NewsBytes: Singapore

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In this Issue

News

LegisBytes

Deals

Authored Publications

Events

News

Rajah & Tann Asia Defends Top Rankings in The Legal 500 Asia Pacific 2022

Rajah & Tann Asia continues to be among the region's top ranks in the *The Legal 500 Asia Pacific 2022* guide of leading firms, with a total of 76 practice areas ranked and 280 lawyers recognised or mentioned in the editorials across nine jurisdictions throughout Southeast Asia.

With 88% of its ranked practices achieving Tiers 1 and 2 standings, the rankings attest to the prowess of its regional network and efficacy in tackling the most complex regional and cross-border matters.

Its Indonesian firm Assegaf Hamzah & Partners has displayed a particularly strong performance, appearing in all 14 domestic categories including taking the coveted Tier 1 position in 12 categories with the remaining two categories in the Tier 2 spot.

Rajah & Tann Singapore also continues to be a top performer, appearing in all 21 domestic categories with over 71% of its ranked practice areas in Tier 1 while the other practices are recognised in Tier 2.

In Malaysia, Christopher & Lee Ong is ranked in all 13 possible practice areas with half of them dominating in Tier 1 and 80% of its ranked areas in appearing in Tiers 1 and 2.

For its other offices across Southeast Asia, Rajah & Tann Asia has maintained its leading firm status across Cambodia, Lao PDR, Myanmar, the Philippines, Thailand and Vietnam.

Published annually, *The Legal 500 Asia Pacific* provides unbiased commentary and insight into the legal marketplaces of 25 Asia Pacific jurisdictions.

Click here to read our Press Release and view our full rankings.

LegisBytes

General

Regional Round-Up 2021: Singapore (Year-in-Review)

This year-in-review edition of Regional Round-Up highlights the key legal developments in Singapore in 2021, and the key legal and business trends shaping up potential legislative and regulatory changes in 2022.

Looking Back: 2021

(a) **Sustainability**. In 2021, the subject of sustainability was high on the agenda for Singapore as the Government announced the Singapore Green Plan 2030 to strengthen Singapore's commitments under the United Nation 2030 Sustainable Development Agenda and the Paris Agreement. Recognising that financial institutions ("**FIs**") and listed

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companies play a significant role in funding sustainable developments and bringing awareness to sustainability issues, regulatory frameworks are put in place to require FIs, as well as companies listed on the Singapore Exchange Securities Trading Limited (SGX-ST), to make climate-related disclosures consistent with international standards.

(b) **Capital Markets**. The Singapore Exchange Limited (SGX) took a progressive step and launched the special purpose acquisition company (SPAC) listing framework to provide companies with an alternative capital fund raising route.

(c) **Cross-border Trade**. Various legislation took effect to support and facilitate cross-border trade amid the supply chain challenges exacerbated by the COVID-19 pandemic. These include the Apostille Act 2020 that facilitates cross-border use of public documents, and the Multimodal Transport Act 2021 that facilitates market access for logistics operators in ASEAN. The Singapore Court of Appeal dealt with legal issues and uncertainties arising from trade finance transactions that are particularly relevant when markets are facing increasing financial distress. A legal framework has been put in place to enable the digitalisation of transferable documents that are often used in cross-border trade to combat fraud.

(d) **Construction & Projects / Restructuring & Insolvency**. The COVID-19 pandemic continues to put tremendous strain on the economy globally and in Singapore. Various relief measures were implemented to help industries which are negatively affected, notably the Built Environment sector. With more businesses running into financial difficulties, the Singapore courts have ruled on significant restructuring and insolvency issues relating to construction law, cross-border insolvencies and the judicial management process.

(e) **Data Protection**. With the proliferation of hacking incidents, personal data protection remains a key issue for businesses and individuals. Therefore, the Personal Data Protection Act 2012 and the accompanying regulatory documents were updated to strengthen organisational accountability. The Personal Data Protection Commission dealt with a novel issue relating to opinion data auto-generated by artificial intelligence (AI).

(f) **Dispute Resolution**. In the 2021 edition of a well-regarded survey, Singapore shared the top position with London as one of the most preferred seats of international arbitration in the world. To enhance Singapore's attractiveness as a leading dispute resolution hub, a new avenue for funding, conditional fee agreements, will be allowed and the scope of permissible third-party funding has been expanded to address concerns of parties in the arbitration and legal proceedings over costs in such proceedings.

(g) **Intellectual Property**. As Singapore unveiled its Singapore IP Strategy 2030, a 10-year blueprint to strengthen Singapore's position as a global intangible assets and intellectual property ("**IP**") hub, the new Copyright Act came into force to strengthen the copyright ecosystem. Legislative changes were also passed in Parliament to enhance and facilitate the registration processes of IP rights.

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Gazing Into: 2022

(a) **Sustainability**. At the 26th Conference of Parties (COP26) to the United Nations Framework Convention on Climate Change (UNFCC) which took place from 31 October 2021 to 12 November 2021 in Glasgow, Singapore joined the Powering Past Coal Alliance (PPCA) and has signed the Global Coal to Clean Power Transition statement.

(b) **Sustainability Financing**. Adequate financing is key to supporting businesses to transition into greener practices. Various initiatives are being developed to encourage and build investors' confidence in sustainability financing, including (i) a taxonomy for sustainability financing to guide Singapore FIs on categorising "green" or "greener" activities, (ii) a common platform for ESG (environment, social and governance) disclosures; and (iii) a carbon exchange and marketplace that provides organisations with high-quality carbon credits.

(c) **Digital Payment**. Against the backdrop of a few high-profile incidents involving the sale and trading of cryptocurrencies and the rapid evolution of the technology supporting digital payments, more regulations and guidelines governing digital payment tokens are expected.

(d) **RCEP**. The coming into force of the Regional Comprehensive Economic Partnership ("**RCEP**") Agreement will promote trade and business ties between Singapore and the RCEP countries.

(e) **Dispute Resolution**. New Rules of Court governing civil proceedings in Singapore courts will be implemented to, among other things, modernise and expedite the litigation process. Structural changes to the judicial service and legal service were implemented so that the two services may benefit from greater specialisation and adopt a more flexible personnel management framework to meet the demands of an increasingly complex and rapidly evolving legal landscape. All of the Singapore statutes have been revised and updated to, among other things, simplify and modernise the language of more than 500 Acts, making the Acts more reader-friendly and accessible to the layman. These developments complement the efforts to strengthen Singapore's position as the leading dispute resolution hub in the region.

For more information on the above developments and other key areas with significant legal and regulatory developments in 2021 and key legal trends in 2022, click on the link below for the full report.

- Regional Round-Up 2021: Singapore

Capital Markets

SGX RegCo Shares Best Practices for Proxy Voting Arrangements at Scheme of Arrangement Meetings

On 12 January 2022, the Singapore Exchange Regulation ("**SGX RegCo**") issued a statement in the Regulator's Column sharing the best practices for proxy voting arrangement at a shareholders' meeting to approve a

scheme of arrangement relating to a corporate proposal for mergers and acquisitions ("**M&A**").

A Singapore company may make use of the statutory framework for scheme of arrangement provided in the Singapore Companies Act 1967 to seek the shareholders' approval of an M&A proposal. Among other things, the company has to make an application to the Singapore High Court ("**Court**") for an order to summon a shareholders' meeting ("**Scheme Meeting**"). The Scheme proposal will have to be approved by a majority in number of shareholders of the company ("**headcount test**") representing at least three-fourths in value ("**value test**") of the shares held by shareholders present and voting either in person or by proxy.

When the Court makes an order for the Scheme Meeting, it will typically sanction the voting arrangements at the Scheme Meeting in accordance with the requirements of the Companies Act 1967. Schemes relating to trusts (such as real estate investment trusts (REITs) and business trusts), or trust schemes, also follow similar procedures, as set out in the Singapore Code on Take-overs and Mergers.

One proxy rule

Some investors who purchase shares in a company may not hold the shares in their own names (e.g. Central Provident Fund ("**CPF**") members who use their CPF funds to purchase these shares). The shares are held in the names of a CPF agent bank, nominee bank or custodian bank, as the case may be.

To enfranchise indirect investors and CPF members, the Companies Act 1967 was amended in 2016 to introduce a multiple proxies regime which permitted custodian banks, nominee banks and the CPF Board ("**Relevant Intermediaries**") to appoint more than two proxies to attend and vote at shareholders' meeting. However, the multiple proxies regime for Relevant Intermediaries was generally not applied to Scheme Meetings previously, due to concerns on vote splitting to meet the headcount test. The Companies Act 1967 expressly provides that each member may only appoint one proxy to attend and vote at Scheme Meetings ("**one proxy rule**"), with discretion granted to the Court to deviate from the one proxy rule.

Under the one proxy rule, Relevant Intermediaries are not able to submit the two separate aggregate values, of both the votes "for" and "against" cast by their clients. Instead, Relevant Intermediaries will only indicate a vote one way (either "for" or "against") based on the collective majority vote received from their clients. The value of that vote will generally take the "offset" approach, which is the difference between the aggregate value of the votes "for" and the aggregate value of votes "against".

Best practices to ensure that proxy votes are better represented

SGX RegCo shared in its statement dated 12 January 2022 that the following voting arrangements that were directed by the Court with respect to a recent scheme of arrangement had led to an outcome that more fully represented shareholders' votes, including shareholders who hold their shares through Relevant Intermediaries. SGX RegCo considered it to be a positive development and encouraged issuers to adopt these voting arrangements at their Scheme Meetings.

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(a) The Court specifically held that Relevant Intermediaries were not required to cast all the votes one way, provided that each vote exercised related to a different share.
(b) For the value test, the aggregate value of votes "for" and the aggregate value of votes "against" provided by shareholders to Relevant Intermediaries should be reflected by Relevant Intermediaries in the proxy form.
(c) For the headcount test, where the majority of the votes cast by each Relevant Intermediary is "for", one vote would be attributed to "for"; where the majority of the votes cast by each Relevant Intermediary is "against", one vote would be attributed to "against". If the number of votes cast "for" and "against" was equal, one vote would be attributed to each of "for" and "against".

In 2021, Rajah & Tann Singapore LLP acted for an applicant in an application where the Court sanctioned similar voting arrangements to those of the aforementioned scheme to ensure that shareholders' votes are better represented at the Scheme Meeting. We highlighted and discussed the possible impact of the one proxy rule on a Scheme Meeting in our earlier Legal Update titled "Challenges to the One-Proxy Ruled in a Recent Trust Scheme of Arrangement" which was published in April 2021. For more information, click here. Should you have any queries on this topic, please get in touch with any of our Contact Partners for this write-up who are well placed to assist you.

Click on the following link for more information:

- SGX RegCo statement titled "Regulator's Column: What issuers and shareholders should be aware of in respect of proxy votes for scheme of arrangement meetings" (available on the SGX website at www.sgx.com)

Key Considerations for Audit Committees of SGX-listed Companies on SPACs and Sustainability Reporting

These were two key areas addressed by Mr Tan Boon Gin, CEO of the Singapore Exchange Regulation (SGX RegCo), in his closing speech at the ACRA-SGX-SID Audit Committee Seminar. Highlighted below are the key points that Audit Committees ("**ACs**") of companies listed on the Singapore Exchange ("**listed companies**") should note.

Special Purpose Acquisition Companies ("**SPACs**")

ACs must be mindful of accounting concerns unique to a SPAC initial public offering ("**IPO**"), as a SPAC IPO differs from a traditional IPO. For instance, SPAC IPOs usually involve the issuance of various financial instruments at the time of listing. In addition, when a SPAC goes into business combination with a target company (i.e. de-SPAC), different accounting issues may arise, for instance, the treatment for the business combination and the target company's valuation. Therefore, ACs should engage external auditors on issues concerning de-SPACs.

ACs of SPACs must carefully determine the accounting treatment and presentation of various instruments for the first financial reporting period. The financial disclosures must be complete and meaningful, and enable investors to discern the implications of the accounting treatment. ACs should also consider whether the assumptions used in the forecasts and

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projections in connection with a business combination are reasonable, and whether these are aligned with the accounting policies that the SPAC adopted. Presentation of financials must also adhere to relevant accounting standards.

The Singapore Exchange Limited ("**SGX**") is working with the Institute of Singapore Chartered Accountants (ISCA) to provide further guidance on common accounting considerations for SPAC transactions.

Sustainability Reporting

SGX has been actively advancing environmental, social and governance (ESG) initiatives, including climate-related disclosures consistent with recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD). For more information, please refer to our December 2021 Legal Update titled "Enhanced Disclosures on Climate-Related Information & Board Diversity Policy for SGX-Listed Companies", available here.

To address concerns of potential greenwashing, SGX expects listed companies to engage and demonstrate "robust review and assurance processes" through internal reviews and external assurance, the latter being the "ultimate gold standard". ACs are primarily responsible in overseeing the internal reviews on processes that go into the sustainability report. To boost the reliability of sustainability disclosures, listed companies should engage external auditors to provide assurance on specific areas, for instance the data and the process of data collection.

Click on the following link for more information:

- Closing speech for ACRA-SGX-SID Audit Committee Seminar by Tan Boon Gin, CEO, SGX RegCo (available on the SGX website at www.sgx.com)

MAS Announces Capital Markets and Green Finance Initiatives to Expand Financial Cooperation Between Singapore and China

On 29 December 2021, the Monetary Authority of Singapore ("**MAS**") announced the new initiatives which were discussed at the 17th Joint Council for Bilateral Cooperation between Singapore and China ("**JCBC**") to expand and strengthen financial cooperation between Singapore and China. The new initiatives relating to capital markets and green finance are highlighted below.

(a) **Exchange-Traded Funds ("ETFs")**. The Singapore Exchange Limited ("**SGX**") and Shenzhen Stock Exchange ("**SZSE**") have signed a Memorandum of Understanding to establish an ETF Link. SGX and SZSE will allow the listing of feeder ETFs, which link locally listed ETFs to ones listed on the other exchange. This initiative will offer investors on both exchanges a wider range of investment options and enable domestic ETF issuers to tap on cross-border capital flows.

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(b) **Bond Trading**. SGX and the China Foreign Exchange Trade System (CFETS) are in discussions to connect their bond trading platforms to allow investors better access to China's bond market.

(c) **Commodity derivatives**. Asia Pacific Futures ("**APF**"), a wholly-owned subsidiary of Asia Pacific Exchange (APEX), became the first Overseas Special Brokerage Participant (OSBP) of the Shanghai International Energy Exchange ("**INE**"). With APF's direct connection with INE, APF's clients will be able to trade directly in the INE market at a faster speed and lower cost, including funding, position management and physical delivery. This initiative allows Singapore-based investors to directly trade internationalised onshore commodity products through APF.

(d) **Green Finance**. MAS and the People's Bank of China (PBC) will explore deeper public-private sector collaboration in green finance, particularly in key areas such as taxonomies and green FinTech.

Click on the following links for more information:

- MAS Press Release titled "Singapore and China Expand Financial Cooperation through New Initiatives" (available on the MAS website at www.mas.gov.sg)
- SGX Press Release titled "SGX and SZSE sign MOU to link ETF markets in Singapore and China" (available on the SGX website at www.sgx.com)

MAS Consults on Proposed Due Diligence Requirements for Corporate Finance Advisers

Corporate finance advisers ("**CF advisers**") play a crucial role in the Singapore capital markets in advising entities intending to raise funds or entities which are involved in takeover and merger transactions.

On 15 December 2021, the Monetary Authority of Singapore ("**MAS**") issued a consultation paper setting out proposed due diligence requirements for CF advisers that will be set out in a new MAS Notice. For the purposes of the Notice, CF advisers are defined as being either (i) holders of a capital markets services ("**CMS**") licence, or (ii) banks, merchant banks, and finance companies exempt from holding a CMS licence, that undertake the regulated activity of advising on corporate finance.

While CF advisers are currently subject to some regulatory requirements – for instance, general conduct requirements under the Securities and Futures (Licensing and Conduct of Business) Regulations – the proposed regulatory requirements aim to raise the standards of conduct applicable to them. Examples of the new requirements include the duties to (i) act with due care, skill, and diligence; (ii) manage conflicts of interests; and (iii) keep records of due diligence work performed.

These new requirements are targeted at improving the quality of disclosures from entities seeking to raise funds, thereby promoting informed decision-making by investors and heightening public confidence in disclosures.

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Key points of the proposed new Notice include:

(a) Requirements applying to all CF advisers under Part I of the Notice;
(b) Additional requirements under Part II of the Notice applying to CF advisers who are acting as issue managers for initial public offerings (IPOs). MAS also proposes applying Part II to CF advisers who advise on reverse takeovers and very substantial acquisitions; and
(c) Materiality considerations that apply to requirements in both Parts of the Notice.

The consultation ended on 15 February 2022.

For more information, click here to read our Legal Update.

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Competition & Antitrust

Revised CCCS Competition Guidelines Take Effect from 1 February 2022 – Implications in the Digital Era and Other Guidance

The Competition and Consumer Commission of Singapore ("**CCCS**") revised various CCCS Guidelines for enhanced clarity and guidance, taking into account: (i) the findings and recommendations from its e-commerce platform market study report; (ii) amendments to the Singapore Competition Act 2004 ("**Act**") in 2018; (iii) its experience in administering and enforcing the Act since the Guidelines were last revised; and (iv) international best practices.

The CCCS Guidelines help businesses understand how CCCS administers and enforces the Act, including the three main prohibitions against:

(a) anti-competitive agreements, decisions, and practices ("**Section 34 prohibition**");
(b) abuse of a dominant position ("**Section 47 prohibition**"); and
(c) mergers and acquisitions that substantially lessen competition ("**Section 54 prohibition**").

The revised CCCS Guidelines, which took effect from 1 February 2022, are as follows:

(a) CCCS Guidelines on Market Definition;
(b) CCCS Guidelines on the Section 47 Prohibition;
(c) CCCS Guidelines on the Substantive Assessment of Mergers;
(d) CCCS Guidelines on Merger Procedures;
(e) CCCS Guidelines on Directions and Remedies (formerly known as CCCS Guidelines on Enforcement);
(f) CCCS Guidelines on the Treatment of Intellectual Property Rights;
(g) CCCS Guidelines on the Appropriate Amount of Penalty in Competition Cases;
(h) CCCS Guidelines on the Major Competition Provisions; and
(i) CCCS Guidelines on the Section 34 Prohibition.

The Guidelines expand upon the nature of the prohibitions, and in some instances provide illustrations of potential violations. The Guidelines also spell out procedural and process related aspects of enforcement and the meting out of financial penalties.

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The revised Guidelines also incorporate feedback received from earlier consultations which received general support from respondents.

For a discussion on the key changes to the Guidelines, click here to read our Legal Update.

Does Your Business Collaboration Breach Competition Law? CCCS Issues Guidance Note on Business Collaboration

Business collaborations and their compliance requirements have been an important topic in the commercial world. As businesses continue to change the way they operate to adapt to the shifting commercial landscape, they may seek to collaborate with other businesses to leverage on their respective strengths. However, one of the key concerns is how competition law applies to such collaborations.

To address this, the Competition and Consumer Commission of Singapore ("**CCCS**") has issued a Business Collaboration Guidance Note ("**Guidance Note**") that (i) clarifies CCCS' position on common types of business collaborations, and (ii) provides supplementary guidance on how CCCS will generally assess whether such collaborations comply with section 34 of the Competition Act. The Guidance Note also sets out factors and conditions under which competition concerns are less likely to arise.

The Guidance Note addresses the following types of business collaborations:

(a) **Information sharing** – Exchange of both price and non-price information among businesses;
(b) **Joint production** – Collaboration to jointly produce a product, share production capacity or subcontract production;
(c) **Joint commercialisation** – Collaboration in the selling, tendering, distribution or promotion of a product;
(d) **Joint purchasing** – Collaboration to jointly purchase from one or more suppliers;
(e) **Joint research & development** – Collaboration on R&D activities, such as joint investment;
(f) **Standards development** – Setting of industry or technical standards; and
(g) **Standard terms and conditions in contracts** – Usage of terms shared amongst competitors establishing conditions of sale and purchase of goods and services between them and their customers.

For more information, click here to read our Legal Update.

Construction & Projects

Further Extension of Relief Periods for Built Environment Sector under COVID-19 (Temporary Measures) Act

COVID-19 has adversely affected the Built Environment ("**BE**") sector in a multitude of aspects. To address this, the Government has provided

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legislative relief for the sector through the COVID-19 (Temporary Measures) Act ("**Act**").

Although the BE sector has made steps towards recovery, it has been noted that some firms are still facing challenges. The Government has thus announced the further extension of certain prescribed periods for legislative relief relating to the BE sector under the Act. While the prescribed periods were due to end on 31 December 2021, the relief periods under Part 2, Part 8B and Part 10A have been extended as follows:

Relevant Provisions	Relief Measures	Extended End of Relief Period	Deadline for Application
Part 2 of the Act	Provides temporary relief, upon service of a Notification for Relief, from stipulated types of legal and enforcement actions in relation to the inability to perform contractual obligations due to COVID-19	28 February 2022 for construction contracts and supply contracts, or any performance bond granted thereto	Notification for Relief must be served by 28 February 2022.
Part 8B of the Act	Requires co-sharing of additional non-manpower qualifying costs between contracting parties due to delays caused by COVID-19. Cost-sharing relief percentage remains at 50% of the qualifying costs, subject to a monthly cap of 0.2% of contract sum per month and a total 1.8% of the contract sum	28 February 2022 for all construction contracts prescribed under Part 8B	Claims for qualifying costs within the prescribed period may be included in regular payment claims.

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Part 10A of the Act	Provides a relief framework to allow contractors to seek a determination from an Assessor to adjust the contract sum in order to address the increase in foreign manpower salary costs due to COVID-19	31 March 2022 for all construction contracts prescribed under Part 10A	Applications for Assessor's determination must be made by 31 May 2022.

For more information, click here to read our Legal Update.

Corporate Commercial

Key Legislative Changes Enhancing Transparency and Beneficial Ownership of Companies, Foreign Companies, and LLPs

On 10 January 2022, the Parliament passed the Corporate Registers (Miscellaneous Amendments) Act that amends the Singapore Companies Act 1967 and the Singapore Limited Liability Partnerships Act 2005 to improve the transparency and beneficial ownership of companies and limited liability partnerships ("**LLPs**").

The changes align our corporate governance requirements closer with international standards by the Financial Action Task Force (FATF) to make it harder for illicit actors to engage in money laundering, terrorism financing and other actions that abuse the system.

Key legislative changes include:

(a) The requirement to register individuals with executive control as registrable controllers under prescribed circumstances;
(b) The requirement on local and foreign companies to keep register of nominee shareholders and nominators; and
(c) New/revised timelines for updating various registers.

For details and a comparison of the current and new/amended requirements, click here to read our Legal Update.

ACRA Consults on Legislative Changes for Enhancing Transparency of Beneficial Ownership, Addressing Data Privacy & Digitalisation

The Accounting and Corporate Regulatory Authority ("**ACRA**") held a public consultation seeking comments on revisions to various pieces of legislation governing the business entities regulated by ACRA.

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The Acts administered by ACRA in respect of these business entities include:

(a) Singapore Companies Act 1967 (for companies);
(b) Singapore Variable Capital Companies Act 2018 (for variable capital companies ("**VCCs**"));
(c) Singapore Limited Liability Partnerships Act 2005 (for limited liability partnerships ("**LLPs**")); and
(d) Singapore Limited Partnerships Act (for limited partnerships).

The proposed changes to the relevant pieces of legislation are intended to attain the following broad objectives:

(a) Provide ACRA with greater flexibility in the collection, sharing and usage of personal data;
(b) Strike a balance between corporate transparency and personal data privacy;
(c) Make filing with ACRA more convenient;
(d) Facilitate Government-to-Business digital correspondence;
(e) Enhance transparency of beneficial ownership of companies and LLPs in order to reduce the chances of Singapore business entities being used for illicit purposes;
(f) Standardise and consolidate service of summons and other civil originating processes under the Acts administered by ACRA; and
(g) Streamline and clarify the striking-off regime for companies, foreign companies, VCCs and LLPs.

The consultation exercise ended on 28 January 2022.

For details on the key proposals in the consultation paper, click here to read our Legal Update.

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SGX's Measures to Ensure Adequate Shareholder Engagement During General Meetings Amid COVID-19

On 16 December 2021, the Singapore Exchange Regulation ("**SGX RegCo**") issued a new guidance note setting out its expectations on the issuers' conduct of general meetings amid the ongoing COVID-19 situation with regard to:

(a) **The use of virtual information sessions ("VIS") for prescribed corporate actions.** Such prescribed corporate actions include, among other things, the issue of shares or convertible securities which require shareholders' approval in a general meeting, capital reduction or distribution, interested person transactions (IPTs) requiring shareholders' approval, whitewash resolutions, schemes of arrangement, etc.; and

(b) **Prescribed timeline for addressing shareholders' questions submitted before general meetings ("Prescribed Q&A timeline").** A listed issuer is required to inform its shareholders of the cut-off time for submitting their questions relating to the matters to be discussed

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at general meetings as well as when their questions would be responded to. The SGX RegCo guidance note requires the Board and/or management of a listed issuer to address all substantial and relevant questions received from shareholders by the following prescribed timeline:

- 48 hours prior to the closing date and time for the lodgment of the proxy forms, if the notice of general meeting is to be sent to shareholders at least 14 calendar days before the meeting; and
- 72 hours prior to the closing date and time for the lodgment of the proxy forms, if the notice of general meeting is to be sent to shareholders at least 21 calendar days before the meeting.

By way of background, the COVID-19 (Temporary Measures) Act ("**Act**"), read together with its subsidiary legislation, allows business entities to conduct their meetings by electronic means amid the COVID-19 pandemic. To guide business entities on the best practices in conducting meetings under the safe distancing regulations while ensuring that shareholder engagement at general meetings is not compromised, the Accounting and Corporate Regulatory Authority (ACRA), Monetary Authority of Singapore (MAS) and SGX RegCo jointly issued the "*Guidance on the Conduct of General Meetings Amid Evolving COVID-19 Situation*" on 1 October 2020 ("**October 2020 Guidance**"). The October 2020 Guidance contains a checklist for listed issuers which are conducting meetings by electronic means as well as physical meetings with limited participants in person. To facilitate shareholder engagement at meetings, the Guidance encourages listed issuers to, among other things, adopt enhanced digital tools such as real-time remote electronic voting and real-time electronic communications. However, SGX RegCo found that listed issuers generally did not adopt real-time remote electronic voting at general meetings, and in some instances shareholders' questions submitted in advance of general meetings were not addressed by listed issuers before the lodgement of the proxy forms.

Therefore, SGX RegCo issued the Guidance Note titled "*What SGX RegCo expects on the conduct of general meetings amid the ongoing COVID-19 situation*" on 16 December 2021 ("**New Guidance Note**") which requires issuers which do not utilise both (i) real-time remote electronic voting and (ii) real-time electronic communication at their general meetings to adopt the additional practices relating to VIS and the Prescribed Q&A timeline, in addition to the guidelines set out in the October 2020 Guidance.

The additional practices set out in the New Guidance Note took effect for any notice of general meeting served after 1 January 2022. The additional practices have since been incorporated in the "*Guidance on the Conduct of General Meetings Amid Evolving COVID-19 Situation*" that was revised on 4 February 2022.

For more information on the additional practices in the New Guidance Note, click here to read our Legal Update.

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Enhanced Disclosures on Climate-Related Information & Board Diversity Policy for SGX-Listed Companies

The Singapore Exchange Limited ("**SGX**") has implemented the following requirements to nudge more issuers listed on the SGX-ST Mainboard and Catalist (collectively, "**issuers**") towards the direction of integrating environment, social and governance ("**ESG**") factors into their corporate governance practices and business strategy:

(a) **Mandatory climate-related disclosures**. With effect from 1 January 2022, issuers are required to describe their sustainability practices on a "comply or explain" basis with reference to climate-related disclosures consistent with the recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD Recommendations). Mandatory climate-related disclosures will be implemented progressively under a "phased approach":

- From the financial year ("**FY**") commencing 1 January 2023, climate reporting will be mandatory for issuers in three industries, namely, (i) financial; (ii) agriculture, food and forest products; and (iii) energy. Issuers in other industries will continue to adopt climate reporting on a "comply or explain" basis.

- From the FY commencing 1 January 2024, climate reporting will be mandatory for issuers in the following five industries, namely (i) financial; (ii) agriculture, food and forest products; (iii) energy; (iv) materials and buildings; and (v) transportation. The other issuers will continue to adopt climate reporting on a "comply or explain" basis.

(b) **Reporting timeframe for issuers' sustainability report**. With effect from 1 January 2022, all issuers are required to issue their sustainability reports in accordance with the timeline for annual reports, namely no later than four months after the end of the FY, unless they are conducting external assurance on the sustainability report. Issuers conducting external assurance on their sustainability reports may release the sustainability reports within five months after the end of the FY.

(c) **Assurance on issuers' sustainability report**. With effect from 1 January 2022, an issuer is required to subject its sustainability reporting process to internal review by the internal audit function. Previously, the assurance of sustainability reports is voluntary.

(d) **Mandatory training on sustainability for all directors**. All directors of issuers are required to go through at least one-time training on sustainability to ensure that they receive a baseline and common understanding of sustainability matters. Issuers are required to provide a confirmation that their directors have attended the sustainability training in their first sustainability reports for FYs commencing on or after 1 January 2022. If the Nominating Committee of an issuer is of the view that a director is not required to attend the sustainability training as he/she has expertise in sustainability matters, the basis of the assessment must be disclosed.

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(e) **Board diversity policy**. With effect from 1 January 2022, an issuer is required to maintain a Board diversity policy that addresses gender, skills, experience, and any other relevant aspects of diversity under the SGX-ST Mainboard Rules and Catalist Rules, and describe its Board diversity policy in its annual report.

In addition, SGX has announced the following ESG initiatives that would help issuers, as well as their stakeholders, review and assess the issuers' ESG achievements objectively:

(a) Releasing a list of 27 core ESG metrics as guidance to assist issuers in providing, and investors in accessing, an aligned set of ESG data; and
(b) Developing an ESG data portal to enhance alignment between issuers and investors over the use of ESG data, provide cost savings and guidance for issuers, and improve ESG data transparency and measurability, among other benefits.

For more information, click here to read our Legal Update.

SGX RegCo Provides Guidance on What Nominating Committee Should Consider When Director is Being Investigated

On 13 December 2021, the Singapore Exchange Regulation ("**SGX RegCo**") released a guidance note titled "*What Nominating Committees should consider for disclosures on investigations*" under the Regulator's Column on the SGX website. The guidance note sets out the appropriate factors to be taken into account by the Nominating Committee ("**NC**") of a company listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") in determining whether their directors should be allowed to continue to serve on its board of directors ("**Board**") or resume their duties when they are the subject of police investigations.

A company listed on the SGX-ST is subject to the continuing obligation of ensuring that its directors possess the character and integrity required under the Listing Rules, and it is the responsibility of the NC to make an independent assessment on the continued appointment of a director in compliance with Rule 720(1) read with Rule 210(5)(b) of the SGX-ST Mainboard Rules (or the equivalent Catalist Rules). SGX RegCo highlighted that the key consideration for the NC in such instances is **whether it is in the best interest of the company and its shareholders for the director who is the subject of police investigations to remain on the Board while the investigation is ongoing**. The NC must satisfy itself as to whether the allegations against the director, and conditions or restrictions imposed by the regulatory authority or government agency on the director, would:

(a) cast any doubt on the director's suitability or continuing ability to act as a director; and
(b) affect shareholders' confidence in the company.

Should the NC decide that the director could continue to serve on the Board, it should consider whether any measures are needed to be undertaken to safeguard against risks associated with his/her continued appointment. Among other things, the NC must ensure that the director

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continue to provide updates on material developments related to the investigations.

SGX RegCo provides a set of non-exhaustive crucial questions that the NC should consider in the following three typical scenarios when an investigation gets underway:

(a) The entire Board is under investigation.
(b) A director is investigated for an offence involving the company.
(c) A director is being investigated for something that does not involve the company.

The critical touchstone for the NC would be whether any decision, disclosure, action or non-action is in the best interest of the company and the shareholders, and for the NC and the board to chart a course for the best of the company and its shareholders.

Click on the following link for the full text of the SGX RegCo guidance note:

- Regulator's Column: What Nominating Committees should consider for disclosures on investigations (available on the SGX website at www.sgx.com)

Corporate Governance

Public Consultation on Proposed Compliance and Governance Indicators on the Charity Portal

On 14 December 2021, the Office of the Commissioner of Charities ("**OCC**") launched a public consultation exercise to seek views on the proposed inclusion of compliance and governance indicators in the organisation profile of each charity on the Charity Portal. The inclusion of these indicators is aimed at helping donors make informed decisions when giving or donating to charities. The public consultation exercise ended on 4 January 2022.

Current Charity Portal

By way of background, the Charity Portal currently houses the organisation profiles of all registered charities in Singapore. Maintained by the charities themselves, the charity profiles provide an overview of each charity and include details such as the charity's objectives and the particulars of board members, as well as the annual submissions filed in the last three financial years. In summary, details of the charity's activities, financial information and regulatory compliance are available at present.

While the Charity Portal currently already provides some information that will enable donors to make informed decisions on charitable giving, there may be some would-be donors who prefer to have access to more concise data, at a glance, to satisfy themselves that the prospective recipient-charities are well-governed.

Proposed compliance and governance indicators

It is against this background that OCC has proposed to include compliance and governance indicators in the Charity Portal for donors to check where a charity stands in terms of regulatory compliance and adoption of best

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practices. The charities themselves do not need to submit additional data in relation to these indicators as the information will be extracted from the charities' existing submissions to the Commissioner of Charities. This initiative will be applied first to Institutions of a Public Character ("**IPCs**") for the initial phase of implementation, and the proposed indicators are:

(a) the compliance status of the IPC's regulatory submissions for the latest financial year;
(b) whether the audit opinion in the Independent Auditor's Report on the IPC's latest financial statements has been qualified;
(c) the level of compliance with the Code of Governance for Charities and IPCs; and
(d) Charity Transparency and/or Charity Governance Awards received by the IPC.

There will also be an "Other Information" free-text field to allow the IPCs to enter other information relating to their compliance with regulations, such as reasons for outstanding regulatory submissions or a qualified audit opinion.

Although this was only a public consultation exercise, the proposed indicators show a regulatory trend by OCC towards enhanced disclosure and transparency to donors.

Click on the following link for more information:

- Public Consultation on Proposed Indicators on the Charity Portal (available on the REACH website at www.reach.gov.sg)

Corporate Real Estate

Enhanced Protections, Information for Home Buyers: Public Consultation on Changes to Housing Developers Rules

Recently, the Urban Redevelopment Authority ("**URA**") launched a public consultation on proposed changes to the Housing Developer Rules ("**HDR**") that would grant home buyers more protections and require developers to provide more information. This includes some changes to the standard sale and purchase agreement ("**SPA**").

The amendments generally favour buyers with some changes imposing greater liability on developers, such as the reduction of the claim threshold where units fall short of the area stated in the SPA. Developers should review the proposed changes and submit any input to URA.

The proposed changes can be broadly categorised as follows:

(a) Enhanced protections;
(b) Additional information provided to home buyers; and
(c) Other amendments, namely a simplified payment schedule and a later start for the defects liability period.

The public consultation opened on 5 January 2022 and closed on 5 February 2022. For more information, click here to read our Legal Update.

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Government Implements New Measures to Cool Property Market

On 15 December 2021, the Ministry of Finance, Ministry of National Development and Monetary Authority of Singapore announced in a joint press release the implementation of a package of cooling measures on the purchase of residential properties. The new measures have since taken effect from 16 December 2021.

The press release (available here) states that, despite the economic impact of COVID-19, private housing prices have risen by about 9% since Q1 2020, while HDB resale flat prices have been recovering sharply after a six-year decline, rising about 15% since Q1 2020. The cooling measures are thus intended to address the concern that "*if left unchecked, prices could run ahead of economic fundamentals, and raise the risk of a destabilizing correction later on. Borrowers would also be vulnerable to a possible rise in interest rates in the coming years*".

The three broad measures that have come into effect are:

(a) **Additional Buyer's Stamp Duty ("ABSD")** – An increase in ABSD for most purchasers except Singapore citizens and Singapore Permanent Residents buying their first residential properties;

(b) **Total Debt Servicing Ratio ("TDSR")** – A tightening of the TDSR; and

(c) **Loan-to-Value ("LTV") Limits** – A reduction in the LTV limits for HDB-granted loans.

For more information, click here to read our Legal Update.

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Dispute Resolution

Bill Passed to Allow Conditional Fee Agreements, Expand Foreign Lawyers' Representation

In a drive to strengthen Singapore's position as an international dispute resolution hub, the Ministry of Law ("**MinLaw**") has been continuously updating Singapore's legal regime. This has borne fruit, with Singapore being selected in 2021 as the most preferred seat of arbitration in the world for the first time, while its exports of legal services exceeded S$0.9 billion in 2020.

As part of Singapore's continuing efforts to stay competitive and current, the Legal Profession (Amendment) Bill ("**Bill**") was passed by Parliament on 12 January 2022. The Bill principally sets out two key amendments to the Legal Profession Act:

(a) Introduction of a framework for conditional fee agreements (CFAs), commonly known as "no win no fee" or "no win less fee" agreements; and

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(b) Refining the scope of representation of foreign lawyers in the Singapore International Commercial Court (SICC), thus facilitating collaboration between local and foreign lawyers.

For more information on these two developments, click here to read our Legal Update.

Pilot for Panel of Therapeutic Specialists to Commence in Early 2022

On 5 January 2022, a Memorandum of Understanding ("**MoU**") was signed by the Family Justice Courts ("**FJC**"), the College of Psychiatrists, Academy of Medicine, Singapore ("**COPsych**"), the Singapore Association for Counselling ("**SAC**") and the Singapore Psychological Society ("**SPS**").

Pursuant to the MoU, a Panel of Therapeutic Specialists ("**POTS**") will be set up to provide a variety of specialised therapeutic services to families who come through FJC. Panel members will provide paid specialised clinical and therapeutic interventions for individuals and families undergoing family proceedings, including those with special or specific needs and issues.

POTS will comprise qualified mental health and social science professionals from the private sector, and their services will be sought as directed by the Judge or through a voluntary referral process. To qualify for POTS, practitioners must:

(a) be registered members of COPsych, SAC or SPS;
(b) have good professional standing in their respective fields and possess relevant experience treating children and families undergoing divorce; and
(c) depending on their chosen fields of specialisation, fulfil additional requirements set out by the respective professional bodies.

First announced at the Law Society's Family Conference on 29 September 2021, POTS is one of four initiatives targeted at enabling and bolstering the adoption of therapeutic justice in family law. Therapeutic justice aims to meet the diverse needs of families with legal proceedings in FJC, who have complex needs and issues underlying their legal disputes. For further information on the four initiatives, please refer to our September 2021 NewsBytes write-up titled "Supreme Court Announces Initiatives to Bolster the Adoption of Therapeutic Justice in Family Law", available here (page 8).

POTS will commence with a pilot this year. The development of the project will be overseen by a Steering Committee headed by the Registrar of FJC, while senior mental health professionals will be invited to volunteer as members of an honorary Therapeutic Advisory Council. Among other roles, the Council will develop criteria and professional requirements for POTS and oversee its recruitment and selection process.

Click on the following links for more information (available on the Singapore Courts website at www.judiciary.gov.sg):

- Media Release titled "FJC and three professional bodies join hands to set up Panel of Therapeutic Specialists"

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- Justice Debbie Ong's Opening Remarks delivered at the Panel of Therapeutic Specialists (POTS) MoU Signing Ceremony

New Rules of Court to Streamline Litigation Process

Singapore is internationally recognised for having a justice system that is fair, transparent, and effective. To develop its position as a regional dispute resolution hub, Singapore has been making continual efforts to improve the efficiency of its justice system by implementing law reform initiatives.

The most recent development on this front has been the new Rules of Court 2021 (S914/2021) ("**ROC 2021**"). On 1 December 2021, the ROC 2021 was issued under the Supreme Court of Judicature Act (Cap 322) and will take effect from 1 April 2022. The ROC 2021 seeks to enhance Singapore's civil justice system by simplifying rules and modernising the language, streamlining procedural steps and enabling greater judicial control of the entire litigation process.

Subject to certain exceptions, the ROC 2021 will apply to all civil proceedings in the Supreme Court, and the State Courts (including appeals arising from such proceedings) commenced on or after 1 April 2022, as well as every appeal to the Court of Appeal or the Appellate Division, and every originating application to the Court of Appeal or Appellate Division, which is filed on or after 1 April 2022 (with the necessary modifications to and in relation to every appeal).

Key features of the ROC 2021 are set out below.

(a) **Court Terminology**. The ROC 2021 uses simplified court terminology that is accessible to the public and easy to understand. For example, terms such as "in camera", "plaintiff", "subpoena" and "*ex parte*" will be amended to "in private", "claimant", "order to attend court" and "without notice", respectively.

(b) **Commencement of Proceedings**. This relates to the mode of commencement of proceedings and the validity of originating processes.

- **Mode of Commencement**. A writ of summons will be an originating claim. Similarly, an originating summons will be an originating application. A claimant may commence court proceedings by an originating claim or an originating application (O 6 r 1). Instead of entering an appearance in respect of an originating claim, a defendant must file and serve a notice of intention to contest or not to contest (O 6 r 6).

- **Validity of Originating Process**. The validity of an originating claim and an originating application is three months beginning from its date of issue, except in a special case (O 6 r 3(1)). An exception also applies for an originating claim issued in admiralty proceedings, which is valid in the first instance for 12 months (O 6 r 3(4)).

(c) **Single Application Pending Trial**. In order to control the number of applications which are filed, the Court will consider all matters necessary to bring the proceedings to a conclusion and – as far as possible – order a single application pending trial. No further

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application may be taken out at any time without the Court's approval (O 9 r 9).

(d) **Amendment of Pleadings**. Parties can no longer amend pleadings once before the close of pleadings without the permission of the Court. Instead, pleadings may only be amended with the permission of the Court (O 9 r 14(1)), or by written agreement between the parties not less than 14 days before the commencement of the trial (O 9 r 14(5)). The Court will not allow pleadings to be amended within 14 days before trial except in a special case (O 9 r 14(3)), and the ROC 2021 sets out prescribed circumstances in which such amendment will be allowed (O 9 r 14(4)). The Court may draw appropriate inferences if material facts in the pleadings are amended.

(e) **Affidavits of Evidence-in-Chief**. The Court may order the parties to file and exchange affidavits of evidence-in-chief of all or some witnesses after the pleadings have been filed and served, but before any production of documents and before the Court considers the need for any application (O 2 r 8).

(f) **Expert Evidence**. Parties are to inform the Court during the Registrar Case Conference if they intend to rely on expert evidence. The Court will not approve the use of expert evidence unless it will contribute materially to the determination of any issue in the case and the issue cannot be resolved by an agreed statement of facts or by submissions based on mutually agreed materials (O 12 r 2).

(g) **Amicable Resolution of Disputes**. The Court may order the parties to attempt to resolve a dispute by amicable resolution (O 5 r 3(1)). In appropriate cases, this would facilitate the early resolution of a dispute and avoid unnecessarily protracted proceedings.

For more information, click here to read our Legal Update.

New SICC Rules 2021 to Take Effect From 1 April 2022

When the Singapore International Commercial Court ("**SICC**") was launched in January 2015, the conduct of proceedings was governed by the SICC Practice Directions with procedures founded on the existing Rules of Court. Now, to ensure that SICC remains responsive to the fast-evolving needs of international commerce, SICC has introduced its own standalone set of procedural rules ("**SICC Rules 2021**").

The SICC Rules 2021 introduce the following improvements:

(a) Simplifying some of the definitions and rules;
(b) Modernising the language to facilitate understanding by lay persons;
(c) Streamlining procedural steps;
(d) Increasing procedural flexibility; and
(e) Enabling greater judicial control of the litigation process.

Some salient features of the SICC Rules 2021 are as follows:

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(a) **Simplification of commencement of proceedings**

- There will be a single mode of commencement of proceedings, namely by way of an originating application.

- The Court will order that a contested claim or counterclaim be decided by one of three default adjudication tracks, and may have regard to any agreement between the parties on the applicable adjudication track:

    - *Pleadings adjudication track* – this is the equivalent of the writ action under the existing Rules of Court, and generally culminates in a trial of the matter.
    - *Statements adjudication track* – this is the equivalent of the originating summons under the existing Rules of Court, and generally culminates in a hearing on submissions.
    - *Memorials adjudication track* – where parties file memorials which are generally required to set out in full detail the statements of facts, legal arguments, reliefs claimed, and are to be accompanied by witness statements, expert reports (if any) and supporting documents.

(b) **Encouragement of alternative dispute resolution ("ADR")**

- Parties are expressly required to consider the possibility of ADR. Where parties are not agreeable to ADR, the Court may direct that ADR be reconsidered later or make any order necessary to facilitate the amicable resolution of the dispute.
- When determining costs, the Court may take the conduct of the parties in undertaking or refusing to undertake ADR into consideration.

(c) **Approval required to adduce expert evidence**

- Parties will now require the Court's permission to adduce any expert evidence.
- Permission will only be granted if (i) such evidence will contribute materially to the determination of an issue, and (ii) the issue cannot be resolved by an agreed statement of facts or by submission based on mutually agreed materials.

(d) **No taxation of costs**

- There will continue to be no taxation of costs. The quantum of costs awarded will generally reflect the costs incurred.
- Costs awarded will be subject to the principles of proportionality and reasonableness, and the Court may have regard to a non-exhaustive list of circumstances set out in the SICC Rules 2021 when considering these principles.

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(e) **Judge-led proceedings**

- There will be no change to the judge-led nature of SICC proceedings, including robust case management to streamline the dispute, prevent dilatory practices and delays, and control overall costs.

The SICC Rules 2021 were published in the Gazette on 2 December 2021 and will come into operation on 1 April 2022. Generally, they will apply to:

(a) cases commenced on or after 1 April 2022 in (a) the SICC, and (b) the General Division of the High Court of Singapore that are transferred to the SICC; and

(b) appeals and applications filed on or after 1 April 2022 in the Court of Appeal in relation to a judgment or order of the SICC.

Parties may also consent in writing to apply the SICC Rules 2021, with necessary modifications, to cases that would otherwise be governed by the Rules of Court.

Click on the following link for more information:

- Media Release titled "Singapore International Commercial Court introduces standalone SICC Rules 2021 to incorporate international best practices and facilitate international dispute resolution" (available on the Singapore Courts website at www.judiciary.gov.sg)

Supreme Court of Singapore and Supreme People's Court of China Signed MoU to Strengthen Ties to Advance Legal and Judicial Cooperation

On 3 December 2021, the Supreme Court of Singapore and the Supreme People's Court of China ("**SPC**") signed the Memorandum of Understanding on Cooperation on Information on Foreign Law ("**MoU**") at the 5th Singapore-China Legal and Judicial Roundtable ("**Roundtable**"). The Roundtable was co-chaired by Chief Justice Sundaresh Menon and the President and Chief Justice of the SPC of the People's Republic of China, His Excellency Zhou Qiang.

The MoU establishes a mechanism between the two courts to determine questions of law of the other jurisdiction in international civil and commercial cases. This will facilitate easy access to accurate and authoritative information on foreign laws, thereby improving the efficiency of judicial adjudication processes. The MoU is the first of its kind signed between the SPC and a foreign court, demonstrating both courts' commitment to strengthen bilateral cooperation in international civil and commercial cases.

At the Roundtable and the Bilateral Meeting between the two Chief Justices, they also exchanged views on issues and proposals relating to commercial law, including:

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(a) Online Litigation Rules;
(b) Best practices in managing Intellectual Property cases;
(c) Developing a new paradigm for dispute management to facilitate infrastructure projects under the Belt and Road Initiative ("**BRI**"); and
(d) Harmonisation of Commercial Laws for application across the BRI.

In addition, the two Chief Justices discussed future plans to enhance access to justice in a world where COVID-19 has become endemic.

Established in 2017, the Roundtable has been a key pillar of legal and judicial cooperation between Singapore and China. At the 5th Roundtable, the two courts have once again reaffirmed their friendship and their commitment to advance judicial cooperation.

Click on the following link for more information:

- Singapore Courts' Media Release titled "Supreme Court of Singapore and Supreme People's Court of China sign Memorandum of Understanding on cooperation on information on foreign law" (available on the Singapore Courts website at www.judiciary.gov.sg)

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Financial Institutions

Banks to Implement Stricter Security Measures to Deal with Scams

To combat the recent widespread of SMS-phishing scams, the Monetary Authority of Singapore ("**MAS**") and the Association of Banks in Singapore ("**ABS**") jointly issued a media release on 19 January 2022 concerning additional measures they are introducing to make digital banking more secure.

MAS made clear that it expects banks and other financial institutions to have strong security measures for the prevention, detection, and management of scams. Banks are expected to act without delay to bolster their security measures. In the two weeks following 19 January 2022, banks in Singapore are expected to work to put in place stricter security measures to secure digital banking, including the following:

(a) Remove clickable links in emails or SMSes sent to retail customers;
(b) Set the default threshold for fund transfer notifications to customers at S$100 or lower;
(c) Postpone minimally 12 hours before activating new soft tokens on mobile devices;
(d) Notify customers via their existing mobile number or email registered with the bank concerning any request for change of the customers' mobile number or email address;
(e) Implement other additional safeguards, e.g having a cooling-off period before requests for key account changes are executed;
(f) Assign dedicated customer assistance teams that are well-resourced to manage potential fraud cases on a priority basis; and
(g) Have more regular alerts to educate the public on scams.

Apart from the immediate actions, preventive measures for the longer-term are being reviewed and expected to be implemented in the next few

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months. MAS also indicated it will examine the fraud surveillance mechanisms of major financial institutions more closely.

Click on the following link for more information:

- MAS and ABS joint media release titled "MAS and ABS Announce Measures to Bolster the Security of Digital Banking" (available on the ABS website at www.abs.org.sg)

New MAS Guidelines Restrict Promoting Digital Payment Token Services to Singapore Public

Currently, entities that provide digital payment tokens ("**DPTs**") services are regulated under the Singapore Payment Services Act 2019 ("**PS Act**") mainly for money laundering and terrorism financing risk, as well as technology risks. DPT services regulated under the PS Act at present include the services of dealing in DPTs and facilitating the exchange of DPTs.

The Monetary Authority of Singapore ("**MAS**") stance has been, and remains, that trading in DPTs carries very high risk and is unsuitable for the Singapore general public. MAS issued a set of "*Guidelines on Provision of Digital Payment Token Services to the Public*" outlining restrictions on DPT service providers concerning the promotion of DPT services to the Singapore public ("**Guidelines**").

Entities that the Guidelines apply to include standard payment institution licensees and major payment institution licensees licensed to provide DPT services under the PS Act; entities exempted from such licensing requirements under the PS Act (such as banks); and entities which have been providing DPT services prior to the PS Act coming into force and are currently having their licence applications reviewed by MAS but in the meantime relying on the transitional period licence exemption under the Payment Services (Exemption for Specified Period) Regulations 2019 (collectively, "**DPT service providers**").

Under the Guidelines, DPT service providers are not allowed to:

(a) Promote their DPT services in public areas in Singapore, or through any media that is directed at the general Singapore public. Examples include advertisements on Singapore public transport, public transport venues, third party websites, social media platforms (such as pop-up advertisements), public events or roadshows;
(b) Portray DPT trading in any way that does not highlight the high risks involved in its trading; and
(c) Promote their DPT services to the general public in Singapore by engaging third parties or any joint promotional campaigns to promote DPT services to the public, for instance social media influencers or third-party websites.

MAS also made clear that they view the provision of in-person access to DPT services in public areas through the use of ATMs as a form of promotion of DPT services to the general public (as such convenient access could mislead the public into trading DPTs on impulse without considering the risks of trading in DPTs).

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DPT service providers may, however, promote their services on their own corporate website, mobile applications, or official social media accounts, subject to them not trivialising the risks of trading in DPTs in a manner that is inconsistent with or contradicts the risk disclosures under the PS Act.

The Guidelines also set out new expectations of MAS for DPT service providers licensed or regulated under the PS Act to restrict the provision of payment token derivatives services.

For more information, click here to read our Legal Update.

Regulatory Framework on Complaints Handling and Resolution for Financial Advisers Takes Effect on 3 January 2022

The regulatory framework on complaints handling and resolution for financial advisory ("**FA**") firms is set out in the Financial Advisers (Complaints Handling and Resolution) Regulations 2021 ("**FA(CHR) Regs**"), which came into operation on 3 January 2022.

Some key requirements under the FA (CHR) Regs are highlighted below.

FA firms are required to:

(a) Establish an independent and prompt process for handling and resolving complaints from retail clients;

(b) Designate a senior management member or committee comprising senior management member(s) within the firm to be responsible for the oversight of its compliance with the FA(CHR) Regs;

(c) Ensure that information on its CHR process is publicly available;

(d) Put in place a centralised management system for complaints; and

(e) Report its complaints data to MAS on a biannual basis.

The FA (CHR) Regs only apply to complaints received by FA firms from retail clients. As such, the Monetary Authority of Singapore ("**MAS**") also amended the Securities and Futures (Classes of Investors) Regulations 2018 to require FA firms to inform clients that if they opt to be treated as accredited investors, the safeguards under the FA(CHR) Regs will not apply to them. FA firms should note that they are also required to notify their existing clients who have opted in to be treated as accredited investors that the consent provisions now include the FA(CHR) Regs so as to continue treating these clients as accredited investors. The notification must be given by the end of the transitory period before 3 April 2022.

This follows two earlier consultations conducted by MAS on the draft FA (CHR) Regs in 2013 and 2019. For a background on this development, please refer to our March 2021 Newsbytes write-up titled "Regulatory Framework on Complaints Handling and Resolution for Financial Advisers Expected to Take Effect in January 2022", available here (page 13).

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Gaming

Bill Amending Laws on Gambling Duties Passed in Parliament

On 10 January 2022, the Gambling Duties Bill ("**Bill**") had its second reading and was passed in Parliament.
Prior to the passage of the Bill, the laws relating to duties on legalised betting and lotteries were divided between the Betting and Sweepstakes Duties Act ("**BSDA**") and the Private Lotteries Act ("**PLA**"). The BSDA, in particular, was enacted in 1950, and various provisions were seen as being due for an update. The Bill thus represents a harmonisation of the various statutes governing the collection of gambling duties, as well as an update to keep pace with the changes in tax administration and enforcement.

The main changes effected by the Bill include the following:

(a) **Administration and enforcement.** The Bill will harmonise the tax administration and enforcement provisions between the BSDA and the PLA. It also harmonises the administration and enforcement for gambling duties with other tax legislation administered by the Inland Revenue Authority of Singapore ("**IRAS**").

(b) **Offences and penalties.** The Bill harmonises what constitutes an offence relating to gambling duties, and implements similar penalty structures across gambling taxes. It also increases the amounts of fines and penalties for such offences, which have remained unchanged since the 1950s, ensuring that the quanta are commensurate with similar offences in other tax legislation.

(c) **Casino Control Act.** The Bill gives effect to a new tiered casino tax structure which is set to take effect from 1 March 2022, setting out higher tax rates and a new 10-year moratorium, subject to the casino operator meeting certain development targets.

(d) **Inland Revenue Authority of Singapore Act.** The Bill makes consequential amendments to the Inland Revenue Authority of Singapore Act for IRAS to establish a system providing for the electronic service of notices and documents in connection with the administration of tax legislation administered by IRAS. The purpose of this is to facilitate the digitalisation of tax administration.

For more information, click here to read our Legal Update.

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Intellectual Property

Towards an Efficient and Business-Friendly IP System – Intellectual Property (Amendment) Act 2021 Passed in Parliament

The Intellectual Property (Amendment) Bill 2021 ("**Bill**") was passed in Parliament on 12 January 2022. The Bill makes changes to a number of Intellectual Property ("**IP**") statutes, seeking to create a more efficient and business-friendly IP registration system in Singapore. The Bill makes changes to the Patents Act, the Trade Marks Act, the Registered Designs

Act, the Plant Varieties Protection Act and the Geographical Indications Act 2014.

The Bill follows an earlier public consultation by the Intellectual Property Office of Singapore ("**IPOS**") held from July to August 2021. The changes in the Bill are in line with the Singapore IP Strategy 2030, which seeks to strengthen Singapore's position as a global hub for intangible assets ("**IA**") and IP, and to attract and grow innovative enterprises using IA and IP.

The changes are directed at effecting improvements across three broad categories:

(a) **Enhanced business-friendliness**. To improve business-friendliness of the IPOS system, the Bill introduces changes which seek to improve the experience of applicants seeking to register their IP.
(b) **Operational efficiency**. The Bill seeks to improve operational efficiency and includes key amendments to IPOS' internal processes.
(c) **Enhanced legislative and procedural clarity**. The Bill introduces certain changes that seek to clarify the law and smoothen IPOS' administration of the IP prosecution process.

For more information, click here to read our Legal Update.

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Medical Law

Partial Commencement of Healthcare Services Act from 3 January 2022

The Ministry of Health ("**MOH**") has commenced Phase 1 implementation of the Healthcare Services Act ("**HCSA**") on 3 January 2022.

HCSA is set to replace the current Private Hospitals and Medical Clinics Act ("**PHMCA**"). It aims to better safeguard patient safety and well-being, while enabling the development of new and innovative healthcare services. It also strengthens governance and regulatory clarity for better provision and continuity of care to patients.

HCSA introduces a services-based licensing framework. PHMCA licensees will transition over to HCSA in phases based on the service license categories under HCSA. Phase 1 covers the following services:

(a) Clinical Laboratory;
(b) Radiological Service;
(c) Blood Banking;
(d) Tissue Banking (Cord Blood);
(e) Nuclear Medicine Imaging;
(f) Nuclear Medicine Assay;
(g) Emergency Ambulance; and
(h) Medical Transport.

The continued offering of these services will require compliance with:

(a) General Regulations;
(b) Advertisement Regulations;
(c) Relevant Service Regulations; and
(d) Code of Practice for Key Officeholders.

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Click on the following link for more information:

- Healthcare Services (HCSA) (available on the MOH website at www.moh.gov.sg)

Shipping

Streamlining of Maritime Arbitration Proceedings under Fourth Edition of SCMA Rules

The Singapore Chamber of Maritime Arbitration ("**SCMA**") is a specialist arbitration institution that aims to promote maritime arbitration in Singapore. Since its formation, it has established a solid presence in the region, with the quantum of claims handled reaching approximately US$120 million in 2019.

Amidst a constantly evolving maritime arbitration landscape, SCMA continues to keep itself current by updating its rules with the launch of the Fourth Edition of the SCMA Rules on 1 December 2021. The Fourth Edition seeks to reflect current shipping arbitration practices, reduce costs, and streamline arbitral proceedings.

Key changes include the following:

(a) Streamlining arbitral proceedings by:

- Permitting two arbitrators to see an arbitration and an award to their conclusion;
- Removing the mandatory requirement for oral hearings;
- Implementing a default time limit for the close of proceedings; and
- Requiring the Tribunal's approval for change of counsel.

(b) Adoption of electronic methods, namely:

- Electronic service of documents;
- Electronic signing of awards; and
- Virtual case management meetings and hearings.

(c) Other amendments, namely:

- Increasing the monetary threshold for the Expedited Procedure; and
- Application of the SCMA Standard Terms of Appointment by default.

The Fourth Edition will apply to all arbitrations commencing on and after 1 January 2022.

Leong Kah Wah, Rajah & Tann Singapore's Head of Dispute Resolution, isa member of SCMA's Board of Directors and provided guidance on the formulation of the Rules.

For more information, click here to read our Legal Update.

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Sustainability

A Regional Effort to Address Climate Change: ASEAN Taxonomy for Sustainable Finance (Version 1)

The ASEAN Member States ("**AMS**") have reaffirmed their commitments to the United Nations Framework Convention on Climate Change ("**UNFCCC**") and the Paris Agreement during the UNFCCC Convention on Climate Change (UNFCCC COP26). One of the initiatives that AMS has announced in tandem with the UNFCCC COP26 is the ASEAN Taxonomy for Sustainable Finance (Version 1) ("**ASEAN Taxonomy**"). AMS comprises Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

The ASEAN Taxonomy is jointly developed by the ASEAN Taxonomy Board ("**ATB**") that is made up of four ASEAN sectoral bodies, namely the ASEAN Capital Markets Forum (ACMF), the ASEAN Insurance Regulators Meeting (AIRM), the ASEAN Senior Level Committee on Financial Integration (SLC), and the ASEAN Working Committee on Capital Market Development (WC-CMD).

The ASEAN Taxonomy aims to provide a common understanding among various stakeholders in ASEAN of what is sustainable so as to put ASEAN in a better position to attract and channel capital into sustainable investments and away from non-sustainable activities. The ASEAN Taxonomy would serve as a credible regional sustainable finance taxonomy, which is interoperable with other regional and international taxonomies. ATB has developed the ASEAN Taxonomy with this aim in mind, and will be working with various stakeholders in ASEAN (including the public and private sectors) to ensure that the ASEAN Taxonomy "will meaningfully and effectively help direct capital where it is needed most to support ASEAN's contribution to United Nation's Sustainable Development Goals and continuous efforts in building a sustainable planet".

To cater for the diversity of AMS' economies, financial systems and transition paths, the ASEAN Taxonomy adopts a multi-tiered approach with two main elements:

(a) **Tier 1 - Foundation Framework** which consists of principles that are applicable to all AMS, stakeholders in the financial sector and business enterprises.

Under the Foundation Framework, economic activities must fulfil at least one of the following four environmental objectives and both essential criteria. In addition, these economic activities must also comply with and be assessed against the local environmental laws in AMS (where applicable).

Four environmental objectives

- **Climate change mitigation** – activities that reduce greenhouse gas (GHG) emissions.
- **Climate change adaptation** – process or actions that lower the negative effects caused by climate change and increase

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resilience to withstand the adverse physical impact of current and future climate changes.

- **Protection of healthy ecosystem and diversity** – activities that incorporate the element of conservation of natural ecosystem and biodiversity.
- **Promotion of resource resilience and transition to circular economy** – activities that adjust business operations so as to conserve raw materials, energy, water, and other natural resources, or that implement circular economy principles via adapted products, production, technologies, and processes.

Two essential criteria

- "**Do no significant harm**" **–** activities must contribute substantially to an environmental objective and, at the same time, not significantly harm any of the other environmental objectives.
- **Remedial efforts to transition** – activities must anticipate and avoid environmental risks and impacts at the outset. If avoidance is not possible, such activities must minimise or reduce the risks and impacts to acceptable levels.

(b) **Tier 2 - Plus Standard** which provides additional guidance and scope for AMS to further qualify and benchmark eligible green activities and investments.

The Foundation Framework (and Plus Standard) is underpinned by ASEAN's commitment to, among other things, limit the global average temperature increase to well below 2°C, preferably 1.5°C, above preindustrial levels.

Classification of Activities

Version 1 of the ASEAN Taxonomy contains proposals on how activities can be assessed and classified into green, amber, or red, based on their contribution (or lack thereof) to the environmental objective of climate change mitigation. The other three environmental objectives will be scooped into this approach in the next phase of the Taxonomy development.

The classification of activities can take place through the Foundation Framework as well as the Plus Standard. This reflects the tiered nature of the ASEAN Taxonomy, where the Foundation Framework is qualitative assessment of activities, and the Plus Standard uses metrics and thresholds to further qualify and benchmark eligible green activities and investments.

Click on the following links for more information (available on the ASEAN website at www.asean.org):

- Press release: ASEAN Sectoral Bodies Release ASEAN Taxonomy for Sustainable Finance – Version 1
- ASEAN Taxonomy for Sustainable Finance – Version 1 (November 2021)

Trade

Regional Comprehensive Economic Partnership Agreement Enters into Force

The Regional Comprehensive Economic Partnership ("**RCEP**") Agreement has entered into force on 1 January 2022, following the ratification of the Agreement by 10 Parties – Australia, Brunei, Cambodia, China, Japan, Laos, New Zealand, Singapore, Thailand, and Vietnam.

The RCEP Agreement is a comprehensive and mutually beneficial economic partnership that builds on existing bilateral agreements between the Association of Southeast Asian Nations (ASEAN) and its Free Trade Agreement ("**FTA**") partners. The RCEP Agreement is the largest FTA to date, covering about 30% of global Gross Domestic Product (US$26 trillion) and 30% of the world's population.

The key benefits under the RCEP Agreement span the following areas:

(a) Trade in goods;
(b) Non-tariff measures provisions;
(c) Rules of origin;
(d) Customs procedures and trade facilitation;
(e) Trade in services;
(f) Investment;
(g) Electronic commerce;
(h) Intellectual property;
(i) Competition; and
(j) Government procurement.

For more information, click here to read our Legal Update.

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Mandatory Packaging Reporting Via Waste and Resource Management System by 31 March 2022

The Singapore Resource Sustainability Act 2019 ("**RSA**") sets out a mandatory packaging reporting framework that obliges certain companies to undertake mandatory packaging reporting through the submission of packaging data and 3R plans. This framework is intended to, among other things, prompt companies to reduce the volume of packaging/packaging waste.

Companies required to comply with the requirements under the mandatory packaging reporting framework and submit packaging data and 3R plans are those that:

(a) are in the business of supplying regulated goods in Singapore;
(b) are producers with an annual turnover of more than S$10 million in 2020; and
(c) import or use specified packaging,

referred hereinafter as "**obligated companies**".

Obligated companies are required to: (i) submit reports on specified packaging that is imported or used in Singapore along with supporting documents on an annual basis, categorised by type of packaging material

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and packaging form, amongst others; (ii) submit 3R plans for reducing, reusing or recycling packaging on an annual basis, including details of key initiatives, key performance indicators and targets to do so; and (iii) maintain records related to these reports and plans for five years.

The mandatory packaging reporting framework lays the groundwork for the implementation of an Extended Producer Responsibility framework for packaging waste management, which is intended to be implemented no later than 2025.

Obligated companies are required to submit the first round of packaging data report for 2021 and 3R plans by 31 March 2022. The submission will be done via an online reporting portal, the Waste and Resource Management System (WRMS).

In preparing their 3R reports, obligated companies may find it helpful to refer to the 3R Guidebook for Packaging by the Singapore Manufacturing Federation and the Singapore National Environment Agency.

For more information, click here to read our Legal Update.

Standardised Framework for Multimodal Transport Operators in ASEAN: Multimodal Transport Act 2021 Comes into Operation

The ASEAN Framework Agreement on Multimodal Transport ("**Agreement**") aims to provide a single, unified framework for the multimodal transport of goods within the Association of Southeast Asian Nations ("**ASEAN**") once it has been ratified by all ASEAN member countries. This will facilitate market access for Singapore logistics operators to operate in other ASEAN member countries under a set of regionally aligned standards.

The Multimodal Transport Act 2021 ("**Act**") was passed to facilitate Singapore's ratification of the Agreement, and came into operation on 28 November 2021. It will apply to the carriage of goods via more than one transport mode, whether through air, land or sea. These goods are carried by a multimodal transport operator ("**MTO**") registered with the Competent National Body ("**CNB**") established in each ASEAN member state, under a single multimodal transport contract where the origin or destination of the goods is in an ASEAN member country.

Broadly, the Act covers five key areas:

(a) Registration with the Singapore CNB;
(b) Issuance of multimodal transport documents;
(c) Liabilities of MTOs;
(d) Duties and liabilities of consignors; and
(e) Miscellaneous matters.

All multimodal transport operators, consignors and consignees must review the new provisions carefully.

For more information, click here to read our January 2021 Legal Update titled "Multimodal Transport Bill: Standardising Framework for Multimodal

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Transport Operators throughout ASEAN" on the passing of the Multimodal Transport Bill.

CaseBytes

Singapore Court Provides Guidance on Conduct of Debtor's Bankruptcy Application

Debtor's bankruptcy applications may be seen as being less common than creditors' bankruptcy applications. The law regarding the conduct of debtor's bankruptcy applications is thus less often explored. In *Re Then Feng* [2022] SGHCR 1, the Singapore High Court provided guidance in this regard. The Court considered a number of questions regarding debtor's bankruptcy applications. Who is entitled to intervene? What must the debtor show to succeed in an application? On what grounds will the Court dismiss an application, and what are the relevant tests?

In this case, the Applicant sought a bankruptcy order against himself, but various creditors opposed the application. The Court found in favour of the creditors, holding that they had a right to be heard in the proceedings. The Court further found that the Applicant had committed a material contravention by failing to file a complete Statement of Affairs ("**SOA**"), ordering the Applicant to re-file the SOA. The Applicant eventually failed to do so within the specified deadline, and the bankruptcy application was dismissed.

(a) **Proving a debtor's bankruptcy application**. In a debtor's bankruptcy application, it is the debtor who must satisfy the Court of his inability to pay his debts. The cash flow test could be used to determine whether a debtor is unable to pay his debts, even in the context of an individual's bankruptcy. As for the standard of proof, a debtor's admission of insolvency and his declarations as to his financial affairs would not be taken as conclusive, particularly where those opposing the application have some reasonable basis to question whether the debtor is in fact unable to pay his debts.

(b) **Dismissing a bankruptcy application**. The Court may dismiss the bankruptcy application where it appears to the Court that the applicant has contravened any of the provisions of the Insolvency, Restructuring and Dissolution Act or the relevant regulations. When considering whether a contravention warrants dismissal of the bankruptcy application, it may consider the materiality of the contravention and whether the contravention is remediable.

(c) **Opposing a bankruptcy application**. The Court may stay or dismiss a debtor's bankruptcy application if a creditor raises a triable issue (e.g., whether the debtor has other realisable assets that could be used to pay his debts, or the existence or quantum of the debt).

For more information, click here to read our Legal Update.

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Correcting the Course – Can a Ship Arrest be Maintained on Subsequently Amended Pleadings?

If the premise upon which a ship arrest was obtained turns out to be factually unsustainable, can the arrest nonetheless be maintained on a different factual basis by amending the pleadings? That was the question in *The Jeil Crystal* [2021] SGHC 292 where the Singapore High Court sustained an arrest on the basis that the facts underpinning the amended pleadings fell within the admiralty jurisdiction of the Court and existed when the writ *in rem* was issued.

The Court held that the amendments to the Statement of Claim ought to be allowed to save the arrest, declining to set aside the arrest for the following reasons:

(a) The original claim as set out in the writ and endorsement to the warrant of arrest, albeit premised on an erroneous factual basis, fell within the High Court (Admiralty Jurisdiction) Act. The amended claim, although framed in tort (whereas the original claim was centred in contract), also fell within the same provision.

(b) Under the "relation back" rule, the amended claim would take effect from the date of the original document which it amended. Had the amended claim been pleaded and an application for a warrant of arrest made on this basis, all the requirements for the valid invocation of the Court's admiralty jurisdiction would have been satisfied and the Court would have allowed the warrant of arrest to be issued.

(c) The cause of action already existed at the time of the issuance of the writ. The amendments proposed by the Bank did not introduce a cause of action or facts that did not exist as at the date of the writ or the warrant of arrest.

(d) The argument that the amendment only sought to amend the Statement of Claim and not the writ or the warrant of arrest was rejected. The amendment to the Statement of Claim would also cure any defect in the writ and the warrant of arrest as of the date of the original filing of each of the documents.

For more information, click here to read our Legal Update.

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Maritime Piracy and the Entitlement to Contributions for Ransoms Paid

Are shipowners entitled to recover part of the ransom paid to pirates as general average contribution from the holders of the bill of lading? That was the principal question before the English Court of Appeal in *Herculito Maritime Limited v Gunvor International* [2021] EWCA Civ 1828. The Court of Appeal answered the question in the affirmative, arriving at its conclusion by interpreting the terms of the bills of lading and the terms of the voyage charter to the extent they were germane to the contract of carriage evidenced by the bills.

In this case, the voyage charterparty stipulated that all bills of lading issued would be deemed to contain certain war risks clauses, which included "acts of piracy". The voyage charterparty also contained several additional clauses, the cumulative effect of which was that the charterers were to pay

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the premium for the additional war risks as well as kidnap and ransom cover up to US$40,000, with the shipowner being liable for premium above that sum.

The vessel was seized by pirates and some US$7.7 million in ransom was paid. The shipowner then declared general average and sought contributions from the holder of the bills of lading for the ransom. However, the bills of lading holder resisted the claim, arguing that the shipowner's sole remedy was to recover the ransom under the insurance policies.

The Court of Appeal doubted (without deciding the point) that the mere agreement by the charterer to pay insurance premium meant that the shipowner had agreed to look solely to the insurer for compensation in the event of an insured peril.

Even on the basis that the charterparty included an (implicit) agreement by the shipowner not to seek a general average contribution from the charterer in the event of a ransom payment, the Court held that the incorporating words in the bills of lading, while wide enough to encompass the war risks clauses in the charterparty, were not sufficiently wide to find an agreement in the bills of lading that the shipowners would not seek general average contribution from the holder thereof.

For more information, click here to read our Legal Update.

Singapore High Court Allows Registration of Foreign Judgment in Relation to Gambling Debts Incurred at Foreign Casino

The Singapore High Court in *The Star Entertainment QLD Ltd v Yong Khong Yoong Mark* [2021] SGHC 280 ("***Star Entertainment v Yong***") has confirmed that based on the current state of the law in Singapore, section 3(2)(f) of the Reciprocal Enforcement of Commonwealth Judgments Act (Cap 264, 1985 Rev Ed) ("**RECJA**") does not prevent the registration of a foreign judgment based on a gambling debt.

In this case, the applicant Star Entertainment QLD ("**Star Entertainment**") operated a casino, The Star Gold Coast in Queensland, Australia. The respondent, Yong Khong Yoong Mark ("**Yong**") was a seasoned gambler who had patronised The Star Gold Coast. He incurred gambling debts there pursuant to a cheque cashing facility ("**CCF**"), whereby Yong would hand over a cheque drawn in favour of The Star Gold Coast in exchange for chips for the purpose of gambling at The Star Gold Coast. Any losses sustained by Yong would have to be paid by himself, and the cheque could be redeemed by Yong by way of cash, gambling chips, bank draft or electronic fund transfer. The CCF was previously used twice by Yong at The Star Gold Coast.

In the Supreme Court of Queensland, Star Entertainment claimed against Yong for his unpaid gambling debts, and successfully obtained default judgment for the sum of A$3,883,058.28 ("**Judgment**"). Star Entertainment subsequently registered the Judgment in Singapore under the RECJA. Yong applied to set aside the registration pursuant to section 3(2)(f) of the RECJA, which was dismissed at first instance by the Assistant Registrar. Yong then appealed against the Assistant Registrar's decision.

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The High Court in *Star Entertainment v Yong* held that it was bound by a previous decision of the Singapore Court of Appeal in *Liao Eng Kiat v Burswood Nominees Ltd* [2004] 4 SLR(R) 690 ("***Burswood Nominees***"). In *Burswood Nominees*, the Court of Appeal had allowed for registration of an Australian judgment for gambling debts incurred by a Singaporean in an Australian casino, on the basis that it would be against public policy for Singaporeans to gamble overseas and return to Singapore to escape from their gambling debts. While a differently constituted Court of Appeal in *Poh Soon Kiat v Desert Palace Inc* [2010] 1 SLR 1129 ("***Desert Palace***") disagreed with the reasoning in *Burswood Nominees*, the High Court in *Star Entertainment v Yong* held that these remarks were merely obiter.

This decision provides clarity for now on how the Singapore High Court will treat applications for the registration in Singapore of foreign judgments founded upon gambling debts incurred at overseas casinos. However, Yong has appealed against the decision of the High Court, and the Court of Appeal may soon have the opportunity to consider the different approaches taken in *Burswood Nominees* and *Desert Palace* and to finally provide much-needed clarity on whether registration in Singapore of a foreign judgment founded upon gambling debts incurred at an overseas casino, will be prohibited by virtue of section 3(2)(f) of the RECJA read with section 5(2) of the Civil Law Act.

For more information, click here to read our Legal Update.

Deals

Acquisition of Eden Flame Sdn Bhd by Esteel Enterprise Pte. Ltd.

Danny Lim and Cynthia Wu from the Capital Markets / Mergers & Acquisitions Practice, and Yon See Ting and Looi Zhi Ming from Christopher & Lee Ong are advising Esteel Enterprise Pte. Ltd. in its RM135.88 million acquisition of Eden Flame Sdn Bhd from Lion Industries Corporation Berhad, which is listed on Bursa Malaysia.

S$105 Million Placement by iFAST Corporation Ltd.

Raymond Tong from the Capital Markets / Mergers & Acquisitions Practice acted for CGS-CIMB Securities (Singapore) Pte. Ltd., the sole placement agent, in respect of the placement of new ordinary shares in the capital of iFAST Corporation Ltd. to raise gross proceeds of S$105 million.

Acquisition of One George Street

Norman Ho, Ng Sey Ming, Tan Mui Hui, Gazalle Mok and Ho Mei Shi from the Corporate Real Estate Practice, Banking & Finance Practice, and Capital Markets / Mergers & Acquisitions Practice acted for the purchasers in the S$1.28 billion acquisition of One George Street, a Grade A office tower in the central business district of Singapore, from One George Street LLP. The firm also acted for the purchasers in the financing of the acquisition via a loan facility.

OUE Lippo Healthcare's S$163.5 Million Divestment in 12 Nursing Homes in Japan

Sandy Foo and Penelope Loh from the Capital Markets / Mergers & Acquisitions Practice are advising OUE Lippo Healthcare Limited on the S$163.5 million divestment of its interests in two wholly-owned subsidiaries, which together hold 100% of the interest in 12 nursing homes located across Japan to Perpetual (Asia) Limited (in its capacity as trustee of First Real Estate Investment Trust).

Mandatory Unconditional Cash Offer for Shares in Viking Offshore and Marine Limited

Danny Lim, Tan Mui Hui and Cheryl Tay from the Capital Markets / Mergers & Acquisitions Practice advised the joint offerors, comprising Synergy Supply Chain Management Sdn. Bhd., Irelia Management Sdn. Bhd., Tristan Management Sdn. Bhd., Subtleway Management Sdn. Bhd. and Mr Toh Kok Soo, in their mandatory unconditional cash offer for the shares and warrants of Viking Offshore and Marine Limited, which is listed on the Catalist Board of the Singapore Exchange Securities Trading Limited.

ShawKwei & Partners' Acquisition of CR Asia Pte. Ltd.

Tan Mui Hui and Alroy Chan from the Capital Markets / Mergers & Acquisitions Practice and Corporate Commercial Practice, Por Chuei Ying from Christopher & Lee Ong, and Dussadee Rattanopas from R&T Asia (Thailand) acted for ShawKwei & Partners in the S$131 million acquisition of CR Asia Pte Ltd, which is the Singapore holding company of CR Asia Group.

HSBC and Temasek Holding's Joint Venture to Establish Debt Financing Platform Dedicated to Sustainable Infrastructure Projects

Favian Tan and Kala Anandarajah from the Mergers & Acquisitions Practice, Competition & Antitrust and Trade Practice and Sustainability Practice are acting for The Hongkong and Shanghai Banking Corporation Limited, Singapore Branch ("**HSBC Singapore**") in relation to its proposed US$150 million joint venture with Temasek Holdings, in a partnership to establish a debt financing platform dedicated to sustainable infrastructure projects with an initial focus on Southeast Asia.

Trans-China Automotive Holdings Limited's Initial Public Offering and Listing on Catalist Board of the Singapore Exchange Securities Trading Limited

Chia Kim Huat and Tan Mui Hui from the Capital Markets / Mergers & Acquisitions Practice, and Por Chuei Ying from Christopher & Lee Ong acted for Trans-China Automotive Holdings Limited, a leading retailer of premium automobiles in the PRC, in its S$19.55 million initial public offering and listing on the Catalist Board of the Singapore Exchange Securities Trading Limited.

Japfa's Strategic Partnerships with Genki Forest, Honest Dairy, and New Hope Dairy

Evelyn Wee and Goh Jun Yi from the Capital Markets / Mergers & Acquisitions Practice acted for Japfa Ltd. in its strategic partnerships with three existing customers of its subsidiary, AustAsia Investment Holdings Pte. Ltd. ("**AustAsia**"), involving a US$146 million sale of an aggregate of 12.5% of the issued shares of AustAsia to (i) a subsidiary of Genki Forest Technology Group Holdings Limited, (ii) Honest Dairy Group Co. Ltd., and (iii) New Hope Dairy Co., Ltd.

Placement of New Shares and Vendor Shares in Grand Venture Technology Limited

Hoon Chi Tern from the Capital Markets / Mergers & Acquisitions Practice acted for CGS-CIMB Securities (Singapore) Pte. Ltd., the placement agent, in respect of the S$28.5 million placement of new shares and S$11.4 million placement of vendor shares in Grand Venture Technology Limited.

GIC (Realty) Private Limited's Joint Venture Platform with ESR Cayman Limited and APG Strategic Real Estate Pool

Chia Kim Huat, Chen Xi and Goh Jun Yi from the Capital Markets / Mergers & Acquisitions Practice are acting for GIC (Realty) Private Limited on the establishment of a co-investment platform with ESR Cayman Limited and APG Strategic Real Estate Pool to invest in warehousing and industrial mixed-use properties in the PRC. The platform has an initial capital commitment capped at US$1 billion.

Disposal of Qibao Vanke Plaza's Holding Company

Chia Kim Huat, Chen Xi and Goh Jun Yi from the Capital Markets / Mergers & Acquisitions Practice acted for RECO Qibao Private Limited, a subsidiary of an Asia-based sovereign wealth fund, in the RMB 3.2 billion disposal to Link REIT, Asia's largest real estate investment trust, of its entire 50% equity interest in the holding company of Shanghai's Qibao Vanke Plaza.

Authored Publications

Guide on "Building a Treasury Centre for Sustainable Growth" – What Businesses Should Look Out For

As a corporate group grows and expands globally, business considerations become increasingly complex. The treasury function of the corporate group becomes one of the key areas that must be looked at to ensure efficient management of its funds. Centralising the treasury function by establishing a Global Treasury Centre or multiple Regional Treasury Centres help businesses enhance cash management efficiency, improve governance and achieve economies of scale.

With the collaborative effort put forth by RSM Singapore, United Overseas Bank Limited, Rajah & Tann Singapore LLP and Deacons, we bring you the Guide on "**Building a Treasury Centre for Sustainable Growth**" that

will assist businesses that intend to set up regional treasury centres in Asia get acquainted with the relevant economic, tax and legal considerations in Singapore, Hong Kong SAR, Malaysia and Thailand.

Please click here for the English version of the Guide, and here for the Chinese version.

Should you require further information on any Singapore legal issues relating to the setting up of Regional Treasury Centres in Asia, please feel free to contact Chia Kim Huat, Regional Head of Corporate and Transactional Group, Abdul Jabbar, Head of Corporate and Transactional Group, Regina Liew, Head of Financial Institutions Group, and Benjamin Liew from the Financial Institutions Group.

Rajah & Tann Contributes to *Chambers Global Practice Guide: Anti-Corruption 2022* – Singapore Chapter

Rajah & Tann Singapore recently contributed to the Singapore chapter of the *Chambers Global Practice Guide: Anti-Corruption 2022* published by Chambers and Partners.

Our leading White Collar Partners Chee Kun Thong and Josephine Chee exclusively authored the Trends and Development section of the Singapore chapter of the guide.

The chapter provides the local insights on the trends and developments in the anti-corruption framework and discusses topics such as bribery, influence-peddling, financial record-keeping, offences relating to public officials, limitation periods, the geographical reach of legislation, corporate liability, defences and exceptions, safe harbour programmes, protection for whistleblowers, and landmark investigations.

Chee Kun is ranked lawyer for Corporate Investigations/Anti-Corruption by *Chambers Asia Pacific*, and is recognised as a Leading Individual for White Collar Crime by *The Legal 500 Asia Pacific*. Josephine is commended by clients as being "very diligent and hard-working, great attention to detail. Always very prompt in responses".

The full Singapore chapter can be read here.

Find out more about our White Collar Practice here.

Rajah & Tann Contributes to *Chambers Global Practice Guide: Technology M&A 2022* – Singapore Chapter

Rajah & Tann Singapore recently contributed to the Singapore chapter of the inaugural edition of the *Chambers Global Practice Guide: Technology M&A 2022* published by Chambers and Partners.

The Singapore chapter, which covers key market trends, early-stage and venture capital financing, liquidity events, spin-offs, acquisitions of public technology companies and business critical regulatory requirements, is exclusively authored by our Tech M&A specialists:

- Mergers & Acquisitions Practice: Terence Quek (Partner), Hoon Chi Tern (Partner) and Favian Tan (Partner); and
- Technology, Media & Telecommunications Practice: Rajesh

Sreenivasan (Head) and Benjamin Cheong (Partner).

The full Singapore chapter can be read here.

Find out more about our Mergers & Acquisitions Practice here.

Find out more about our Technology, Media & Telecommunications Practice here.

Partners from Rajah & Tann Singapore Contribute Chapters to *Law and Technology in Singapore*

Partners from Rajah & Tann Singapore recently contributed two chapters to *Law and Technology in Singapore*, published by Singapore Academy of Law (SAL) Academy Publishing. The book highlights the increasing importance and influence of technology in the practice and content of law. The use of technology has become all the more significant amid the COVID-19 pandemic.

Written by legal academics and practicing lawyers who are experts in their respective fields, the book provides an overview of the technological landscape in Singapore, and a review of how technology has affected the practice and content of law all these years. It also discusses the potential issues that may arise with the use of technology in various areas of law, as well as the possible changes in the future as a result of technological advancements.

Gregory Vijayendran, SC from the Commercial Litigation Practice co-authored the chapter on "Technology and the Legal Profession". The chapter explores certain professional and ethical issues raised by technology trends. It has a dual focus on (i) the potential issues applying *existing* professional conduct and ethical rules to such trends; and (ii) the raison d'etre for *new* rules insofar as emerging technologies (such as legal analytics) are concerned.

Rajesh Sreenivasan, Head of the Technology, Media and Telecommunications Practice, co-authored the chapter on "The Practice of Law". The chapter examines how relevant technologies have affected the current practice of law and looks at the role of technology – such as legal engineering, process automation and digitalisation – in the practice of law in the future.

The book was co-edited by Professors Simon Chesterman and Goh Yihan, the Deans of the National University of Singapore (NUS) Faculty of Law and Singapore Management University (SMU) School of Law, respectively, and Justice of the Court of Appeal Andrew Phang.

Please click here for more information on the book.

Events

Competition & Antitrust in Southeast Asia Webinar Series

As part of Rajah & Tann Asia's annual updates in competition and trade, its Competition & Anti-trust and Trade Practice has organised the Competition & Antitrust in Southeast Asia Webinar Series. The webinar series, which started in January 2022, intends to provide key insights on the state of play of competition law in the relevant jurisdictions in the region.

- "Competition & Antitrust in Southeast Asia – Serious Enforcement with a Focus on Singapore" (19 January 2022) – The speakers were Kala Anandarajah and Tanya Tang, Head of the Competition & Antitrust and Trade Practice, and Partner (Chief Economic and Policy Advisor), respectively, of Rajah & Tann Singapore.

- "Competition & Antitrust in Southeast Asia – Emerging Enforcement: Thailand, Cambodia, Brunei and Myanmar" (24 January 2022) – The speakers comprised Melisa Uremovic from R&T Asia (Thailand), Dr Min Thein from Rajah & Tann Myanmar, Hout Sotheary from R&T Sok & Heng (Cambodia), and Kala Anandarajah, Head of the Competition & Antitrust and Trade Practice of Rajah & Tann Singapore.

Professional Skills Workshop: Resolving Conflict by Mediation & Managing with Effective Communication

On 13-14 January 2022, Rajah & Tann Singapore in collaboration with the Singapore International Mediation Centre ("**SIMC**") organised a two-day workshop for our lawyers and clients titled "Professional Skills Workshop: Resolving Conflict by Mediation & Managing with Effective Communication". The customised skills-based workshop explored the value of resolving business and legal conflicts through mediation.

Rebecca Chew, Deputy Managing Partner of Rajah & Tann Singapore, and Wee Meng Chuan, CEO of SIMC, opened the workshop with an introduction. Professor Joel Lee from the National University of Singapore (NUS) and Associate Professor Hwee Hoon Tan from the Singapore Management University (SMU) were the speakers at the workshop.

Recent TMT Legal Developments in Malaysia – Shifting Sands

On 16 December 2022, Rajah & Tann Asia organised a webinar titled "Recent TMT Legal Developments in Malaysia – Shifting Sands".

In the wake of the continuing pandemic, there has been a startling acceleration in demand for digital services and online content by consumers, demand for information technology and cloud-based solutions by businesses, as well as increased cross border exchanges of personal data between entities. Arising from this demand is the growing recognition by governments for the need to regulate the digital domain, consequently giving rise to a plethora of developments on the regulatory front that

businesses need to be aware of and take into account for their digital operations in the coming year. This webinar focused on recent developments in the Malaysian Technology, Media and Telecommunications space.

The speakers at the webinar were Deepak Pillai, Anissa Maria Anis and Lee Suke Mune from Christopher & Lee Ong. It was moderated by Rajesh Sreenivasan, Head of the Technology, Media & Telecommunications Practice of Rajah & Tann Singapore.

Mitigating Regulatory Lapses: Identifying Compliance Blind Spots Through Whistleblowing/Reporting Programmes

On 2 December 2022, Rajah & Tann organised a webinar titled "Mitigating Regulatory Lapses: Identifying Compliance Blind Spots Through Whistleblowing / Reporting Programmes".

Compliance is a challenging but necessary part of every business. Compliance extends over traditional business licenses issues, business ethics, consumer protection, anti-competitive agreements, import/export permits, anti-money laundering, workplace safety and health, to data protection and many others. Which compliance requirements apply will depend on your business.

At the webinar, the speakers looked at how organisational blind spots can be plugged through effective whistleblowing/reporting programmes and how to tackle the attendant issues that typically come with such programmes. They also covered some of these mandatory reporting obligations as well as the voluntary disclosure programmes, and whether businesses must make use of them in the event of any lapses.

The speakers at the webinar were Kala Anandarajah, Head of the Competition & Antitrust and Trade Practice, and also leads the Corporate Governance Practice, Alvin Tan and Phang Hwee Guang.

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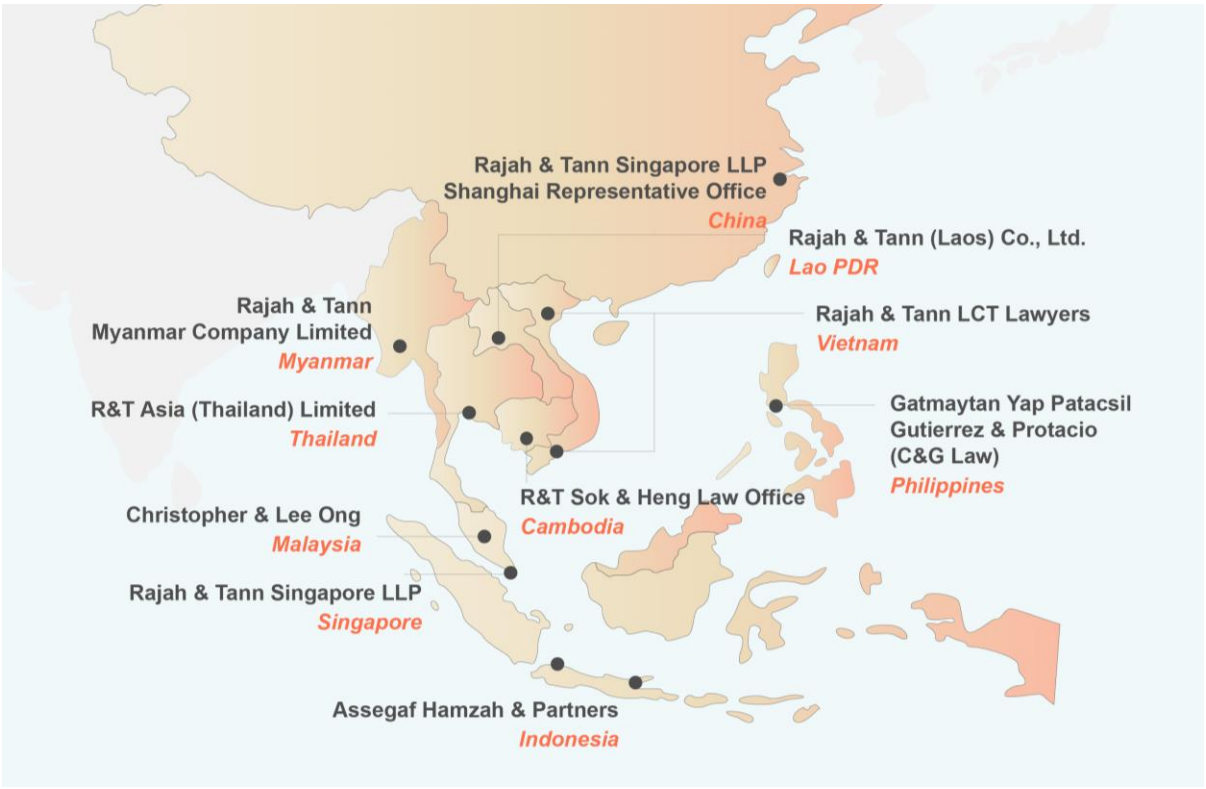
Our Regional Presence



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.