in our September 2022 Legal Update on "Business Trusts (Amendment) Bill Introduced to Align with Regulatory Regimes for Companies and REITs", available [here](#). The amendments were the subject of an earlier "[Consultation Paper on Proposed Amendments to the Business Trusts Act](#)" issued by the MAS in November 2021.

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist.

Contacts



Evelyn Wee

Deputy Head, Corporate and
Transactional Group
Head, Capital Markets

T +65 6232 0724

evelyn.wee@rajahtann.com



Tan Mui Hui

Deputy Head, Capital
Markets

T +65 6232 0191

mui.hui.tan@rajahtann.com



Hoon Chi Tern

Deputy Head, Capital Markets

T +65 6232 0714

chi.tern.hoon@rajahtann.com

Click [here](#) for our Partners in Capital Markets Practice.

Please feel free to also contact Knowledge Management at eOASIS@rajahtann.com

Our Regional Contacts

RAJAH & TANN SOK & HENG | *Cambodia*

Rajah & Tann Sok & Heng Law Office

T +855 23 963 112 / 113

F +855 23 963 116

kh.rajahtannasia.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346

F +95 1 9345 348

mm.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

Rajah & Tann Singapore LLP

Shanghai Representative Office

T +86 21 6120 8818

F +86 21 6120 8820

cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32

F +632 8552 1977 to 78

www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800

F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550

F +62 31 5116 4560

www.ahp.co.id

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600

sg.rajahtannasia.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991

F +66 2 656 0833

th.rajahtannasia.com

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239

F +856 21 285 261

la.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673

F +84 28 3520 8206

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919

F +60 3 2273 8310

www.christopherleeong.com

Hanoi Office

T +84 24 3267 6127

F +84 24 3267 6128

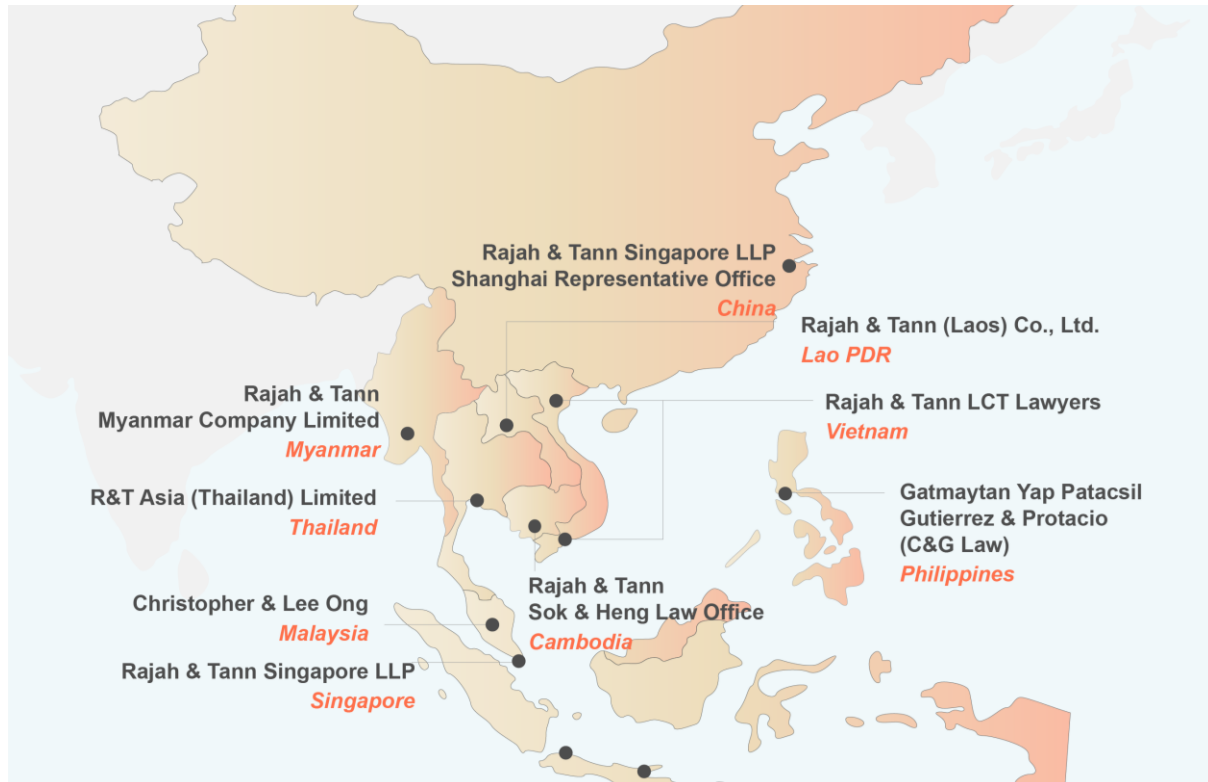
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge Management at eOASIS@rajahtann.com.