



Dear Readers,

This E-Bulletin provides an overview of important legal developments in Singapore and Thailand as follows:

- SGP: New MOG between China and Singapore regarding enforcement/recognition of certain judgments
- SGP: New advisory guidelines on NRIC
- SGP: New Code of Corporate governance
- TH: Special Development Zone Act
- TH: Draft Revenue Code Amendments
- TH: Proposed Amendment to Foreign Business Act

We appreciate your feedback and look forward to hearing from you.

Best regards,
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SINGAPORE

New Memorandum of Guidance (MOG) between the Chinese Supreme People's Court and the Supreme Court of Singapore on Recognition and enforcement of money judgments in commercial cases

On 31. August 2018 the MOG was signed between the Chief Justices of China and Singapore. Under the MOU (<https://www.chinajusticeobserver.com/memorandum-of-guidance-between-china-supremecourt-and-singapore-supremecourt-on-recognition-and-enforcement-of-money-judgments>) money judgments obtained in Singapore could be brought before Chinese courts to be recognized and enforced, and vice versa. Prior to the MOG no such enforcement possibilities existed between the two countries.

Updated New Advisory Guidelines on National Registration Identification Cards (NRIC) and Other National

Identification numbers

Taking into account that information regarding NRIC is permanent and provides irreplaceable identifiers which can potentially be used to unlock large amounts of information relating to individuals, the Personal Data Protection Commission of Singapore ("PDPC") issued new advisory guidelines (<https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Advisory-Guidelines/Advisory-Guidelines-for-NRIC-Numbers---310818.pdf>) pertaining to Singapore's NRIC's, including other national identification numbers and documents ("the Guidelines") on 31 August 2018 in order to have a better security system to prevent the unauthorised access of personal information.

The new Guidelines will particularly affect any organisation that uses national identification numbers such as the NRIC as the unique identifier for any purpose including registration, loyalty and rewards programs and surveys, as well as organisations that retain physical IDs for building security or collateral. Compliance with the obligations under the Guidelines



started on 1 September 2019.

The Guidelines provide that organisations are generally not allowed to collect, use or disclose National ID numbers. Unless required by law or an exception applies, an organisation may only collect, use and disclose National IDs in case:

- An organisation is a public agency (such as a Government Ministry or a statutory board) or is acting on behalf of a public agency;
- An NRIC number (or a copy of an NRIC) is required under the law or an exception to the PDPA applies;
- An NRIC number (or a copy of an NRIC) is necessary to accurately establish or verify the identities of the individuals to a high degree of fidelity. The Guidelines recognise that a high degree of fidelity is required where i) failure to accurately identify an individual poses a significant safety or security risk or ii) the inability to accurately identify an individual poses significant impact or harm to the individual or the organisation.

Also, national IDs may be used for some transactions involving healthcare, financial or real estate matters if there is a risk of significant impact or harm if an individual is improperly identified. In this regard, organisations are required to provide a greater level of security to protect National ID numbers in their possession or control.

Under the Guidelines, organisations that have collected NRIC numbers are encouraged to assess if they need to retain these numbers, and if not, are suggested to dispose of them responsibly and in compliance with the Personal Data Protection Act

(“PDPA”) disposal methods by next year.

New Code of Corporate Governance to apply from 1 January 2019

On 6th August, the Monetary Authority of Singapore (MAS) has issued a revised Code of Corporate Governance (“Revised Code”) (<http://www.mas.gov.sg/~media/MAS/Regulations%20and%20Financial%20Stability/Regulatory%20and%20Supervisory%20Framework/Corporate%20Governance%20of%20Listed%20Companies/Code%20of%20Corporate%20Governance%206%20Aug%202018.pdf>). The Revised Code will replace the current Code of Corporate Governance 2012 and is expected to take effect for annual reports covering financial years commencing from 1 January 2019. Key changes to the Code are encouraging board renewal, strengthening director independence and enhancing board diversity. This is to ensure that companies provide meaningful disclosures to their stakeholders.

Major changes under the new Code including the following matters:

Director Independence and Director Nomination Processes

- From 1 January 2022, an independent director who has served on a company’s board for more than nine years will no longer be considered to be independent (i.e., there will be a hard limit of nine years) unless his appointment as an independent director is approved in separate resolution.



- From 1 January 2022, the threshold to qualify as a “substantial shareholder” will now be 5% of issued share capital while previously it was 10%.

Remuneration

- Companies must disclose how the board and key management personnel’s remuneration are appropriate and proportionate to a company’s sustained performance and value creation, as based on a company’s strategic objectives.
- Annual reports will include the disclosure of remuneration for each director and CEO, aligned with the top five key management personnel in bands no wider than SGD250,000
- Companies will also need to disclose the names and remuneration of substantial shareholders, or immediate family members if their remuneration exceeds SGD100,000 per year, along with the familial relationship to a director and/or CEO.

Shareholder Rights and Engagement

- Companies should present proposals at general meetings that are not “bundled”; if any proposals are linked or interdependent, the company should disclose an explanation, including material implications, in the notice of meeting.
- Shareholders would gain the ability to abstain from voting, provided a company’s Constitution or other documents allow for such a voting option.

In line with the Council’s recommendation, MAS will establish an independent Corporate Governance Advisory Committee (“CGAC”) to advocate good corporate governance practices. The CGAC will monitor companies’ implementation of the Revised Code, and provide support to companies by promulgating good practices and areas for improvement. It will also advise regulators on corporate governance issues. MAS expects to establish the CGAC by the end of 2018 and will announce further details in due course.

Singapore Exchange Outlines Rules for Listing of Dual-Class Shares

The Singapore Exchange (“SGX”) launched new rules of the Listing Manual on 26th June 2018 to allow firms to list with dual-class shares allowing those companies to be listed on the Main Board of the Singapore Exchange (http://infopub.sgx.com/FileOpen/20160620_SGX_launches_Sustainability_Reporting_Guide_and_rule_will_provide_training_and_tools_to_companies.ashx?App=Announcement&FileID=409478)

Dual-class shares offer extra voting power to top executives seen as protection against pressure for short-term returns, but have faced criticism by corporate governance activists who have warned the structure could be abused by company insiders. The various rules for dual listings designed to safeguard investors. They include an equal voting process on issues such as removing directors, variation of shareholder rights and takeovers, and limiting holders of so-called “multi-vote” shares to certain named individuals.

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**THAILAND****The Eastern Special Development Zone Act B.E. 2561 (2018)**

On 15 May 2018, the Eastern Special Development Zone Act B.E. 2561 (2018) was published to promote and enhance the Eastern Economic Corridor (EEC) development related to the EEC project under scheme of “Thailand 4.0”.

The promoted areas focus on 3 provinces including Chachoengsao Province, Chonburi Province, Rayong Province and other provinces in the Eastern area as may be hereafter prescribed by a royal decree.

The Act aims to promote and support the 10 special targeted industries following the ECC project which was divided in to two larger groups as follows: First S-Curve Industries, the five existing industries consisting of (1) Next-Generation Automotive Industry, (2) Intelligent Electronics Industry, (3) High Wealth and Medical Tourism Industry, (4) Advanced Agriculture and Biotechnology Industry, (5) Food Processing Industry and New S-Curve industries, the five advanced industries to be an alternative driving force for the Thai economy consisting of (6) Robotics Industry, (7) Aviation and Logistics Industry, (8) Biofuel and Biochemical Industry, (9) Digital Industry and (10) Comprehensive Healthcare Industry.

The investment benefits to be provided and introduced to investors including tax and non-tax

advantages are the the right to enter into, bring in foreign employees into the Kingdom, hold ownership for land and condominiums, leasing, subleasing, leasing-out or subleasing-out land or real estate in the zone, the right to exemption or reduction of taxes under the Board of Investment (BOI) promotion, the right to enter into financial transactions and other rights and benefits as specified under the law governing investment promotion or the law governing national competitiveness enhancement for the targeted industries.

Legislative hearing on a draft bill on international standard of exchange of information on request and the standard of automatic exchange of financial account information., the Revenue Code Amendments of 2018

The Revenue Department recently held a hearing titled “Legislative Hearing on the draft Revision of the Revenue Code regarding international standard of exchange of information on request and the standard of automatic exchange of financial account information” from July 25 – August 9, 2018. Since Thailand has joined the “Global Forum on Transparency and Exchange of Information for Tax Purposes” and now became the 139th member to cooperate with the Organisation for Economic Co-operation and Development (OECD). Thailand aims to promote its role in the frame-



work of the OECD to prevent evasion and tax avoidance by improving jurisdiction and enhancing the international standard for the efficiency and transparency of the tax administration of the country.

The bill grants the Director-General the right to authorize officials to collect and send tax information as requested by other countries that have agreements under this issue with the Thai government. The Director-General may reveal and exchange such tax information.

Any person who fails to comply with the order by not reporting, or by giving any false information to an official or disclosing and exchanging the information with others are subjected to money fines and imprisonment.

The Ministry of Commerce's (MOC) proposed amendment of the Foreign Business Act (FBA)

The Director-General of the Department of Business Development (DBD) advised that it is now in the process of reviewing various amendments of the business activities in List 3 of the FBA by removing 5 business activities including accounting, legal consulting services given to subsidiaries, legal services, space and facility rental, lending to subsidiaries.

The amendment aims to enhance the regulations towards the changing economic and complying with the concept of "Thailand 4.0". Foreign investors will be allowed to freely invest in those business activities without requiring a foreign business license

The DBD is now gathering feedback gained during hearings with related government agencies, including the Federation of Accounting Professions, the Lawyers Council, the Bank of Thailand, the Board of Investment and the Industrial Estate Authority of Thailand.

After the consideration by the committee, the draft will be submitted to the Minister of Commerce and will then forwarded to the cabinet for approval. Once approved and published in the Government Gazette, the amendment will become effective.

However, the express delivery services to support the logistics business are still restricted under the revised List 3 of the Act since feedback received from the relevant Thai government agencies seems to indicate that "Thai nationals are not yet ready to compete".