

Corporate secretarial update

Corporate Service Providers Bill and amendments to Companies Act and Limited Liability Partnerships Act

On 2 July 2024, Parliament passed the Accounting and Corporate Regulatory Authority (ACRA) Registry and Regulatory Enhancements Bill, the Corporate Service Providers (CSP) Bill, and the Companies and Limited Liability Partnerships (CLLPMA) (Miscellaneous Amendments) Bill.

The bills introduce legislative changes intended to enhance the regulatory regime and corporate transparency for companies and limited liability partnerships and have implications for corporate service providers.

The implementation timeline has not yet been announced. The ACRA will ensure there is adequate lead time for the implementation of the proposed amendments and the transition process.

In this edition of our corporate secretarial update, we have set out a summary of certain key legislative changes that will affect individuals, companies and limited liability partnerships.

Contact address

Current requirement
(Applicable to individuals who are sole-proprietors, partners, directors, secretaries and shareholders)

- ▶ Individuals are required to register their residential address with the ACRA but have the option to provide an additional alternate address.
- ▶ The alternate address must be a location where the individual is reachable and cannot be a P.O. Box.
- ▶ The alternate address, if filed with the ACRA, will be made publicly available instead of the residential address.

New requirement
(Applicable to individuals who are sole-proprietors, partners, directors, secretaries and shareholders)

- ▶ The alternate address regime will be abolished.
- ▶ Individuals will be required to file both their residential address and contact address with the ACRA. However, only the contact address, and not the residential address, will be made publicly available.
- ▶ The contact address must be a physical address located in the same jurisdiction as the individual's residential address at which the individual can be physically found or contacted by post. The contact address cannot be an email address or P.O. Box.
- ▶ To facilitate the introduction of a contact address, individuals' existing alternate address will be automatically converted to their contact address. For individuals without an alternate address, their contact address will automatically be the same as their residential address.
- ▶ Individuals who wish to use a non-residential contact address may file an alternate address with the ACRA. When the legislative changes come into force, this alternate address will be automatically converted into the contact address.

Disclosure of nominee director or register of nominee director

Current requirement (Applicable to Singapore companies only)

- ▶ Singapore companies must keep a register of nominee directors. Foreign companies are not subject to such requirement.
- ▶ Nominee directors are required to disclose the particulars of their nominator to their companies, which are in turn required to enter such particulars of the nominator in the register of nominee directors.
- ▶ The information in the register of nominee directors does not need to be lodged with the ACRA and are not publicly available.
- ▶ CSPs have no obligation to ensure that the individuals they arrange to act as nominee directors for their clients are fit and proper persons to carry out the duties of directors.

New requirement (Applicable to Singapore companies and foreign companies)

- ▶ The requirements relating to nominee directors will be extended to foreign companies and their nominee directors.
- ▶ Companies will be required to lodge all the information kept in their register of nominee directors with the ACRA, and the ACRA will maintain such information.
- ▶ Upon lodgement with the ACRA, the nominee status of a nominee director will be made publicly available, including adding the nominee status to the business profile.
- ▶ However, only public agencies may access the full information maintained by the ACRA for the administration or enforcement of any written law.
- ▶ An individual can only act as a nominee director by way of business if the nominee directorship is arranged by a registered CSP, or if such individual is the sole proprietor of a registered CSP.
- ▶ A CSP must ensure that any individual for whom they arrange to act as a nominee director is a fit and proper person to do so.

Disclosure of nominee shareholders or register of nominee shareholders

Current requirement

(Applicable to Singapore companies and foreign companies)

- ▶ Both Singapore companies and foreign companies must keep a register of nominee shareholders.
- ▶ Nominee shareholders are required to disclose the particulars of their nominator to their companies, which are in turn required to enter such particulars of the nominator in the register of nominee shareholders.
- ▶ The information in the register of nominee shareholders does not need to be lodged with the ACRA and are not publicly available.

New requirement

(Applicable to Singapore companies and foreign companies)

- ▶ The definition of a nominee shareholder will be amended as follows (the amendments are marked with the words below in bold and strikethrough):

"a shareholder of a company or foreign company is a nominee if the shareholder satisfies either or both of the following:

(a) 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~~

(b) 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."
- ▶ Companies will be required to lodge all the information kept in their register of nominee shareholders with the ACRA, and the ACRA will maintain such information.
- ▶ Upon lodgement with the ACRA, the nominee status of a nominee shareholder will be made publicly available, including adding the nominee status to the business profile.
- ▶ However, only public agencies may access the full information maintained by the ACRA for the administration or enforcement of any written law.

| Disclosure of registrable controllers or register of registrable controllers | |
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| <p>Current requirement (Applicable to Singapore companies, foreign companies and limited liability partnerships)</p> | <p>New requirement (Applicable to Singapore companies, foreign companies and limited liability partnerships)</p> |
| <ul style="list-style-type: none"> ▶ Singapore companies, foreign companies and limited liability partnerships must keep a register of registrable controllers within 30 days of being incorporated or registered. ▶ If a Singapore company, foreign company or limited liability partnership knows or has reasonable ground to believe that: <ul style="list-style-type: none"> (a) a change has occurred in the particulars of a registrable controller that are stated in the register of registrable controller; or (b) any of such particulars is incorrect, it must give notice to the registrable controller to confirm whether the change has occurred or whether the particulars are correct. | <ul style="list-style-type: none"> ▶ Singapore companies, foreign companies and limited liability partnerships must keep a register of registrable controllers starting on the date of incorporation or registration. ▶ Companies, foreign companies and limited liability partnerships will be subject to an additional requirement to give notice, on an annual basis, to each registrable controller whose particulars are stated in the register of controllers to confirm whether a change has occurred and whether the particulars of the registrable controller are correct. |

| Increase of maximum fine for offences pertaining to the register of nominee directors, register of nominee shareholders and register of registrable controllers | |
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| <p>Current requirement (Applicable to Singapore companies, foreign companies and limited liability partnerships)</p> | <p>New requirement (Applicable to Singapore companies, foreign companies and limited liability partnerships)</p> |
| <p>For offences pertaining to:</p> <ul style="list-style-type: none"> (a) the register of registrable controllers, the register of nominee directors and the register of nominee shareholders for Singapore companies and foreign companies; and (b) the register of registrable controllers for limited liability partnerships, <p>the maximum fine is currently \$5,000.</p> | <p>The maximum fine for such register-related offences will be increased to \$25,000.</p> |

Key takeaways:

- ▶ Individuals will be required to file their contact address with the ACRA, in addition to their residential address, and only the contact address will be made publicly available. Any existing alternate address filed with the ACRA will be automatically converted to contact address.
- ▶ Nominee director and nominee shareholder arrangements will be subject to additional requirements, including lodgment of information with the ACRA and nominee status being made publicly available. Registered CSPs must ensure individuals whom they arrange as nominee directors are fit and proper.
- ▶ Increase in the maximum fine for offences pertaining to registers of registrable controllers, nominee directors and nominee shareholders.

If you would like to know more about the issues discussed and the EY services, please contact one of the following or your usual EY contact:

Global Compliance & Reporting - Entity compliance and governance

Chai Wai Fook
EY Corporate Services Pte. Ltd.
Email: wai-fook.chai@sg.ey.com

Sharon Koh
EY Corporate Services Pte. Ltd.
Email: sharon.koh@sg.ey.com

Fanny Lau
EY Corporate Services Pte. Ltd.
Email: fanny.lau@sg.ey.com

EY tax leaders in Singapore

Head of Tax
Soh Pui Ming
Ernst & Young Solutions LLP
Email: pui.ming.soh@sg.ey.com

Business Tax Services

Private Client Services
Desmond Teo
Ernst & Young Solutions LLP
Email: desmond.teo@sg.ey.com

Tax Policy and Controversy
Angela Tan
Ernst & Young Solutions LLP
Email: angela.tan@sg.ey.com

Global Compliance and Reporting
Chai Wai Fook
Ernst & Young Solutions LLP
Email: wai-fook.chai@sg.ey.com

Financial Services Tax
Stephen Bruce
Ernst & Young Solutions LLP
Email: stephen.bruce@sg.ey.com

Indirect Tax Services
Chew Boon Choo
Ernst & Young Solutions LLP
Email: boon-choo.chew@sg.ey.com

People Advisory Services Tax
Panneer Selvam
Ernst & Young Solutions LLP
Email: panneer.selvam@sg.ey.com

International Tax and Transaction Services

International Corporate Tax Advisory
Chester Wee
Ernst & Young Solutions LLP
Email: chester.wee@sg.ey.com

Transfer Pricing
Luis Coronado
Ernst & Young Solutions LLP
Email: luis.coronado@sg.ey.com

Legal Services
(provided by Atlas Asia Law Corporation,
an independent member firm of the global EY network)
Kenneth Cheow
Email: kenneth.cheow@atlasiasialaw.com.sg

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UEN 201911025K

APAC no. 12003708

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