

Corporate Commercial

Amendments to Enhance Beneficial Ownership Transparency and the Regulatory Regime for Corporate Service Providers Introduced in Parliament

Introduction

On 7 May 2024, the Companies and Limited Liability Partnerships (Miscellaneous Amendments) Bill ("**CLLPMA Bill**") and the Corporate Service Providers Bill ("**CSP Bill**") (collectively, the "**Bills**") were introduced in Parliament for their first reading. The Bills serve the following purposes:

- The CLLPMA Bill seeks to enhance the transparency of beneficial ownership of companies and limited liability partnerships ("**LLPs**"); and
- The CSP Bill seeks to enhance the regulatory regime for the Corporate Service Providers ("**CSPs**") sector.

The Ministry of Finance ("**MOF**") and the Accounting and Corporate Regulatory Authority ("**ACRA**") conducted a public consultation ("**Consultation**") on the draft Bills from 12 March 2024 to 25 March 2024. For more information on the Consultation, please see our earlier Legal Update [here](#). MOF and ACRA have since responded to the feedback received in the Consultation ("**Consultation Response**"), indicating that the feedback received was generally supportive and that they would be proceeding with the proposals in the draft Bills. MOF and ACRA have also provided clarifications on some of the provisions in the Bills. The Consultation Response is available [here](#).

This Update highlights the key amendments introduced in the Bills and the clarifications provided in the Consultation Response.

Key Amendments in the CLLPMA Bill

(1) Change in the definition of "Nominee Shareholders"

The definition of "nominee shareholders" under the Companies Act will be amended to be a shareholder who fulfils **either or both** of the following criteria (rather than the current position, which requires fulfilling both criteria):

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- The shareholder is accustomed or under an obligation whether formal or informal to vote, in respect of shares in the company or foreign company of which the shareholder is the registered holder, in accordance with the directions, instructions or wishes of any other person;
- The shareholder receives dividends, in respect of shares in the company or foreign company of which the shareholder is the registered holder, on behalf of any other person.

MOF and ACRA have indicated in the Consultation Response that intermediate holding companies in a group structure may be nominee shareholders if they fall within the amended definition.

(2) **Nominee status of a nominee director/shareholder to be made publicly available**

Companies and foreign companies will be required to file all information kept in their register of nominee directors and register of nominee shareholders with ACRA, which will maintain such information in a central register. The nominee status of a nominee director/shareholder will be made publicly available, including adding the nominee status to business profiles purchased from ACRA. However, only public agencies may access the full information maintained by ACRA for the administration or enforcement of any written law.

Companies and foreign companies must lodge with the Registrar the prescribed information, including:

- All prescribed particulars contained in their register of nominee directors and register of nominee shareholders; and
- All updates to the registers that occur after the lodgement of those particulars.

Regarding the amount of time that would be provided to a company to file the required information, MOF and ACRA have indicated in the Consultation Response that ACRA will notify companies in advance on the timelines and process for such filing.

(3) **Increase in fines for breaches relating to company registers**

The amendments will introduce the following new obligations, which carry a fine of up to S\$25,000:

- A company or LLP must, at the prescribed frequency, check with every registrable controller in their register if there has been a change in their particulars or if their particulars are correct, by giving notice to every such controller. Failure to do so constitutes an offence.
- It is an offence for a person to fail to exercise due diligence, or to provide information that is false or misleading in a material particular, when responding to the Registrar or officers of ACRA in relation to the register of controllers, nominee directors or nominee shareholders (e.g. if the Registrar or officer exercises his power of enforcement to require the company/LLP to produce its register, or makes such inquiry as may be necessary to ascertain compliance with the relevant obligations).

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The maximum fine will also be raised from S\$5,000 to S\$25,000 for offences pertaining to (i) the register of controllers, nominee directors, and nominee shareholders for companies; and (ii) the register of controllers for LLPs.

(4) Foreign companies to maintain register of nominee directors

Under the CLLPMA Bill, foreign companies will also be subject to the requirement to maintain a register of nominee directors, thus aligning the treatment between local and foreign companies.

Further, MOF and ACRA have indicated in the Consultation that if a foreign company is exempt from maintaining a register of controllers, nominee directors, and nominee shareholders, they must declare the following to the Registrar as part of their annual filing:

- Whether they are exempted from maintaining the registers;
- If they are exempted, the category of exemption they fall under; and
- If they are not exempted, the location where their registers are maintained.

(5) Change in timeline for register of registrable controllers

Companies and LLPs will be required to keep a register of registrable controllers starting on the date of incorporation or registration. Currently, this is only required within 30 days of incorporation or registration.

Key Amendments in the CSP Bill

(1) Registration of CSPs

All business entities that carry on a business in Singapore of providing any corporate service must be registered with ACRA as a registered CSP even if they do not file transactions on behalf of their customers with ACRA.

MOF and ACRA have indicated in the Consultation Response that ACRA will publish guidance on the types of business entities that have to be registered as CSPs.

(2) Extension of risk obligations

All registered CSPs will be required to carry out customer due diligence measures that will be prescribed by regulations. These measures relate to detecting and preventing the financing of proliferation of weapons of mass destruction, in addition to existing requirements for detecting and preventing money laundering and terrorism financing (collectively, "**AML/CFT/PF requirements**").

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Currently, only Registered Filing Agents ("**RFAs**") are required to comply with requirements for detecting and preventing money laundering and terrorism financing. Further, RFAs are currently not required to comply with requirements for detecting and preventing the financing of proliferation of weapons of mass destruction.

(3) Criminal liability for CSPs and senior management for breach of AML/CFT/PF requirements

Registered CSPs will be subject to criminal liability for breaches of their AML/CFT/PF requirements, as will their senior management for failure to ensure that the registered CSP complies with its AML/CFT/PF requirements. Currently, the senior management of RFAs are not subject to regulatory sanctions for breaches committed by their RFA.

The senior management referred to above are specified in the CSP Bill to be officers of the CSP or individuals involved in the management of the CSP and in a position to influence the conduct of the CSP in relation to the commission of the relevant offence.

(4) Requirements for nominee directors

A person will only be able to act as a nominee director of a company if the appointment is arranged by a registered CSP. A person who breaches this requirement shall be liable to a fine not exceeding S\$10,000 and, in the case of a continuing offence, to a further fine not exceeding S\$1,000 for every day during which the offence continues.

Further, a registered CSP must not arrange for a person to act as a nominee director of a company unless he is satisfied that the person is fit and proper. In determining whether such person is fit and proper, the registered CSP must take reasonable steps to satisfy himself that the person is not disqualified from acting as a director of a company under any written law and must consider such other factors as may be prescribed in subsidiary legislation.

MOF and ACRA have indicated in the Consultation Response that:

- The amendments do not apply retrospectively to existing nominee director appointments made before the CSP Bill comes into force.
- The requirement for a registered CSP to be satisfied that the person whom it arranges to act as a nominee director is fit and proper has to be complied with *at the time of arrangement* for each company.

The full CLLPMA Bill is available [here](#), and the full CSP Bill is available [here](#).

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

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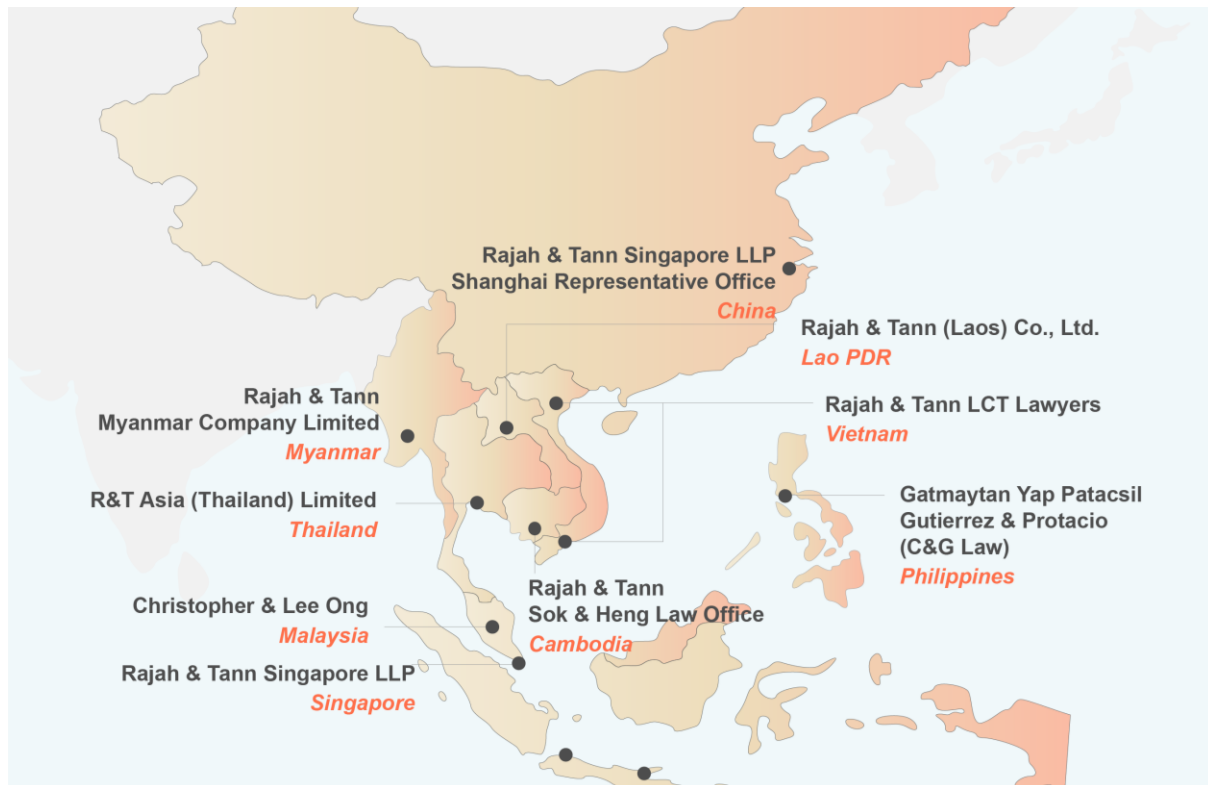
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