NewsBytes: Singapore

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Rajah & Tann Recognised as a Regional & Specialist Law Firm by *India Business Law Journal*

Rajah & Tann Singapore is honoured to be featured once again as a Regional & Specialist Law Firm for India-related work in 2021 by the *India Business Law Journal*.

In their special report titled "Mapping global expertise", a source quoted by the publication commended Rajah & Tann as having "provided us with prompt services and advisory during the course of our arbitration matter".

A strong endorsement of the Firm's South Asia and India expertise, this recognition comes at a significant time when the deal flow between South Asia, and in particular India, and the Association of Southeast Asian Nations (ASEAN) is set to grow.

Kelvin Poon, Head of the Rajah & Tann's South Asia Desk, said: "This recognition affirms the dedication, contributions and hard work of our talented team. We would also like to thank our clients and friends for the continued trust and support that they have placed in us, without which all of our achievements would be meaningless.

"We look forward to assisting our clients to capitalise on these growth opportunities as well as advising clients on their dispute resolution needs."

Now in its 15th year, this special report draws on an analysis of law firms that have recorded deals and dispute matters with an Indian element in the past 12 months. The results were based on rigorous research, vast editorial experience and extensive consultation with corporate counsel and Indian law firms.

For more information on the report, click here.

Click here to find out more about Rajah & Tann's South Asia Desk.

Click here to read our Press Release.

Rajah & Tann Appoints Dr Clarisse Girot as Advisor to Growing Data Privacy Practice in Southeast Asia

Rajah & Tann has appointed Dr Clarisse Girot, a global data protection expert, as advisor to its Technology, Media & Telecommunications team amid strong growth in its data privacy practice in Southeast Asia.

The appointment forms part of an agreement for Rajah & Tann to host the first Asia-Pacific office of the US-based Future of Privacy Forum ("**FPF**") in Singapore, of which Dr Girot is the new Director. FPF is a world-renowned non-profit organisation that serves as a catalyst for privacy leadership and scholarship, advancing principled data practices in support of emerging technologies. To this end, FPF Asia will work with stakeholders

in the industry, government, academia, and civil society in the region, with the shared concern of being responsive to local needs and interests and to maintain neutrality in any discourse.

Rajesh Sreenivasan, Head of the Technology, Media & Telecommunication Practice, said: "We are delighted to have Clarisse on board to share her considerable experience and expertise in both global and regional data protection and privacy.

"Her appointment and our partnership with the FPF in Asia underscore Rajah & Tann's commitment to support our clients in privacy and data protection as well as data analytics and cybersecurity mandates that have now become a key legal risk factor in the digital economy as a surge in data breaches in Singapore and other Southeast Asian countries fuel concern among consumers, regulators and businesses."

Click here to read our Press Release.

Rajah & Tann Asia Launches Arbitration Asia, a New One-Stop Arbitration Resource that Shines a Spotlight on Asia

On 18 August 2021, Rajah & Tann Asia launched Arbitration Asia, a new one-stop arbitration resource that shines a spotlight on Asia, providing insightful analyses of the latest arbitration-related legislative and regulatory developments, case alerts, market updates, and events or happenings across Asia Pacific.

A key feature of Arbitration Asia is its Country Chapters, a bespoke go-to resource that sets out key aspects of the arbitration framework of each jurisdiction highlighted in our website, covering basics like judicial hierarchy and domestic arbitral institutions to substantive issues such as conflicts of laws and the extent of adoption of the UNCITRAL Model Law. Presented in a Q&A format, the Country Chapters will be regularly updated and expanded in scope progressively.

Francis Xavier, SC, Regional Head of Rajah & Tann's Dispute Resolution Group, and the immediate past President of the Chartered Institute of Arbitrators (CIArb) said: "Asia has been at the forefront of developments in international arbitration. Through Arbitration Asia, we hope to drive innovation and spark new ideas in approaching alternative dispute resolution, as well as offer a variety of Asian perspectives on international arbitration issues. Arbitration Asia is a true testament of Rajah & Tann Asia's global branding as Lawyers Who Know Asia, and will undoubtedly enhance our position as a thought-leader in disputes resolution and arbitration in Asia."

Since 2008, Rajah & Tann Asia has been recognised as one of the top 100 arbitration practices in the world according to the *Global Arbitration Review 100* (GAR100). Its team of international arbitration specialists across ten member firms of Rajah & Tann Asia have now come together as contributors to the website, casting a spotlight on thought leadership and current issues in arbitration and alternative dispute resolution.

Visit the website at https://arbitrationasia.rajahtannasia.com and do follow the updates on LinkedIn.

Rajah & Tann's International Arbitration Practice is an award-winning practice that is amongst the largest and most successful in the world. As part of the largest Asian headquartered legal network, we work closely with arbitration specialists across our Rajah & Tann Asia network to seamlessly support multi-jurisdictional arbitration matters in the region, delivering world-class advice and counsel through a powerful combination of our extensive connections across the continent.

Click here to find out more about our International Arbitration Practice.

Click here to read our Press Release.

Rajah & Tann Singapore Among the Top 3 Standout Firms in Southeast Asia According to the Inaugural *Who's Who Legal: Southeast Asia 2021* Guide

Rajah & Tann Singapore is among the Top 3 Standout Firms in Southeast Asia according to the inaugural *Who's Who Legal: Southeast Asia 2021* guide. The firm achieved a total of 60 listings across 20 practice areas in Who's Who Legal's first ever comprehensive guide to the region's legal market.

Who's Who Legal publishes one of the world's leading directories of legal practitioners and non-lawyer consulting experts.

According to the publication, Rajah & Tann is a "top-tier law firm" and "enjoys a prominent position in the Southeast Asian region". The guide also recognised that the firm has proven itself to be a dominant player in M&A, with seven lawyers listed in the M&A chapter. The M&A team also stood out for their first-rate work on behalf of multinational corporations, global conglomerates, and small and medium enterprises (SMEs) undertaking public and private transactions.

Recognising that litigation is also a core strength of the firm, six practitioners have been recommended for their dispute resolution capability across a wide array of sectors, including banking, employment, and white-collar crime.

Sources further applaud the firm's capital markets expertise, with five lawyers recognised for their market-leading practice on initial public offerings (IPOs) and structured finance transactions.

The guide also singled out market-leading partners for their outstanding work in their respective practice areas. According to the guide, standout names at the firm include Danny Ong for his "*world-class asset recovery practice*", while Hamidul Haq is singled out for his "*top-tier investigations and business crime defence work*". Managing Partner Patrick Ang is held in "*high esteem for his expertise in restructuring and insolvency*". In the insurance and reinsurance field, Simon Goh "*stands out for his incisive handling of complex domestic and international issues*". Regina Liew is known for her experience on financial regulatory matters, while Lim Wee Hann "*wins praise for his outstanding regulatory and transactional track record in the life sciences sector*". Arnold Tan also "*impresses sources with his world-class private funds practice*".

Click here to read our Press Release.

LegisBytes

Banking & Finance

Steering Committee for SOR & SIBOR Transition to SORA Updates Transition Timelines for Financial Contracts

To facilitate the industry-wide transition of financial contracts away from the legacy use of Singapore Dollar (SGD) Swap Offer Rate ("**SOR**"), the Steering Committee for SOR & SIBOR Transition to SORA ("**SC-STS**") issued a report on 29 July 2021 setting out updated timelines, as well as main recommendations concerning various financial products.

We outline the updated timelines and key recommendations pertaining to various financial products below.

(a) **Wholesale markets** – Wholesale market participants are urged to substantially shift out of their legacy SOR exposures by 31 December 2021, using the SOR-Singapore Overnight Rate Average ("**SORA**") basis swap market for the transition from SOR to SORA. As the industry-wide transition progresses, the SOR-SORA basis swap market is expected to become less liquid in 2022 as the derivatives market approach the completion of transition from SOR to SORA. Having regard to this, wholesale market participants seeking to reference this market for their transition should aim to convert all legacy SOR contracts to SORA by 31 December 2021, else they risk having to convert their contracts under much less liquid market conditions and at potentially less favourable rates if conversion is done at a later stage.

(b) **Corporate loans** – SC-STS considered the following:

- For loans that mature before SOR discontinuation (30 June 2023), these are allowed to mature as long as there are no further hedging requirements.
- For loans that mature after SOR discontinuation, SC-STS strongly recommends an active transition to SORA by 31 December 2021.

As a starting point for discussions on such transitions, borrowers and lenders should refer to the SOR-SORA basis swap mid-rate. This is a commercially reasonable starting reference as it is in the interest of both parties to convert legacy SOR contracts to SORA before SOR is discontinued. The recommendations also explain why a direct transition from SOR to SORA is preferred to relying on Fallback Rate (SOR), which is an interim rate that will be discontinued after 31 December 2024.

For syndicated loans (which constitute close to 60% or S$46 billion of legacy SOR corporate loans that mature after SOR discontinuation), SC-STS recommends that Agent Banks lead the coordination among lenders, borrowers and all other parties to the syndicated loan in order to facilitate a smooth loan conversion to SORA.

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For small and medium enterprises which might have a stronger preference for an interest rate that can be set in advance (for payment certainty reasons), banks should consider offering an option to convert to referencing compounded-in-advance SORA to meet their needs.

(c) **Derivatives** – Market participants should actively transition out of SOR derivatives by end-December 2021, in line with banks' gradual wind-down of their SOR exposures in the coming months. Market participants are urged to convert their derivative contracts to SORA early, while liquidity in the SOR-SORA basis market remains ample.

(d) **Bonds** – Issuers of (i) resettable fixed rate securities that reference SOR interest rate swap rates after 31 December 2021 and (ii) floating rate notes that mature after 30 June 2023 should immediately explore options for the remediation of such securities as consent solicitation processes (if required, which may take several months to complete). Consent solicitation processes (where required) should therefore begin as soon as practicable and before 31 December 2021.

(e) **Retail loan market** – This segment will have a longer transition period from September 2021 to October 2022. A simplified transition approach is recommended for the retail loan market due to the large number of contracts to be converted. Banks would provide a SORA Conversion Package to retail customers at no additional fee or lock-in. The SORA Conversion Package switches a customer's existing SOR loan to a comparable SORA loan by applying a standardised Adjustment Spread (Retail), and such spread reflects the average difference between SOR and 3-month SORA compounded-in-advance over the last three months. To facilitate the voluntary conversion process, the SORA Conversion Package will be made available to retail customers with legacy SOR loans from 1 September 2021 to 31 October 2022.

To raise awareness on the industry-wide transition from SOR to SORA, SC-STS will commence a public education campaign in September 2021. Banks will directly engage retail customers with legacy SOR loans in October 2021 to encourage conversion.

Click on the following links for more information (available on the Association of Banks in Singapore ("**ABS**") website at www.abs.org.sg):

- ABS Media Release titled "Recommendations for Transition of Legacy SOR Contracts"
- Report by Steering Committee for SOR & SIBOR Transition to SORA

Construction & Projects

COVID-19 Relief Framework for Construction Firms Facing Higher Foreign Manpower Costs Comes into Operation

Part 10A of the COVID-19 (Temporary Measures) Act ("**Part 10A**") has come into operation on 6 August 2021. Part 10A provides a framework for parties to construction contracts to apply for relief from their contractual counterparties if they are affected by an increase in cost for work permit holders as a result of a COVID-19 event, such as border control quotas set by the Government limiting the inflow of foreign workers.

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Part 10A was introduced in the COVID-19 (Temporary Measures) (Amendment No. 3) Act 2021 ("**Amendment Act**"), which was passed in Parliament on 11 May 2021. The Amendment Act has since come into force on 6 August 2021, along with the COVID-19 (Temporary Measures) (Part 10A Relief) Regulations 2021 ("**Part 10A Regulations**"), which provides further details on the operation of the Part 10A framework.

Under the Part 10A relief framework, a party to a construction contract facing an increase in foreign manpower costs may apply to the Part 10A Registrar to appoint an Assessor to adjust the contract sum. Part 10A sets out the key aspects and operation of the relief framework, including the eligibility criteria, application procedure, and determination process. The Part 10A Regulations provide further details, setting out the prescribed forms and timelines to be complied with in a Part 10A application.

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

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Corporate Commercial

Requirements on Climate-Related Disclosures and Board Diversity Policy Proposed for SGX-Listed Companies

Against the background of accentuated demand by various stakeholders for climate-related information and disclosure on board diversity, the Singapore Exchange Regulation ("**SGX RegCo**") proposes requiring issuers listed on the SGX-ST Mainboard and Catalist (collectively, "**issuers**") to: (i) include climate-related disclosures in their sustainability reports consistent with recommendations of the Task Force on Climate-Related Financial Disclosures ("**TCFD Recommendations**") under a "phased approach"; and (ii) put in place a board diversity policy and describe the policy in their annual reports. These proposals are detailed in SGX RegCo's consultation paper on "Climate and Diversity: The Way Forward" ("**Climate & Diversity Consultation Paper**").

Climate-Related Disclosures

*Sustainability reporting regime ("**SR Regime**")*

In 2016, the SR Regime introduced by SGX requires issuers to issue a sustainability report each financial year on a "comply or explain" basis. The sustainability report must describe the issuers' sustainability practices with reference to five primary components, namely: (i) material Environmental, Social and Governance ("**ESG**") factors; (ii) policies, practices, and performance; (iii) targets; (iv) sustainability reporting framework; and (v) a statement from the board of directors ("**Board**").

Climate-related disclosures

Since the launch of the TCFD Recommendations in 2017, SGX RegCo has encouraged issuers to follow the TCFD Recommendations, which is organised around four pillars, namely governance, strategy, risk management, and metrics and targets, to guide their climate-related disclosures in their sustainability report.

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To better prepare issuers for making sustainability reporting against a possible international climate standard in the future, and in recognition that there is an urgent need to enhance the quality and consistency of climate-related disclosures, SGX RegCo proposes moving towards mandatory climate-related disclosures progressively and to incorporate the TCFD Recommendations as part of the Listing Rules of the SGX-ST Mainboard and Catalist (collectively, "**Listing Rules**"). The proposed roadmap towards mandatory climate-related disclosures is as follows:

(a) For the financial year ("**FY**") commencing in 2022, all issuers are to adopt climate reporting on a "comply or explain" basis;
(b) From FY commencing in 2023, climate reporting will be mandatory for some sectors of issuers while "comply or explain" will remain the approach for the others; and
(c) From FY commencing in 2024, more sectors of issuers will adopt mandatory climate reporting with the rest doing so on a "comply or explain" basis.

SGX RegCo also proposes that the prioritisation of sectors be based on industry classification, with sectors with the highest climate-related risks to be prioritised so as to achieve greatest impact.

Other salient proposals in the Climate & Diversity Consultation Paper include requirements for assurance of sustainability reports, reporting timeframe for issuing sustainability reports, and training for directors on sustainability.

Board Diversity Policy

Issuers are currently required under the Listing Rules to disclose on a "comply or explain" basis in their annual reports the Board diversity policy and progress made towards implementing the policy, including objectives. The Code of Corporate Governance 2018 ("**CG Code**") also recommends, on a voluntary basis, that the Board diversity policy should include qualitative and measure quantitative objectives (if applicable), and encourages issuers to disclose how the Board's diversity meets the needs of the issuers.

The uncertainties brought about by the COVID-19 pandemic has driven demand for information on "how the directors, as a group, chart corporate strategy and create and preserve enterprise value", prompting issuers to pay more attention to the composition of the Boards. In view thereof, SGX RegCo proposes revising the Listing Rules to require issuers to have in place a Board diversity policy. SGX RegCo further proposes that an issuer must disclose in its annual report: (i) the Board diversity policy, targets for achieving the stipulated diversity, accompanying plans, and timeline for achieving the targets; and (ii) a tailored description that takes into account the issuer's current plan and future strategy of how the combination of skills, talents, experience, and diversity of directors in the Board serves the needs and plans of the issuer.

These changes, if adopted, are significant in the sense that it would elevate the current provisions under the CG Code of disclosing a Board diversity policy (on a "comply or explain" basis) and the recommendation of disclosing how the Board diversity meets the needs of the issuer (on a voluntary basis) to mandatory compliance.

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Proposed Implementation Period

Regarding the enhancements concerning climate-related disclosures, internal assurance, directors' training, timeframe for reporting, and disclosures on Board diversity, it is proposed that issuers adopt these enhancements for their sustainability reports and annual reports for financial years commencing on or after 1 January 2022.

Common Set of Core ESG Metrics and ESG Data Portal

At present, SGX RegCo proposes that it will not prescribe any specific sustainability reporting frameworks and ESG indicators for issuers. Instead, SGX RegCo proposes, in a separate consultation paper on "Starting with a Common Set of Core ESG Metrics", a common set of core ESG metrics as a starting point for issuers in their reporting of material ESG factors as well as an ESG data portal for structured access to ESG data.

The consultations for both consultation papers are open until 27 September 2021.

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

Dispute Resolution

Apostille Act 2020 Takes Effect on 16 September 2021 – Abolishing Legalisation Requirement for Foreign Public Documents

The Apostille Convention facilitates the cross-border use of public documents. Under it, each Contracting Party designates a Competent Authority who is responsible for issuing certificates that certify the origin of official documents produced by the Contracting Party. These certificates are known as apostilles.

All Contracting Parties are obliged to accept apostilles as sufficient to verify the origin of the underlying document. This replaces the cumbersome and often costly formalities related to the legalisation process – in which a document must be certified as authentic by a series of public officials to be recognised by a foreign country – with the "one-step process" of issuing an apostille.

On 5 August 2021, the Apostille Act 2020 (Commencement) Notification was published, stating that the Apostille Act (which gives effect to Singapore's obligations under the Apostille Convention) will come into force on 16 September 2021, with one exception mentioned below. The Apostille Act 2020 – Apostille (Certification of Singapore Public Documents) Regulations 2021 ("**Regulations**") were also published, and will likewise come into force on 16 September 2021. The Regulations principally set out the form of the certificate, and how the certificates may be verified.

Per the Regulations, the Singapore Academy of Law ("**SAL**") has been designated as Singapore's Competent Authority. However, section 21(2), which amends the SAL Act to list the certification of documents as one of SAL's functions, will not come into force on 16 September 2021.

For more information, click here and here to read our Legal Updates.

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Employment & Benefits

Government Accepts Tripartite Workgroup's Recommendations to Advance the Well-Being of Lower-Wage Workers

On 30 August 2021, the Ministry of Manpower ("**MOM**") announced that the Government has accepted all 18 recommendations of the Tripartite Workgroup on Lower-wage Workers ("**Tripartite Workgroup**") outlined in its report titled "Progress Through Solidarity & Dynamism". The Tripartite Workgroup was convened in October 2020 to review the plight of the lower-wage workers and propose strategies to uplift and advance their well-being.

The Tripartite Workgroup found that the lower-wage workers experienced significant progress over the past decade. It noted that they have been on the front line during the COVID-19 pandemic, which highlighted the essential nature of the work they do such as cleaning, food delivery and security. The Tripartite Workgroup then looked at ways to help the lower-wage workers cope with the pandemic and facilitate their progression in the long-term.

The Tripartite Workgroup has proposed recommendations in three key areas.

(a) **Refresh Progressive Wage ("PW") approach and expand its coverage**

The Progressive Wage Model ("**PWM**") was conceived in 2012. The tripartite partners comprising MOM, the National Trades Union Congress (NTUC) and the Singapore National Employers Federation (SNEF) have since developed and implemented PWMs in various sectors such as the cleaning, security, landscape maintenance, and lift sectors. The Tripartite Workgroup now proposes to expand the coverage of the PWM within the next two years to uplift the wages of the lower-wage workers.

Specifically, the Tripartite Workgroup recommends that PWs be expanded to these new sectors: (i) retail from 1 September 2022, (ii) food services from 1 March 2023, and (iii) waste management from 2023. Additionally, it has proposed to extend existing cleaning, security, and landscape PWMs to in-house workers from 1 September 2022, and introduce new occupational PWs to administrators and drivers from 1 March 2023.

Firms that hire foreign workers must also pay all their local workers at least the local qualifying salary with effect from 1 September 2022.

(b) **Leverage our institutions to ensure sustained wage growth**

The Tripartite Workgroup has also suggested to leverage our institutions to sustain wage growth of the lower-wage workers. One of the recommendations is for the National Wages Council to provide annual guidance for PW growth and recommend annual wage growth of occupational PWs.

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(c) **Promote whole-of-society support to uplift lower-wage workers**

The whole-of-society must work together to advance the well-being of lower-wage workers. To this end, the Tripartite Workgroup has made several recommendations including the following:

- Review Workfare on a regular basis to sustain the support extended to lower-wage workers even as PWs become more pervasive.
- Provide transitional support to employers who are recovering from the impact of the COVID-19 pandemic.
- Uplift the well-being of lower-wage workers by (i) making available opportunities for them to upskill and progress in their careers; and (ii) providing them with a safe and healthy work environment, among other things.

The Government will coordinate with the tripartite partners and work closely with them to implement the Tripartite Workgroup's recommendations.

Click on the following link for more information:

- MOM Press Release titled "Government Accepts Recommendations by Tripartite Workgroup to Uplift Wages and Well-Being of Lower-Wage Workers" (available on the MOM website at www.mom.gov.sg)

Government Adjusts Work Permit Requirements to Help Construction, Marine Shipyard, and Process Sectors Meet Manpower Needs

Recognising the key roles that the Construction, Marine Shipyard and Process ("**CMP**") sectors play in Singapore's economy, the Ministry of Manpower ("**MOM**") announced on 13 August 2021 that the Government will be adjusting the Work Permit ("**WP**") requirements to help businesses in these sectors meet their manpower needs, preserve core capabilities, and emerge stronger from the COVID-19 pandemic.

The changes relate to the following:

(a) **Renewal of WPs**. Work Permit Holders ("**WPHs**") whose WPs are expiring between July and December 2021 can renew their permits for up to two years. They are allowed to do so even if they do not meet the renewal criteria. This also applies to WPHs who are reaching the maximum period of employment or who are reaching the maximum employment age. On the part of the employers, they are not required to comply with the requirement to maintain at least 10% of their WPHs as higher-skilled workers (i.e. workers with upgraded skills, education or experience).

(b) **Extension of validity of In-Principle Approvals ("IPAs")**. Beginning July 2021, the validity of IPAs of all work pass holders including those who were given IPAs for Employment Passes, S Passes and WPs, who are unable to enter Singapore due to border restrictions, will be extended by up to one year.

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(c) **Six-month retention scheme for experienced WPHs in the Construction sector**. The Government will introduce a six-month retention scheme from 1 September 2021 to 28 February 2022 to continue employing experienced construction WPHs whose previous employment has been terminated. This initiative will be carried out in collaboration with the Singapore Contractors Association Ltd (SCAL).

(d) **Removal of the minimum Period of Employment ("POE") requirement for Man-Year Entitlement ("MYE") waiver**. There is a minimum POE requirement for WPHs to qualify for the waiver of MYE, a WP allocation system for workers from non-traditional source (NTS) countries (i.e. India, Sri Lanka, Thailand, Bangladesh, Myanmar and the Philippines) and the People's Republic of China. This requirement to qualify for the MYE waiver will be removed from 1 October 2021 to 31 March 2022 for new and renewal WPHs for firms in the Construction and Process sectors.

Click on the following link for more information:

- MOM Press Release titled "New measures to facilitate retention and hiring of work permit holders in the Construction, Marine Shipyard and Process sectors" (available on the MOM website at www.mom.gov.sg)

Sustainability

Public Consultation on Legislative Changes to Facilitate Transition to Low-Carbon Generation Sources

The Ministry of Trade and Industry ("**MTI**") and the Energy Market Authority ("**EMA**") are conducting a public consultation on the Energy (Resilience Measures and Miscellaneous Amendments) Bill ("**Bill**").

As part of the worldwide movement towards a focus on sustainability, Singapore has committed to reducing carbon emissions as part of its enhanced 2030 Nationally Determined Contribution and Long-term Low-emissions Development Strategy. MTI and EMA are thus embarking on a multi-decade programme to transition Singapore's electricity generation to low-carbon generation sources.

In light of this programme, the Bill sets out proposed amendments to the EMA Act, the Electricity Act, and the Gas Act, to empower EMA to require electricity generation licensees to reduce greenhouse gas emission standards and to introduce provisions that will ensure the sustainability, security, and reliability of the power sector. These changes may affect how businesses in the energy industry will have to operate in the future, and the emission standards that they may be held to.

The key amendments set out in the Bill include the following:

(a) The Bill seeks to introduce provisions in the relevant legislation to allow EMA to, among other things, specify targets or measures to reduce greenhouse gas emission standards in codes of practice, or other documents, which may be adopted into the relevant regulations issued under the legislation.

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(b) The Bill seeks to introduce a provision in the Electricity Act enabling EMA to acquire, develop, manage, or operate critical infrastructure if the private market fails to do so.

(c) The Bill streamlines the granting and extension of electricity and gas licences by empowering EMA to approve all applications, rather than MTI.

(d) The Bill clarifies under the Gas Act that the gas transporter, who owns and manages the gas pipeline network for conveying natural gas and town gas in Singapore, is required to establish and implement a programme to ensure that gas installations are inspected at stipulated time intervals and properly maintained.

Feedback on the Bill should be submitted to MTI and EMA by 16 September 2021.

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

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Trade

Developments in Cross-Border Paperless Trade – Singapore Collaborates with Australia and Trade Partners on Blockchain and Other Trade Initiatives

There have been a number of recent developments in Singapore in the area of cross-border paperless trade.

Singapore's Infocomm Media Development Authority ("**IMDA**") and Singapore Customs began a blockchain trial with the Australian Border Force ("**ABF**") on 23 November 2020 to simplify cross-border trade between Singapore and Australia. The trial, which aimed to prove that trade documents could be issued and verified digitally across two independent systems, was part of an initiative under the Singapore-Australia Digital Economy Agreement ("**SADEA**"). The trial successfully concluded on 18 August 2021.

The trial successfully tested the interoperability of two independent systems – ABF's Intergovernmental Ledger and IMDA's TradeTrust reference implementation – which are digital verification platforms developed with blockchain technology and used to share electronic trade documents. Certificates of Origin, which are typically required by governments to verify the authenticity and provenance of goods, were used as the first test case.

Besides the SADEA, Singapore has entered into the Digital Economy Partnership Agreement with New Zealand and Chile, which came into force on 7 January 2021. In addition, Singapore is currently in negotiations with South Korea to develop the Korea-Singapore Digital Partnership Agreement (KSDPA), and the United Kingdom to develop the UK-Singapore Digital Economy Agreement (UKSDEA). Other more modern, non-digital only free trade agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the recently signed Regional Comprehensive Economic Partnership (RCEP) also contain provisions and commitments relating to paperless trading under their e-commerce chapters.

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On the local front, to facilitate digital economy, the Electronic Transactions (Amendment) Act 2021 was amended and came into force on 19 March 2021. This, among others, allows the use of digital documentation with international ports and reduces the reliance on hard copy trade documents. Another noteworthy development is the launch of the Singapore Trade Data Exchange (SGTraDex) on 17 July 2021, which is a data infrastructure framework that makes use of a common data highway to facilitate data sharing between supply chain ecosystem partners.

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

Proposed Amendments to Food Regulations to Permit New Food Additives etc to Align with International Standards – Response to Consultation

To align regulations with international standards and ensure coherence in legislation, the Singapore Food Agency ("**SFA**") issued a public consultation from 3 May 2021 to 2 July 2021 on proposed amendments to the Food Regulations under the Sale of Food Act (Chapter 283) ("**Food Regulations**"). The proposed key amendments relate to:

(a) Permitting the use of new food additives and ingredients;
(b) Extending the use of existing food additives;
(c) Revising the maximum limits for heavy metals in food; and
(d) Ensuring coherence in legislation concerning specifications relating to purity of food additives.

We covered the consultation in our May 2021 Legal Update titled "Consultation to Amend Food Regulations to Permit New Food Additives etc to Align with International Standards", available here.

After the close of the consultation, SFA made available its response to the feedback received on the consultation. A summary of the feedback and SFA responses is set out below.

(a) **Permitting use of new food additives and ingredients; Extending use of existing food additives**

Two industry members supported the proposed amendments to permit the use of new food additives and ingredients, as well as to extend the use of existing food additives.

(b) **Revising the maximum limits for heavy metals in food**

Feedback was mixed. While there was support for the revision of maximum limits for heavy metals in food, there were also concerns that adopting the maximum limits under the Codex Alimentarius ("**Codex**"), a collection of standards, guidelines and codes of practice adopted by the Codex Alimentarius Commission ("**CAC**"), could result in a "loosening of standards on Singapore's part". Amongst other reasons, this is because there are limits under the Codex that are less stringent than Singapore's current limits e.g. cadmium and mercury in salt. Given that CAC is the international food standards setting body, SFA stated in response that its assessment is that aligning "Singapore's maximum limits for heavy metals with international standards would continue to meet Singapore's appropriate level of protection".

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(c) **Coherence in legislation concerning specifications relating to purity of food additives**

Comments, rather than feedback, were received. Two industry members sought clarification as they were not aware of the existing definition of "food additives" or requirements relating to permitted purity under the current regulations. SFA has clarified their comments with them.

Click on the following link for more information:

- Consultation on Draft Food (Amendment No. X) Regulations 2021 – Consultation Outcome (available on the REACH website www.reach.gov.sg)

Labelling and Advertising Requirements for "Nutri-Grade Beverages" – Response to Consultation

The Ministry of Health ("**MOH**") and the Health Promotion Board ("**HPB**") sought feedback from stakeholders from 1 April 2021 to 31 May 2021 on proposed amendments to the Food Regulations, to introduce new requirements on "Nutri-Grade beverages" sold in Singapore. The key proposals concerned:

(a) A Nutri-Grade grading system to grade Nutri-Grade beverages;
(b) A requirement for Nutri-Grade beverages to have a nutrition information panel ("**NIP**");
(c) A requirement to label Nutri-Grade beverages graded "C" or "D" with a Nutri-Grade mark on the front-of-pack of the package; and
(d) A prohibition on advertising Nutri-Grade beverages graded "D", save at points-of-sale platforms.

We covered the consultation in our April 2021 Legal Update titled "Consultation on Labelling and Advertising Requirements for "Nutri-Grade Beverages", available here.

After the close of the consultation, MOH and HPB made available its response to the feedback received on the consultation. The feedback concerned an array of matters, including the definitions of Nutri-Grade beverages, sugar and sugar substitutes, the Nutri-Grade grading system, the requirements in relation to the NIP, and the implementation timeline, amongst others. We highlight some comments by MOH and HPB:

(a) **Scope of "Nutri-Grade" beverage**

MOH and HPB commented that the Codex Alimentarius (Codex), a collection of standards, guidelines and codes of practice adopted by the Codex Alimentarius Commission, does not define "beverages". They further set out conditions that exempt a beverage from being considered a "Nutri-Grade" beverage.

(b) **Nutrients considered in the "Nutri-Grade" grading system**

MOH and HPB commented there is currently no international standard for front-of-pack labelling schemes. In some countries, such schemes focus on nutrients of concern, e.g. sugar and saturated fat. Singapore also includes saturated fat and sugar in the grading system as they are

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key nutrients of concern. Despite this, there will be public education efforts to recognise the nutritional benefits of e.g. full-fat milk and 100% juices, though they are high in these nutrients.

(c) **Responsible persons for grading "Nutri-Grade" beverage and labelling with NIP and Nutri-Grade marks**

The primary responsibility for ensuring that a Nutri-Grade beverage is graded and labelled with the NIP/Nutri-Grade mark will lie with: (i) the manufacturer if the Nutri-Grade beverage is manufactured in Singapore for sale by retail in Singapore; (ii) the local importer if the Nutri-Grade beverage is imported for sale by retail in Singapore; or (iii) distributor in any other case. There are, however, specific requirements on responsible persons when sold on online platforms, amongst others.

(d) **Requirement for NIP, Nutri-Grade mark and costs**

A Nutri-Grade beverage must be labelled with a NIP, regardless of the grading. To reduce the costs to comply with the proposed measures, MOH and HPB will make it optional for beverages graded "A" or "B" to carry the Nutri-Grade mark.

Regarding implementation, there will be a 12-month transitional period. These amendments are intended to come into effect in August 2022. The implementation date of August 2022 applies to both new and existing products. All Nutri-Grade beverages that are sold by retail in Singapore (regardless of manufacture date) must meet the Nutri-Grade labelling and advertising requirements within the Amendment Regulations, by August 2022.

Click on the following link for more information:

- Consultation on Draft Food (Amendment) Regulations 2021: Labelling and Advertising Requirements for "Nutri-Grade Beverages" Sold in Singapore – Consultation Outcome (available on the REACH website www.reach.gov.sg)

CaseBytes

Singapore Court of Appeal Considers Application of UNCITRAL Model Law on Cross-Border Insolvency for the First Time

As Singapore continues to advance its position as an international hub for restructuring and insolvency, it has implemented a number of changes to its legislative framework. One of the key developments has been the adoption of the UNCITRAL Model Law on Cross-Border Insolvency ("**Model Law**"), which has been given force of law in Singapore. The Model Law provides procedural mechanisms to facilitate the conduct of cross-border insolvencies.

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The case of *United Securities Sdn Bhd (in receivership and liquidation) and another v United Overseas Bank Ltd* [2021] SGCA 78 was the first instance in which the Singapore Court of Appeal has considered the application of the Model Law. The Court of Appeal considered the principles relating to the recognition of foreign proceedings and when local proceedings should be stayed in favour of foreign proceedings.

In this case, the Singapore Court of Appeal accepted that Malaysian insolvency proceedings constituted the foreign main proceeding but declined to grant a stay of Singapore proceedings, allowing the Respondent bank to continue with its court application for declarations relating to its security interests. The decision demonstrates that local proceedings will not always give way to foreign main proceedings, highlighting the relevant factors that the court will take into account.

The Respondent was successfully represented by Lee Eng Beng, SC and Torsten Cheong from the Restructuring & Insolvency Practice and Appeals & Issues Practice.

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

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How to Conduct an Employment Investigation: Court Rules on Applicable Standards

When an employer has to deal with an employee who has been accused of committing an act of misconduct, the law requires that employers must inform the employee and conduct an inquiry before deciding whether to dismiss an employee or to take other forms of disciplinary action. This requirement is set out at section 14(1) of the Employment Act which stipulates that the dismissal of an employee on the grounds of misconduct can only be after "due inquiry" on the part of the employer.

In *Dong Wei v Shell Eastern Trading (Pte) Ltd and another* [2021] SGHC 123, the Singapore High Court provided guidance on the standards to be met when conducting an investigation. The Court highlighted that the term of mutual trust and confidence is implied into all employment contracts, and shed light on what this implied term means for employers in the context of suspensions and investigations into employees.

The former employee in this case had commenced proceedings against the employer for, among others, breach of the implied term of mutual trust and confidence. The High Court dismissed the employee's claims. While the High Court accepted that the implied term of mutual trust and confidence imposes some obligations on an employer when it carries out investigations and suspensions, it found that there was nothing in the present case that breached this implied term.

Notably, the Court held that the implied term of mutual trust and confidence does not contain any duty on an employer to combat misinformation pertaining to the employee, nor is there a more general duty to take reasonable care to protect employees from economic and reputational harm. Further, the implied term of mutual trust and confidence cannot override the express contractual right to terminate on the provision of notice.

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

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Exclusive Jurisdiction Clauses and the Contracts (Rights of Third Parties) Act

As a general rule, a contract can only be enforced by those who are party to it ("**contracting parties**"). The Contracts (Rights of Third Parties) Act ("**CRTPA**") provides for an exception in section 2, where a third party may enforce a term of the contract ("**substantive term**") if (i) the contract expressly permits him to, or (ii) the term confers a benefit on him.

The CRTPA further provides in section 9 that where a substantive term is subject to an agreement to submit disputes to arbitration ("**arbitration agreement**"), a third party wishing to enforce the substantive term pursuant to section 2 will be considered party to the arbitration agreement, thereby restraining the third party as well as contracting parties from litigating the matter.

Although exclusive jurisdiction clauses similarly restrain the contracting parties from litigating (albeit only in courts outside the specified jurisdiction), the CRTPA does not contain an equivalent section for them. This leaves open the question of whether a third party seeking to enforce a right under the CRTPA will be bound to litigate pursuant to the exclusive jurisdiction clause, or vice versa – whether a third party can enforce the exclusive jurisdiction clause against a contracting party.

In *VKC v VJZ and another* [2021] SGCA 72, the Singapore Court of Appeal answered this question in the negative, finding that section 2 of the CRTPA did not apply to an exclusive jurisdiction clause and therefore a third party could not enforce it against a contracting party.

By way of background, the Appellant was one of 15 beneficiaries of an Estate, while the Respondents were appointed as the administrators of the Estate. Conflict emerged between the beneficiaries, and legal proceedings were commenced in various jurisdictions such as Singapore and Indonesia.

The Singapore proceedings resulted in the beneficiaries reaching a settlement agreement ("**SA**"), which the Respondents were not a party to. The SA provided for Singapore law and the exclusive jurisdiction of the Singapore courts in clause 19.

Subsequently, the Appellant brought proceedings against the Respondents in Indonesia in relation to their role as administrators of the Estate. The Respondents applied for an anti-suit injunction from the Singapore Courts in reliance on clause 19, further submitting that the proceedings were vexatious or oppressive. At first instance the High Court granted the anti-suit injunction, principally on the ground that the Respondents could enforce clause 19 by virtue of section 2 of the CRTPA.

The Court of Appeal disagreed with this reasoning.

(a) Despite the CRTPA expressly applying to an arbitration agreement per section 9, it is silent on whether it applies to exclusive jurisdiction clauses. The Court found that such silence was deliberate "because Parliament made a conscious determination to exclude exclusive jurisdiction clauses from the ambit of s 2(1)*(b)* of the CRTPA." This was further borne out in the legislative history of the UK Contracts (Rights of Third Parties) Act – on which section 2 of the Singapore CRTPA was

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based – which showed a specific omission to address the issue of exclusive jurisdiction clauses.

(b) Even if there were a section 9 equivalent for exclusive jurisdiction clauses, this would not assist the Respondents. Both arbitration agreements and exclusive jurisdiction clauses confer a *procedural* rather than a substantive right. Enforcing a procedural right could only be done if the Respondents were first enforcing a *substantive* right under section 2. There was no such substantive right conferred on the Respondents by the SA.

As the Court remarked, this is a complex and developing area of anti-suit injunction law that tests the boundaries of the effect of exclusive jurisdiction clauses on non-parties. Should contracting parties desire to have a third party bound by (or granted the right to enforce) an exclusive jurisdiction clause, the legal solution may lie in:

(a) Section 2(1)(a) of the CRTPA, which states that a third party may enforce a substantive term if the contract expressly provides that he may; and/or

(b) Section 2(3) of the CRTPA, which states that the third party shall be expressly identified in the contract by name, as a member of a class or as answering a particular description (although it need not be in existence when the contract is entered into).

Despite coming to a different conclusion on the applicability of the CRPTA to exclusive jurisdiction clauses, the Court of Appeal upheld the anti-suit injunction nonetheless, holding that the Indonesia proceedings were otherwise vexatious or oppressive.

Is There a Limitation Period on Stakeholding Monies Held by the Singapore Academy of Law?

Under section 6(1)(a) of the Limitation Act, a party may not commence legal proceedings six years after its cause of action accrued if its claim is founded on a contract. However, does this six-year limitation period apply where a purchaser and vendor of a residential unit are locked in a long-running dispute over the release of a stakeholding sum held by the Singapore Academy of Law ("**SAL**")?

The High Court dealt with this issue for the first time in *Lau Soon and another v UOL Development (Dakota) Pte Ltd and another appeal* [2021] SGHC 195, finding that a limitation period did not apply to the vendor's claim to the stakeholding sum.

In brief, the appellant Purchasers purchased a condominium unit from the respondent developer ("**Vendor**"). Pursuant to the sale and purchase agreement ("**SPA**"), the Purchasers paid 5% of the purchase price ("**Stakeholding Sum**") to SAL to hold as stakeholder. A dispute subsequently arose in 2014 over defects in the unit, and the Purchasers filed a Notice of Deduction to make a claim for deduction from the Stakeholding Sum which the Vendor disputed by filing a Notice of Dispute, resulting in SAL continuing to hold the Stakeholding Sum. In 2020, more than six years later, the Vendor sought a court order for the release of the Stakeholding Sum to it.

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The Purchasers resisted the Vendor's application on two grounds:

(a) **the Time-bar Ground** – The Purchasers argued that the Vendor's claim was contractual in nature, being founded on the SPA. Accordingly, the six-year limitation period applied to the Vendor's claim, and the Vendor could no longer seek such a court order.

(b) **the Defects Ground** – The Purchasers argued that the Vendor had breached the SPA by failing to rectify the alleged defects in the unit and was therefore not entitled to the Stakeholding Sum.

The Court primarily examined the Time-bar Ground, which turned on whether the Vendor's claim was contractual in nature. The Court agreed that the Vendor's claim was "founded on a contract" within the meaning of section 6(1)(a) of the Limitation Act, but the Vendor's cause of action would never be time-barred as the parties had intended that no limitation period should apply to the contract in question at the time it was entered into.

In the present case, there were two contracts to be considered: (i) the bilateral SPA between the Vendor and the Purchasers, and (ii) a tripartite contract between the Vendor, Purchasers, and SAL as stakeholder. Generally, the scope and purpose of the tripartite contract, which is not typically written, is very limited – it simply provides that the stakeholder shall keep the stakeholding monies pending a triggering event and shall make payment in response to that event. The terms of the tripartite agreement must be consistent with the Singapore Academy of Law (Stakeholding) Rules ("**Stakeholding Rules**") in force at the time into which the bilateral SPA was entered. Thus, where the Stakeholding Rules address matters falling within the purpose and scope of the tripartite contract, any terms asserted to form part of their tripartite contract must be within the bounds set by the rules.

Notwithstanding the Purchasers' argument that the Vendor's claim was founded on the SPA, the Court found that:

(a) There was no breach of the SPA, as the Purchasers were entitled to file a Notice of Deduction and the Vendor to file the Notice of Dispute under the SPA.

(b) The Vendor's claim arose instead from the tripartite contract, which fell to be resolved by the dispute resolution mechanism provided in rule 7 of the Stakeholding Rules.

(c) Despite the Vendor's claim being contractual in nature, section 6(1)(a) of the Limitation Act did not apply to the Vendor's cause of action for the following reasons:

- As a matter of law, the applicability of the Limitation Act is not absolute and can be excluded by the parties' contract. Rule 7 did not contemplate a limit to the period of extension of the stakeholding period, merely providing for payment out only upon the occurrence of two triggering events (i.e, the parties coming to an agreement or a court order on the final apportionment of the disputed amount). As the terms of the tripartite contract must be consistent with rule 7, this implied that the Purchasers and Vendor had contracted out of any limitation period applicable to

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either party commencing an action under the tripartite contract, specifically for a court order on the final apportionment of the Stakeholding Sum.

- There could be any number of reasons for a long delay in commencing the action to obtain the court order. There was therefore no reason of policy to impose a time-bar, especially as a time bar would result in SAL holding the Stakeholding Sum in perpetuity.

The Court was satisfied that the Vendor was entitled to the Stakeholding Sum and ordered SAL to release that sum to them.

Deals

Proposed Pre-conditional Voluntary General Offer by Capsol Investment III Pte. Ltd. and Tower Capital for all Issued and Paid-up Ordinary Shares in the Capital of Boardroom Limited

Sandy Foo and Goh Jun Yi from the Mergers & Acquisitions Practice are acting for Capsol Investment III Pte. Ltd., an indirect wholly-owned subsidiary of Temasek Holdings (Private) Limited and a member of the consortium of investors in Apricus Global Pte Ltd ("**Apricus**"), in Apricus' pre-conditional S$312 million voluntary conditional general offer for all the issued and paid-up ordinary shares in the capital of Boardroom Limited. Lee Xin Mei and Cheryl Tan from the Banking & Finance Practice are advising on debt aspects of the transaction.

S$204.3 Million Private Placement by Keppel DC REIT

Raymond Tong from the Capital Markets / Mergers & Acquisitions Practice acted for Citigroup Global Markets Singapore Pte. Ltd., DBS Bank Ltd., Oversea-Chinese Banking Corporation Limited, and Credit Suisse (Singapore) Limited, the joint bookrunners and underwriters, in respect of the private placement of new units in Keppel DC REIT to raise gross proceeds of approximately S$204.3 million.

Series C Fundraising of Doctor Anywhere

Tracy Ang and Lee Jin Rui from the Mergers & Acquisitions Practice advised Doctor Anywhere, a regional tech-led healthcare company, in its US$65.7 million Series C fundraising round led by Asia Partners, with investors including Novo Holdings, Philips, OSK-SBI Venture Partners, and other existing investors.

Acquisitions by AirAsia SuperApp Sdn Bhd and AirAsia Digital Sdn Bhd from Gojek

Tan Mui Hui from the Capital Markets / Mergers & Acquisitions Practice, Kuok Yew Chen and Law Jun Chin from Christopher & Lee Ong, and Dussadee Rattanopas from R&T Asia (Thailand) acted for AirAsia SuperApp Sdn Bhd and AirAsia Digital Sdn Bhd in their US$50 million acquisition from Gojek of its Thai business comprising US$40 million equity interest in Velox

Technology (Thailand) Co., Ltd and US$10 million equity interest in Velox Fintech Co., Ltd. These will be transferred into shares for the AirAsia Super App, which is valued at US$1 billion.

S$45.9 Million Subscription of Shares in BRC Asia Limited and S$22.2 Million Acquisition of Shares in BRC Asia Limited

Danny Lim and Penelope Loh from the Capital Markets / Mergers & Acquisitions Practice are advising BRC Asia Limited ("**BRC Asia**"), which is listed on the Mainboard of the Singapore Exchange Securities Trading Limited, in its S$45.9 million placement of new shares to Hong Leong Asia Investments Pte. Ltd. ("**Hong Leong Asia**"). The firm is also advising Xinsteel Singapore Pte. Ltd., Nuocheng International Trading & Investment Pte. Ltd., Toe Teow Heng, Wu Ai Ping, and Shi Yong as vendors in the S$22.2 million sale of shares in BRC Asia to Hong Leong Asia.

S$4.5 Million Tokenised Offering of 6% Exchangeable Notes on ADDX

Danny Lim and Tan Mui Hui from the Capital Markets / Mergers & Acquisitions Practice are acting for XM Studios Pte. Ltd. in its S$4.5 million tokenised offering of 6% exchangeable notes issued by its parent company, XM Holdco Pte. Ltd., on ADDX, a platform to enable private market investing in unicorns, pre-IPO companies, hedge funds, and other opportunities.

Proposed Voluntary Conditional Cash Offer for All Issued and Paid-up Ordinary Shares in the Capital of Neo Group Limited

Sandy Foo and Goh Jun Yi from the Mergers & Acquisitions Practice acted for Forestt Investment Pte. Ltd. ("**Forestt**"), a vehicle controlled by the founder of Neo Group Limited, on the S$88.4 million voluntary conditional cash offer by Forestt of all the issued and paid-up ordinary shares in the capital of Neo Group Limited. Cheryl Tan and Gazalle Mok from the Banking & Finance Practice and Corporate Real Estate Practice advised Forestt on the financing aspects of the offer.

Authored Publications

Rajah & Tann Singapore Partners Contribute to Four Chapters of *Singapore Academy of Law Annual Review of Singapore Cases*

Our Partners have contributed four chapters on Competition Law, Admiralty and Shipping Law, Insolvency Law, and the Legal Profession to the *Singapore Academy of Law Annual Review of Singapore Cases* ("**SAL Ann Review**"). The SAL Ann Review is an annual publication that highlights key Singapore cases and regulators' decisions in an array of areas of law in the preceding year. Its contributors comprise leading practitioners and academics who review and analyse these cases.

- **Competition Law**: Kala Anandarajah, Head of the Competition & Antitrust and Trade Practice, covered the key updates in Competition Law for 2020. These include the issuance of the Competition Appeal Board's decision in the Chicken cartel case which made history by overturning liability in part for the first time; the issuance by the Competition and Consumer Commission of Singapore ("**CCCS**") of two infringement decisions relating to bid-rigging agreements; and the issuance of the Guidance Note on Collaboration between Competitors in response to the COVID-19 pandemic to provide more clarity to businesses on how CCCS would view collaborations between competitors during these unprecedented times. The chapter also reviews several mergers that CCCS considered in 2020. Finally, the chapter also touches on CCCS's enforcement efforts on the consumer protection front.

- **Admiralty and Shipping Law**: Toh Kian Sing, SC, Head of the Shipping & International Trade Practice, highlighted four Singapore court judgments in 2020, including two decisions concerning rather esoteric parts pertaining to limitation of liability.

- **Insolvency Law**: Our Partners, Sim Kwan Kiat, Kelvin Poon and Wilson Zhu, discussed Singapore court judgments in 2020 which provide guidance on novel issues in debt restructuring. These include decisions on "roll ups" in rescue financing and a foreign debtor's connection with Singapore for the purpose of commencing a scheme of arrangement process in Singapore, as well as the interplay between insolvency law and arbitration.

- **Legal Profession**: Our Partner from the Commercial Litigation Practice, Khelvin Xu, covered Singapore court judgments in 2020 relating to ethics and professional responsibility. The judgments covered include a seminal decision in which the Court of Appeal overturned its previous decision on whether it had the jurisdiction to hear an appeal against a Judge's decision in disciplinary proceedings, as well as cases involving conflicts of interest, statements to the media, and according due respect to the courts.

These chapters were first published in e-First on 19 August 2021, 16 August 2021, 10 August 2021, and 30 July 2021, respectively. e-First is SAL's e-publishing prior-to-print module. Click on the links below for the full chapters.

- Competition Law
- Admiralty and Shipping Law
- Insolvency Law
- Legal Profession

Rajah & Tann Contributes to *IFC Review*: "An Overview of Current Trends and Developments in Insurance in Singapore"

Singapore is well-recognised as the leading specialty insurance and reinsurance hub in Asia. Simon Goh, Head of the Insurance & Reinsurance Practice of Rajah & Tann Singapore, highlights the current trends and developments in the insurance industry in Singapore in an article titled "An Overview of Current Trends and Developments in Insurance in Singapore" published by the *IFC Review*, a leading guide to global wealth management.

In this article, Simon provides an overview of the legal and regulatory regime pertaining to the insurance industry in Singapore. It also looks at, among other things, initiatives by the Singapore government to transform Singapore's reinsurance industry from a mainstream traditional reinsurance hub to a sophisticated, full-fledged global capital for Asian risk transfer.

Simon served as the Chairman of the Insurance Law Sub-committee that was formed by the Singapore Academy of Law ("**SAL**") to review and reform Singapore's insurance laws. The recommendations of the SAL's Report on Reforming Insurance Law in Singapore, which are expected to introduce significant changes to certain areas of insurance contract law, were discussed briefly in the article.

Click here to read the full article.

Find out more about our Insurance & Reinsurance Practice here.

Rajah & Tann Partners Share Insights on International Arbitration Developments in Asia-Pacific and Malaysia in Global Arbitration Review *Asia-Pacific Arbitration Review 2022*

Rajah & Tann Singapore's leading International Arbitration Partners have contributed two chapters in the *Asia-Pacific Arbitration Review 2022*, a special report published by the Global Arbitration Review. The *Asia-Pacific Arbitration Review 2022* (available here) contains insights and thought leadership inspired by recent events from 35 pre-eminent practitioners.

Our International Arbitration Partners Andre Yeap, SC, Kelvin Poon, and Alessa Pang, authored the chapter on "The Rise of Arbitration in the Asia Pacific" which examines recent developments in Asia and ASEAN and deduces that the trend in these regions is one that generally continues to converge in favour of arbitration. The full chapter can be read here.

Authored by our International Arbitration Partners Andre Yeap, SC and Avinash Pradhan, the chapter on "Maintaining the Policy of Minimising Curial Intervention in Malaysia" explains the legal framework for arbitration in Malaysia, a coherent modern framework in line with international norms and best practices. In addition, recent decisions of the Malaysian courts underscore the fact that the Malaysian judiciary is now distinctly pro-arbitration, paving the way for Malaysia to tap into the growth of international arbitration in the region. The full chapter can be read here.

Rajah & Tann Contributes to Sixth Edition of the *Investment Treaty Arbitration Review* – Chapter on Fair and Equitable Treatment

Our leading International Arbitration Partners Andre Yeap, SC, Kelvin Poon, and Matthew Koh, along with Senior Associate David Isidore Tan and Associate Daniel Ho, have authored a chapter on fair and equitable treatment in the Sixth Edition of the *Investment Treaty Arbitration Review*, as part of The Law Reviews series, published by Law Business Research Ltd.

The chapter discusses the fair and equitable treatment (FET) standard in investment protection treaties, which remains at the core of states' obligations and thus often arises in investor–state disputes. Although the FET standard is often left undefined, tribunals have elaborated on this standard to develop both substantive and procedural principles. The chapter reviews the FET standard and how it has been applied in some recent cases.

The full chapter can be read here.

Find out more about our International Arbitration Practice here.

Events

Restructuring & Insolvency Seminar Series: "Out of Court Judicial Management vs Schemes" and "Cross-border Insolvency – Dealing with Different Laws and Legal Systems"

On 11 August 2021 and 26 August 2021, the Restructuring & Insolvency Practice organised the first two parts of its three-part webinar series titled "Out of Court Judicial Management vs Schemes" and "Cross-border Insolvency – Dealing with Different Laws and Legal Systems", respectively.

- **Out of Court Judicial Management vs Schemes**

  The speakers at this session discussed the out of court judicial management ("**JM**") regime, which was introduced in the Insolvency, Restructuring & Dissolution Act 2018. The out of court JM regime aims to provide a faster and more cost-effective option to place a company in JM, compared to a court process. Since its introduction in July 2020, the out of court JM has rarely, if at all, been used in Singapore. It appears that many companies that wish to pursue a debtor-in-possession restructuring with court protection still consider a scheme of arrangement as a first option.

  Managing Partner Patrick Ang and Raelene Pereira drew a comparison of the out of court JM regime with a scheme process, and looked at some practical issues and pitfalls which creditors and debtors may face in each regime.

- **Cross-border Insolvency – Dealing with Different Laws and Legal Systems**

  A cross-border insolvency matter often involves laws and legal systems of different countries, and each country has its own laws and policies in relation to insolvency and debt restructuring which may conflict with those of another country.

  Sim Kwan Kiat, Head of the Restructuring & Insolvency Practice, and Wilson Zhu highlighted both legal and practical considerations in navigating through a cross-border insolvency matter.

Arbitration Asia Launch: Fireside Chat

On 18 August 2021, in conjunction with the virtual launch of Rajah & Tann's one-stop arbitration resource, Arbitration Asia, Rajah & Tann Asia organised a fireside chat participated in by the international arbitration practitioners from the Rajah & Tann Asia member firms. They shared exclusive insights on how the pandemic has affected the occurrence of disputes and its effects on the conduct of arbitration proceedings. They also discussed dispute resolution developments and trends in their respective countries, as well as the outlook for arbitration activity and its key takeaways.

The speakers comprised Eri Hertiawan (Assegaf Hamzah & Partners), Ben Dominic R Yap (C&G Law), Andre Yeap, SC (Rajah & Tann Singapore), Surasak Vajasit (R&T Asia (Thailand)), and Dr Quang Chau (Rajah & Tann LCT Lawyers).

The fireside chat was moderated by Francis Xavier, SC, the Regional Head of the Dispute Resolution Group of Rajah & Tann.

Business Collaborations: A New Guidance Note Issued – Of Assistance or Does It Shut Doors on Collaborations?

On 11 August 2021, the Competition & Antitrust and Trade Practice organised a webinar titled "Business Collaborations: A New Guidance Note Issued – Of Assistance or Does It Shut Doors on Collaborations?"

The Competition and Consumer Commission of Singapore ("**CCCS**") has proposed introducing a Guidance Note for Business Collaborations ("**Guidance Note**"). According to CCCS, the Guidance Note is intended to clarify CCCS' positions on six common types of business collaborations and to provide guidance on how it will generally assess whether such collaborations comply with section 34 of the Competition Act. These six common types of business collaborations covered in the Guidance Note are: (i) Information sharing; (ii) Joint production; (iii) Joint commercialisation; (iv) Joint purchasing; (v) Joint research and development; and (vi) Standardisation. While this is a welcome development to stakeholders, there are grey areas such as whether the proposed assessment factors provide sufficient guidance and meet businesses' practical considerations.

The speakers, Kala Anandarajah and Dominique Lombardi, Head and Deputy Head of the Competition & Antitrust and Trade Practice, respectively, discussed, among others, whether and how the Guidance Note can truly assist, thus saving businesses time and costs as they choose to enter into collaborations.

Construction Disputes in a Disruptive Pandemic

On 4 August 2021, Rajah & Tann Asia organised a webinar titled "Construction Disputes in a Disruptive Pandemic".

Rajah & Tann Asia Partners from Indonesia, Malaysia, Myanmar, the Philippines, Singapore, and Vietnam discussed the following issues:

- Business disruptions across the region which are impacting the performance of construction contracts;
- Procedural challenges faced in the event of a construction dispute;

- Material considerations when drafting arbitration clauses for construction projects;
- Important considerations when managing hybrid/virtual hearings (perspectives from an arbitration counsel and arbitrator); and
- Alternative means to resolving construction disputes – adjudication or mediation.

The speakers comprised Eri Hertiawan (Assegaf Hamzah & Partners), Han Li Meng (Christopher & Lee Ong), U Myo Thant Swe (Rajah & Tann Myanmar), Ben Dominic R Yap (C&G Law), Sim Chee Siong (Rajah & Tann Singapore), and Logan Leung (Rajah & Tann LCT Lawyers).

Soh Lip San from the Construction & Projects Practice of Rajah & Tann Singapore moderated the webinar.

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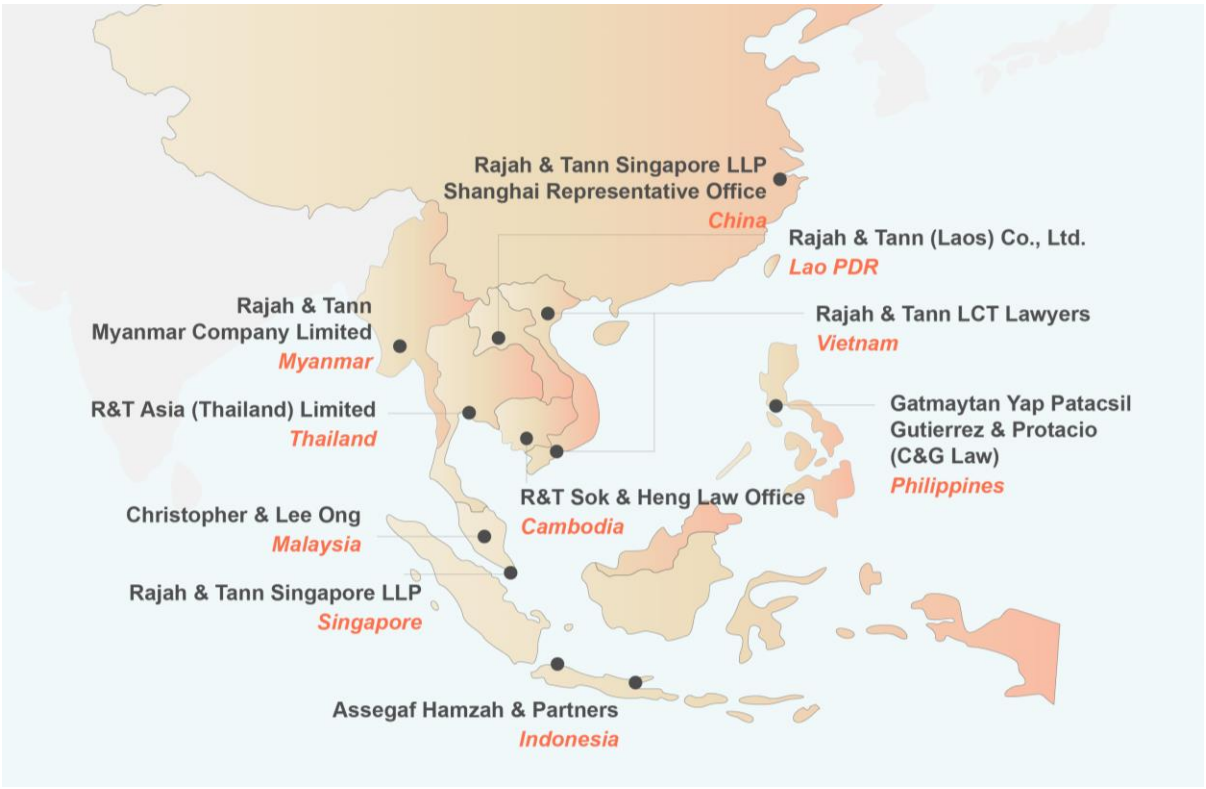
Our Regional Presence



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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.