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SGX RegCo Seeks Feedback on Enhancing Listing Rules on Restructuring and Trading Resumption Processes for SGX ListCos

Introduction

The Singapore Exchange Regulation ("**SGX RegCo**") is seeking comments on its proposed changes to the SGX-ST Listing Rules (Mainboard) ("**Mainboard Rules**") and SGX-ST Listing Rules (Catalist) ("**Catalist Rules**") (collectively, the "**Listing Rules**") to clarify the obligations of issuers listed on SGX-ST ("**issuers**") undergoing the corporate restructuring process under Insolvency, Restructuring and Dissolution Act 2018 of Singapore ("**IRDA**"), and to streamline the application process for trading resumption by suspended issuers. If implemented, the changes will enable issuers to conduct restructuring more efficiently, while reducing the regulatory burden in the restructuring process. The Consultation Paper titled "Proposed Enhancements to Corporate Restructuring Framework and Trading Resumption Framework" is available [here](#), and the public consultation closes on **22 March 2024**.

This Update provides a brief summary of SGX RegCo's key proposals to improve the restructuring and trading resumption frameworks.

Clarifying Disclosure Obligations of Financially Distressed Issuers

An issuer facing financial pressures (for example, where it foresees itself being unable to pay its debts as it becomes due) ("**Financially Distressed Issuer**") may undertake two primary restructuring procedures in Singapore: (i) judicial management (pursuant to the IRDA) and (ii) scheme of arrangement (pursuant to the Companies Act 1967 of Singapore ("**CA**")).

The proposed changes relate primarily to situations where an application has been filed with the court for the issuer to be under a court-supervised moratorium proceeding involving a compromise or arrangement between the issuer (or any of its subsidiaries) and its creditors ("**Moratorium**").

Key proposed changes include:

Current Requirements	Proposed Changes
Immediate announcements	

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Current Requirements	Proposed Changes
<p>An issuer must make an immediate announcement where it is undergoing a winding up process or judicial management.</p>	<p>SGX RegCo proposed to additionally provide that an issuer is required to make an immediate announcement if it (or any of its subsidiaries) is undergoing Moratorium, taking into consideration that a Financially Distressed Issuer is most likely unable to continue as a going concern where an application has been filed with the court for the issuer to be under a Moratorium.</p>
<p>Routine reporting</p>	
<p>An issuer must provide a monthly update on the issuer's financial situation in certain instances. These instances include where:</p> <p>(a) an application has been filed with a court to wind up the issuer (or any of its subsidiaries), or to place any of them under judicial management;</p> <p>(b) a receiver, judicial manager or liquidator has been appointed in respect of the issuer (or any of its subsidiaries); and</p> <p>(c) there is a breach of or occurrence of any event under any loan agreement or debt securities of the issuer or any of its subsidiaries, which may have a significant impact on the operations of the issuer or result in the issuer facing a cash flow problem</p> <p>(collectively, "Specified Instances").</p>	<p>SGX RegCo recognised in the Specified Instances that there is unlikely to be reportable developments on a monthly basis and proposed to require quarterly updates instead.</p> <p>This remains subject to the overriding obligation of the Financially Distressed Issuer to disclose material updates pursuant to Rule 703 of the Listing Rules.</p>
<p>Quarterly financial statements</p>	
<p>An issuer is required to announce its quarterly financial statements if its auditors have issued a qualified opinion, disclaimer of opinion or adverse opinion, or its auditors have stated that a material uncertainty relating to going concern exists in the issuer's latest financial statements. This requirement to announce quarterly financial statements does not apply to an issuer that is, among others, undergoing judicial management.</p>	<p>SGX RegCo proposed not requiring a Financially Distressed Issuer under Moratorium pursuant to the IRDA or CA to announce its quarterly financial statements, and instead only announce its first half financial statements.</p> <p>Reason being, similar to an issuer under judicial management (including interim judicial management), the Financially Distressed Issuer would most likely be unable to prioritise resources towards the preparation of quarterly financial</p>

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	statements where a Financially Distressed Issuer is under Moratorium.
Disposal of assets	
<p>Chapter 10 of the Listing Rules sets out the requirements for significant transactions (including realisation of assets) undertaken by issuers or a subsidiary that is not listed on the SGX-ST or an approved exchange, and prescribes materiality thresholds, wherein, among others, disclosure and shareholders' approval are required.</p>	<p>SGX RegCo proposed that the requirement under Chapter 10 to seek shareholders' approval for a disposal of assets by the issuer or its significant subsidiary will not apply, where it is undertaken as part of judicial management or liquidation of the issuer (or its significant subsidiary) under the IRDA, having noted the following:</p> <ul style="list-style-type: none"> • Where a judicial manager is seeking to dispose of an issuer's assets to achieve the statutory purposes, and where such disposal is classified as a major transaction, it may not be practicable for the judicial manager to seek shareholders' approval pursuant to Chapter 10. This is because lead time is needed to obtain approval, and potential buyers may be deterred by such timelines and lack of certainty in obtaining shareholders' approval. • Judicial managers are subject to statutory and common law duties, and relief is available under the IRDA for shareholders if judicial managers managed a company's affairs, business and property in a manner that was unfairly prejudicial to the interests of the shareholders. • With regard to the disposal of assets by liquidators appointed under IRDA, the powers, duties and functions of liquidators, including the disposal of assets, are regulated by the IRDA.
Trading suspension	
<p>Trading of the issuer's listed securities will be suspended when an issuer is placed under judicial management, to avoid a situation where trading in such shares may occur without complete information during the ongoing restructuring process.</p> <p>The Listing Rules provide for a non-exhaustive list of other circumstances for which SGX RegCo may</p>	<p><u>Expansion of grounds for trading suspension</u></p> <p>SGX RegCo proposed that the trading of the listed securities of an issuer may be suspended if (a) the issuer or its significant subsidiary is seeking judicial management by way of a creditors' resolution under IRDA, or (b) the issuer is a Financially Distressed Issuer under Moratorium.</p>

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<p>suspend the trading of the listed securities of an issuer, including where the issuer is unable to continue as a going concern (e.g. where an application is filed with a court to place the issuer (or its significant subsidiary) under judicial management).</p> <p>A company may be placed under judicial management by resolution of creditors, through an "out-of-court" process under Section 94 of the IRDA. The process involves the company appointing an interim judicial manager and convening a creditors' meeting to pass a resolution for the company to be placed under judicial management.</p>	<p>Reasons being, a Financially Distressed Issuer is unlikely to meet the requirement as a going concern and the uncertainty in the affairs of the Financially Distressed Issuer amid ongoing negotiations with its creditors.</p> <p><u>Waiver of trading suspension</u></p> <p>There may be exceptional circumstances where a Financially Distressed Issuer is of the view that the trading suspension is not required. It is proposed that the Financially Distressed Issuer may, ahead of filing its application with the court, write in to SGX RegCo to seek such exemption where:</p> <ul style="list-style-type: none"> (a) The issuer has worked out a compromise or an arrangement with its creditors or any class of those creditors in a short span of time (or "pre-packs"). Under section 71 of the IRDA, the court may approve such "pre-pack" schemes without any creditor meetings being held; and (b) The issuer has complied with all statutory requirements under section 71 of the IRDA or where the statutory majority has been obtained based on the supporting affidavit filed by the issuer, the supporting affidavit does not disclose any objection or potential objection from the issuer's creditors or any stakeholder and the issuer explains why a waiver of suspension is critical to a successful debt restructuring.
Trading Resumption	
<p>An issuer under trading suspension is required to submit resumption proposals to SGX RegCo.</p> <p>SGX RegCo has discretion to delist the issuer if no satisfactory trading resumption proposal has been received within 12 months from the date of suspension. The issuer must implement the</p>	<p>SGX RegCo proposed to apply the trading resumption process under Rule 1304 of the Listing Rules to suspensions for all reasons (other than insufficient public float or lack of a continuing sponsor).¹ This helps promote a consistent approach in the trading resumption process. SGX RegCo also intends to provide guidance to issuers (by way of a</p>

¹ The timeline to restore public float of at least 10% or finding a continuing sponsor will remain at three months due to the urgency of restoring public float and finding a sponsor for a Catalyst issuer.

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Current Requirements	Proposed Changes
<p>resumption proposals within six months from SGX RegCo's no-objection. The current process set out in Rule 1304 of the Listing Rules only applies to suspensions due to the Specified Instances.</p> <p>Further, the issuer is required to provide a monthly valuation of its assets and utilisation of cash and updates of milestones in completing the relevant transactions via SGXNET.</p>	<p>Practice Note) on the application process for a trading resumption and its expectations.</p> <p>SGX RegCo proposed to reduce the frequency of periodic updates, such that issuers can provide quarterly updates, instead of monthly, to give issuer breathing space from technical compliance requirements and ease administrative burden on issuers with limited resources.</p>

Further Information

For details of these proposed changes, please refer to the Consultation Paper. The proposed amendments to the Mainboard Rules and the Catalist Rules may be found at Appendix 1 and Appendix 2 to the Consultation Paper, respectively.

If you wish to submit feedback on the Consultation Paper or have any queries on the above development, please feel free to contact our team members below who will be happy to assist.

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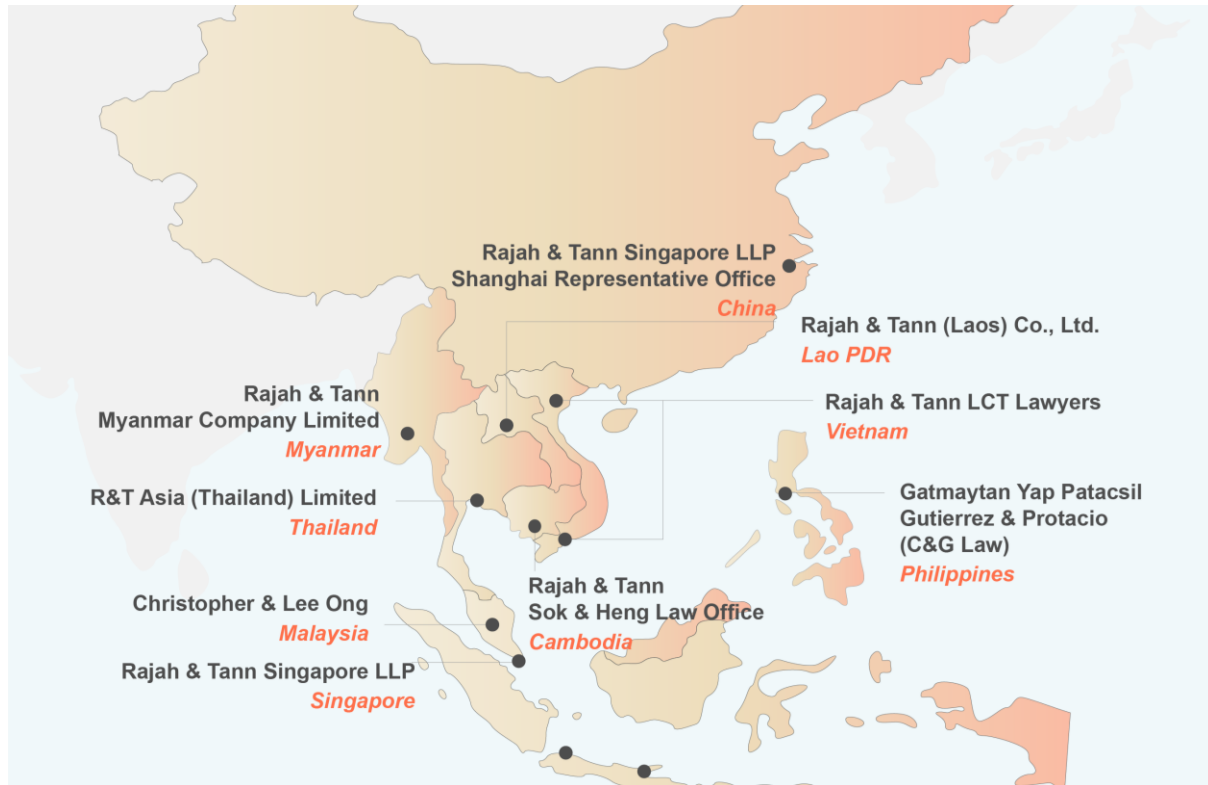
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