

Client Update: Singapore

2024 JUNE

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The Significant Investments Review Act – Balancing National Security and Investment Opportunities

Introduction

The [Significant Investments Review Act 2024](#) ("**Act**"), which came into force on 28 March 2024, sets out a new investment management regime that applies to both local and foreign investors for entities that are critical to Singapore's national security interests. The Act reflects Singapore's proactive and adaptive approach to economic and security challenges, positioning the nation as a global leader in responsible and secure investment practices. It also follows the growing trend worldwide for governments to carefully screen foreign investments in sensitive sectors.

On 31 May 2024, the list of the first entities to be designated under the Act was published in the Government Gazette and on the [Office of Significant Investments Review \("OSIR"\) website](#). The nine entities are ST Logistics Pte. Ltd, Sembcorp Specialised Construction Pte. Ltd, ST Engineering Marine Ltd, ST Engineering Land Systems Ltd, ST Engineering Defence Aviation Services Pte. Ltd, ST Engineering Digital Systems Pte. Ltd., ExxonMobil Asia Pacific Pte. Ltd, Shell Singapore Pte, Ltd and Singapore Refining Company Private Limited.

In this Update, we first consider key requirements of the Act and then consider the current list of entities designated under the Act.

Key Requirements of the Act

The Act is administered by the OSIR, situated within the Ministry of Trade and Industry ("**MTI**"). The Act complements existing and recently passed sectorial legislation, such as the Transport Sector (Critical Firms) Bill 2024 ("**Transport Bill**"), passed in Parliament on 8 May 2024. Once in force, the Transport Bill will introduce a designated entities regime for key firms in the air, land and sea transport sectors in Singapore.

Key requirements of the Act are summarised below.¹

¹ Please click [here](#) to read our Legal Update on the introduction of the Significant Investments Review Bill ("**Bill**") in Parliament, [here](#) to read our coverage of the second reading of the Bill on page 14 of NewsBytes (December 2023 – January 2024) and [here](#) to read our coverage of the passing of the Act on page 11 of NewsBytes (March 2024).



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(a) Requirements that Apply to Designated Entities

Entities that are critical to the national security interests of Singapore, but are not caught by the existing sectoral legislation, may be designated under the Act ("**Designated Entities**"). The entities must either be incorporated, formed or established in Singapore; carry out activities in Singapore; or provide goods and services to persons in Singapore.

The below default² requirements, among others, apply to Designated Entities:

- **Ownership and control requirements:** Buyers, sellers and Designated Entities are responsible for notifying or seeking approval for specified changes in the ownership and control, by equity amount or voting power, of Designated Entities:
 - Buyers who becomes a 5% controller of the Designated Entity must notify the Minister for Trade and Industry ("**Minister**") within seven calendar days after becoming a 5% controller.
 - Buyers must seek the Minister's approval before becoming a 12%, 25%, or 50% controller, an indirect controller, or acquiring as a going concern (parts of) the business or undertaking of the Designated Entity.
 - Sellers who intend to sell his/her stakes in the Designated Entity which would result in him/her ceasing to be a 50% or 75% controller must seek the Minister's approval before doing so.
 - Designated Entities need to notify the Minister of the above-mentioned changes in ownership and control within seven calendar days of becoming aware of the changes.
 - Ownership or control transaction that occur without the necessary approvals will be void. Materially affected parties may apply to the Minister to validate the transaction, which the Minister may do so by issuing a validation notice.
- **Appointment of new key personnel:** Designated Entities must seek approval for the appointment of key officers such as the chief executive officer, directors, and the chairperson of the Board of the Directors. The Minister may consider:
 - an assessment of the key personnel on criteria relating, but not limited, to honesty, integrity, reputation and financial soundness; and
 - potential impact on national security interests.

Please refer to the [Guidelines on Criteria for Key Personnel](#) for further information. Key personnel of a designated entity that are appointed without the necessary approval can be removed.

² The Act sets out the default thresholds; however the Minister can vary such thresholds for specific entities as the situation warrants. Such instances will be prescribed in subsidiary legislation.

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- **Restrictions on voluntarily winding up, dissolution or termination:** Designated Entities must:
 - Seek the Minister's consent prior to (i) voluntarily winding up, dissolving or terminating the Designated Entity; (ii) the making of any judicial management order; or (iii) the appointment of any (interim) judicial manager.
 - Notify the Minister 14 calendar days in advance if steps are taken to enforce any security over the Designated Entities' property or if steps are taken to execute or enforce any judgment or court order obtained against Designated Entities.
 - Under specified circumstances, the Minister must be a party to proceedings e.g. relating to the making of a judicial management order.

(b) "Call-in" Powers - Entities that Act Against National Security Interests

Whilst the list of Designated Entities currently stands at only nine, it must be remembered that the Minister can review ownership or control transactions involving an entity that has acted against Singapore's national security interests, even if the entity has not been designated. The ownership or control transaction must have occurred within the two-year period prior to the act against national security. Targeted actions, such as directing the transacting party to dispose of his equity interest in the entity, can be taken.

(c) Reconsideration Requests and Appeals

There are clear processes for parties seeking reconsideration of decisions by the Minister, and for further appeals to an independent Reviewing Tribunal. The reconsideration application must be submitted within 14 calendar days of the decision. If parties wish to appeal against the Minister's reconsideration decision they may submit an appeal, within 30 calendar days of the reconsideration decision, to an independent Reviewing Tribunal.

Current Nine Designated Entities

The inaugural list of Designated Entities provides insights as to the functions that are deemed critical to Singapore's national security interests and the approach taken to designation of subsidiaries of multinationals.

National Security

The nine Designated Entities are key providers involved in the petrochemical industry; manufacturing of defence equipment and security solutions; marine and shipbuilding services; and digital services.

Whilst the term national security is not defined within the Act, the designations provide insight as to the types of functions that are deemed critical to national security. The designations resonate with Minister Gan Kim Yong's [second reading speech](#) where he stated that in deciding which entities should be

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considered for designation various factors will be considered, which include whether the entity provides a critical function in relation to Singapore's national security interests, such as a key provider of security-related functions, especially where there are few or no alternatives; and whether it is adequately covered by existing sectoral legislation.

Subsidiaries of Multinationals

Two of the nine entities currently designated under the Act, ExxonMobil Asia Pacific Pte. Ltd. and Shell Singapore Pte. Ltd., are units of multinationals while the other seven have Singapore-based parent companies. Notably, the Minister may exempt any person or class of persons from all or any of the provisions of the Act, and subject to such conditions as the Minister may impose. The two Designated Entities that are units of multinationals are respectively subject to the [Significant Investments Review \(Exemption — ExxonMobil Asia Pacific Pte. Ltd.\) Order 2024](#) and the [Significant Investments Review \(Exemption — Shell Singapore Pte. Ltd.\) Order 2024](#). The conditions and exemptions that respectively apply to each multinational unit balance the reasonable business requirements of the foreign incorporated parent company whilst protecting Singapore's national interests. Here, the national security interest being protected relates to the manufacture or production in Singapore of any heating fuel or transportation fuel.

The seven Designated Entities that have Singapore-based parent firms are currently not exempted from any of the Act's requirements.

Concluding Words

The Act strives to maintain an equilibrium between ensuring Singapore remains a vibrant business hub that is an attractive investment destination whilst ensuring that in an increasingly complex world, with new risks and vulnerabilities, adequate regulatory protection is in place to ensure the resilience of Singapore's economy. The calibrated selection of the first nine Designated Entities, and the use of tailored Exemption Orders in respect of the two units of the designated multinationals, is evidence of this balanced approach and provides guidance as to how the Act is likely to be implemented against Designated Entities that are subsidiaries of multinationals.

Nevertheless, the Act introduces new layers of regulatory oversight that must be factored into relevant transaction planning and execution. Where applicable, businesses and investors must conduct thorough due diligence and adopt appropriate deal protections to ensure compliance with the Act.

Please feel free to contact our Partners below if you wish to discuss this development further.

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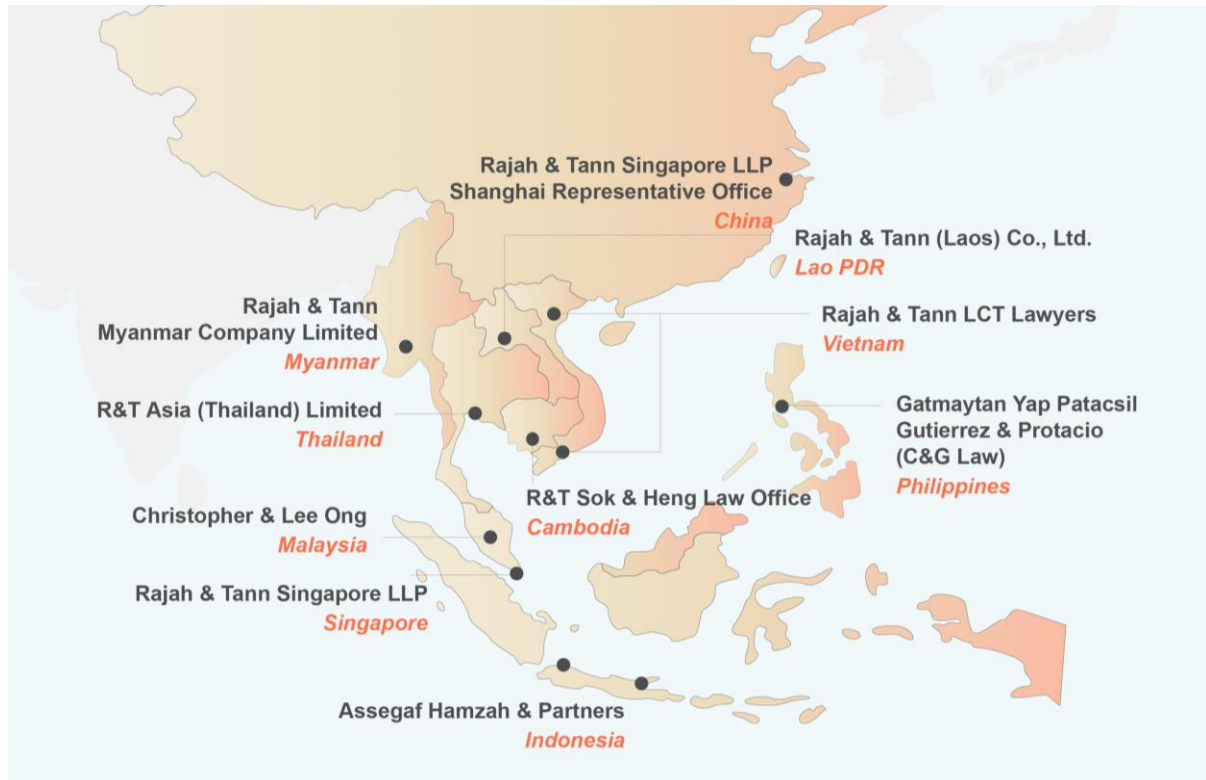
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