

Restructuring & Insolvency

Bankruptcy Regime Administered by Private Trustees in Bankruptcy in Effect from 1 November 2023

Introduction

From 1 November 2023, bankruptcy estates are required to be administered by Private Trustees in Bankruptcy ("**PTIBs**"), except for cases where the Official Assignee ("**OA**") considers there is public interest and consents to be appointed as the trustee in bankruptcy.

This marks a significant development for Singapore's personal bankruptcy regime, where the OA would previously act as the trustee administering the bankruptcy in most cases. The reform seeks to reduce the usage of public resources involved in private debt recovery while ensuring that bankruptcy cases continue to be managed in an orderly manner.

The new PTIB-administered bankruptcy regime applies to bankruptcy orders made by the Singapore High Court in bankruptcy applications filed on or after 1 November 2023. The amendments also introduce certain changes to protect persons dealing with bankrupts and provide continued support to the PTIB industry.

We have previously covered the introduction of these amendments in the Restructuring and Dissolution (Amendment) Act 2023. For more information on the details of the new regime, please see our earlier Legal Update [here](#).

In this Update, we highlight the key features of the amendments that have come into force from 1 November 2023.

Bankruptcy Regime in Singapore

While bankruptcy estates in Singapore were previously administered by the OA, in 2016 changes were implemented to require Institutional Creditors making bankruptcy applications to apply for PTIBs to be appointed as trustees administering the bankruptcy.

The Restructuring and Dissolution (Amendment) Act 2023 was passed in Parliament on 9 January 2023. This served to introduce the amendments necessary to implement a PTIB-administered bankruptcy regime, extending PTIB administration to cases where debtors and all types of creditors apply for bankruptcy orders.



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The amendments have since come into force on 1 November 2023.

PTIB Administration

PTIBs must now be appointed to act as trustees in all bankruptcy cases, unless the OA has consented to be the trustee. The OA will only consent to be the trustee in a bankruptcy where it considers there to be public interest in the bankruptcy administration.

The key features of the amended administration process are as follows:

- **Nomination of trustee** – When applying to the Court for a bankruptcy order, a licensed insolvency practitioner must be nominated to act as the trustee in bankruptcy.
- **Written consent** – Before applying to the Court, written consent from the licensed insolvency practitioner to administer the bankruptcy case must be obtained.
- **Prerequisite for bankruptcy order** – The Court will not make a bankruptcy order on the application if neither a licensed insolvency practitioner nor the OA has consented to act as the trustee in bankruptcy.

Other Amendments

Other amendments have also come into force to support the switch to a PTIB-administered bankruptcy regime:

Record of undischarged bankrupts – To provide enhanced protection for persons dealing with bankrupts in commercial transactions, undischarged bankrupts are required to submit information on their current employment status and employment history. A record of this information will be maintained by the OA, which will be publicly searchable upon the payment of a prescribed search fee of S\$6.

Remuneration of PTIBs by agreement – PTIBs now have an additional means of determining their remuneration, namely by agreement of all creditors. This is to account for challenges faced by PTIBs where there are unsuccessful attempts at convening creditors' meetings, or where there is a lack of response from creditors.

Previously, a trustee's remuneration had to be approved: (i) by agreement between the trustee and the creditors' committee; (ii) if there was no such agreement, by a special resolution of creditors; or (iii) where there was no determination under the previous two modes, by determination of the Court.

A trustee's remuneration may now be approved by agreement between the PTIB and all the creditors:

- The creditors will be deemed to have agreed to the trustee's remuneration if they have been duly notified of the remuneration sought by the trustee and have not objected within the prescribed time.

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- The creditors may object to the remuneration sought within the prescribed time. The trustee will then have to secure either a special resolution of creditors or approval by the Court.

Concluding Words

Parties applying to Court for bankruptcy orders should note the new requirements under the PTIB-administered bankruptcy regime. In particular, applicants should ensure that they have nominated a licensed insolvency practitioner to act as the trustee in bankruptcy, and that they have obtained the practitioner's written consent.

For further queries, please feel free to contact our team below.

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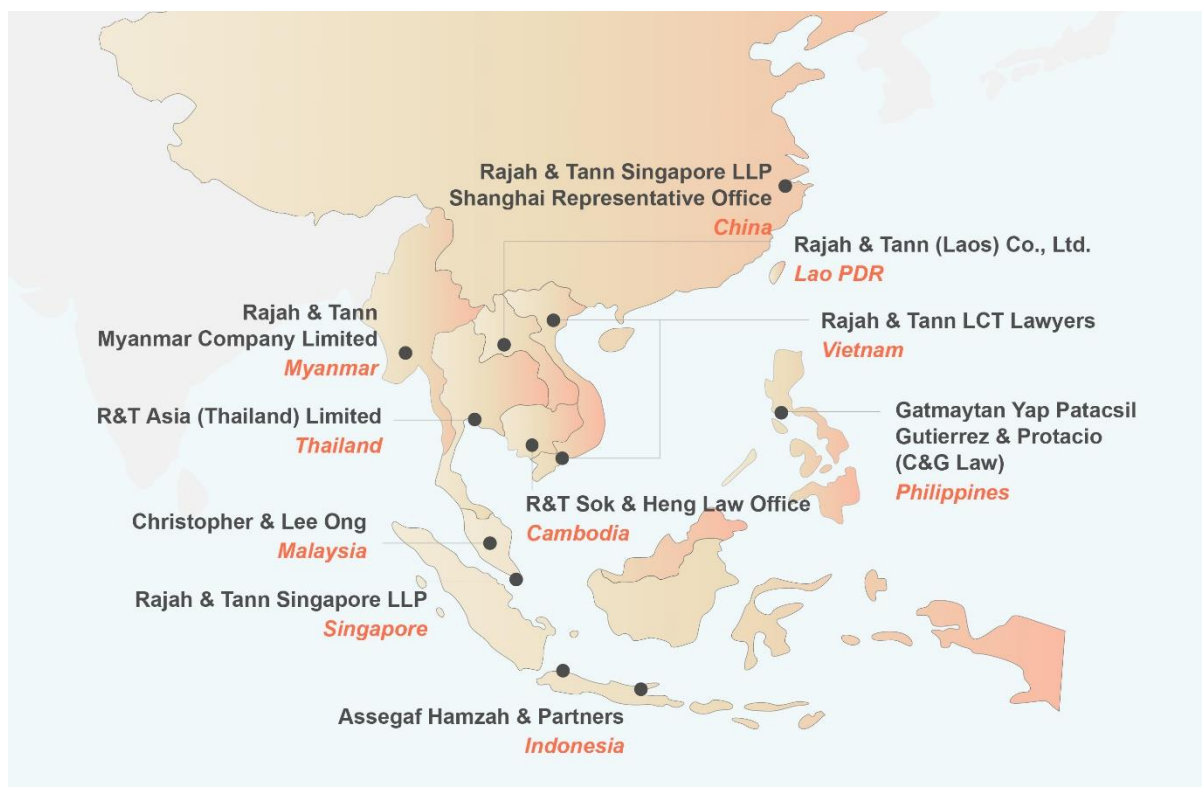
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2023 NOVEMBER

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