

Company Law Update

Amendments to the Singapore Companies Act (Part 1): Register of Registrable Controllers & Dispensation of having the Company Seal

Overview

This is the first part of a series of updates on the amendments to the Singapore Companies Act. Where the amendments are similarly recorded in the Limited Liability Partnership Act, this update will also make the relevant reference to the same accordingly.

In 2016, a review of the Companies Act was conducted by ACRA (i.e. the Registry of Companies) and the Ministry of Finance, in a bid to ensure that our corporate regulatory regime continues to stay robust and supports Singapore's growth as a global hub for businesses and investors. Pursuant to the same, the Companies (Amendment) Bill 2017 and Limited Liability Partnerships (Amendment) Bill were passed in Parliament on 10 March 2017 and assented to by the President on 29 March 2017.

The need to have a Register of Registrable Controllers

With effect from 31 March 2017, companies, foreign companies and limited liability partnerships (LLPs) (unless exempted) will be required to maintain beneficial ownership information in the form of a register of registrable controllers, and to make the information available to public agencies upon request.

Existing companies and LLPs are given a transitional period of 60 days from the date of commencement of the new law to set up the register of controllers. This means that from 1 June 2017 onwards, they must have and continue to maintain the required registers. Companies incorporated on or after 31 Mar 2017 and LLPs registered on or after 31 Mar 2017 will have a transitional period of 30 days to set up the register instead.

A controller is defined as an individual or a legal entity that has a "significant interest" in or "significant control" over the company.

More information is set out in Part XIA of the Companies Act. In essence, the Register of Registrable Controllers must include particulars of the entity's registrable individual controllers and registrable corporate controllers. For registrable individual controllers, this would include the full name, aliases (if any), residential address, nationality, identification card number, date of birth, date on which the registrable individual controller became an individual controller of the company; and date on which the registrable individual controller ceased to be an individual controller of the company; if applicable.

For registrable corporate controllers, this would include the Unique Entity Number issued by the Registrar, if any; address of the registered office; the legal form of the registrable corporate controller; the jurisdiction where, and statute under which, the registrable corporate controller is formed or incorporated; the name of the corporate entity register of the jurisdiction where the registrable corporate controller is formed or incorporated, if applicable; the identification number or registration number of the registrable corporate controller on the corporate entity register of the jurisdiction where the registrable corporate controller is formed or incorporated, if applicable; the date on which the registrable corporate controller became a corporate controller of the company; and the date on which the registrable corporate controller ceased to be a corporate controller of the company, if applicable.

Other key important requirements would include the following:-

- (a) The registers of registrable controllers is to be maintained at prescribed places- the company's/LLP's registered office or the registered office of the registered filing agent;
- (b) The register can be maintained in paper or electronic format;
- (c) Companies and LLPs will have to declare with ACRA the location of the company's register of registrable controllers when filing the company's annual returns or annual declaration; and
- (d) Companies and LLPs can discharge their duties by sending notices to the relevant parties and recording their particulars, as well as sending further notices to any other parties that have been revealed as potential controllers. Notices can be sent and replies may be received, in electronic or hard copy format. The company or LLP is not liable should recipients of these notices fail to respond or provide inaccurate responses.

Failure to comply with this requirement would result in the company (or foreign company as the case may be) and every officer of the company/foreign company who is in default, guilty of an offence and upon conviction, liable to a fine not exceeding S\$5,000.

Nevertheless, it is important to note that companies, foreign companies and LLPs must not disclose or make available for inspection a register or any information in said register to any member of the public, save for the relevant personnel of public agencies as provided for in the Companies Act.

Dispensation of having the Company Seal or Common Seal

With the amendments in place, a company need not have a common seal, although it may choose to continue having one. As such, a company may now execute a document described or expressed as a deed without affixing a common seal onto said document. A company need

only validly execute the documents by having them signed by “authorised persons”. The same applies for LLPs. Such authorised persons for companies would include:-

- (a) A director and the company secretary;
- (b) Two directors of the company; or
- (c) A director of the company in the presence of a witness who attests the signature.

For an LLP, such authorised persons would be:-

- (a) Two partners of the LLP; or
- (b) A partner of the LLP in the presence of a witness who attests the signature.

It must be noted however that in the case of a company, if a document is to be signed by a person on behalf of more than one company, the person should be signing the document separately in each capacity, in order for the document to have been signed by “authorised persons” as described above.

More amendments to come

Amendments relating to the implementation of the concept of re-domiciliation to Singapore and changes to the statutory requirements of holding Annual General Meetings and filing of Annual Returns are covered in the next part of this series.

Should you have any queries as to how this update may affect your organisation or require further information, please do not hesitate to email us.



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This article is intended to highlight the amendments to the company law regime in Singapore that has taken effect as of 31 March 2017, and it is not intended to be comprehensive nor should it be construed as legal advice.