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Singapore Entities to Observe Nominee Shareholders & Enhanced Registrable Controllers Requirements by 5 Dec 2022

Introduction

On 4 October 2022, the Companies Act 1967 ("**CA**") and the Limited Liability Partnerships Act 2005 ("**LLP Act**") were amended to introduce the following new requirements:

- (1) Mandatory Requirement to Keep Register of Nominee Shareholders ("RONS"):** Singapore companies and foreign companies registered in Singapore ("**foreign companies**") are now required to maintain a non-public RONS containing the prescribed particulars of the nominee shareholders and their nominators; and
- (2) Enhanced Measures Where There is No Registrable Controller or the Entity is Unable to Identify Registrable Controller:** Singapore companies, foreign companies or Singapore limited liability partnerships ("**LLPs**"), which have no registrable controller or are unable to identify the registrable controller, are required to identify individuals with executive control as their registrable controllers.

Singapore companies, foreign companies or LLPs (as the case may be) must comply with the above requirements by **5 December 2022**. These changes which are set out in the Corporate Registers (Miscellaneous Amendments) Act 2022 aim to align Singapore corporate governance requirements closer with international standards set by the Financial Action Task Force (FATF) so as to make it harder for illicit actors to engage in money laundering, terrorism financing and other actions that abuse the system.

This Update sets out the key features of these new requirements.

Mandatory Requirement to Keep Register of Nominee Shareholders

Singapore companies and foreign companies are required to keep a public register of members. Before 4 October 2022, they are not required to ascertain whether a member (or shareholder) is holding the shares of the companies or foreign companies on behalf of another person. On 4 October 2022, the CA was amended to require a nominee shareholder who is holding the shares of a Singapore company or a foreign company on behalf of another person (i.e. the nominator) to inform the company or foreign

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company of his/her nominee status, together with the particulars of the nominator. The company or foreign company is then required to record the information in a non-public RONS.

This new requirement aims to minimise the risk of a Singapore company or foreign company being misused for illegitimate purposes by illicit actors who are controlling the company or foreign company through nominee shareholding arrangements.

Exemption for Certain Companies and Foreign Companies from Keeping RONS

Some Singapore companies and foreign companies are exempted from keeping the RONS. They include Singapore companies which are listed on the Singapore Exchange Securities Trading Limited (SGX-ST), Singapore financial institutions, Singapore companies and foreign companies which are listed on a securities exchange outside Singapore and which are subject to regulatory disclosure requirements and requirements relating to adequate transparency in respect of their beneficial owners imposed through stock exchange rules, law or other enforceable means, or a foreign company that is a wholly-owned subsidiary of a foreign company that is a Singapore financial institution. Details of the exempted entities are prescribed in [Fourteenth Schedule](#) and [Fifteenth Schedule](#) to the CA.

Prescribed Form for RONS

Singapore companies and foreign companies must maintain the RONS in the prescribed form set out in [Eighth Schedule to the Companies \(Register of Controllers and Nominee Directors\) Regulations 2017](#).

Location of RONS

The RONS must be kept at the: (i) company's or foreign company's registered offices; or (ii) registered office of any registered filing agent appointed by the company or foreign company. Companies and foreign companies must not disclose, or make available for inspection, the RONS to any member of the public. Auditors are also not entitled to have access to the RONS.

Who is a Nominee Shareholder?

A "nominee shareholder" of a company or foreign company is a person who:

- (a) is accustomed or under an obligation (whether formal or informal) to vote, in respect of the shares held by that person in the company or foreign company, according to the directions, instructions or wishes of any other person ("**nominator**"); and
- (b) receives dividends, in respect of the shares held by that person in the company or foreign company, on behalf of any other person ("**nominator**").

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Obligation of Nominee Shareholders

Nominee shareholders of a company or foreign company are required to notify the company or foreign company of his/her nominee status, together with the particulars of the nominators within the prescribed timelines set out below.

- (a) A nominee shareholder of a company incorporated, or a foreign company registered, before 4 October 2022 and who:
 - (i) is a nominee shareholder on 4 October 2022 must notify the company or foreign company that he/she is a nominee shareholder and provide the particulars of the nominator, within 60 days after 4 October 2022; or
 - (ii) becomes a nominee shareholder after 4 October 2022 must notify the company or foreign company that he/she is a nominee shareholder and provide the particulars of the nominator, within 30 days after he/she becomes a nominee.
- (b) A nominee shareholder of a company incorporated, or a foreign company registered, on or after 4 October 2022 and who:
 - (iii) is a nominee shareholder on the date of incorporation of the company, or on the date of registration of the foreign company, must notify the company or foreign company that he/she is a nominee shareholder and provide the particulars of the nominator, within 30 days after the date of incorporation or date of registration (as the case may be); or
 - (iv) becomes a nominee shareholder after the date of incorporation of the company, or after the date of registration of the foreign company, must notify the company or foreign company that he/she is a nominee shareholder and provide the particulars of the nominator, within 30 days after he/she becomes a nominee.
- (c) Nominee shareholders must also notify the company or foreign company if they cease to be nominee shareholders or where there are changes to the particulars of the nominators, within 30 days after the cessation or changes (as the case may be).

A nominee shareholder who fails to comply with the above notification requirements is liable to a maximum fine of S\$5,000.

The above notification requirements also apply to Singapore companies and foreign companies who are exempted from keeping the RONS.

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Obligation of Companies and Foreign Companies to Update RONS

A company or foreign company must update its RONS within seven days after receiving information from a nominee shareholder regarding his/her nominee status and/or nominators.

Enhanced Measures Where There is No Registrable Controller or the Entity is Unable to Identify Registrable Controller

The CA and LLP Act require Singapore companies, foreign companies and LLPs to maintain a register of registrable controllers ("**RORC**"). Registrable controllers of a Singapore company, foreign company or LLP refer to individuals or legal entities with significant interest in (broadly, more than 25% shareholding / share in capital or profits) or significant control over (broadly, holding more than 25% voting rights) the company, foreign company or LLP.

Before 4 October 2022, if a Singapore company, foreign company or LLP does not have any registrable controller or is unable to identify any registrable controller, it is not required to enter any particulars into its RORC.

Company or Foreign Company with No Registrable Controller or is Unable to Identify Registrable Controller

With effect from 4 October 2022, where a company or foreign company knows or has reasonable grounds to believe that it:

- (a) has no registrable controller; or
- (b) has a registrable controller but has not been able to identify the registrable controller,

each director with executive control and each chief executive officer ("**CEO**") of the company or foreign company is taken to be a registrable controller of the company or foreign company. A director with executive control refers to a director of the company or foreign company who exercises executive control over the daily or regular affairs of the company or foreign company through a senior management position. The Accounting and Corporate Regulatory Authority ("**ACRA**") [Registers of Registrable Controllers Guidance for Companies](#) and [Registers of Registrable Controllers Guidance for Foreign Companies](#) provide examples on who may be considered as directors with executive control of a company or foreign company.

The company or foreign company must enter in its RORC, a note stating the above fact together with the prescribed particulars of the directors with executive control and CEO, on the date on which:

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- (a) it knows, or has reasonable grounds to believe, that it has no registrable controller; or
- (b) it, having taken the reasonable steps to find out and identify its registrable controllers in accordance with the CA, forms the opinion that it is unable to identify the registrable controller.

A company or foreign company which fails to comply with the above requirements is liable to a maximum fine of S\$5,000. Every officer of the company or foreign company who is in default is also liable to a maximum fine of S\$5,000.

LLP with No Registrable Controller or is Unable to Identify Registrable Controller

With effect from 4 October 2022, where an LLP knows or has reasonable grounds to believe that it:

- (a) has no registrable controller; or
- (b) has a registrable controller but has not been able to identify the registrable controller,

each partner with executive control of the LLP is taken to be a registrable controller of the LLP. A partner with executive control refers to a partner of the LLP who exercises executive control over the daily or regular affairs of the LLP through a senior management position. The ACRA [Registers of Registrable Controllers Guidance for Limited Liability Partnerships](#) provides examples on who may be considered as partners with executive control of a LLP.

The LLP must enter in its RORC a note stating the above fact together with the prescribed particulars of the partners with executive control on the date on which:

- (a) it knows, or has reasonable grounds to believe, that it has no registrable controller; or
- (b) it, having taken the reasonable steps to find out and identify its registrable controllers in accordance with the LLP Act, forms the opinion that it is unable to identify the registrable controller.

An LLP which fails to comply with the above requirements is liable to a maximum fine of S\$5,000. Every partner of the LLP who is in default is also liable to a maximum fine of S\$5,000.

Obligation of Companies, Foreign Companies and LLPs to Update ACRA Central Register of Registrable Controllers

Within two business days of updating their RORCs with the above additional particulars, companies, foreign companies and LLPs are required to file such information with the ACRA central Register of Registrable Controllers.

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Legislative History

In July 2021, the Ministry of Finance and ACRA conducted a public consultation to seek comments on the above changes. We provided a summary of the [Public Consultation on Proposed Enhancements To Singapore's Regime on Transparency And Beneficial Ownership Of Companies and Limited Liability Partnerships](#) in our Client Update titled "[Impending Legislative Changes to Enhance Transparency and Beneficial Ownership of Companies, Foreign Companies and LLPs](#)".

Following from the July 2021 public consultation, the Corporate Registers (Miscellaneous Amendments) Bill 2021 was introduced in Parliament on 1 November 2021 and passed on 10 January 2022 to implement the proposals set out in the consultation paper, taking into account feedback received in response to the public consultation. We covered the passing of the Bill in our Client Update titled "[Key Legislative Changes Enhancing Transparency and Beneficial Ownership of Companies, Foreign Companies, and LLPs](#)".

Apart from the above new requirements relating to the RONS and the enhanced measures for identifying the registrable controllers, the Corporate Registers (Miscellaneous Amendments) Act 2022 contains other amendments to the CA to clarify and prescribe the timelines for Singapore companies to update their registers of nominee directors and foreign companies to update their registers of members. These changes came into force on 30 May 2022. For more information about the changes, click [here](#) to read our article titled "[Singapore Companies and Foreign Companies Must Observe Prescribed Statutory Timeline for Updating Register of Nominee Directors and Register of Members Respectively](#)" in the June 2022 edition of our NewsBytes: Singapore.

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

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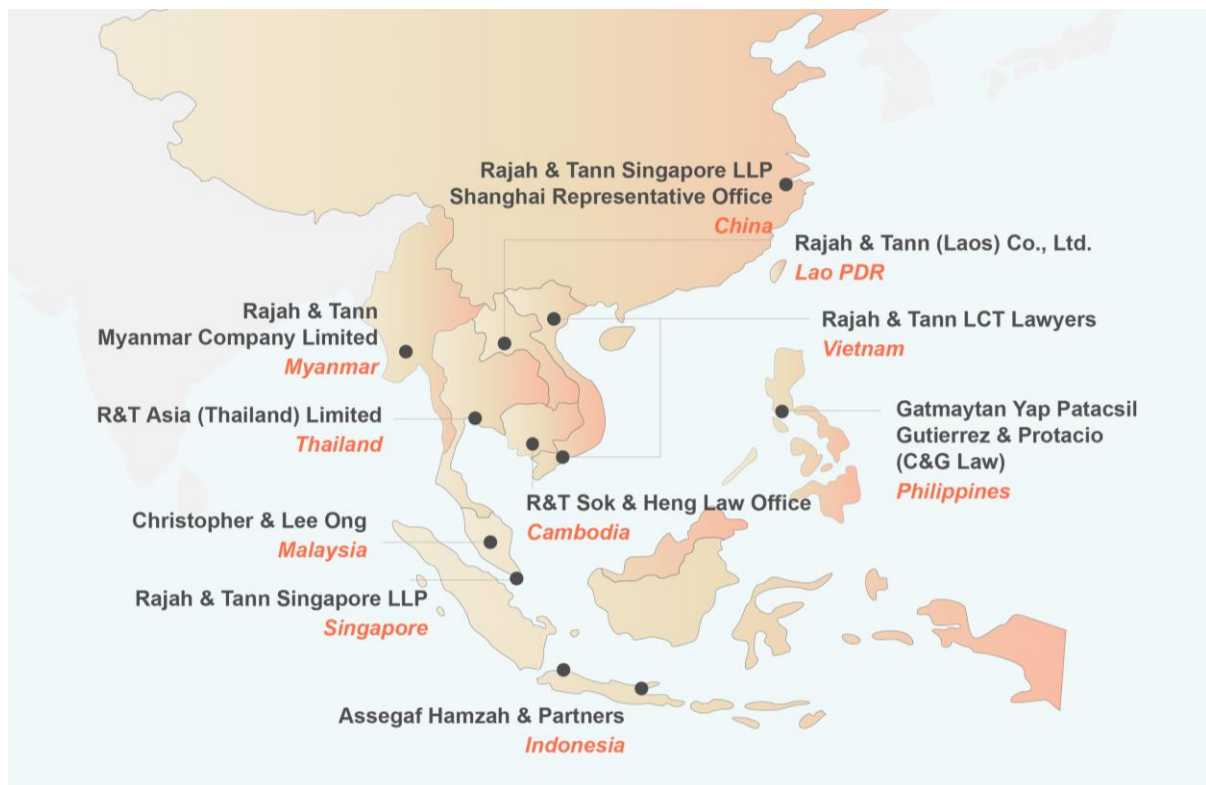
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