

Corporate Commercial

Consultation on Amendments to Enhance Beneficial Ownership Transparency and the Regulatory Regime for Corporate Service Providers

Introduction

On 12 March 2024, the Ministry of Finance ("**MOF**") and the Accounting and Corporate Regulatory Authority ("**ACRA**") jointly issued a consultation on the following draft bills (collectively, the "**Draft Bills**"):

- The draft Companies and Limited Liability Partnerships (Miscellaneous Amendments) Bill ("**Draft CLLPMA Bill**"), which seeks to enhance the transparency of beneficial ownership of companies and limited liability partnerships ("**LLPs**"); and
- The new draft Corporate Service Providers Bill ("**Draft CSP Bill**"), which seeks to enhance the regulatory regime for the Corporate Service Providers ("**CSPs**") sector.

The consultation ends on **25 March 2024**.

By way of background, ACRA has previously sought comments on amendments to Singapore's regulatory regime for CSPs and to enhance beneficial ownership transparency in 2021/2022 via the following consultations, for which the responses to key feedback received (available [here](#)) was published on 11 March 2024:

- Proposed Legislative Amendments Relating to Data, Digitalisation and Corporate Transparency for a Trusted and Vibrant Business Environment in Singapore (consultation from 17 December 2021 to 28 January 2022); and
- Proposed Legislative Amendments Relating to Singapore's Regulatory Regime for Corporate Service Providers (consultation from 31 May 2022 to 19 July 2022).

The Draft Bills mark the next step in the enactment of the amendments proposed in these earlier consultations. This Update provides a summary of the key amendments introduced by the Draft Bills.



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Key Proposed Changes in Draft CLLPMA Bill

(1) Change in definition of "Nominee Shareholders"

The definition of "nominee shareholders" under the Companies Act will be broadened to align with FATF's updated definition of "nominee shareholders", so as to prevent the relevant individuals from being inadvertently excluded from the register of nominee shareholders requirements. Under the new definition, a nominee shareholder is one that fulfills **either or both** of the following criteria (rather than the current position, which requires fulfilling both criteria):

- 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; and
- 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.

(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.

While companies are currently required to maintain a register of nominee directors and a register of nominee shareholders, the information is not submitted to ACRA or made publicly available. The proposed amendment aims to mitigate money-laundering risks by enhancing the transparency of nominee arrangements, and to comply with the Financial Action Task Force ("**FATF**") standards on beneficial ownership.

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

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

- A company or LLP must check annually 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.
- 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

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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).

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.

The proposed amendments aim to ensure the accuracy of the information maintained in the register of controllers, nominee directors, and nominee shareholders, and that the relevant fines are dissuasive and in line with FATF standards.

(4) Foreign companies to maintain register of nominee directors

Under the proposed amendments, foreign companies will also be subject to the requirement to maintain a register of nominee directors.

Further, 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.

Currently, unlike local companies, foreign companies are not required to maintain a register of nominee directors or to declare the above particulars on exemption. The proposed amendment aims to align the treatment of local and foreign companies, and to facilitate ACRA's monitoring of foreign companies' compliance with requirements relating to the registers.

(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.

The proposed amendment aims to enhance corporate transparency and allow prompt access to beneficial owner information of all companies and LLPs upon their incorporation/registration.

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Key Proposed Changes in Draft CSP Bill

The Draft CSP Bill will introduce the following key changes.

(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.

"Corporate service" includes forming corporations (or other legal entities) on behalf of other persons; acting or arranging for other persons to act as a director, secretary or partner; providing registered office or business addresses; acting or arranging for other persons to act as a nominee shareholder; carrying out designated activities in relation to the provision of accounting services; and carrying out transactions with ACRA on behalf of other persons or as secretaries of a company by way of business.

Currently, entities are only required to register as registered filing agents ("**RFAs**") if they wish to file transactions with ACRA on behalf of their customers. The proposed amendment aims to address this regulatory gap as customers may engage CSPs that are not RFAs to facilitate illicit activities.

(2) Extension of risk obligations

All registered CSPs will be required to comply with requirements for detecting and preventing the financing of proliferation of weapons of mass destruction, in addition to requirements for detecting and preventing money laundering and terrorism financing (collectively, "**AML / CFT / PF requirements**").

Currently, only registered 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.

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(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. RFAs are currently not subject to this requirement.

The proposed amendments aim to prevent the misuse of nominee directorship arrangements, in which CSPs arrange for unqualified individuals to act as nominee directors, facilitating the creation of shell companies to facilitate money laundering.

For more information, click on the links below (available on the ACRA website at www.acra.gov.sg):

- [Public Consultation on Corporate Service Providers Bill and Proposed Amendments to Companies Act and Limited Liability Partnership Act](#)
- [Draft Corporate Service Providers Bill](#)
- [Key Clauses in the Draft Corporate Service Providers Bill](#)
- [Draft Companies and Limited Liability Partnerships \(Miscellaneous Amendments\) Bill](#)
- [Key Clauses in the Draft Companies and Limited Liability Partnerships \(Miscellaneous Amendments\) Bill](#)

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

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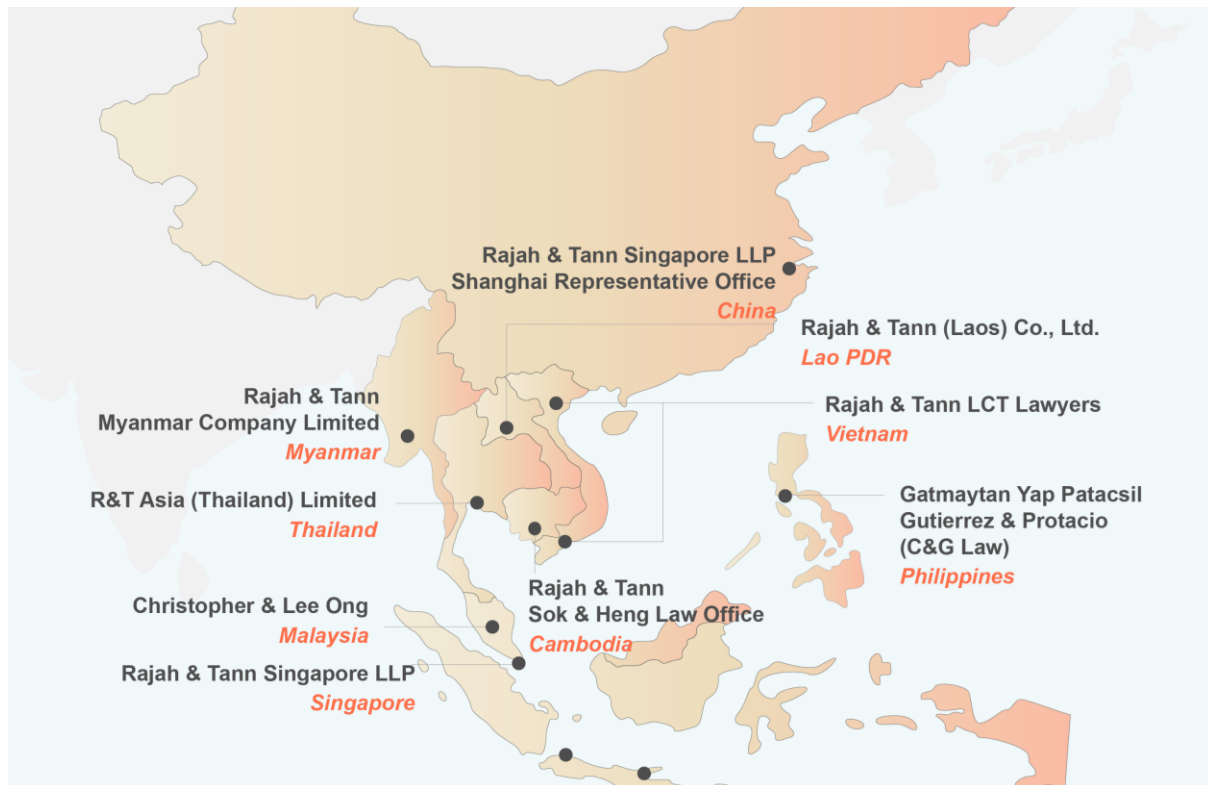
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