

# Rödl & Partner

INVESTMENT GUIDE  
SINGAPORE

Framework for investments

2021  
2022

## New discoveries



# Thinking globally

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“Singapore is a top location for investment in Southeast Asia. Rödl & Partner has more than 15 years consulting experience in the “Lion City-State” and our business continues to grow. Let us work together and pave the way for your success!”

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# About Rödl & Partner

As attorneys, tax advisers, management and IT consultants and auditors, we are present with 106 own offices in 48 countries. Worldwide, our clients trust our 5,130 colleagues.

The history of Rödl & Partner goes back to its foundation as a solo practice in 1977 in Nuremberg. Our aspiration to be on hand wherever our internationally-active clients are led to the establishment of our first, own offices, commencing with Central and Eastern Europe in 1991. Alongside market entry in Asia in 1994, the opening of offices in further strategic locations followed, in Western and Northern Europe in 1998, USA in 2000, South America in 2005 and Africa in 2008.

Our success has always been based on the success of our German clients: Rödl & Partner is always there where its clients see the potential for their business engagement. Rather than create an artificial network of franchises or affiliates, we have chosen to set up our own offices and rely on close, multidisciplinary and cross-border collaboration among our colleagues. As a result, Rödl & Partner stands for international expertise from a single source.

Our conviction is driven by our entrepreneurial spirit that we share with many, but especially German family-owned companies. They appreciate personal service and value an advisor they see eye to eye with.

Our 'one face to the client' approach sets us apart from the rest. Our clients have a designated contact person who ensures that the complete range of Rödl & Partner services is optimally employed to the client's benefit. The 'caring partner' is always close at hand; they identify the client's needs and points to be resolved. The 'caring partner' is naturally also the main contact person in critical situations.

We also stand out through our corporate philosophy and client care, which is based on mutual trust and long-term orientation. We rely on renowned specialists who think in an interdisciplinary manner, since the needs and projects of our clients cannot be confined to individual professional disciplines. Our one-stop-shop concept is based on a balance of expertise across the individual service lines, combining them seamlessly in multidisciplinary teams.

## WHAT SETS US APART

Rödl & Partner is not a collection of accountants, auditors, attorneys, management and tax consultants working in parallel. We work together, closely interlinked across all service lines. We think from a market perspective, from a client's perspective, where a project team possesses all the capabilities to be successful and realise our client's goals.

Our interdisciplinary approach is not unique, nor is our global reach or our particularly strong presence among family businesses. It is the combination that cannot be found anywhere else – a firm that is devoted to comprehensively supporting German businesses, wherever in the world they might be.

# Our services in Singapore

Rödl & Partner has been present in Singapore since 1999. Our team of experienced local and European professionals offers a wide range of services, from international tax planning and optimization of regional holding structures, to legal services, to accounting and audit services for Singapore subsidiaries and holdings. Our clients benefit from our wealth of experience combined with the high standards and expert knowledge of an international organization.



# Why invest in Singapore

If there is any place in the world that is the very definition of a hub for regional investment, it is Singapore. Since 2008 Singapore was repeatedly ranked by the World Bank as one of the easiest places in the world to do business. More and more international businesses are concentrating their key management functions for Asia-Pacific operations in Singapore. In 2020, Singapore was ranked second behind New Zealand for being one of the economies with the best business regulatory performance.

With one of the most stable political climates in the world, the country has invested most of its energy in developing commerce and industry. As one of the five founding members of the Association of South East Asian Nations (“**ASEAN**”), a geo-political and economic organization whose aims include accelerating economic growth, social progress, and cultural development among its members, the country is a strong supporter of the ASEAN Free Trade Area and the ASEAN Investment Area.

Singapore ranked 1<sup>st</sup> in the IMD Smart City Index and 2<sup>nd</sup> globally in digital competitiveness in 2019. For the 6<sup>th</sup> consecutive year, Singapore ranked 1<sup>st</sup> in Asia Pacific and 3<sup>rd</sup> worldwide in the 2020 INSEAD Global Talent Competitiveness Index. Singapore is the first country in Southeast Asia to have a Free Trade Agreement with the EU. Since 21 November 2019, the removal of nearly all customs duties offers even more opportunities for European companies which have their primary business activities in the region from Singapore. At the same time, many SMEs coming to Singapore to invest can benefit from the agreement to incorporate themselves further internationally and develop new sales markets in the region over the next years.

# Facts & Figures



Background	Singapore was founded as a British trading colony in 1819. It joined the Malaysian Federation in 1963 but separated two years later and became independent. Singapore subsequently became one of the world's most prosperous countries with strong international trading links (its port is one of the world's busiest in terms of tonnage handled) and with per capita GDP equal to that of the leading nations of Western Europe.
Location	Southeastern Asia, island between Malaysia and Indonesia
Area	721.5 sq. km. (slightly smaller than the city of Hamburg)
Ethnic groups	Chinese 74.3%, Malay 13.4%, Indian 9.0%, other 3.2% (2018 est.)
Languages	Predominantly English 36.9% Mandarin (official) 34.9%, Malay (official) 10.7%, Tamil (official) and Indian languages 4.4%, Chinese dialects 12.2%, other 1.1% (2016 est.)
Population	5,866,139 (July 2021 est.)
Government type	Parliamentary republic
Legal system	English common law
GDP	Purchasing power parity: USD 555.193 billion (2019 est.)
	Real growth rate: 0.73% (2019 est.)
	Per capita (PPP): USD 97,341 (2019 est.)
Labor force by occupation	Agriculture: 0.7% Industry: 25.6% Services: 73.7% (2017 est.)
Unemployment rate	2.25% (2019 est.)

Inflation rate (consumer prices)	0.5% (2019)
Industries	Electronics, chemicals, financial services, oil drilling equipment, petroleum refining, rubber processing and rubber products, processed food and beverages, ship repair, offshore platform construction, life sciences, entrepot trade.
Exports	USD 626.68 billion (2019 est.)
Export commodities	Machinery and equipment (including electronics and telecommunications), pharmaceuticals and other chemicals, refined petroleum products, foodstuffs and beverages
Imports	USD 533.478 billion (2019 est.)
Import commodities	Machinery and equipment, mineral fuels, chemicals, foodstuffs, consumer goods.
	<i>The World Factbook 2021. Washington, DC: Central Intelligence Agency, 2021.</i>

# Business Structures

Foreign investors wishing to set up their business in Singapore can choose from a variety of business structures. A description of the key business structures is set out below. It should be noted that private limited companies are the most popular form of vehicle for doing business in Singapore.

## SOLE PROPRIETORSHIP

A sole proprietorship is a business carried on by an individual on his own without the use of a separate and distinct business form. The sole proprietor will be personally liable for all the debts and obligations of the business. The income generated by the business is the income of the sole proprietor; hence, the sole proprietor is taxed on an individual basis. A sole proprietorship must appoint at least one authorised representative who is ordinarily resident in Singapore if the sole proprietor is residing outside Singapore.

## PARTNERSHIP

A partnership is defined as a relationship which subsists between persons carrying on a business in common with a view to a profit. A partnership cannot have more than 20 partners. The partnership does not have a separate legal existence apart from the partners who are personally liable for all debts and obligations of the firm. The profits of the partnership are attributed to the partners who are taxed on an individual basis. A partnership must appoint at least one authorised representative who is ordinarily resident in Singapore if all the partners are residing outside Singapore.

## LIMITED PARTNERSHIP

A limited partnership (“**LP**”) is a business organization that consists of one or more general partners and one or more limited partners. The general/limited partner in an LP can be an individual or a corporation. A LP does not have a legal personality separate from that of its partners. It cannot sue or be sued or own property in its own name. A general partner is liable for all debts and obligations of the LP whereas a limited partner is only liable for the debts or obligations of the LP up to the amount of his agreed contribution.

A general partner can take part in the management of the LP whereas a limited partner cannot. A LP will not be liable to tax at the entity level. Instead, each partner will be taxed on his or its share of the income from the LP. Where every general partner of the LP is ordinarily resident outside Singapore, a local manager needs to be appointed.

#### LIMITED LIABILITY PARTNERSHIP

A limited liability partnership (“**LLP**”) offers a business structure that combines the operational flexibility of a partnership with the limited liability features of a company. A LLP is a body corporate that has a legal personality separate from that of its partners. It is capable of suing or being sued. The LLP can own property in its own name. Every LLP must have at least two partners. The partner in a LLP can be an individual or a body corporate. An obligation of the LLP, whether arising in contract, tort or otherwise, is solely the obligation of the LLP. A partner is not personally liable for an obligation of the LLP. A partner will be personally liable in tort for his wrongful act or omission but will not be personally liable for the wrongful act or omission of any other partner of the LLP. A LLP will not be liable to tax at the entity level. Instead, each partner will be taxed on his or its share of the income from the LLP. A LLP must appoint at least one manager who is ordinarily resident in Singapore.

#### PRIVATE LIMITED COMPANY

A private limited company (“**Pte. Ltd.**”) is a legal entity separate and distinct from its members. A Pte. Ltd. can sue or be sued and can own property in its own name. A Pte. Ltd. must have less than 50 members. Its members have limited liability and are not personally liable for the debts and losses of the company. A Pte. Ltd. is subject to tax as a Singapore resident entity. A Pte. Ltd. must appoint a minimum of one director who is ordinarily resident in Singapore. The Singapore Pte. Ltd. is the business structure that most resembles the German GmbH.

## BRANCH OFFICE

A foreign company wishing to establish a place of business or carry on business in Singapore may set up a branch office. A Singapore branch is considered an extension of the foreign company and not a separate legal entity. Therefore, the parent company of a branch office entity is liable for all the debts and liability of the branch office. Because the control and management of a branch office is vested with the parent company, a branch office is considered a non-resident entity. A branch office's basis of taxation is the same as that of a resident entity; however, the branch will not be eligible for any tax exemptions and incentives which are available to local companies. A branch office must appoint at least one authorized representative who is ordinarily resident in Singapore.

## REPRESENTATIVE OFFICE

A foreign company wishing to explore the viability of doing business in Singapore may set up a Representative Office (“**RO**”). A RO has the benefit of allowing a foreign entity to assess the business environment in Singapore before deciding to set up a permanent structure. A RO cannot engage in commercial revenue-generating activities. A RO has no legal status and any liabilities extend to the parent company. A RO is not subject to taxation as it cannot generate an income. A RO may operate in Singapore for a maximum of three years, provided its status is evaluated and renewed annually. A RO must appoint a chief representative staff member from the parent company who will oversee the RO's activities.

Singapore is well known for its appealing tax regime and in particular for its low corporate and personal tax rates, absence of capital gains tax, tax exemptions schemes, and double taxation agreements

## CORPORATE TAXATION

Singapore has one of the lowest corporate tax rates worldwide. The prevailing corporate tax rate is currently at 17%.

### Residency

A company is tax resident in Singapore for a tax year if the management and control of its business is exercised in Singapore during that tax year. The location of where management and control of a company is exercised is usually determined by the place where board of directors' meetings are held during which decisions at strategic level or at policy level are made.

### Quasi-territorial basis of taxation

Singapore adopts a quasi-territorial basis of taxation. A company, regardless of whether it is a local or foreign company, is liable to pay tax on income accrued in or derived from Singapore or income received in Singapore from outside Singapore. Certain foreign-sourced income received in Singapore such as dividends may be exempted from Singapore income tax provide such income is derived by a Singapore tax resident from a jurisdiction with a headline tax rate of at least 15% in the year the income is received or deemed to be received in Singapore, foreign tax is paid on the income / underlying profit giving rise to such income and the Comptroller is satisfied that the tax exemption will be beneficial to the company.

Capital gains, such as gains on sale of fixed assets or gains on foreign exchange or capital transactions, are not taxable in Singapore. The nature of any gain (whether income or capital) is typically determined based on the character of the underlying transaction giving rise to the gain.



### Tax deductions

Deductions are allowed for expenses which are incurred wholly and exclusively in producing the company's taxable income during the financial period. Restrictions and prohibitions on certain deductible expenses may apply.

Generally, an expense is deductible if it satisfies all the following conditions: (i) it is a proper commercial deduction; (ii) it is revenue in nature; (iii) it is not contingent liability (i.e. not estimated); and (iv) it is not prohibited under the Income Tax Act.

Capital expenses are not allowed as a tax deduction however tax depreciation, i.e. capital allowances may be claimed in respect of qualifying capital expenses (e.g. fixed assets, IP, software, and etc). If there is insufficient taxable profits to fully absorb the capital allowances, the unabsorbed capital allowance may be carried forward indefinitely to be offset against future taxable profits subject to conditions.

Special and super tax deductions are available in respect of qualifying expenses incurred on R&D activities and under the productive & innovative scheme, subject to conditions.

Other allowable deductions include a 250% tax deduction on donations to approved charitable institutions and buildings/ parcels of land donated to approved institutions of a public character. Any unutilized donations may be carried forward for a period of 5 years subject to conditions.

### Tax losses

Tax losses incurred by a company with the exception of losses on capital account are available for set-off against income from other sources. Tax losses may be carried forward indefinitely and used to offset future taxable profits subject to conditions.

### One-tier corporate tax system

Singapore adopts a single tier corporate tax system whereby income tax imposed on a company's chargeable income is a final tax and dividends are exempt from tax in the hands of the shareholders.

### Tax exemption scheme for new start-up companies

Singapore provides a tax exemption scheme for new start-up companies. Under this scheme, a newly incorporated company that satisfies the qualifying conditions can claim 75 % tax exemption on the first SGD 100,000 of its normal chargeable income (which is income to be taxed at the prevailing corporate tax rate); and further 50 % tax exemption on the next S\$100,000 of its normal chargeable income. The tax exemption applies for the first 3 consecutive YAs (effective YA 2020 onwards).

In order to qualify for the tax exemption, the company must (i) be incorporated in Singapore; (ii) be a tax resident in Singapore for that YA; and (iii) have no more than 20 shareholders throughout the basis period for that YA where (a) all of the shareholders are individuals beneficially and directly holding the shares in their own names; or (b) at least one shareholder is an individual beneficially and directly holding at least 10% of the issued ordinary shares of the company.

This tax exemption scheme does not apply to investment holding companies and property development companies.

### Partial tax exemption

A partial tax exemption is given to companies, yearly, on their normal chargeable income of up to SGD 200,000. With effect from YA 2020 onwards, a 75% exemption is given on the first SGD 10,000 of their normal chargeable income and further 50% exemption is given on the next SGD 190,000. The maximum tax exemption for each YA is SGD 102,500.

## PERSONAL TAXATION

Individuals are taxed on their employment income, including salary, bonus, director's fee, commission, allowance, benefits-in-kind (such as air tickets for home leave, children's school fees, club membership, and provision of car), gains from stock options / award, and salary in-lieu of notice.

### Tax residency status

The amount of tax an individual has to pay on his Singapore chargeable income depends on his tax residency status in Singapore. Singapore's personal income tax rates for residents taxpayers are progressive. This means that higher income earners pay a proportionately higher income tax. The personal income tax rates for resident taxpayers start at 0% and the highest rate is at 22%. For non-resident taxpayers, the personal income tax rate is fixed at a flat rate of 15% or the progressive resident tax rates (whichever is a higher tax amount). Income other than employment income derived by a non-resident individual is taxed at a flat rate of 22%.

An individual will be considered a tax resident if he is (i) a Singaporean; (ii) a Singapore Permanent Resident; or (iii) a foreigner who has stayed or worked in Singapore for 183 days or more in the year preceding the YA. Otherwise, the individual will be considered a non-resident for tax purposes.

### Deductions

Deductions that may be permissible for tax residents include (i) tax relief; (ii) expenses, including employment expenses that are wholly and exclusively incurred in the course of the individual official duties and not private in nature as well as rental and Net Annual Value expenses; (iii) donations; and (iv) rebates.

With effect from the YA 2018, the total amount of personal income tax reliefs which an individual can claim is capped at SGD 80,000.

### Special expatriate regime

The Not Ordinarily Resident (NOR) Taxpayer Scheme is used to attract global talent to Singapore and to encourage companies to use Singapore as their base for regional activities. The NOR scheme allows individuals who have been non-resident for three years before first establishing Singapore tax residence to enjoy two tax concessions:

- (i) Time apportionment of employment income for overseas business trips; and
- (ii) Limited tax exemption for employer's contributions into an overseas pension fund.

These concessions were available for the first five years of tax residence. As the NOR scheme will cease after 2020, the last NOR status granted will run/be valid from YA 2020 to YA 2024. The other qualifying conditions typically meant that the concessions were only enjoyed by senior foreign national employees and not Singaporeans.

### Double Taxation Agreements

Singapore is well known for its extensive network of double tax treaties. Double taxation arises when two or more countries impose taxes on the same taxpayer in respect of the same taxable income or capital. To relieve taxpayers from the burden of double taxation, Singapore has concluded comprehensive Avoidance of Double Taxation Agreements with 89 countries, including Germany.

### WITHHOLDING TAX

Withholding tax is a tax charged to non-resident companies or individuals that derive income from a Singapore source for services provided or work done in Singapore. Withholding tax in Singapore is imposed on interest at a rate of 15%; royalties at a rate of 10% and at the prevailing corporate tax rate (currently 17%) for technical assistance and management fees for services rendered in Singapore. Tax withheld for royalty and interest represents a final tax and applies only to non-residents who are not carrying on any business in Singapore and who have no permanent establishment in Singapore. Withholding tax on technical assistance and

management fees for services rendered in Singapore however is not a final tax. The withholding tax rates could be reduced under a Double Tax Agreement.

## GOODS AND SERVICES TAX

Goods & Services Tax (“**GST**”) is a consumption tax imposed on the supply of goods and services by a taxable person in Singapore and on the import of goods by any person into Singapore.

GST has three categories of goods and services: (1) standard rated items – subject to tax at 7% (this will be increased to 9% sometime between 2021 and 2025); (2) zero-rated items; and (3) exempt items. Most domestic supplies of goods and services are standard rated, and exported goods and international services are zero-rated. With effect from 1 January 2020, imported services will be subject to GST following a reverse charge mechanism; and an Overseas Vendor Registration (“**OVR**”) for imported digital services.

Under the reverse charge mechanism, a GST registered business will be required to account for GST on all services that they procure from overseas suppliers, i.e. imported services, as if they are the supplier, except for certain services which are specifically excluded from the scope of reverse charge. The GST registered business will be entitled to claim the corresponding GST as its input tax, subject to the normal input tax recover rules. A non-GST registered business with the value of imported services exceeding SGD 1 million and is not entitled to full input tax credit if it were GST registered will be required to register for GST to account for the reverse charge under the new rules.

Overseas suppliers and electronic marketplace operators that have annual global turnover exceeding SGD 1 million; and make supplies of digital services to customers in Singapore exceeding SGD 100,000 will be required to register for GST and account for GST in Singapore.

A supply of goods is made in Singapore if the goods are in Singapore at the time of supply, and a supply of services is made in Singapore if the supplier belongs in Singapore.

A taxable person is allowed, with the exception of items specifically denied an input GST deduction (e.g. non-business expenses, car rental expenses, family benefits, club subscription fees, motor vehicle expenses, medical expenses, transactions involving betting, sweepstakes, lotteries, fruit machines or games of chance), to credit the input GST on taxable purchases against the output GST chargeable on taxable supplies made.

#### OTHER TAXES

Other key types of taxes in Singapore include (i) customs and excise duties; (ii) property tax; and (iii) stamp duty. Customs and excise duties are duties imposed principally on motor vehicles, tobacco, liquor and petroleum products. Property tax is a tax imposed on owners of properties based on the expected rental values of the properties. Stamp duty is a tax on instruments relating to immovable properties, stocks or shares.

# Transfer Pricing

Singapore's transfer pricing guidelines endorses the arm's length principle adopted by the OECD Transfer Pricing Guidelines. The arm's length principle was incorporated into Section 34D of the Singapore Income Tax Act which empowers the Inland Revenue Authority of Singapore ("**IRAS**") to make transfer pricing adjustments on intercompany transactions of goods, services or financial assistance which do not meet the arm's length standard.

## TRANSFER PRICING GUIDELINES

In February 2018, IRAS issued the fifth edition of the Singapore Transfer Pricing Guidelines ("**TP Guidelines**") to give guidance on the arm's length standard that is acceptable to IRAS. The TP Guidelines seek to provide direction on the application of the law on controlled transactions, acceptable methodologies and administrative requirements including the types of records and documentation expected from taxpayers involved in transfer pricing arrangements.

Taxpayers are required to prepare and maintain contemporaneous transfer pricing documentation to substantiate the taxpayer's transfer pricing policies as opposed to justifying the transfer pricing policies after the event. IRAS has clarified that it would accept documentation prepared at any time no later than the time of completing and filing the tax return for the financial year in which the transaction takes place as contemporaneous transfer pricing documentation. However, taxpayers are not required to file their transfer pricing documentation when filing the tax returns. Taxpayers are required to submit contemporaneous transfer pricing documentation within 30 days of IRAS's request.

To determine if the TP Guidelines applies, taxpayers will have to assess the following factors on an annual basis:

- Gross revenue derived from trade of business is not more than SGD 10 million for that basis period and for two immediate preceding basis period (even if the quantum thresholds are exceeded);

- Whether qualifying transfer pricing documentation had been prepared for the previous basis period or the period before; and
- Whether the total value of the related party transaction exceed threshold quantum mentioned below.

Related Party Transactions	Threshold (SGD) per financial year
Purchase of goods from related parties	15 million
Sale of goods to related parties	15 million
Loans owed to related parties	15 million
Loans owed by related parties	15 million
All other categories of related party transactions	1 million per category of transactions

Although taxpayers are not expected to prepare the transfer pricing documentation for transactions below the threshold, taxpayers are still required to keep records to justify that the related party transactions adhere to the arm's length principal.

With effect from the YA 2018, taxpayers with related party transactions exceeding SGD 15 million as disclosed in the audited accounts are required to complete the new Related Party Transaction (“**RPT**”) form which needs to be submitted together with the corporate tax return form.

#### ROUTINE SUPPORT SERVICES COMMONLY PROVIDED ON AN INTRA-GROUP BASIS

In addition to the financial threshold above, there are other non-financial exemption threshold for routine support services. As an administrative practice, IRAS is prepared to accept a 5% mark-up



on cost for routine support services as a reasonable arm's length charge if these routine support services the taxpayer offers to its related parties are not provided to an unrelated party.

#### RELATED PARTY LOANS

To facilitate compliance for related party loans not exceeding SGD15 million each, IRAS has introduced an indicative margin which taxpayers can apply on each related party loan. The indicative margin is an alternative to performing a detailed transfer pricing analysis on related party loans. The indicative margin will be published on IRAS' website and will be updated at the beginning of every year. Taxpayers may use a margin that is different from the indicative margin but will be required to substantiate that the margins used reflects the arm's length principle.

#### PENALTIES FOR NON-COMPLIANCE

The updated transfer pricing provisions introduced a mandatory contemporaneous documentation requirement with a penalty of SGD 10,000 introduced for non-compliance of the documentation requirements. In addition, the new transfer pricing provisions introduced a surcharge to be imposed at 5% on the transfer pricing adjustment value which will apply regardless of whether there is any additional tax payable arising from the adjustment.

#### ADVANCE PRICING ARRANGEMENTS

Unilateral and bilateral Advance Pricing Arrangements ("**APAs**") are possible, and they generally cover a period of three to five years. The purpose of an APA is to provide an avenue for taxpayers to obtain certainty that their related party transactions meet the arm's length standard.

#### COUNTRY-BY-COUNTRY REPORTING

Singapore has implemented Country-by-Country Reporting ("**CbCR**") for Singapore headquartered multinational groups from 1 January 2017. The CbCR must be submitted by the group's Singapore

resident ultimate parent entity within 12 months from the end of that financial year. Failure to submit the CbCR within the timeframe may result in penalties.

The CbCR is required where the ultimate parent entity of the group is a Singapore resident; the consolidated group revenue in the preceding financial year is at least SGD 1.125 million; and the group has subsidiaries or operations in at least one foreign jurisdiction. Currently, a multinational group that do not have a Singapore resident ultimate parent entity, is not required to file a CbCR with IRAS.

# Employment

The principal laws regulating employment in Singapore are contained in the Employment Act (“EA”). Other significant laws influencing employment practices include the Central Provident Fund Act, the Work Injury Compensation Act, the Workplace Safety & Health Act, the Retirement and Re-employment Act, and the Trade Union Act.

## THE EMPLOYMENT ACT AT A GLANCE

The EA spells out the basic terms and conditions of employment as well as the rights, duties and responsibilities of employers and employees.

If an employee is covered by the EA, the contract’s terms and conditions must abide by the minimum requirements. Any term or condition that is less favourable than the relevant provision in the EA is illegal, null and void.

### (a) Who is covered?

As of 1 April 2019, the EA covers all employees regardless of salary threshold, excluding seafarers, domestic workers, and statutory board employees or civil servants. Managers and executives earning more than SGD 4,500 per month are now covered under the general protections of the EA.

Part IV of the EA (which provides for rest days, hours of work, and other conditions of service) provides further protection to those who are workmen earning not more than SGD 4,500 and non-workmen employees earning not more than SGD 2,600.

### (b) Working hours, overtime, and rest days

An employee covered by Part IV of the EA (i) is not required to work more than 44 hours in a week; (ii) is permitted to work up to a limit of 72 hours of overtime in a month; (iii) must be paid no less than 1.5 times the hourly basic rate of pay for overtime; and (iv) is entitled to 1 rest day per week.

### (c) Annual leave

All employees covered by the EA are entitled to a minimum of 7

days of paid annual leave during the first year and one extra day for each additional year of service; subject to a maximum of 14 days.

(d) Public holidays

All employees covered by the EA are entitled to 11 paid public holidays in a year, as published by the Ministry of Manpower.

(e) Leaves (other than annual leave)

Sick leave and medical reimbursements:

An employee covered by the EA is entitled to paid sick leave if the employee (i) has served the employer for at least 3 months; (ii) has informed or attempted to inform the employer of his absence within 48 hours; and (iii) the sick leave is certified by any registered doctor. The number of days of paid sick leave an employee is entitled to depends on his service period (up to 14 days for outpatient non-hospitalization leave and 60 days for hospitalization leave). Note that the 60 days of hospitalization leave includes the 14 days of outpatient sick leave entitlement.

An employer is required to pay for its employees' medical consultation fees if they have worked for the company for 3 months; it results in at least one day of paid sick leave; and it arises from a medical certificate given to them by a medical practitioner from an approved public medical institution or appointed by the employer. Reimbursement for other medical costs, such as medication, will depend on the medical benefits contractually agreed to between the employer and the employee

Maternity leave

An employee covered by the EA is entitled to 12 weeks of maternity leave if she has served her employer for at least 3 months before the birth of her child.

An employee covered by the Child Development Co-Savings Act ("CDCA") (i.e. the CDCA covers parents of Singapore citizen children) is entitled to 16 weeks of maternity leave if she has served her employer for at least 3 months before the birth of her child.

In the event that an employer terminates an employee without sufficient cause while she is pregnant, or retrenches the employee during her pregnancy, the employer will need pay the maternity benefits she would have been eligible for. Note that it is an offence to dismiss an employee while she is on maternity leave.

#### Childcare leave

An employee covered by the EA is entitled to 2 days of paid childcare leave per year if (i) the employee has served the employer for at least 3 months; and (ii) the child is below the age of 7.

An employee covered by the CDCA is entitled to 6 days of childcare leave per year if (i) the employee has served the employer for at least 3 months; (ii) the child is a Singapore citizen; and (iii) the child is below the age of 7.

#### Miscellaneous

Other kinds of leaves, which do not fall under the EA, include (i) paternity leave; (ii) shared parental leave; (iii) adoption leave; and (iv) infant care leave.

#### No statutory requirements

There are no statutory requirements regarding probation periods, private health insurance benefits, bonus, minimum salary requirements or retrenchment benefits.

### HIRING FOREIGN EMPLOYEES

Foreigners must hold a valid work pass in order to work in Singapore. Below are the main types of work passes for foreigners. Please note that this list is not exhaustive.

#### Employment Pass

The Employment Pass (“**EP**”) is a work pass for a foreign professional working in a managerial, executive or a specialized job. In order to be eligible for an EP, an applicant must earn a fixed monthly salary of at least SGD 4,500 and possess acceptable qualifications, such as good degrees, professional qualifications or specialist skills. Older, more experienced candidates need higher salaries to qualify.

In an effort to ensure fair recruitment practices for Singaporeans, companies intending to submit EP applications to the MOM have to comply with certain advertising requirements prior to making such applications.

Companies must first advertise the job vacancy on MyCareersFuture. The advertisement must be open to Singaporeans, comply with the Tripartite Guidelines on Fair Employment Practices and run for at least 28 calendar days.

A company will be exempted from such advertising requirements if any of the following applies: (a) the company has fewer than 10 employees; (b) the job position is paying a fixed monthly salary of SGD 20,000 or more; (c) the job is to be filled by a local transferee (i.e. an existing employee from the company in Singapore transferring to another related branch, subsidiary or affiliate in Singapore); (d) the role is short-term (i.e. not more than 1 month); or (e) the role is to be filled by a candidate choosing to apply as an overseas intra-corporate transferee.

### Entrepreneur Pass

The Entrepreneur Pass (“**EntrePass**”) is a work pass for foreign entrepreneurs who wish to set up their own company and be present in Singapore to actively manage its operations. In order to be eligible for an EntrePass, the applicant must have incorporated or incorporate a private limited company with the Accounting and Corporate Regulatory Authority of Singapore. The private limited company must not be incorporated for more than 6 months at the point application. Further, the applicant must meet any of the following minimum eligibility criteria for application as an entrepreneur, innovator or investor.

- (a) An entrepreneur must have funding from a Government-recognized venture capitalist or business angel; or be an incubatee at a Government-recognized incubator or accelerator; or have a business network and entrepreneurial track record.
- (b) An innovator must possess intellectual property; or have a research collaboration with an Institute of Higher Learning

or research institute in Singapore; or have extraordinary achievements in key areas of expertise.

(c) An investor must have an investment track record.

### S Pass

The S Pass is a work pass for mid-level skilled foreigners (e.g. technicians). Applicants will be assessed on a points system, taking into account multiple criteria, including the (a) salary (a minimum fixed monthly salary of at least SGD 2,500 is required); (b) educational qualifications; and (c) number of years of relevant work experience. Note that older applicants need to command higher salaries to qualify, commensurate with the work experience and quality they are expected to bring.

Further note that the number of S Pass holders a company is allowed to hire is limited by quota and subject to levy and that an employer is required to purchase and maintain a medical insurance for each S Pass holder before they can be issued with an S Pass.

A company will be exempted from advertisement on MyCareersFuture if any of the following applies: (a) the company has fewer than 10 employees; (b) the job position is paying a fixed monthly salary of SGD 20,000 or more; (c) the job is to be filled by a local transferee (i.e. an existing employee from the company in Singapore transferring to another related branch, subsidiary or affiliate in Singapore); or (d) the vacancy is short term (i.e. not more than 1 month).

### Foreign employees' dependants

Employment Pass and S Pass holders ("**Work Pass Holders**") need to meet a minimum salary criteria of SGD 6,000 to obtain a Dependant's Pass for their legally married spouse and unmarried children under 21 years old or a Long Term Visit Pass ("**LTVP**") for their common-law spouse, unmarried handicapped children above 21 years old and un-married step-children under 21 years old.

Work Pass Holders who wish to obtain a LTVP for their parents need to earn a fixed monthly salary of at least SGD 12,000.

Dependant Pass holders need to apply for an Employment Pass, S Pass or Work Permit if they wish to work in Singapore.

# Personal Data Protection

The Personal Data Protection Act (the “**PDPA**”) was enacted in January 2013. It governs the collection, use and disclosure of personal data by organisations and seeks to recognize both the right of individuals to protect their personal data and the need of organisations to collect, use or disclose personal data. On 1 February 2021, amendments to the PDPA came into force. This was the first comprehensive review and update of the PDPA since it was first enacted.

## WHAT IS PERSONAL DATA?

Personal data refers to all data, whether true or not, about an individual who can be identified from that data or from that data and other information to which the organisation has or is likely to have access to. Such personal data includes an individual’s full name, NRIC / FIN / Passport number, mobile / residential telephone number, personal email address, residential address, date of birth, photograph, etc.

## TO WHOM DOES THE PDPA APPLY?

The PDPA applies to organizations that collect, use or disclose personal data in Singapore, including organisations that are not physically located in Singapore. Such organisations include large multinational and local companies, small and medium sized enterprises, start-up companies, financial institutions, sole proprietorships, partnerships, non-profit organisations, etc. The main data protection obligations now also apply to organizations acting on behalf of public agencies and employees acting in the course of their employment within an organization.

## WHAT MUST ORGANISATIONS DO?

### a) Consent Obligation

An organisation can only collect, use or disclose an individual’s personal data if the individual gives, or is deemed to have given, his consent for the collection, use or disclosure of his personal data. Note that individuals may at any time withdraw any consent



given or deemed to have been given under the PDPA in respect of the collection, use or disclosure of their personal data for any purpose by an organization.

b) Purpose Limitation Obligation

An organization may collect, use or disclose personal data about an individual only for purposes (a) that a reasonable person would consider appropriate in the circumstances; and (b) if applicable, that have been notified to the individual concerned.

c) Notification Obligation

An organization must inform the individual of the purposes for which his personal data will be collected, used or disclosed on or before such collection, use or disclosure (as the case may be).

d) Access and Correction Obligation

Upon request by an individual, an organization shall, as soon as reasonably possible, provide the individual with (a) personal data about the individual that is in the organization's possession or under its control; and (b) information about the ways in which that personal data has been or may have been used or disclosed by the organization within a year before the date of the individual's request.

An individual may submit a request for an organization to correct an error or omission in the individual's personal data that is in the possession or under the control of the organization. Upon receipt of a correction request, the organization is required to consider whether the correction should be made.

e) Accuracy Obligation

An organization must make a reasonable effort to ensure that personal data collected by or on its behalf is accurate and complete, if the personal data is (a) likely to be used by the organization to make a decision that affects the individual to whom the personal data relates; or (b) is likely to be disclosed by the organization to another organization.

#### f) Protection Obligation

An organization must make reasonable security arrangements to protect the personal data in its possession or under its control in order to prevent unauthorized access, collection, use, disclosure, copying, modification, disposal or similar risks. Security arrangements may take various forms, such as administrative measures, physical measures, and technical measures.

Please note that organizations have the same obligations under the PDPA in respect of personal data that is processed on their behalf and for its purposes by a data intermediary as if the personal data were processed by the organization itself.

#### g) Retention Limitation Obligation

An organization must cease to retain documents containing personal data, or remove the means by which the personal data can be associated with particular individuals (i.e. anonymize the data), as soon as it is reasonable to assume that the purpose for which that personal data was collected is no longer being served by retention of the personal data, and that such retention is no longer necessary for legal or business purposes.

#### h) Transfer Limitation Obligation

An organization must not transfer any personal data to a country or territory outside Singapore except in accordance with requirements prescribed under the PDPA to ensure that organizations provide a standard of protection to personal data so transferred that is comparable to the protection under the PDPA.

#### i) Accountability Obligation

An organization must develop and implement policies and practices that are necessary for it to meet its obligations under the PDPA; develop a process to receive and respond to complaints that may arise; communicate to its staff information about the organization's policies and practices; and make information available on request about its policies and practices and complaint process. An organization must further designate one individual responsible for ensuring its compliance with the PDPA and must make available the business contact information of that individual.

Organizations are required to notify the PDPC when significant harm or impact is likely or 500 or more individuals are affected and organizations need to notify individuals when the data breach is likely to result in significant harm or impact to the individual to whom the information relates. Notification to the PDPC ought to be done within 72 hours after determining that a breach is notifiable. Affected individuals need to be notified as soon as practicable. A data intermediary needs to notify the organization for which it processes personal data within 24 hours upon its becoming aware of a breach.

#### DATA PORTABILITY

Data portability provisions are expected to be implemented in the course of 2021. The data portability obligation will allow individuals with an existing direct relationship with an organization to request for a copy of their personal data to be transmitted in a commonly used machine-readable format to another organization which has a business presence in Singapore).

##### a) The Data Protection Commission

The Data Protection Commission oversees the implementation of the PDPA and has powers to refer any matter to mediation; review complaints; give directions to ensure compliance; apply for directions to be registered in a District Court for the purposes of enforcement and initiate investigations regarding non-compliance.

##### b) Penalties

Punishment for offenses under the PDPA may result in fines of up to SGD 1 million and imprisonment for up to 12 months. Enhanced penalties provisions are expected to be implemented during the course of 2021 (i.e. the maximum financial penalty will amount to either 10% of an organization's annual turnover in Singapore; or SGD 1 million, whichever is higher).

##### c) "Do Not Call" Registry

The PDPA introduced a "Do Not Call" Registry whereby individuals

who wish to opt-out of receiving messages (i.e. telephone call, mobile text message, fax) of a marketing nature, so called “specified messages” are able to do so by registering their Singapore telephone number to the Registry.

Such messages include those that aim to advertise, promote or offer goods and services; land or an interest in land; a business or an investment opportunity; or a supplier or provider, or a prospective supplier or provider, of goods or services, land or an interest in land or a business or an investment opportunity.

The PDPA imposes a duty on organisations to check the Registry to verify that the number is not registered before sending a specified message. The specified message must include the contact information of the sender and the calling line identity of the sender must not be concealed.

## GENERAL DATA PROTECTION REGULATION

### a) Extra-territorial scope

The European Union’s General Data Protection Regulation came into effect on 25 May 2018. Despite being an European Union regulation, the GDPR’s application extends to companies in Singapore which either:

- (i) monitor the behaviour of individuals in the EU; or
- (ii) offer goods and services to individuals in the EU.

### b) Penalties

The GDPR imposes heavy financial penalties for non-compliance, which can be up to EUR 20 million or 4 % of the total global annual turnover for groups of companies, whichever is higher.

# Intellectual Property

The growth of intellectual property (“IP”) in Singapore has been particularly significant over the recent years. Singapore’s IP legislative and enforcement frameworks have been considerably strengthened, giving companies confidence to invest in and create IP in Singapore. In fact, Singapore’s IP regime has been consistently recognized as one of the best in the world in international surveys.

## COPYRIGHTS

Copyright in Singapore is protected by the Copyright Act (“CA”). For a work to be protected by copyright, it must be original and expressed in a tangible form.

There is no requirement of formal registration in order to get copyright protection. Copyright protection is automatic; it begins at the point of creation. The duration of protection varies according to the type of copyright work concerned. For instance, a copyright in a literary, dramatic, musical or artistic work subsists during the life of the author plus 70 years after his death.

In an action for infringement of copyright, the types of relief that the court may grant include (i) an injunction; (ii) damages; (iii) an account for profits; (iv) an order to delivery / order for disposal of infringing copies, and (v) statutory damages.

The Berne Convention for the Protection of Literary and Artistic Works (the “Berne Convention”) requires its signatories to recognize the copyright of works of authors from other signatory countries in the same way that such signatory countries recognize the copyright of their own nationals. There are currently 179 contracting states to the Berne Convention.

## TRADE MARKS

Registered trademarks in Singapore are protected by the Trade Marks Act (“TMA”). A registered trade mark must be a sign capable of being represented graphically and of distinguishing one’s goods and services from that of other traders.

Registration of a trade mark in Singapore can be done through a domestic application filed with the Registry of Trade Marks or via an international application filed under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (the “Madrid Protocol”). The Madrid Protocol establishes an international registration system of trade marks administered by the International Bureau of the World Intellectual Property Organization (“WIPO”). It allows a trade mark owner to seek protection for his trade mark in chosen contracting states simultaneously by filing one application in a single office. There are currently 108 contracting states to the Madrid Protocol.

Unregistered trademarks may be protected under the common law action of “passing off”.

Once acquired, a trade mark can last indefinitely as long as it is renewed every 10 years. In an action for infringement of a registered trade mark, the types of relief that the court may grant include (i) an injunction; (ii) damages; (iii) an account for profits; and (iv) statutory damages.

## PATENTS

Inventions in Singapore are protected by the Patents Act (“PA”). A patentable invention must be new, involve an inventive step and be capable of industrial application.

Registration of a patent in Singapore can be done through a domestic registration filed with the Registry of Patents or via an international filing under the Patent Cooperation Treaty (“PCT”), which is administered by the International Bureau of the WIPO. The PCT is an international treaty that provides for a unified procedure for filing patent applications to protect inventions in each of its contracting states. There are currently 153 contracting states to the PCT.

The maximum period of duration of the exclusive rights conferred by registration of a patent is 20 years from the filing date. To enjoy this full term, the patent must be renewed before the expiry of the

5th year and every year thereafter. In an action for infringement of a patent, the types of relief that the court may grant include (i) an injunction; (ii) an order for the infringer to deliver up or destroy any patented product; (iii) damages; (iv) an account for profits; and (v) a declaration that the patent is valid and has been infringed.

## INDUSTRIAL DESIGNS

Industrial designs are protected by the Registered Designs Act ("**RDA**"). For an industrial design to be registrable, it must be new.

Registration of an industrial design in Singapore can be done through a domestic registration filed with the Registry of Designs or via an international filing under the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (the "**Hague System**"), which is administered by the International Bureau of the WIPO. The Hague System provides a mechanism for registering an industrial design in member countries and or intergovernmental organizations of the Hague System by means of a single application. There are currently 75 parties to the Hague System.

After registration, the design will be protected for an initial 5 years from the date of the filing and has to be renewed every 5 years. The maximum duration of the exclusive rights conferred by registration is 15 years. In an action for infringement of a registered industrial design, the types of relief that the court may grant include (i) an injunction; and (ii) either damages or an account for profits.

# Competition

Competition law promotes market competition by regulating anti-competitive practices by companies.

Although Singapore has had rules against anti-competitive activities in specific sectors such as energy and telecommunications; it was not until 2004, as part of its efforts to create a pro-enterprise environment, that it enacted a national competition law, the Competition Act (“CA”).

The CA applies to undertakings, that is, any person, being an individual, a body corporate, an unincorporated body of persons or any other entity, capable of carrying on commercial or economic activities relating to goods or services. It does not apply to the government, statutory bodies or any person acting on their behalf.

## PROHIBITIONS

The CA prohibits (1) anti-competitive agreements; (2) abuse of a dominant position; and (3) mergers that substantially lessen competition.

### Anti-competitive agreements

The CA prohibits agreements, decisions or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore. Agreements which may be prohibited include agreements that (i) directly or indirectly fix purchase or selling prices or any other trading conditions; (ii) limit or control production, markets, technical development or investment; (iii) share markets or sources of supply; (iv) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or (v) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which have no connection with the subject of such contracts.

### Abuse of a dominant position

The CA prohibits any conduct which amounts to the abuse of a dominant position in any market in Singapore. A conduct may constitute such an abuse if it consists in (i) predatory behaviours



towards competitors; (ii) limiting production, markets or technical development to the prejudice of consumers; (iii) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or (iv) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which have no connection with the subject of the contracts.

#### Mergers that substantially lessen competition

The CA prohibits mergers that have resulted, or may be expected to result, in a substantial lessening of competition within any market in Singapore for goods or services. Competition concerns may arise in a merger situation if the merged entity has a market share above 40%, or if the merged entity has a market share of between 20% to 40% and the post-merger combined market share of the three largest entities is 70% or more. If applicable, other factors may then be considered and investigated to monitor if the undertaking is abusing its dominance.

It is possible to write to the Competition and Consumer Commission of Singapore (“CCCS”) for guidance prior to a merger.

#### ADMINISTRATION AND ENFORCEMENT OF THE COMPETITION LAW

The CCCS is the body that administers and enforces the CA (and since 1 April 2018, the Consumer Protection (Fair Trading) Act which protects consumers against unfair trade practices in Singapore).

The CCCS has the power to investigate and adjudicate infringements of the prohibitions under the CA. The CCCS is empowered to (i) give directions to bring an infringement to an end; (ii) give directions on interim measures during an investigation; (iii) prohibit mergers; and (iv) impose financial penalties for an infringement, provided that the infringement was committed intentionally or negligently. The amount of penalty imposed may be up to 10% of the turnover of the business of the undertaking in Singapore for each year of infringement, up to a maximum of 3 years

# Arbitration

Arbitration is a private form of dispute resolution whereby parties to a dispute agree to refer existing or future disputes to one or more arbitrator(s) for a final and binding decision. The courts recognize such agreements and support arbitral proceedings, in particular the enforcement of arbitral awards.

Arbitration emerged as one of the preferred forms of resolving commercial disputes outside the court system, inter alia, for internationalized business transactions and highly specialized business areas. The main advantages of arbitration are seen within its adaptability to the circumstances of the parties and the dispute, its confidentiality and the cross-border enforceability of its awards. Hence, it is estimated that up to 80% of international business contracts fall within the jurisdiction of arbitral courts.

In recent years, Singapore has been and continues to be recognized as one of the leading global dispute resolution centres. Arbitration in Singapore plays a key role for this reputation. Within the last two decades, Singapore has established itself as one of the leading arbitration centres in the world. An excellent geopolitical location in the heart of Asia, a world-class infrastructure as well as economic and political stability supported by a liberal and arbitration-friendly judicial system has aided this rapid development.

Arbitration in Singapore is governed either by the Arbitration Act (“**AA**”) or the International Arbitration Act (“**IAA**”). In general, the AA applies to domestic arbitrations and the IAA to international arbitrations. Arbitration is considered international if one of the parties to the arbitration agreement has its place of business outside of Singapore or a substantial factor of the dispute is most closely connected to a state other than where the parties have their place of business. Both the AA and the IAA are drafted in accordance with the UNCITRAL-Model Law on International Commercial Arbitration and differ in terms of the degree of intervention in the arbitral process.

## CONDUCT OF ARBITRATION

One of the key characteristics of arbitration is that the parties may agree on their preferred set of procedural rules. Hence, the arbitration may be conducted as an ad-hoc arbitration or administered by an arbitration institution. Apart from cases heard under the rules of the Singapore International Arbitration Centre (“**SIAC**”), other rules such as, inter alia, the rules of the International Chamber of Commerce, the American Arbitration Association, the London Court of International Arbitration or the UNCITRAL Arbitration Rules may be selected by the parties to the arbitration

## SINGAPORE INTERNATIONAL ARBITRATION CENTRE

Since the opening of the world’s first integrated dispute resolution complex in 2010, namely, the Maxwell Chambers, international prominent arbitration institutions have established a presence in Singapore. Amongst those is the Singapore International Arbitration Centre (“SIAC”). Established in 1991, SIAC is now recognized as one of the global leaders in the field.

2020 saw SIAC set a new record with 1,080 new case filings with a total sum in dispute amounting to SGD 11.25 billion. This figure represents a 125% increase from the 479 new cases filed in 2019. Parties filed claims in relation to disputes from a number of sectors such as trade, commercial, corporate, maritime / shipping, construction / engineering, agriculture, arts / entertainment, aviation, banking / financial services, commodities, education, employment, energy, healthcare / pharmaceuticals, hospitality / travel, insurance / reinsurance, IP/IT, media / broadcasting, mining, real estate, regulatory, sports, technology / science, telecommunications and treaty interpretation / rights.

On 1 August 2016, the new SIAC Arbitration Rules came into effect. The new SIAC Rules include, in particular, new provisions on consolidation, multiple contracts, joinder of additional parties to facilitate the cost-effective and efficient resolution of disputes, introduction of procedure for the early dismissal of claims and defences and localization of the seat of arbitration.

## COURT INTERVENTION

Beside Singapore's proximity, state-of-the-art infrastructure, cutting-edge arbitral institutions and other professional service providers, Singapore is also chosen as seat for many arbitrations due to the liberal and sound judgment of its courts supporting the arbitral process where needed and acting cautiously when court intervention is sought. Even though the past years have shown an increased trend of parties seeking redress against a tribunal's decision, the Singapore courts have stood strong to their core principals of minimal court interference and giving primacy to the autonomy of arbitral proceedings and the parties' decision to arbitrate.

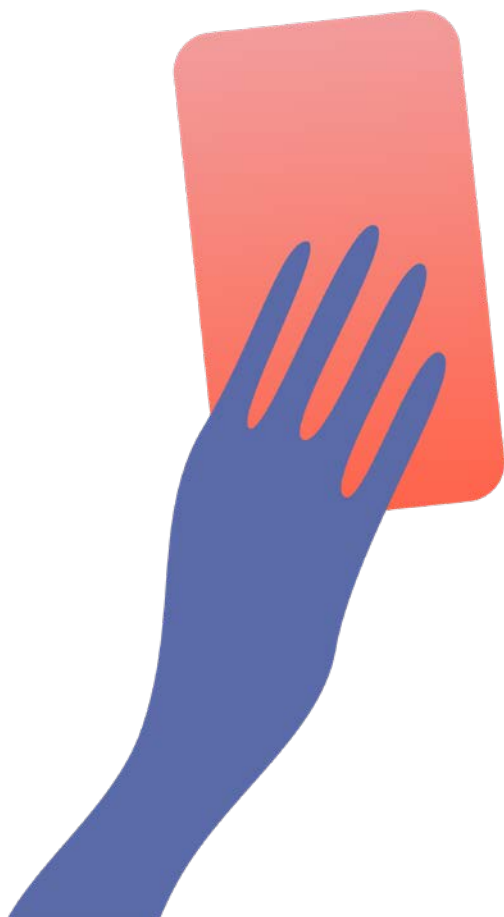
## ENFORCEMENT OF ARBITRAL AWARDS

Awards issued in Singapore, either in respect of domestic or international arbitration, are binding and enforceable. In addition, as a result of Singapore being a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitration Awards, 1958 (the "**New York Convention**"), arbitral awards issued in Singapore will be recognized and enforceable in other signatory states. Likewise, foreign awards issued in other signatory states will be recognized and enforceable in Singapore. There are currently 168 signatories to the New York Convention. The Singapore courts ordinarily apply an expeditious pro-enforcement approach to arbitral awards.

## DRAFTING ARBITRATION CLAUSES

To minimize the risk of redundant court intervention and to facilitate a smooth arbitral process it is crucial to include a well-drafted arbitration clause into an agreement. In a worst-case scenario, an award may be revoked or denied enforcement even after the arbitral proceedings took place. Most arbitral institutions offer model arbitration clauses which may be adapted to the parties' needs. First and foremost, an arbitration clause must unambiguously record (in writing) the party's intention to resolve (any) dispute by arbitration. Further, the following should be

mentioned in an arbitral agreement: the seat of the arbitration and the adopted arbitration rules. Specific procedural regulations such as the composition of the arbitral tribunal or the language of arbitration may be added. Only a well-balanced arbitration clause tailored to the specific transaction – neither omitting crucial elements nor over-specifying the arbitral conduct – will facilitate the settlement of a dispute in a professional and efficient manner.



# Other forms of Dispute Settlement

## LITIGATION

Litigation refers to the process of taking a dispute between parties through to the courts to obtain a final judgement. In a civil case, the amount of the claim determines which court a party commences its action in: Civil cases not exceeding 20,000 SGD are dealt by the Small Claims Tribunal. If both parties agree, the Small Claims Tribunal can also deal with cases not exceeding 30,000 SGD. The Magistrates' Courts is competent for claims not exceeding 60,000 SGD. Claims of more than SGD 60,000 but not exceeding SGD 250,000 (or up to \$500,000 for road accident claims or claims for personal injuries arising out of industrial accidents) are dealt with by the District Courts. For claims above SGD 250,000, the High Court is competent to deal with the claim.

### The Hague Convention on Choice of Court Agreement

Singapore has ratified the Hague Convention on Choice of Court Agreement ("**Hague Convention**") in 2016. Other than China, which ratified the Hague Convention in 2017, Singapore is the only Asian country to do so. Further contracting parties are, inter alia, the member states of the European Union, Mexico and Montenegro.

The Hague Convention states that judgments by the chosen courts are recognised and enforced in contracting states. That means, a judgement of a court of a contracting party, e.g. Germany, should be recognised and enforced in Singapore without any further juridical review, if the judgement is not against public policy.

The Hague Convention only applies if the concerned contract contains an exclusive choice of court agreement and there is not a reason for exclusion, e.g. it is a labour contract and one of the contracting parties is a consumer.

### International Commercial Court

With the aim of providing another instrument to decide cross-border commercial disputes, the Singapore International Commercial Court ("SICC") was launched in 2015. The SICC is a branch of the Singapore High Court with the features that a panel of judges including international judges and the possibility of being legally represented by a foreign lawyer. This is particularly necessary to

guarantee a proper juridical counselling and decision since the SICC is also able to give judgements on matters governed by foreign law and in cases which have no substantial connection to Singapore.

Furthermore, taking a dispute to the SICC can be attractive because the SICC is not bound by the rules of evidence that are applicable under Singapore law. It can allow alternative rules of evidence from other jurisdictions.

## MEDIATION

Mediation is a voluntary, non-binding method to resolve disputes by using an impartial third party who is trained to bring parties together to reach a settlement. Especially in the consensus-driven Asian culture, mediation can be an effective means to reach an agreement which will enable parties to continue their business relationship. Since 2014, the Singapore International Mediation Centres (“**SIMC**”) offers this service for cross-border commercial disputes.

In practice, a lot of commercial contracts contain an arbitral clause which states that only in case of the failure of a mediation process will arbitration occur. The SIAC and the SIMC have a special protocol which they follow in these cases.

In ideal cases, mediation processes end with a settlement agreement which both parties recognise and obey.

In case one party is not located in Singapore, difficulties can arise in the recognition and enforcement of the mediated agreement in the other jurisdiction. Therefore, the United Nations Convention on International Settlement Agreements resulting from Mediation (“**Singapore Convention**”) was initiated. The Singapore Convention was signed in August 2019 entered into force on 12 September 2020. As at May 2021, there are 53 signatories and 6 parties to the Singapore Convention. It ensures that settlement agreements resulting from mediation will be recognised and enforced in cases where both parties are contracting states of the Singapore Convention.





# Contact person

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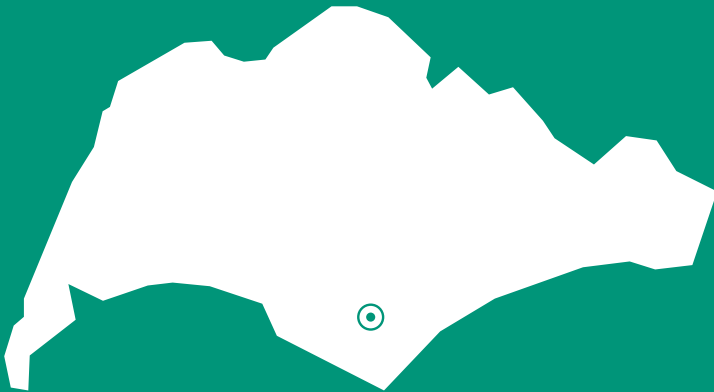


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