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SGX RegCo Mandates Tenure Limit on Independent Directors and Disclosure of Remuneration Details of Directors & CEOs

Executive Summary

On 11 January 2023, Singapore Exchange Regulation ("**SGX RegCo**") announced that the following new requirements will apply to issuers ("**Listed Issuers**") listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") to institute better corporate governance practices relating to board renewal and disclosure of remuneration of directors and chief executive officers ("**CEOs**"):

1. Mandatory nine-year tenure limit on independent directors ("**IDs**"); and
2. Mandatory disclosure of remuneration details of each individual director and the CEO.

The SGX-ST Listing Manual ("**SGX-ST Mainboard Rules**") and the Listing Manual Section B: Rules of Catalist ("**SGX-ST Catalist Rules**") were amended on 11 January 2023 to give effect to these changes. Transitional arrangements are in place to provide the Listed Issuers sufficient time to comply with these new requirements.

This Update provides a summary of these two new requirements.

Background Information

These changes stemmed from recommendations issued by the Corporate Governance Advisory Committee ("**CGAC**"), which 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' disclosures on remuneration details of their directors and CEOs have been lacking.

SGX RegCo conducted a public consultation exercise from 27 October 2022 to 17 November 2022 to seek feedback on proposals to implement these changes. The respondents to the earlier consultation paper largely supported the proposals.

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Mandatory Nine-Year Tenure Limit on IDs

Before 11 January 2023

Previously, 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 provided that a director of a Listed Issuer was no longer independent if he/she had 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 had been sought and approved in separate resolutions ("**Two-Tier Vote**") by:

- all shareholders of the Listed Issuer; and
- shareholders of the Listed Issuer, excluding its directors and CEO and associates of such directors and CEO.

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 further provided that his/her continued appointment as an ID pursuant to the Two-Tier Vote may remain in force until the earlier of:

- the retirement or resignation of the director; or
- the conclusion of the third annual general meeting ("**AGM**") of the Listed Issuer following the Two-Tier Vote.

With Effect from 11 January 2023 – Removal of Two-Tier Vote

On 11 January 2023, the SGX-ST Mainboard Rules and the SGX-ST Catalist Rules were amended to remove the Two-Tier Vote mechanism for IDs who have been directors for more than nine years with immediate effect.

Between 11 January 2023 and the Date of Listed Issuer's AGM for the Financial Year Ending on or after 31 December 2023 – IDs Who Have Been Directors for More Than Nine Years Still Considered Independent

In addition, on 11 January 2023, new Listing Rule 210(5)(d)(iv) of the SGX-ST Mainboard Rules and Listing Rule 406(3)(d)(iv) of the SGX-ST Catalist Rules were introduced to provide that a director who has been a director of a Listed Issuer for an aggregate period of more than nine years (whether before or after listing) will not be considered independent ("**Nine-Year Tenure Limit**"). Such director may continue to be considered independent until the conclusion of the next AGM of the Listed Issuer. The Nine-Year Tenure Limit takes effect for the Listed Issuer's AGM for the financial year ("**FY**") ending on or after 31 December 2023.

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**").

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Transitional arrangements are established for the application of the above rules, as summarised below:

- The transitional period for the Nine-Year Tenure Limit refers to the period between 11 January 2023 and the date of the Listed Issuer's AGM for the FY ending on or after 31 December 2023 ("**Transitional Period**").
- During the Transitional Period, an ID who has been a director of a Listed Issuer for more than nine years (in aggregate) may continue to be considered as independent as long as he/she is not otherwise considered to be not independent pursuant to the other criteria set out in Listing Rule 210(5)(d)(i) and (ii) of the SGX-ST Mainboard Rules and Listing Rule 406(3)(d)(i) and (ii) of the SGX-ST Catalist Rules.
- If the term of an ID who has been a director of a Listed Issuer for more than nine years (in aggregate) expires during the Transitional Period, he/she may be re-elected as an ID. The Two-Tier Vote mechanism which has been removed does not apply to his/her re-election during the Transitional Period.

On the Date of Listed Issuer's AGM for the FY Ending on or after 31 December 2023 – IDs Who Have Been Directors for More Than Nine Years Considered Not Independent

On the date of a Listed Issuer's AGM for the FY ending on or after 31 December 2023, a director (whether independent, executive or non-executive) who has served on the board of the Listed Issuer for an aggregate period of more than nine years (including if he/she had previously retired from the board) will no longer be eligible to be designated as an ID of the Listed Issuer. Such persons must be re-designated or re-elected as non-independent directors of the Listed Issuer (as the case may be), or resign as a director of the Listed Issuer.

Clarification on Determination of Directors' Tenure

SGX RegCo had clarified that a director's years served on the board of a Listed Issuer prior to listing or a reverse takeover must be considered in calculating his/her tenure length for the purposes of Listing Rule 210(5)(d)(iv) of the SGX-ST Mainboard Rules and Listing Rule 406(3)(d)(iv) of the SGX-ST Catalist Rules.

Mandatory Disclosure of Remuneration Details of Directors and CEO

Before 11 January 2023

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

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names, amounts and breakdown of remuneration of, among others, 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 the SGX-ST Catalist 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. A Listed Issuer is 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.

After 11 January 2023

On 11 January 2023, new Listing Rule 1207(10D) of the SGX-ST Mainboard Rules and Listing Rule 1204(10D) of the SGX-ST Catalist Rules were introduced to require:

- Companies listed on SGX-ST to disclose the exact amounts and breakdown of remuneration paid to each director and the CEO by the companies and their subsidiaries in their annual reports on a named basis; and
- Real estate investment trusts ("**REITs**") and business trusts ("**BTs**") listed on SGX-ST to disclose the exact amounts and breakdown of remuneration paid to each director and the CEO of the REIT Managers and BT trustee-managers in their annual reports on a named basis.

The breakdown of the remuneration of the directors and CEOs must include (in percentage terms) base or fixed salary, variable or performance-related income or bonuses, benefits in kind, stock options granted, share-based incentives and awards and other long-term incentives.

These new requirements on remuneration disclosures will apply to the Listed Issuers' annual reports for the **FYs ending on or after 31 December 2024**.

Provision 8.1 of the Code was revised on 11 January 2023 to reflect the new requirements on remuneration disclosures under the SGX-ST Mainboard Rules and the SGX-ST Catalist Rules.

REIT Managers

The MAS will also amend the Notice to All Holders of a Capital Markets Services Licence for Real Estate Investment Trust Management (MAS Notice SFA 04-N14) to provide that the remuneration disclosure requirements for directors and CEOs of REIT Managers (which are consistent with the SGX-ST Mainboard Rules) are mandatory instead of "comply or explain". The amendments will take effect on 1 January 2025, in line with the Transitional Period provided for Listed Issuers.

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Concluding Remarks

The above new requirements aim to bring the corporate governance practices relating to disclosure of remuneration details of directors and CEOs in line with global standards, 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.

Listed Issuers should be cognisant of the reasons prompting SGX RegCo to introduce these enhancements, and make the necessary changes to meet these requirements ahead of the deadlines prescribed in the SGX-ST Mainboard Rules and the SGX-ST Catalist Rules.

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

Please click on the links below for the materials relating to the above developments that are made available on the SGX website (www.sgx.com):

- SGX media release titled "[SGX RegCo caps independent directors' tenure, enhances remuneration disclosures](#)" issued on 11 January 2023.
- SGX [Responses to Comments on the Consultation Paper on "Board Renewal and Remuneration Disclosures"](#).
- MAS media release titled "[MAS revises the Code of Corporate Governance to reflect independent director tenure limit and mandatory remuneration disclosure for directors and CEOs](#)" issued on 11 January 2023.

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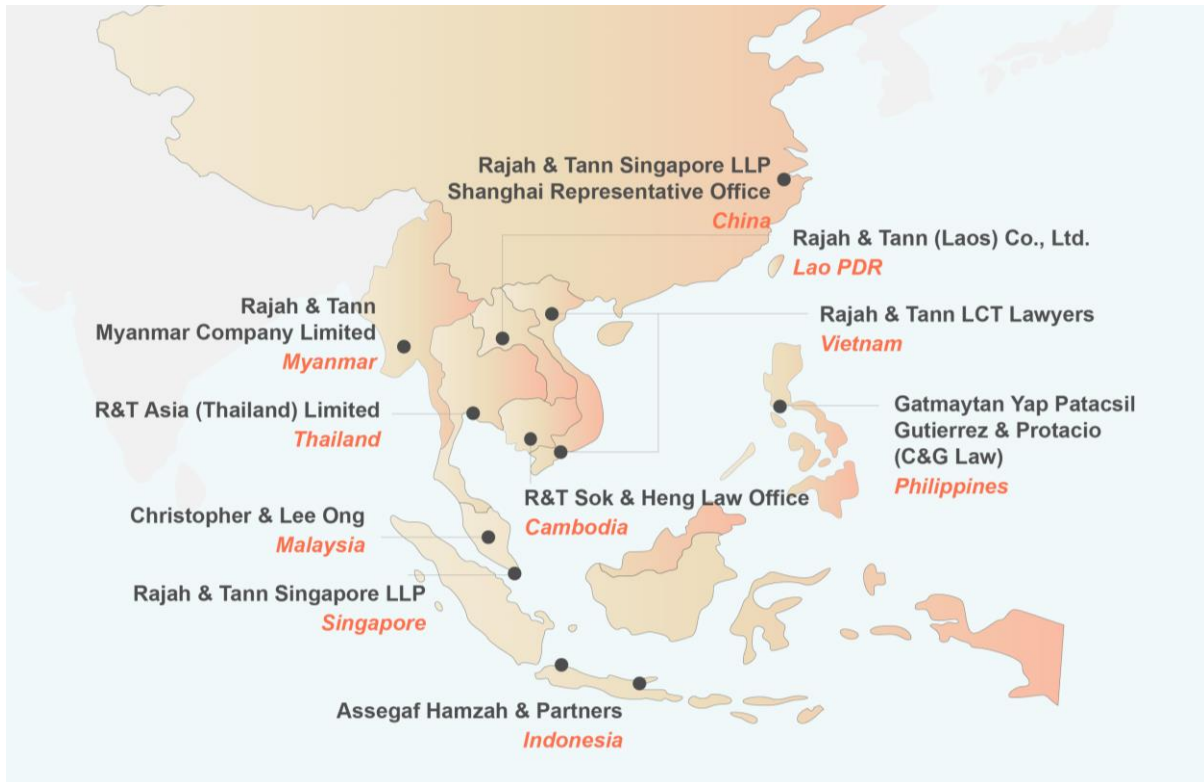
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