

Capital Markets

SGX RegCo Proposes to Mandate Tenure Limit on IDs & Disclosure of Directors' and CEOs' Remuneration Details

Executive Summary

The Singapore Exchange Regulation ("**SGX RegCo**") is conducting a public consultation on the following changes to institute better corporate governance practices relating to board renewal and disclosure of remuneration of directors and chief executive officers ("**CEOs**"):

1. Introducing a mandatory nine-year tenure limit on independent directors ("**IDs**") for issuers listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**");
2. Mandating disclosure of remuneration details of each individual director and the CEO of issuers listed on the SGX-ST.

The public consultation ends on **17 November 2022**.

These proposals, which were recommended by the Corporate Governance Advisory Committee ("**CGAC**"), would be prescribed in the SGX-ST Mainboard Rules and Catalist Rules. CGAC was set up by the Monetary Authority of Singapore ("**MAS**") in 2019 to identify risks to the quality of corporate governance in Singapore, and take a leading role in advocating good corporate governance practices. CGAC's recommendations were made in response to the findings of a review published by KPMG in Singapore ("**KPMG Review**") of listed companies' disclosure on their compliance with the Code of Corporate Governance ("**Code**"). The findings of the KPMG Review suggest a concerning trend that long-serving IDs may become entrenched in listed companies in Singapore and that companies' disclosure on remuneration details of their directors and CEOs has been lacking.

This Update provides a summary of these two proposals.

Mandatory Nine-Year Tenure Limit on IDs

Currently, Listing Rule 210(5)(d)(iii) of the SGX-ST Mainboard Rules and Listing Rule 406(3)(d)(iii) of the SGX-ST Catalist Rules provide that a director of a listed issuer is not independent if he/she has been a director of a listed issuer for an aggregate period of more than nine years (whether before or after listing) unless his/her continued appointment as an ID has been approved in separate resolutions by: (i) all shareholders of the issuer; and (ii) shareholders of the issuer excluding its directors and CEO and associates of the directors and CEO ("**Two-tier Vote**").



Client Update: Singapore

2022 NOVEMBER

Capital Markets

In line with CGAC's recommendation, SGX RegCo proposes to amend the SGX-ST Mainboard Rules and SGX-ST Catalyst Rules to:

- provide that a director who has been a director of an issuer for an aggregate period of more than nine years (whether before or after listing) will not be considered independent. The nine-year tenure limit is aligned with the tenure limit imposed by MAS on IDs of Singapore-incorporated banks, insurers and managers of real estate investment trusts ("**REIT Managers**"); and
- remove the Two-tier Vote mechanism for long-serving IDs.

Directors who have served beyond nine years may continue to be appointed as non-independent directors.

A one-year transition period (from the date on which SGX-RegCo finalises this proposal and removes the Two-tier Vote mechanism) will be provided for the mandatory nine-year tenure limit for IDs to take effect. SGX RegCo proposes that when the mandatory nine-year tenure limit for IDs takes effect, all IDs who have served beyond nine years must be redesignated as non-independent directors, regardless of whether their appointment as IDs had been approved via the Two-tier Vote previously.

Mandatory Disclosure of Remuneration Details of Directors and CEO

Currently, Principle 8 of the Code provides that a listed issuer must be transparent on its remuneration policies, level and mix of remuneration, the procedure for setting remuneration, and the relationships between remuneration, performance and value creation. Provision 8.1 of the Code recommends that a listed issuer should disclose in its annual report the policy and criteria for setting remuneration, as well as names, amounts and breakdown of remuneration of, among other things, each individual director and the CEO.

Compliance with the Principles of the Code, which set out broadly accepted characteristics of good corporate governance, is mandatory. Listing Rule 710 of the SGX-ST Mainboard Rules and SGX-ST Catalyst Rules require a listed issuer to describe its corporate governance practices with reference to the Principles and Provisions of the Code and how its practices conform to the Principles. Companies are expected to comply with the Provisions and, if not possible, explicitly state the Provision from which it has varied, explain the reason for variation, and explain how its practices are consistent with the intent of the relevant Principle. The explanations of variations from the Provisions should be comprehensive and meaningful.

The KPMG Review found that although almost all companies provided a breakdown of remuneration in percentage terms into salary, bonus, benefits and others for directors and the CEO, only a fraction disclosed the amount of remuneration of directors and CEOs on a named basis.

Client Update: Singapore

2022 NOVEMBER

Capital Markets

SGX RegCo is of the view that the remuneration details of directors and the CEOs should be transparent as they have a fiduciary duty and the question of competition is less of a concern. Therefore, it is proposed that the SGX-ST Mainboard Rules and SGX-ST Catalist Rules be amended to require:

- Companies listed on SGX-ST to disclose the exact amount and breakdown of remuneration of each director and the CEO in the annual report on a named basis.
- Real estate investment trusts ("**REITs**") and business trusts ("**BT**") listed on SGX-ST to disclose the exact amount and breakdown of remuneration of each director and the CEO of the REIT Managers and BT trustee-managers in the annual report on a named basis.

Concluding Remarks

SGX RegCo's proposals in this consultation paper aim to bring the corporate governance practices relating to disclosure of remuneration details of directors and CEOs closer to the practices of key financial centres in the world and the region, and signify a firm stance to ensure listed issuers focus on board renewal. SGX RegCo is of the view that board renewal is critical for boards of listed issuers to remain effective under the constantly evolving market landscape so that fresh ideas and independent thought are brought into the boards' decision-making process.

Both of the above issues have been the subjects of previous consultation exercises that were hotly debated. Regardless of the outcome of the current consultation exercise, listed issuers should be cognisant of the reasons prompting SGX RegCo to introduce the proposed reforms to the current ID and directors' and CEOs' remuneration disclosure requirements, and review their current practices in this regard to comply with the spirit of the Principles and Provisions of the Code.

Please click [here](#) for the SGX RegCo consultation paper titled "*Consultation Paper on Board Renewal and Remuneration Disclosures*" that is made available on the SGX website (www.sgx.com).

Should you have any queries on the above developments and would like to provide feedback to the SGX RegCo consultation paper, please feel free to contact our team members below who will be happy to assist.

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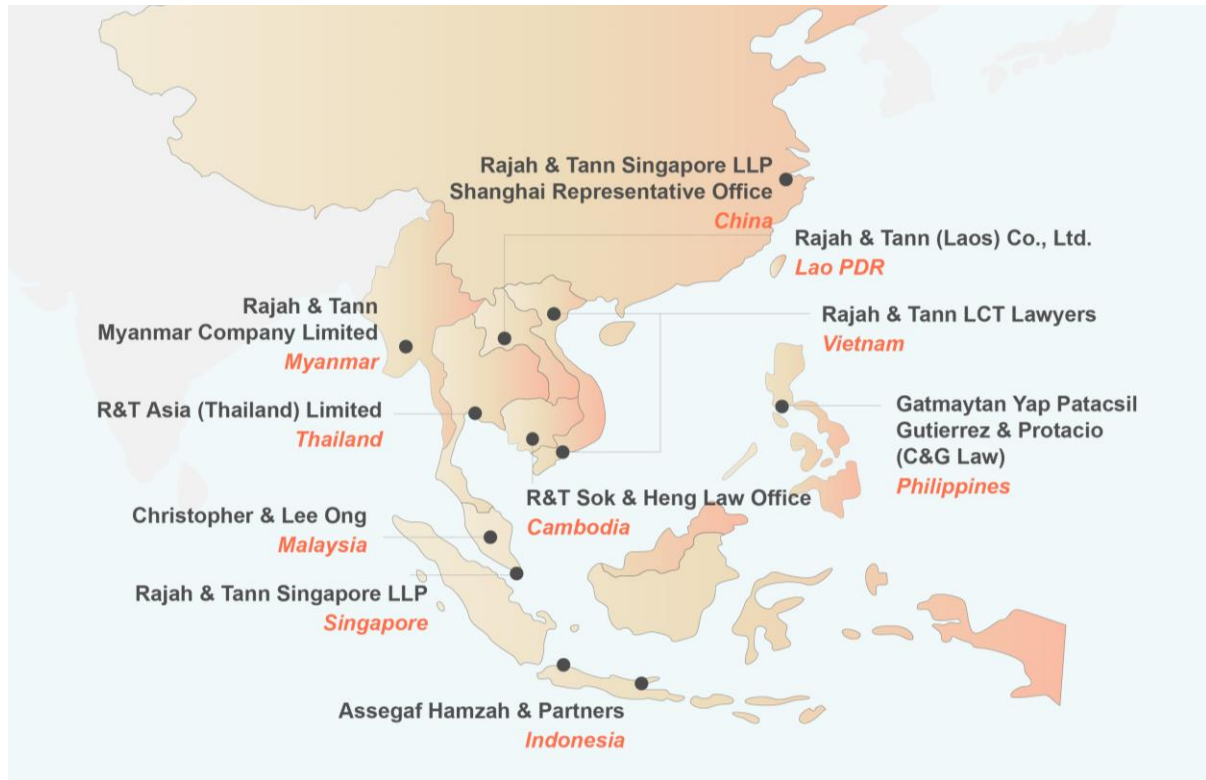
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