

CLIENT UPDATE 2016 NOVEMBER



CORPORATE

Companies (Amendment) Bill 2017: Introduction of an Inward Re- domiciliation Regime

Introduction

The Ministry of Finance (“**MOF**”) and the Accounting and Corporate Regulatory Authority of Singapore (“**ACRA**”) are jointly seeking public feedback on proposals to amend the Companies Act (“**CA**”) to introduce an inward re-domiciliation regime in Singapore. The consultation period runs from 26 October 2016 to 16 November 2016.

These amendments are part of efforts to ensure that Singapore’s corporate regulatory regime remains internationally competitive and continues to stay robust. The proposed amendments will form part of a larger Companies (Amendment) Bill 2017 (“**Bill**”) and further consultations on other proposed amendments to the CA will take place later this year.

This update takes a look at the key proposals in the consultation paper.

Proposed Inward Re-Domiciliation Regime

Re-domiciliation is a process where a corporation transfers its registration from its home jurisdiction to another jurisdiction, while retaining its identity and history in the various regulatory jurisdictions it has presence in and minimizing operational disruptions. Jurisdictions such as Australia, Canada and New Zealand currently also have re-domiciliation regimes.

MOF and ACRA are now proposing to introduce an inward re-domiciliation regime in Singapore to allow foreign corporations to transfer their registration to Singapore. This will facilitate the relocation by foreign corporations of their regional or worldwide headquarters to Singapore. Under the proposed regime, an inbound corporation which is re-domiciled to Singapore will become a Singapore company and will be required to comply with the provisions of the CA, like any other Singapore company.

MOF and ACRA will review whether to introduce an outward re-domiciliation regime in future.

Summary of Key Proposals to Introduce an Inward Re-domiciliation Regime

Some of the key proposals that the MOF and ACRA are seeking feedback on are:

- **The definition of “foreign entity”.** In the draft Bill, this is currently defined as “a body corporate that is incorporated outside Singapore.”
- **The requirements for transfer of registration.** Some of the proposed requirements are that the foreign entity must be of a certain minimum size before it may re-domicile (for example, using the criteria for small company and small group in the Thirteenth Schedule of the CA), all relevant laws of the original jurisdiction permit re-domiciliation, the application for re-domiciliation is not meant to defraud existing creditors, and that the foreign entity must provide a solvency statement (or proof of genuine intent to restructure for distressed foreign entities).

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- **Information that a foreign entity will need to lodge in its application for re-domiciliation.** Feedback is sought on, inter alia, whether it is important to identify certain subscribers to the constitution and who these persons should be.
- **The registration process for re-domiciliation.** MOF and ACRA are seeking feedback on whether, if the application for re-domiciliation is in order, the Registrar of Companies should retain the discretion to decide whether or not to register the foreign entity, or register the foreign entity subject to conditions.
- **The effect of registration.** Once re-domiciled, the foreign entity will be deemed to be a company under the CA, and the provisions of the CA will apply to it. However, MOF and ACRA are seeking feedback on the proposal to grant these companies a grace period of three months to comply with section 144 of the CA (relating to publication of company name and registration number) upon re-domiciliation, taking into account practicalities of business operations.
- **Duties of the company to register pre-existing charges.** MOF and ACRA are seeking feedback on whether it is necessary to introduce a specific provision in the CA to deal with how re-domiciling companies will comply with the registration of pre-existing charges and duties with respect to issue of certificates to shareholders and/or debenture holders.

The full list of key clauses in the Bill and consultation questions can be viewed [here](#), and the draft Bill¹ at this [link](#).

Contact Us

If you have any questions on the above, or wish to make any submissions to the relevant authorities, please contact our team members below who will be happy to assist.



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¹ In the interests of time, MOF and ACRA are seeking feedback on the draft Bill before it has been reviewed by the Attorney-General's Chambers. The draft Bill may be subject to further changes after such review.

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