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## News

### **Rajah & Tann Singapore Awarded Singapore Firm of the Year at the 2022 *Who's Who* Legal Awards Ceremony**

Rajah & Tann Singapore has been awarded Singapore Firm of the Year at the 2022 *Who's Who* Legal Awards Ceremony on 16 November 2022 at an in-person awards ceremony in London.

Following an in-depth research and assessment, the Country and State Awards identified leading firms in more than 75 countries and jurisdictions for their outstanding performance. Rajah & Tann Singapore has been identified as the top firm in Singapore.

*Who's Who* Legal is one of the world's most trusted legal directories that identify the foremost legal practitioners and consulting experts in business law based on comprehensive, independent research.

Rajah & Tann Singapore is one of the largest full-service law firms in Southeast Asia, with market-leading corporate and dispute resolution practices. It is a member of Rajah & Tann Asia, one of the largest legal networks in Southeast Asia with over 800 fee earners. It is among the region's most highly regarded law firms, with international legal journals and surveys consistently rating the firm and many of its lawyers as among the best in their practice areas.

Click [here](#) to read our Press Release.

### **Rajah & Tann Singapore Voted Singapore's Overall Top Firm in *The Straits Times* "Singapore's Best Law Firms 2023" Survey for Second Year Running**

Rajah & Tann Singapore reaped the rewards of its hard work with yet another round of exceptional performance in [The Straits Times' "Singapore's Best Law Firms 2023" survey](#). The firm was named in the top line-ups in 17 categories and placed top in eight of them.

Emerging ahead of the crowd, Rajah & Tann Singapore was voted the overall top Singapore firm for:

- [Arbitration, Mediation & Dispute Resolution](#)
- [Banking & Finance Law](#)
- [Company & Commercial Law](#)
- [Insolvency & Restructuring Law](#)
- [Manpower & Employment Law](#)
- [Maritime & Shipping Law](#)
- [Mergers & Acquisitions Law](#)
- [Technology, Media, Telecommunication \(TMT\) Law](#)

The firm was also awarded top ratings for its first-class expertise across various fields, including:

- [Charities, Not-for-Profit Associations & Pro Bono](#)
- [Conveyancing Law](#)

- [Criminal Law](#)
- [Family Law](#)
- [Inheritance & Succession, Private Wealth Management Law](#)
- [Intellectual Property Law](#)
- [Investment Funds Law](#)
- [Negligence \(Professional/Accidents/Personal Injuries\) Law](#)
- [Real Estate \(Commercial Property, Construction, Funds\) Law](#)

The annual survey is based on recommendations made by lawyers, in-house lawyers and clients. International market researcher Statista partnered *The Straits Times* in compiling the results.

Click [here](#) to read our Press Release.

### **Rajah & Tann Singapore Names Avinash Pradhan and Vikna Rajah as Co-heads of South Asia Practice**

Rajah & Tann Singapore has appointed [Avinash Pradhan](#) and [Vikna Rajah](#) as co-heads of the firm's [South Asia desk](#) with effect from 1 November 2022, taking over from Deputy Managing Partner [Kelvin Poon](#). Avinash will oversee contentious matters relating to South Asian markets, while Vikna will handle non-contentious matters.

The South Asia desk is a market-leading practice comprising lawyers with substantial experience in India, Sri Lanka and Bangladesh in the fields of arbitration, corporate finance, shipping and construction. The firm was identified as a leading Regional & Specialist firm in the region by *India Business Law Journal* in 2020 and 2021. Most recently, it was recognised by the journal's Deals of the Year 2021 report for its involvement in INTL International's divestment of a 49% stake in Chongqing Yuhe Expressway.

Avinash's extensive experience covers international arbitration, banking, corporate finance, hospitality, mergers & acquisitions, joint venture and shareholder disputes as well as project disputes in the construction, infrastructure and energy sectors. He has been recognised in *Best Lawyers* (2017 to 2021) as one of Singapore's leading lawyers in arbitration, mediation and international arbitration, and in *Asialaw Profiles* (2019) as a leading lawyer in Dispute Resolution.

He currently sits on the Singapore International Arbitration Centre's (SIAC) Users' Council. Avinash is also the Deputy Head of the firm's [International Arbitration Practice](#), and practices in Malaysia as a partner of [Christopher & Lee Ong](#), part of the Rajah & Tann Asia network.

Vikna is a leading tax and private wealth lawyer, and heads the firm's [Tax Practice](#) and co-heads the firm's [Private Client Practice](#). Vikna also currently sits as the Chairman of the International Fiscal Association, Singapore Branch. His experience in advising clients on complex income tax, stamp duty, and property tax issues, as well as a track record of successfully resolving multi-million-dollar tax disputes, helped the firm's Tax practice clinch Singapore's Tax Disputes and Litigation Firm of the Year by the *International Tax Review* 2017. Vikna has been consistently recognised as "Highly Regarded" in the "tax controversy" practice area by *ITR World Tax* and a "Litigation Star" by *Benchmark Litigation Asia Pacific* since 2021. He is also ranked as a "Leading Individual" in tax by both *The Legal 500 Asia Pacific* and *Chambers Asia Pacific* since 2017. Prior to joining the firm, he was legal counsel for the Inland Revenue Authority of Singapore (IRAS).

Vikna has also been named as one of the world's Leading Experts in Private Client Practice by *Who's Who Legal* since 2017 and one of the world's Top 250 Private Client Lawyers by Legal Week's Private Client Global Elite 2018. In addition, he was ranked as a Leading Individual for Private Wealth by both *The Legal 500 Asia Pacific 2022* and *the Chambers High Net Worth Guide 2022* for his experience in advising leading trust companies and ultra-high net worth families on succession planning and creating multi-generational trusts.

Click [here](#) to read our Press Release.

## LegisBytes

### Banking & Finance

#### MAS Consults on Proposed Initiatives to Eliminate Corporate Cheques

On 2 November 2022, the Monetary Authority of Singapore ("MAS") issued a consultation paper titled "Roadmap to Terminate the Singapore Dollar ("SGD") Cheque Truncation System – Eliminating Corporate Cheques by 2025". MAS aims to achieve the following:

- (a) eliminate centrally cleared cheques used by corporates ("**corporate cheques**") by 2025; and
- (b) assist and encourage remaining users (both corporates and individuals) of centrally cleared cheques to switch to alternative payment methods if they are able to do so.

MAS proposes to implement three sets of initiatives:

- (a) **Public communications** – industry-led publicity on the elimination of corporate cheques by 2025, and increasing education for cheque users to switch to alternative payment methods;
- (b) **Change management** – ceasing issuance of new cheque books, implementing higher processing costs per cheque; providing appropriate incentives to switch to e-payments; and replacing nicknames for PayNow lookups with masked names.
- (c) **Build new payment solutions** – building a new Electronic Deferred Payment ("**EDP**") solution to replace post-dated cheques and cashier's orders. Leveraging existing payment rails such as Fast and Secure Transfers (FAST), Inter-bank GIRO (GIRO), the EDP solution will enable payers to make a deferred payment or issue a cashier's order without the need for cheques. Details on the step-by-step process of the envisaged solution is set out in section 4 of the consultation paper.

In the consultation paper, MAS seeks comments on the following key matters, among others:

- (a) EDP solution:
  - Whether the proposed EDP solution can eliminate the need for post-dated cheques, or if other features are required; and

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- Whether it is necessary to amend legislation to provide a payee a right of recourse where the payment fails due to insufficient funds in the payer's account.
- (b) For payments to and from corporates:
  - Whether there are any legislative provisions that should be amended to enable e-payment solutions to be used. The relevant authorities are already working on the necessary amendments to the industry rules and practices, including for property conveyancing.
- (c) For payments to and from government agencies:
  - Whether there is any existing practice or requirement preventing the use of non-cheque payment methods;
  - Whether any new payment solution is required to facilitate payments; and
  - Any difficulties faced by corporates and individuals in switching from cheques to e-payments or other non-cheque payment methods.
- (d) For US Dollar ("USD")-denominated cheques:
  - Whether there is any usage that cannot be addressed by alternative payment methods;
  - Whether users would still continue to use such cheques if charges were to increase to become higher than charges for alternative payment methods; and
  - How users will adapt if USD cheque clearing services in Singapore were to be terminated.
- (e) Whether there are any specific forms of cheque usage (including bearer cheques) that cannot be addressed by the alternative payment methods suggested in the consultation paper.

Although corporate cheques will be eliminated by 2025, MAS will keep the SGD Cheque Truncation System (CTS) operational for a period beyond 2025 to cater to certain groups of individuals who may be unable to switch to alternative payments.

The consultation period ended on 13 December 2022.

Click on the following link for more information:

- [MAS Consultation Paper titled "Roadmap to Terminate the SGD Cheque Truncation System – Eliminating Corporate Cheques by 2025"](#) (available on the MAS website at [www.mas.gov.sg](http://www.mas.gov.sg))

## Launch of Digital Process to Provide Banker's Guarantees and Insurance Bonds

On 2 November 2022, the Monetary Authority of Singapore ("MAS") and the Ministry of Finance ("MOF") launched eGuarantee@Gov. Under this process, business and individuals will be able to provide a banker's guarantee or insurance bond (collectively, "Guarantee") to government agencies within a day.

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eGuarantee@Gov eliminates the need to apply for a paper Guarantee from a financial institution ("FI"), then collect and deliver the paper Guarantee to the relevant government agency. Instead, businesses and individuals may apply for an eGuarantee from 21 participating FIs through their websites or email for direct submission to 17 government agencies.

Among other benefits, eGuarantee@Gov:

- (a) Provides a secure, simpler, and more streamlined workflow, under which each Guarantee need no longer undergo legal vetting
- (b) Facilitates greater efficiency in processing Guarantees;
- (c) Reduces transaction costs and the operational risks associated with manual paper-based workflows; and
- (d) Represents another step in Singapore's move towards a greener and more sustainable economy.

A list of the 21 participating FIs and the 17 government agencies is set out in the [Annex](#) to the MAS media release (linked below). More FIs and agencies are scheduled to come onboard eGuarantee@Gov by end 2023.

The Annex also includes a list of the types of eGuarantees that are available, and which government agency each eGuarantee is applicable to.

Click on the following link for more information:

- [MAS Media Release titled "MOF and MAS Launch Process to Digitalise Banker's Guarantees and Insurance Bonds"](#) (available on the MAS website at [www.mas.gov.sg](http://www.mas.gov.sg))

### Capital Markets

#### **New SGX Sustainable Fixed Income Initiative Provides Recognition for SGX-ST Fixed Income Securities that Meet Recognised Green, Social or Sustainability Standards**

On 28 November 2022, the Singapore Exchange (SGX Group) launched the SGX Sustainable Fixed Income initiative. The initiative gives issuers the opportunity to obtain recognition for green, social and sustainability ("GSS") fixed income securities listed on the Singapore Exchange Securities Trading Limited ("SGX-ST") that meet certain criteria, e.g. being aligned with recognised GSS standards for fixed income securities. This initiative also allows investors to identify with ease and confidence sustainable fixed income securities that meet recognised standards and specified criteria.

#### How to Obtain Recognition under the SGX Sustainable Fixed Income initiative

- (a) When making its application to list and quote the fixed income securities on SGX-ST, an issuer of GSS fixed income securities may concurrently apply for recognition under the initiative. The prevailing listing fees apply and there is no additional fee for the application for recognition.
- (b) The GSS fixed income securities must fulfil the following criteria:

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- The fixed income securities are aligned with recognised GSS standards.
  - A reputable external reviewer has confirmed that the fixed income securities are aligned with recognised GSS standards.
  - The issuer makes publicly available the reports showing the fixed income securities' alignment with the recognised GSS standards.
- (c) Applications for listing and for recognition under the SGX Sustainable Fixed Income initiative will be reviewed concurrently by SGX-ST. If approved, SGX-ST will grant the approval-in-principle for listing and recognition at the same time.
- (d) The issuer then completes the listing of the fixed income securities in accordance with the prevailing listing process. The fixed income securities will be recognised at the point of listing, and will be published on the list of recognised fixed income securities on SGX-ST's website and on Greennode (a GSS bond information hub operated by Marketnode, an SGX Group and Temasek joint venture providing digital markets infrastructure). The issuer may request for an official SGX Sustainable Fixed Income mark and use the mark in accordance with SGX-ST's [terms of use](#).
- (e) To maintain recognition post-issuance, the issuer must comply with ongoing reporting requirements, such as publishing any post-issuance reports (e.g. ongoing use of proceeds reporting) required under the applicable GSS standards, and disclose information on any material developments that may affect the fixed income securities' alignment with those standards. These reports must be made publicly available without charge.

Click on the following links to access the source materials (available on the SGX-ST website at [www.sgx.com](http://www.sgx.com)):

- [Information page on SGX Sustainable Fixed Income Initiative](#)
- [SGX-ST Media Release titled "SGX Group launches initiative to recognise Sustainable Fixed Income"](#)

## SGX RegCo, SID, CSIS Jointly Issue Standard for Providers of Virtual/Hybrid General Meeting Systems for SGX-listed Issuers

On 24 November 2022, the Singapore Exchange Regulation ("SGX RegCo"), the Singapore Institute of Directors (SID), and the Chartered Secretaries Institute of Singapore (CSIS) jointly issued a standard to help issuers listed on the Singapore Exchange Securities Trading Limited ("SGX-listed Issuers") choose service providers for their virtual and hybrid general meetings ("GMs") so as to meet SGX RegCo's expectations regarding live engagement and voting at GMs that were set out in its [Regulator's Column dated 23 May 2022](#), as well as the requirements of the relevant laws.

The document titled [Standard for Vendors of Virtual/Hybrid General Meeting Systems](#) ("**Standard**") sets out the requirements and recommendations for the design, implementation, provision, maintenance, and continual improvement of systems that enable the holding of virtual and hybrid GMs by SGX-listed Issuers. They are particularly meant for the systems that

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support shareholders' rights to attend, participate in, ask questions at, and vote at such GMs ("**Virtual/Hybrid GM Systems**").

### Key Components

Key components covered under the Standard include:

- (a) **Baseline functional capabilities of the Virtual/Hybrid GM Systems**, which include, among other things, ways to register the attendance of and verify the identities of members of SGX-listed Issuers, provision of individualised means for access to GMs, the submission of questions, and voting on resolutions put before the GMs, etc.
- (b) **Technological risk management**. Service providers are required, among other things, to conduct comprehensive testing of the stability and availability of the Systems and make provisions for back-ups/fail-over Systems for use in the event of a failure of the System during a GM.
- (c) **Measurement, analysis and improvement**. For instance, service providers must put in place the necessary monitoring, measurement, analysis and improvement processes to assess the reliability and usability of the Systems, as well as improve their Systems on a continuous basis, taking into account feedback from the SGX-listed Issuers.

### Applicability

The Standard applies to vendors of the Virtual/Hybrid GM Systems, and adoption of the Standard is voluntary. Although it is not compulsory for SGX-listed Issuers to only use vendors that comply with the Standard, SGX-listed Issuers are encouraged to take into account the Standard when they are selecting service providers for the Virtual/Hybrid GM Systems.

### Ensuring that Service Providers Comply with the Standard

SGX-listed Issuers may include relevant and appropriate contractual provisions in the engagement contract with the service providers for the Virtual/Hybrid GM Systems that the Systems provided to the Issuers must comply with the Standard.

For more information, click [here](#) for our Legal Update.

## **SGX RegCo Publishes Cyber Incident Response Guide for SGX-Listed Companies**

The Singapore Exchange Regulation ("**SGX RegCo**") has published the Cyber Incident Response Guide ("**Guide**") to provide guidance on the best practices which are pertinent to helping issuers listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") as well as the SGX members (collectively, "**Companies**") strengthen their cyber risk management strategies and practices. The Guide aims to set out considerations and good practices for Companies to refer to in preparing and operationalising their own cyber incident response plans, and adapting these considerations and good practices as necessary to meet their own requirements.

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Although the Guide does not aim to prescribe a set of standards that all Companies should adopt, it is an indication of the impact a cyber incident can have on Companies and provides a perspective on the emphasis of SGX RegCo on Companies' preparedness and response to cyber risks and incidents. Companies should promptly assess whether their existing internal policies and plans deal with cyber risks and cyber incidents, and if so, whether such policies and plans meet the SGX RegCo's expectations set out in the Guide.

### Key Features of the Guide

The Guide outlines suggestions for the Companies in addressing the key issues below so that they can establish a robust cyber incident response plan.

- (a) **Cyber crisis management structure.** Establishing a Crisis Management Team ("CMT") and a Cyber Incident Response Team ("Cyber IRT") that can be activated in the event of a cyber incident. The Guide sets out the composition of each team and the roles and responsibilities of its members.
- (b) **CMT/Cyber IRT activation.** Adopting a structured approach in classifying cyber incidents to determine when CMT and the board of directors of the Companies should be activated and setting out the process for the activation of the CMT and the Cyber IRT.
- (c) **CMT milestones and timelines.** Determining common milestones for updates to the CMT for each cyber scenario, and the Cyber IRT members responsible for providing these updates.
- (d) **Cyber incident response lifecycle.** Establishing a cyber incident response plan that charts the key considerations at key stages of the cyber incident response lifecycle which would guide a Company's actions in various cyber scenarios.
- (e) **Good practices on crisis communications.** Developing and maintaining a robust crisis communications plan for cyber incidents and ensuring that it is aligned with their cyber incident response plans.

### Disclosure of Material Information

Companies which are listed on SGX-ST are reminded of their obligations to disclose the occurrence of cyber incidents if they are considered as "material information" under Chapter 7 of the SGX-ST Mainboard Rules and Catalyst Rules (collectively, "**Listing Rules**"). Under the Listing Rules, a Company listed on SGX-ST must immediately announce via SGXNET any information known to it concerning it or any of its subsidiaries or associated companies which (i) is necessary to avoid the establishment of a false market in the Company's securities, or (ii) would be likely to materially affect the price or value of its securities.

In addition to their disclosure obligations under the Listing Rules, Companies that are subject to the requirements in the Personal Data Protection Act 2012 of Singapore ("**PDPA**") must also be mindful of their obligations to provide notification of any data breach under the PDPA to the Personal Data Protection Commission Singapore and/or affected individuals.

### How Can We Help

The specialist joint cybersecurity legal and cybersecurity team at Rajah & Tann Singapore and [Rajah & Tann Cybersecurity](#) is well placed to guide Companies in assessing and implementing their internal structures for

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consistency with the Guide, and assist Companies with putting in place robust plans and practices for cybersecurity preparedness and cyber incident response. If you have any queries, please feel free to contact our team.

For more information, click [here](#) to read our Legal Update.

## Guide Published to Assist SGX-Listed Issuers in Conducting Internal Review of Sustainability Report

Since 2016, issuers listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") have been required to issue a sustainability report for each financial year ("**FY**"). Currently, the issuers must describe in their sustainability reports their sustainability practices on a "comply or explain" basis with reference to six primary components set out in the rules under the Listing Manual of the SGX-ST ("**Mainboard Rules**") and Section B: Rules of Catalist of the Listing Manual of the SGX-ST ("**Catalist Rules**") (collectively, "**Listing Rules**"), including the Sustainability Reporting Guide set out thereunder ("**SR Guide**").

With effect from 1 January 2022, an issuer is required under the Listing Rules to subject its sustainability reporting process to internal review by the internal audit function. As mentioned in the SR Guide, the internal review should be conducted in accordance with the International Standards for the Professional Practice of Internal Auditing issued by The Institute of Internal Auditors.

To provide a 'navigating map' on conducting an internal review of sustainability reports, the Institute of Internal Auditors Singapore ("**IIA Singapore**") published on 4 November 2022 the [Guide to Internal Review of Sustainability Report](#) ("**Guide**"), co-developed with Ernst & Young LLP (EY). It is built on the requirements of the sustainability report set out in Rules 711A and 711B of the Listing Rules, the SR Guide and the guide on implementing the Recommendations of the Task Force on Climate-related Financial Disclosures ("**TCFD**").

The Guide aims to provide easy reference for its users in preparation for the conduct of an internal review of a sustainability report. Its key aspects include:

- (a) Requirements for a sustainability report. This comprises six primary components, noting that the second component on client-related disclosures is being implemented on a graduated basis beginning from the financial year commencing 1 January 2022;
- (b) Seven principles, which were established by the TCFD, that should be considered during the internal review; and
- (c) Guidance on the internal review process, covering planning, performing the engagement, and the reporting of findings and the conclusion.

It should be noted that the Guide is not meant to be construed as the definitive manner to conduct the internal review of sustainability reports in Singapore.

For a brief overview of the Guide's key aspects below, click [here](#) to read our Legal Update.

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## Corporate Commercial

### Public Consultation on Proposed Amendments to the Societies Act 1966

On 11 November 2022, the Ministry of Home Affairs ("MHA") issued a public consultation to seek feedback on proposed amendments to the Societies Act 1966 ("Act").

The Act governs the registration of societies. It ensures that groups that (i) may be used for unlawful purposes, (ii) pose a threat to safety and security in Singapore, or (iii) whose activities are contrary to our national interests are not allowed to establish themselves in Singapore. MHA proposes to amend the Act to strengthen these safeguards. Key amendments are as follows:

- (a) **Tightening of the automatic registration route.** Presently, there are two avenues for society registration: normal and automatic. The automatic registration route was introduced in 2004 for applications that do not fall within the categories in the Schedule of the Act. There are two safeguards. First, under section 4A(5), the Registrar of Societies has the power to order an application to register via the normal route instead if the application falls within the categories in the Schedule of the Act. Secondly, under section 11A(2), the Registrar can order an amendment of rules of the society if the said rules are contrary to national interest or prejudicial to public peace, welfare or good order in Singapore. MHA proposes to:
- amend section 4A (automatic registration) to remove reference to "without making any further inquiry". This will allow the Registrar to ask the applicant questions to assess whether the application can proceed to be registered as a society via the automatic registration route; and
  - amend the Schedule of the Act such that applications submitted under section 4A (automatic registration) but require further assessment can be moved to the normal registration route, even if they do not fall within the categories in the Schedule of the Act.
- (b) **Making it clearer that the Registrar is able to include specific clauses into societies' constitution before they are registered.** Currently, for applications submitted via the normal registration route, MHA may request applicants to insert clauses into their constitution. MHA proposes to amend the Act to make it clearer that the Registrar is able to request the inclusion of specific clauses into societies' constitution before they are registered. This is uncontroversial and consistent with the position under common law. If an applicant agrees to the new clauses requested by the Registrar, the Registrar will proceed to approve the application. However, if the applicant does not accept these clauses, the Registrar will not process the application further.
- (c) **Inclusion of grounds that the Registrar can consider when assessing applications to amend rules, name, and place of business.** Currently, under section 11(1) of the Act, the Registrar's approval is required for a registered society to amend its rules, as well as change its name or place of business. However, it does not state

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the parameters under which these amendments and changes could be rejected. MHA proposes to amend section 11 to include certain grounds on which the Registrar can reject an application to amend a registered society's rules, name and place of business. These grounds include where the amended rules enable the registered society to be used for unlawful purposes or for purposes prejudicial to public peace, welfare or good order in Singapore.

MHA has also proposed to make amendments to the Act to support administrative functions as follows:

- (a) Allow the Registrar to charge fees upon submission of the application, instead of the current arrangement where fees are charged only when the application is approved;
- (b) Allow societies which are also registered charities to file their annual submissions via the proposed implementation of a "one-stop" service;
- (c) Allow for electronic transmission for all service of documents; and
- (d) Allow the Registrar to compound fines for regulatory offences.

The public consultation ended on 9 December 2022. The consultation document is accessible on the REACH website [here](#).

## Dispute Resolution

### New Med-Arb Protocol Allows SIMC Mediation Agreements to be Enforced as Arbitral Award of the Shenzhen Court of International Arbitration

There has been a growing trend globally in recent years towards alternative dispute resolution mechanisms such as mediation. In 2021, the Singapore International Mediation Centre ("**SIMC**") administered disputes with a total value of over US\$3 billion, equalling the total dispute value for the preceding six years (i.e. 2014 to 2020).

The strong trend towards mediation has been further aided by the Singapore Convention on Mediation (formally known as the United Nations Convention on International Settlement Agreements Resulting from Mediation) which was signed in 2020. In this regard, parties to the Singapore Convention on Mediation are obligated to recognise and enforce international commercial settlement agreements, greatly improving the ease of international enforcement of settlement agreements. Indeed, despite the short span of time since it was opened for signature in August 2019, the Singapore Convention has 55 signatories as of December 2022, of which eight are parties to the Singapore Convention.

To further improve the enforceability of settlement agreements, SIMC and the Shenzhen Court of International Arbitration ("**SCIA**") [launched](#) the SIMC-SCIA Med-Arb Protocol ("**Protocol**") on 25 November 2022. The new Protocol allows for any settlement agreement resulting from mediation at SIMC to be recorded as an SCIA arbitral award, which can be efficiently and effectively enforced in China and elsewhere.

For more information on the features and advantages of the new Protocol, click [here](#) to read our Legal Update.

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Visit [Arbitration Asia](#) for insights from our thought leaders across Asia concerning arbitration and other alternative dispute resolution mechanisms, ranging from legal and case law developments to market updates and many more.

## Parliament Passes Legislation to Introduce New Procedures for a Post-Appeal Application in Capital Cases

On 7 November 2022, the Post-appeal Applications in Capital Cases Bill ("Bill") was introduced for first reading in Parliament to clarify the process for post-appeal applications in capital cases ("**PACC Applications**"). The Bill was subsequently passed by Parliament on 29 November 2022, but the provisions of the Bill have yet to come into force.

The key features of the new procedure for PACC Applications are as follows:

- (a) Only the Court of Appeal ("CA") may hear PACC Applications and grant a stay of execution of the sentence.
- (b) The prisoner awaiting capital punishment ("**PACP**") will be required to apply for permission to make a PACC Application. The application for permission may be heard by a single Judge exercising the CA's jurisdiction, who may deal with it without an oral hearing.
- (c) The PACP will be required to state, among others, the grounds of the PACC Application and the reasons for not filing the application earlier.
- (d) The CA may make incidental directions and interim orders.
- (e) Where the PACP had previously been found by the CA to have abused the court's process in a relevant application, or to have abused the court's process in any other application or action to frustrate or delay the carrying out of the capital sentence that was filed on or after the commencement date of the Bill, the CA must not grant permission unless the PACP adduces material that was not and could not have been, even with reasonable diligence, adduced before the most recent such finding.
- (f) If permission is granted, the PACC Application must be filed within a specified period, and a hearing before a coram of three or more Judges will be fixed.
- (g) The CA may, on its own motion or upon the application of the Public Prosecutor or Attorney-General, decide whether to find that the PACP or the PACP's counsel had abused the court process (in the case of a relevant application) or abused the court process in order to delay or frustrate the carrying out of the capital sentence (in the case of an application (other than a relevant application) or action). In deciding whether there had been such an abuse of process, the CA may take additional evidence, and may also inquire into and take into account any non-compliance with the applicable procedure for relevant applications.

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- (h) Where appropriate, the procedure for applications to review concluded criminal appeals under Division 1B of Part 20 of the Criminal Procedure Code 2010 (CPC) will be aligned with the new procedure for PACC Applications.

Click on the following links for more information:

- [Ministry of Law \("Minlaw"\) Press Release titled "Legislative Amendments to Clarify Process for Post Appeal Applications in Capital Cases"](#) (available on the Minlaw website at [www.mlaw.gov.sg](http://www.mlaw.gov.sg))
- [Full text of the Bill](#) (available on the Singapore Parliament website at [www.parliament.gov.sg](http://www.parliament.gov.sg))

## Employment & Benefits

### Government Accepts 12 Recommendations to Strengthen Protections for Platform Workers

On 23 November 2022, the Ministry of Manpower ("**MOM**") announced that the Government had accepted all 12 recommendations made by the Advisory Committee on Platform Workers ("**Committee**") in the Committee's Report titled "Strengthening Protections for Platform Workers" ("**Report**").

The 12 recommendations across four areas are:

(a) **Coverage of recommendations**

- For Platform Workers ("**Workers**") not to be classified as employees due to the greater flexibility enjoyed by Workers.
- To require Platform Companies that exert a significant level of management control over Workers ("**Companies**") to provide certain basic protections, in light of the reduced autonomy and flexibility of Workers in comparison with typical self-employed persons. The Report sets out key factors for assessing whether a company exerts a significant level of management control, such as the use of data-driven, algorithmic matching of demand and supply of services.

(b) **Ensuring adequate financial protection for Workers in case of work injury**

- Companies must provide the same scope and level of work injury compensation as employees' entitlements under the Work Injury Compensation Act ("**WICA**").
- As Workers may work for multiple Companies, the Company that the Worker was working for at the point of injury is to be responsible for compensation. The compensation will be calculated based on the Worker's *total earnings* from the platform sector (e.g. ride-hail, goods delivery, etc.) in which the injury was sustained. The Committee has engaged insurers to confirm that premiums charged will be proportionate to the total earnings that they pay out to their Workers.
- Determine sector-specific definitions of when a Worker is considered "at work".

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- Retain the strengths of the current WICA regime, including providing work injury compensation insurance through the existing open market.

(c) **Improving housing and retirement adequacy of Workers**

- Align Central Provident Fund ("CPF") contribution rates of Companies and Workers with that of employers and employees respectively. This will be required for Workers aged below 30 in the first year of implementation, as they are better able to benefit from the compounding effect of CPF interest rates.
- Phase in the increased CPF contributions over five years unless major economic disruption warrants a longer timeline.
- Allow older Workers to opt into the full CPF contribution regime.
- Require Companies to collect Workers' CPF contributions to promote timely contributions.

(d) **Enhancing representation for Workers**

- Create a new representation framework through which Workers can seek formal representation.
- Set up a Tripartite Workgroup on Representation for Platform Workers to co-create the new representation framework.

At the earliest, implementation is expected to commence from the later part of 2024, with the timeline and implementation details to be confirmed.

Click on the following links for more information (available on the MOM website at [www.mom.gov.sg](http://www.mom.gov.sg)):

- [MOM Press Release titled "Government Accepts Recommendations by the Advisory Committee on Platform Workers to Strengthen Protections for Platform Workers"](#)
- [Full report by the Committee – "Strengthening Protections for Platform Workers"](#)

## **Financial Institutions**

### **MAS Further Explores Cross-Border Connectivity in Wholesale CBDCs under Ubin+**

On 3 November 2022, the Monetary Authority of Singapore ("MAS") announced the start of an expanded collaborative initiative, Ubin+, with international partners on cross-border foreign exchange ("FX") settlement using wholesale central bank digital currency ("CBDC").

Ubin+ leverages on [Project Ubin](#), a multi-phase collaborative project with the industry to explore the use of Blockchain and Distributed Ledger Technology ("DLT") for clearing and settlement of payments and securities. It also takes into account what was learned from [Project Dunbar](#) (which proved that a common platform for multiple wholesale CBDCs could enable cheaper, faster and safer cross-border payments).

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Ubin+ will focus on the following key areas:

- (a) **Study business models and governance structures** for cross-border FX settlement using atomic settlement based on digital currencies.
- (b) **Develop technical standards and infrastructure** to support cross-border connectivity, interoperability and atomic settlement of currency transactions across platforms using DLT and non-DLT based financial market infrastructures.
- (c) **Develop policy guidelines** for the connectivity of digital currency infrastructure across borders for better access and participation. These include policy guidelines relating to governance, access and compliance issues for such linkages.

Singapore will collaborate with international partners on the following projects under Ubin+ in areas relating to:

- (a) **Foreign Exchange and Liquidity Management** by examining the exchange and settlement of Swiss franc, Euro and Singapore dollar wholesale CBDCs with an automated market maker ("AMM") arrangement. AMM allows the exchange and settlement of two or more digital assets to be performed automatically with a smart contract.
- (b) **Interoperability across digital currencies based on DLT and non-DLT payment systems**, for instance by participating in the Society for Worldwide Interbank Financial Telecommunication's (SWIFT) CBDC Sandbox with other central banks and global commercial banks.
- (c) **Maintain connectivity across heterogeneous digital currency networks**, as well as study the use of smart contracts to make the settlement of cross-border transactions more efficient and secure.

Click on the following link for more information:

- [MAS Media Release titled "MAS Launches Expanded Initiative to Advance Cross-Border Connectivity in Wholesale CBDCs"](#) (available on the MAS website at [www.mas.gov.sg](http://www.mas.gov.sg))

## SGX RegCo Issues Consultation Paper on Proposed Changes to CDP Margining and Clearing Fund Frameworks

From 3 November 2022 to 5 December 2022, the Singapore Exchange Regulation ("SGX RegCo") conducted a public consultation to seek feedback on proposed changes to Central Depository's ("CDP") margining framework, CDP clearing fund and consequential amendments to the CDP Clearing Rules.

By way of background, CDP collects margins and clearing fund contributions to mitigate the impact a clearing member default could have on the rest of the financial system.

The proposed changes to the margin framework seek to:

- (a) offer differentiated margin rates for groups of securities with different risk profiles so margins will commensurate more closely with the level of risk brought to the system;

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- (b) introduce margin offsets for greater efficiency; and
- (c) enhance anti-procyclicality measures to better temper sudden margin increases.

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The proposed changes to the clearing fund framework seek to:

- (a) change the approach for sizing the clearing fund and clearing members' contributions so that they will move more dynamically in tandem with the level of risk brought to the clearing system;
- (b) defer the use of clearing members' contingent contributions until after all other sources of the clearing fund have been used; and
- (c) place a cap on clearing members' clearing fund liability to give them certainty on their maximum exposure.

Click on the following links for more information (available on the SGX website at [www.sgx.com](http://www.sgx.com)):

- [SGX Media Release titled "SGX RegCo proposes changes to CDP margining and Clearing Fund"](#)
- [Consultation Paper on Proposed Refinements to CDP Margin and Clearing Fund Frameworks](#)

### SGFinDex Enhanced to Allow Individuals in Singapore to Retrieve Insurance Policies, Banking and Investment Data via One Platform

On 2 November 2022, the Monetary Authority of Singapore ("MAS") and the Smart Nation and Digital Government Group (SNDGG) announced that the Singapore Financial Data Exchange ("SGFinDex") has been enhanced to allow individuals to access information on their insurance policies through the platform.

SGFinDex is the world's first public digital infrastructure that enables individuals to securely access their financial information held across government agencies, banks, insurers, and the central securities depository.

The inclusion of insurance data adds to existing banking and investment data that individuals can retrieve via SGFinDex, making it easier for individuals to identify insurance protection gaps. They will thus have a more comprehensive view of their financial status and be able to make more informed financial planning decisions.

SGFinDex is designed with data protection and privacy controls. Financial data can be retrieved and updated only through the explicit consent of the individual through Singpass. The consent will last for one year from the first time an individual links an account to SGFinDex.

Click on the following link for more information:

- [MAS Media Release titled "Financial Planning for Singaporeans Enhanced with Insurance Data on SGFinDex"](#) (available on the MAS website at [www.mas.gov.sg](http://www.mas.gov.sg))

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## MAS Launches First Industry Pilot for Digital Asset and Decentralised Finance

On 2 November 2022, the Monetary Authority of Singapore ("MAS") announced that the first industry pilot under MAS' Project Guardian has completed its first live trades. [Project Guardian](#), which was launched by MAS in May 2022, is a collaborative initiative with the financial industry that seeks to explore the economic potential and value-adding use cases of asset tokenisation.

Under this first industry pilot, DBS Bank, JP Morgan and SBI Digital Asset Holdings conducted foreign exchange and government bond transactions against liquidity pools comprising tokenised Singapore Government Securities Bonds, Japanese Government Bonds, Japanese Yen ("JPY") and Singapore Dollar ("SGD"). A live cross-currency transaction involving tokenised JPY and SGD deposits was successfully conducted. In addition, a simulated exercise was performed involving the buying and selling of tokenised government bonds.

Decentralised finance ("DeFi") enables financial transactions to be performed by entities directly with one another using smart contracts, without financial intermediaries. The live transactions carried out under the first pilot prove that cross currency transactions of tokenised assets can be traded, cleared and settled instantaneously among direct participants. This eliminates costs involved in executing trades through clearing and settlement intermediaries, and the management of bilateral counterparty trading relationships which is essential in today's over-the-counter (OTC) markets.

Apart from this first industry pilot, MAS is launching the following two new industry pilots:

(a) **Trade Finance**

This is an initiative to explore the issuance of tokens linked to trade finance assets. The project aims to digitise the trade distribution market by transforming trade assets into transferable instruments that are more transparent and accessible to investors. Standard Chartered Bank is spearheading this initiative.

(b) **Wealth Management**

HSBC and UOB are working with Marketnode (a digital markets infrastructure provider) to enable native digital issuance of wealth management products, enhancing issuance efficiency and accessibility for investors.

Click on the following link for more information:

- [MAS Media Release titled "First Industry Pilot for Digital Asset and Decentralised Finance Goes Live"](#) (available on the MAS website at [www.mas.gov.sg](http://www.mas.gov.sg))

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## MAS Releases Report on Potential Uses of a Purpose-Bound Digital Singapore Dollar (Project Orchid)

The Monetary Authority of Singapore ("MAS") issued a report on 31 October 2022 on the potential uses of a purpose-bound digital Singapore dollar ("SGD") (purpose-bound money or "PBM") and the supporting infrastructure required, marking the successful completion of Phase 1 of Project Orchid.

By way of background, [Project Orchid](#) was launched by MAS at the Singapore Fintech Festival 2021. It is a multi-year, multi-phase exploratory project examining the various design and technical aspects pertinent to a retail Central Bank Digital Currency ("CBDC") system for Singapore, from its functionalities to its interaction with existing payment infrastructures. Though MAS has assessed that there is no compelling need for a retail CBDC in Singapore at this time (please refer to the MAS paper published in November 2021 titled "[A Retail Central Bank Digital Currency: Economic Considerations in the Singapore Context](#)" linked below), MAS seeks to facilitate ongoing learning and explore good use cases for digital currencies in Singapore. Project Orchid aims to develop the technical capabilities and competencies necessary for MAS to issue a retail CBDC, if required.

Phase 1 of Project Orchid explored the concept of PBM, which refers to a protocol that specifies the conditions under which an underlying digital currency can be used. PBMs are bearer instruments with self-contained programming logic, and are transferrable between two parties without intermediaries. It enables senders to specify conditions, such as validity period and types of shops, when making transfers in digital SGD.

The different forms of digital SGD include:

- (a) a retail CBDC, which is the digital equivalent of today's notes and coins issued by MAS; or
- (b) privately issued money, which could include tokenised bank deposits or securely-backed stablecoins.

A few trials have been initiated by MAS (together with various government agencies and industry players) to test the concept:

- (a) **Government Vouchers.** DBS Bank Ltd (DBS) and GovTech's Open Government Products Division (OGP) had tested the use of PBM for disbursements to selected individuals at participating food and beverage outlets across Singapore and at the Singapore FinTech Festival 2022 ("**SFF 2022**"), which was held from 2 to 4 November 2022.
- (b) **Commercial Vouchers.** Temasek, Fazz Financial Group Pte. Ltd (FAZZ) and Grab Holdings Ltd (Grab) had tested the issuance of PBM as commercial digital vouchers to SFF 2022 participants.
- (c) **Government Payouts.** OCBC Ltd (OCBC) and the Central Provident Fund Board (CPF Board) will test the use of PBM for funds disbursement from government agencies, without requiring recipients to have a bank account.
- (d) **Managing Learning Accounts.** United Overseas Bank Ltd (UOB) and SkillsFuture Singapore ("**SSG**") will test the use of PBM to improve the existing SSG Credit disbursement process, enabling SkillsFuture grants to be released automatically to participating training providers when they meet the prescribed eligibility conditions.

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Click on the following links for more information (available on the MAS website at [www.mas.gov.sg](http://www.mas.gov.sg)):

- [MAS Press Release titled "MAS Report on Potential Uses of a Purpose-Bound Digital Singapore Dollar"](#)
- [Annex A: Quotes from Participating Institutions](#)
- [A Retail Central Bank Digital Currency: Economic Considerations in the Singapore Context](#)

## Insurance & Reinsurance

### MAS Seeks Comments on Changes to Insurance Act and Regulations Governing Insurance Intermediaries

On 4 November 2022, the Monetary Authority of Singapore ("MAS") issued the "Consultation Paper on Amendments to the Insurance Act and the Insurance (Intermediaries) Regulations" containing its proposals to amend the Insurance Act 1966 ("IA") and the Insurance (Intermediaries) Regulations ("IIR").

MAS proposes to amend the IA to achieve four main objectives:

- Enhance MAS' supervisory powers by, among other things, introducing an anti-commingling policy for licensed insurers and registered insurance brokers;
- Clarify MAS' existing policy intent;
- Align with other IA provisions or other MAS-administered Acts, such as the Banking Act 1970 etc.; and
- Reflect changes in policy intent.

In addition, MAS also proposes to amend the IIR to align the regulations governing insurance brokers with other MAS-administered regulations, namely to require registered insurance brokers to:

- Notify MAS of material adverse developments, and
- Put in place the appropriate compliance, risk management and internal controls.

The consultation ends on 13 January 2023.

For more information, click [here](#) for our Legal Update.

## Intellectual Property

### Regulation and Licensing of Collective Management Organisations – Public Consultation on Proposed Draft Regulations

The Ministry of Law ("MinLaw") and the Intellectual Property Office of Singapore ("IPOS") have conducted a Public Consultation on the proposed draft Copyright (Collective Management Organisations) Regulations 2023 ("Regulations"). The Public Consultation was held from 7 November 2022 to 4 December 2022.

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The Public Consultation is part of an ongoing review of Singapore's copyright regime, and seeks to introduce a class licensing scheme for collective management organisations ("**CMOs**"). While CMOs have thus far not been subject to substantive regulation, the draft Regulations set out a series of licence conditions which CMOs must comply with, which address issues relating to members' rights and dispute resolution between the CMO and its members and users.

The proposed class licensing scheme in the draft Regulations will introduce a light-touch model of regulation which includes the following key features: (i) No fee-setting; (ii) Automatic licensing; (iii) Regulations only in critical areas; (iv) No legal obligations on users; (v) Policing by members and users; and (vi) CMOs maintain flexibility in compliance.

The class licensing scheme requires all persons falling within the prescribed definition of a CMO (essentially an entity that is in the business of collectively managing the use of copyright works or protected performances) to comply with all licence conditions of the class licence that applies to them. CMOs are required to comply with the legally-binding requirements set out in the Regulations, or face regulatory action by IPOS upon failure to do so. IPOS will be empowered to take regulatory actions against CMOs and their officers for breaches of licence conditions, or to investigate or otherwise regulate CMOs. In particular, IPOS may give regulatory directions to, impose financial penalties on, or make cessation orders to CMOs.

For more information, click [here](#) to read our Legal Update.

## ***Restructuring & Insolvency***

### **Bankruptcy Regime to be Administered by Private Trustees in Bankruptcy**

On 28 November 2022, the Insolvency, Restructuring and Dissolution (Amendment) Bill ("**Bill**") was tabled in Parliament. The Bill seeks to introduce changes to the bankruptcy regime to mandate that all bankruptcy cases, except those of public interest, be administered by Private Trustees in Bankruptcy ("**PTIBs**"). PTIBs can be: (i) a solicitor; (ii) a public accountant; or (iii) a chartered accountant, and have to hold an insolvency practitioner licence from the Ministry of Law's ("**MinLaw**") Insolvency and Public Trustee Office.

Institutional Creditors ("**ICs**") are already required to appoint PTIBs, instead of the Official Assignee ("**OA**"), to administer bankruptcy cases. Under the proposed PTIB-administered bankruptcy regime in the Bill, PTIBs will handle all bankruptcy cases, including those filed by non-ICs and debtors. However, the OA may consent to act as the trustee in bankruptcy cases which are of public interest. Examples include cases that involve the misuse of public funds, significant debts owed to the Government, or unpaid taxes.

The Bill also proposed miscellaneous amendments to protect persons dealing with bankrupts in commercial transactions and provide continued support to the PTIB industry. These include:

- (a) Making the information provided by undischarged bankrupts to the OA regarding their current employment status and employment history publicly searchable;

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- (b) Criminalising the non-disclosure of an undischarged bankrupt's bankruptcy status when they receive a deposit of at least S\$10,000 from any person; and
- (c) Enhancing operational flexibility for determining PTIBs' remuneration in line with the industry needs.

MinLaw will provide more information on the PTIB-administered regime and miscellaneous amendments closer to the date of implementation of the Amendment Act, which is expected to be in September 2023.

Click on the following links for more information:

- [MinLaw Press Release titled "Facilitating a 'Private Trustee in Bankruptcy' Administered Bankruptcy Regime with the Insolvency, Restructuring and Dissolution \(Amendment\) Bill"](#) (available on the MinLaw website at [www.mlaw.gov.sg](http://www.mlaw.gov.sg))
- [Insolvency, Restructuring and Dissolution \(Amendment\) Bill](#) (available on the Parliament of Singapore website at [www.parliament.gov.sg](http://www.parliament.gov.sg))

## Sustainability

### Electric Vehicles Charging Bill Passed in Parliament

On 30 November 2022, the Electric Vehicles Charging Bill ("Bill") was passed. The Bill sets out a legislative framework to govern the charging of electric vehicles ("EVs") in Singapore for three key purposes: to (i) regulate the safe charging of EVs; (ii) ensure reliable EV charging services by having a licensing regime; and (iii) make the EV charging network easily accessible. The Land Transport Authority ("LTA") will administer and enforce this regulatory framework.

#### Key Aspects of the Bill

- (a) **Regulation of EV Charging.** The Bill covers various aspects such as the supply, modification, advertisement, installation, certification, registration, use and maintenance of EV chargers. All EV chargers supplied in Singapore must be of a specified model and meet a national charging standard. The Bill also provides a registration regime for EV chargers and registered responsible persons of EV chargers, and sets out obligations of registered responsible persons. The Bill also covers the safe installation and use of EV chargers.
- (b) **Licensing Regime for EV Charging Services.** Persons providing EV charging services or engaging in conduct as a charging station operator must be licensed. The Bill also provides for step-in arrangements to reduce disruption to EV charging services in cases where the licence of a designated licensee is suspended, revoked or surrendered. Please refer to Part 7 of the Bill for details of the step-in arrangements.
- (c) **Easy Accessibility of EV Charging Network.** The Bill requires developers of specified building works and development owners who carry out specified electrical works to provide EV charging points at these developments. To make it easier for the installation of EV charging points at strata-titled developments, the Bill will also make related amendments to the Building Maintenance and Strata

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Management Act 2004 such that the management corporation of the strata-titled development (MCST) will only require the passing of an ordinary resolution for proposals to install EV chargers.

This development follows an earlier public consultation on the Bill which you may read more about in our June 2022 issue of Newsbytes [here](#) (Page 17).

Click on the following links for more information:

- [Electric Vehicles Charging Bill](#) (available on the Parliament of Singapore website at [www.parliament.gov.sg](http://www.parliament.gov.sg))
- [Opening Speech by Minister for Transport, Mr S Iswaran for Second Reading of Electric Vehicles Charging Bill 2022](#) (available on the Ministry of Transport website at [www.mot.gov.sg](http://www.mot.gov.sg))

## Singapore Joins Article 6 Implementation Partnership as a Member Country at COP27

In demonstration of Singapore's firm commitment to reduce emissions and contribute positively to deal with climate change, it was announced on 16 November 2022 that Singapore has joined the Article 6 Implementation Partnership ("**Partnership**") as a member country at the 27<sup>th</sup> Conference of the Parties to the United Nations Framework Convention on Climate Change ("**COP27**").

The Partnership, which was launched by the Ministry of the Environment, Japan (MOEJ) at the COP27 Japan Pavilion, helps implement and operationalise [Article 6 of the Paris Agreement](#) ("**Article 6**") and its various initiatives. By way of background, Article 6 provides, among other things, that countries can voluntarily cooperate with each other to achieve emission reduction targets set out in their Nationally Determined Contributions (NDCs).

The Partnership advances one of the key outcomes from the 26<sup>th</sup> Conference of the Parties to the United Nations Framework Convention on Climate Change (COP26) where the Article 6 rule book was finalised and which rules cover, among other things, market and non-market mechanisms governing the transfer of carbon credits between countries. The Partnership aims to, among other things, develop high integrity carbon markets by leveraging on the efforts and cooperation of various countries.

As a carbon services and trading hub, Singapore will make a positive offering to the Partnership in helping develop baseline methodologies, and in promoting the use of transparency tools and national frameworks for carbon markets.

Click on the following link for more information:

- [National Climate Change Secretariat Singapore \(NCCS\), Ministry of Sustainability and the Environment Singapore \(MSE\) and Ministry of Trade and Industry Singapore \("MTI"\) Joint Press Release titled "Article 6 Implementation Partnership at COP27"](#) (available on the MTI website at [www.mti.gov.sg](http://www.mti.gov.sg))

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## Singapore Joins Forests and Climate Leaders' Partnership (FCLP) to Reduce Forest Loss and Promote Sustainable Development

At the 27<sup>th</sup> Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27), one of the key focus areas was sustainable forest management and conservation, and the Forests and Climate Leaders' Partnership ("FCLP") was launched.

FCLP is a voluntary partnership that brings together governments, businesses and community leaders to take collective action to implement solutions and initiatives to conserve forests and protect biodiversity. The partnership is a positive step forward in implementing commitments made under the "Glasgow Leaders' Declaration on Forests and Land Use" (GLD) to stop and reverse deforestation and land degradation by 2030.

To date, 27 countries have joined the FCLP, including Singapore. Under the FCLP, member countries will lead and implement actions areas such as developing high integrity carbon markets, scaling efforts to conserve forests and protecting the rights of indigenous people and communities, among other areas.

As part of the FCLP, Singapore will, among other things:

- (a) Collaborate with the other Members and partners to develop high integrity markets for forestry carbon credits;
- (b) Advance the Singapore Government's plan to facilitate international acceptance of high-quality forestry carbon credits, and explore how public-private partnerships can use carbon markets to generate revenue streams to reduce emissions while preserving biodiversity; and
- (c) Deploy creative and environmentally sound strategies in order to slow down forest loss, boost restoration, and promote sustainable development.

You may read more about the details of Singapore's participation in FCLP in the National Climate Change Secretariat Singapore (NCCS), Ministry of Sustainability and the Environment Singapore (MSE) and Ministry of Trade and Industry Singapore (MTI) joint press release titled "[Singapore joins the Forests and Climate Leaders' Partnership \(FCLP\) as a member country](#)" (available on the gov.sg Portal at [www.gov.sg](http://www.gov.sg)).

More information about the FCLP may be found in the news release on "[COP27: Leaders Boost Sustainable Forest Management](#)" available on the United Nations Climate Change website at [www.unfccc.int](http://www.unfccc.int)).

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## Guidance Paper on Use of Carbon Credits from High Forest, Low Deforestation (HFLD) Jurisdictions in Climate Mitigation Portfolios

On 2 November 2022, Climate Impact X, Conservation International, Emergent, Natural Climate Solutions Alliance and Wildlife Conservation Society jointly announced the publication of the White Paper titled "*Project Preservation*" which provides guidance on the role of carbon credits from High Forest, Low Deforestation ("**HFLD**") jurisdictions in climate mitigation portfolios ("**Whitepaper**"). The Whitepaper is released in conjunction with the 27<sup>th</sup> Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27).

HFLD jurisdictions generally refer to areas with high forest cover and low historical rates of deforestation. HFLD jurisdictions contribute to the global terrestrial sink by absorbing about 30% of global emissions each year. The Whitepaper helps ambitious companies to make more informed decisions about using credits from HFLD jurisdictions within broader climate mitigation portfolios.

Carbon credits from HFLD jurisdictions will be available under two reputable standards:

- (a) **Architecture for REDD+ Transactions (**ART-TREES**)**. The Architecture for REDD+ Transactions ("**ART**") is a global initiative that seeks to incentivise governments to reduce emissions from deforestation and forest degradation ("**REDD**"), as well as restore forests and protect intact forests ("**+**"). **TREES** – The REDD+ Environmental Excellence Standard – is ART's standard for the quantification, monitoring, reporting and verification of Greenhouse Gas (GHG) emission reductions and removals from REDD+ activities at a jurisdictional and national scale; and
- (b) **World Bank (**FCPF**)**. The Forest Carbon Partnership Facility (FCPF) is an international partnership comprising governments, businesses, civil society, and indigenous people's organisations focused on REDD+ activities.

These credits will be available for investment and purchase. HFLD credits use very conservative benchmarks to quantify the beneficial contribution of HFLD jurisdictions to global climate mitigation. Businesses and governments that intend to support nature preservation at scale through credits from HFLD jurisdictions can refer to the Whitepaper for more context and guidelines.

Click on the following links for more information:

- [Media Release titled "Experts: Scaling of financial incentives urgently needed to preserve last intact forests" published on 2 November 2022](#) (available on the Climate Impact X website at [www.climateimpactx.com](http://www.climateimpactx.com))
- [The Whitepaper: Project Preservation](#) (available on the Preserve Forests website at [www.preserveforests.org](http://www.preserveforests.org))

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## Tax

### Issuance, Transfer or Sale of Carbon Credits Not Subject to Goods and Services Tax

On 23 November 2022, the [Goods and Services Tax \(Excluded Transactions\) \(Amendment\) Order 2022](#) (S900/2022) introduced amendment to the Goods and Services Tax (Excluded Transactions) Order (O2) ("**Order**") to provide that the issuance, transfer or sale of any carbon credit (or any digital representation of a carbon credit), including those issued by the National Environment Agency, is treated as neither a supply of goods nor a supply of services, i.e. an excluded transaction.

Goods and Services Tax (GST) is not chargeable on the consideration received for the issuance, transfer or sale. A digital representation of a carbon credit includes a digital image of a carbon credit created using blockchain technology.

The Order sets out definitions of the terms "carbon credit" and "greenhouse gas".

Click on the following link for more information:

- [Goods and Services Tax \(Excluded Transactions\) Order \(as amended on 23 November 2022\)](#) (available on the Singapore Statute Online website at [www.sso.agc.gov.sg](http://www.sso.agc.gov.sg))

## Technology, Media & Telecommunications

### Bill to Enhance Online Safety Passed in Parliament

On 9 November 2022, the Online Safety (Miscellaneous Amendments) Bill ("**Bill**") was passed in Parliament. The Bill seeks to enhance the safety of digital spaces for Singapore users, particularly for children.

The Bill will introduce new regulations and obligations on the part of online communication services and internet access service providers, and will empower the Infocomm Media Development Authority ("**IMDA**") to issue orders blocking harmful content. In her speech at the second reading of the Bill in Parliament (available [here](#)), Minister for Communications and Information Mrs Josephine Teo indicated that the new regulations covering online communication services are currently intended to apply to social media services, which are viewed as a priority area due to the higher proportion of harmful online content on social media platforms.

The Bill will introduce a new Part 10A in the Broadcasting Act 1994, which empowers IMDA to better regulate online communication services accessible by Singapore end-users through the following measures: (i) issuing online Codes of Practice for providers of regulated online communication services; and (ii) issuing blocking directions to online communication services and internet access service providers to deal with "egregious content".

With regard to the Codes of Practice, IMDA has also issued a draft Code of Practice for Online Safety ("**Draft Code**") which sets out obligations that designated social media services have to meet. The Draft Code aims to give

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an early sense of how IMDA intends to implement the Bill's provisions on Codes of Practice, and is subject to further development. The finalised Code of Practice for Online Safety is expected to be rolled out in the second half of 2023 after a final round of consultation with social media firms.

For more information, click [here](#) to read our Legal Update.

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## CaseBytes

### The Offence of Cheating and the Meaning of Dishonesty

In *Poh Yuan Nie v Public Prosecutor* [2022] SGCA 74, the Court of Appeal considered the offence of cheating where the deception of the victim involves a dishonest concealment of facts, and the meaning of dishonesty in this context.

The appellants are a principal and teacher of a private tuition centre who had devised a scheme to abet their students to cheat while sitting for their examination papers. They were convicted of abetment by way of conspiracy to cheat and attempted conspiracy to cheat. The appellants made an application to the Court of Appeal to determine a question of law of public interest: For the purposes of an offence of cheating under section 415 of the Penal Code, where the accused is charged with committing a "dishonest concealment of facts", must the meaning of "dishonest" be determined with reference to the definition of "dishonestly" under section 24 of the Penal Code? If the answer is yes, the dishonest act would require an intention to cause wrongful gain or wrongful loss of property.

The Court answered the above question in the negative. There is therefore no need, when such a charge is preferred, for the Prosecution to prove that the accused intended to cause anyone to wrongfully gain property or cause anyone to wrongfully lose property. Instead, the meaning of the word, "dishonest" in the phrase "dishonest concealment of facts" carries the plain or ordinary meaning of that word.

The Court endorsed the interpretation that a dishonest concealment of facts is one which is done with a state of mind that amounts to an intention to deceive. "Dishonest" thus describes the mental state of the accused when committing the offence (as opposed to negligent or innocent concealments of facts).

### Priority to Proceeds of Sale of Bankrupt's Property – Contests between Judgment Creditor and Estate

The questions of who has priority over a bankrupt's assets and precisely when the priority arises are important ones in bankruptcy. For judgment creditors who have already taken steps towards enforcement, the answer affects whether they will have prior rights to the bankrupt's property ahead of the bankrupt's other creditors.

In *Abuthahir s/o Abdul Gafoor v Bangkok Bank Public Co Ltd* [2022] SGHC 274, a judgment creditor and the bankrupt's estate both laid claim to the surplus proceeds from a mortgagee's sale of the bankrupt's property. The Singapore High Court held that the judgment creditor, who had registered an attachment order against the bankrupt's interest in the property and had issued a writ of seizure and sale prior to bankruptcy, had priority over the

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surplus proceeds. This was even though the surplus proceeds did not arise from a sale of the property under the judgment creditor's writ of seizure and sale.

In reaching its decision, the High Court clarified when the execution of an order against property is deemed to be completed (in this case, when the attachment order was registered with the Singapore Land Authority). The Court also highlighted certain seemingly inconsistent provisions in the Insolvency, Restructuring and Dissolution Act 2018 on priorities.

The Court's decision provides greater clarity on the priority of rights over a bankrupt's property.

For more information, click [here](#) to read our Legal Update.

## Ordering the Production of Documents in Winding Up – Court Confirms Extra-Territorial Effect of Order

When a company is being wound up or is in judicial management, the Court may – upon the application of the liquidator, the judicial manager, or a creditor – order the production of documents or information relating to the company, as well as the attendance of the company's officers and the people holding the relevant books and records. This facilitates the obtaining of documents or information for the purpose of determining the reasons for the company's demise.

In *Xu Wei Dong v Midas Holdings Ltd* [2022] SGHC 268, the Singapore High Court confirmed that this power applies both locally and extra-territorially in respect of persons and documents located abroad. Here, the Court granted an order against the former auditors of a company in liquidation for the production of documents relating to the audits carried out, despite the fact that one of the auditors was based in Hong Kong.

The decision considered section 285 of the Companies Act ("CA"), which previously allowed the Court to order the production of documents or information relating to the company being wound up or in judicial management. Section 285 of the CA has since been repealed, but the Court's power in this regard has essentially been preserved in section 244 of the Insolvency, Restructuring and Dissolution Act ("IRDA"). The Court's ruling on section 285 of the CA is thus likely to apply to section 244 of the IRDA as well.

Apart from holding that section 285 of the CA has extra-territorial effect, the Court held that it would only grant an order under section 285 of the CA if it is satisfied that:

- (a) The documents are reasonably required;
- (b) There is a reasonable belief that they can be provided by the parties against whom the order is sought; and
- (c) The balance of interest lies in favour of such an order.

For more information, click [here](#) to read our Legal Update.

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## Deals

### **S\$2.23 Billion Privatisation of Golden Energy and Resources Limited**

[Danny Lim](#) and [Penelope Loh](#) from the [Capital Markets / Mergers & Acquisitions Practice](#) are advising Duchess Avenue Pte. Ltd. as offeror in its approximately S\$2.23 billion privatisation of Golden Energy and Resources Limited ("**Golden Energy**"), which is listed on the Main Board of the Singapore Exchange Securities Trading Limited, via a conditional exit offer for shares in Golden Energy.

### **US\$180.9 Million Sale of Shares in Halcyon Agri Corporation Limited**

[Danny Lim](#) and [Penelope Loh](#) from the [Capital Markets / Mergers & Acquisitions Practice](#) are advising Sinochem International (Overseas) Pte. Ltd. in its US\$180.9 million sale of shares in Halcyon Agri Corporation Limited, which is listed on the Main Board of the Singapore Exchange Securities Trading Limited, to China Hainan Rubber Industry Group Co., Ltd. The sale will result in China Hainan Rubber triggering a pre-conditional mandatory general offer for all the shares in Halcyon Agri, which values the group at US\$502.4 million.

### **Investment in Konvy's Series A Funding Round**

[Terence Quek](#) from the [Mergers & Acquisitions Practice](#), alongside [Pakpoom Suntornvipat](#) from [Rajah & Tann Asia \(Thailand\)](#) acted for Insignia Ventures in its US\$10 million Series A investment in Konvy, Thailand's leading beauty e-commerce platform.

### **NoonTalk Media Limited's IPO and Listing on the SGX-ST**

[Raymond Tong](#) and [James Chan](#) from the [Capital Markets Practice](#) acted for NoonTalk Media Limited in its initial public offering and listing on the Catalist Board of the Singapore Exchange Securities Trading Limited ("**SGX-ST**"), the first listing on the SGX-ST of a homegrown, one-stop provider of high-quality, bespoke events and entertainment solutions.

## Authored Publications

### **Rajah & Tann Singapore Contributes Article to *The Business Times*: "Real estate tokenisation: an emerging trend"**

Real estate is an illiquid asset class, and existing securitisation models may be costly, time-consuming, and inappropriate for most investors. Factors that can slow down real estate transactions include inefficiencies in price discovery, due diligence, and data security.

In the article titled "Real estate tokenisation: an emerging trend" which was published in the 25 November 2022 issue of *The Business Times*, [Rajesh Sreenivasan](#) (Head, Technology, Media & Telecommunications), [Norman](#)



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[Ho](#) (Senior Partner, Corporate Real Estate) and [Regina Liew](#) (Head, Financial Institutions Group) note that tokenisation and the blockchain protocol for property are gaining traction around the world. This is because of the benefits that players in the real estate industry can derive from real estate tokenisation. Among others, tokenisation can help to standardise data formats and provide a single cost-effective solution for multiple processes in a secure platform. Tokenisation can also augment existing markets and unlock new business opportunities for investors.

The authors highlight that the emerging trend of real estate tokenisation has the potential to revolutionise the real estate market for investors, businesses and consumers. However, like all new technologies, this requires a balancing of industry, market and regulatory readiness.

To read the full article, please click [here](#). More information on our [Technology, Media & Telecommunications Practice](#), [Corporate Real Estate Practice](#), and [Financial Institutions Group](#) is available on our [website](#).

### **Rajah & Tann Contributes Singapore Chapter on Enforcement of Foreign Judgments**

While international business offers new opportunities, they are often accompanied by challenges of their own. In the event of disputes, parties may need to enforce court judgments in a foreign jurisdiction, an often daunting prospect.

The online manual "[Enforcement of Foreign Judgments](#)" seeks to provide information and guidance to practitioners in this regard, alleviating the time and costs of consulting foreign lawyers or government agencies on country-specific policies and procedures for enforcement. Covering 102 jurisdictions from Algeria to Zambia, the manual addresses the following topics for each jurisdiction:

- categories of enforceable judgments, including arbitral awards;
- documentary requirements;
- methods of execution;
- translation of documents;
- pending proceedings; and
- service requirements.

The Singapore chapter was authored by [Harish Kumar](#) (Partner, Commercial Litigation) and Low Weng Hong (Associate, Commercial Litigation).

To read the full chapter, please click [here](#). For more information on our Commercial Litigation Practice, please click [here](#).

## Events

### Succession Planning – Bridging Generations Through Family Offices

On 14 November 2022, Rajah & Tann organised a hybrid event titled "Succession Planning – Bridging Generations Through Family Offices".

Singapore has witnessed over 700 family offices being set up in just over three years. [Vikna Rajah](#), Co-Head of the [Private Wealth Practice](#), discussed how a family office fits within one's succession plan and why it is attractive not just from a tax perspective. There was also a panel discussion with experts from the banking, technology, and sustainability sectors, who talked about the key drivers of impact and innovation relating to family offices. The panellists included [Chandra Mohan](#), Co-Head of the Private Wealth Practice, and [Lee Weilin](#), Head of the [Sustainability Practice](#).

### The Public International Law Webinar Series

Following the launch of The Public International Law Webinar Series last month, the second part of the series was held on 7 November 2022 with a panel discussion titled "A State Lawyer's Perspective on Interagency Coordination and Cooperation".

The panel explored the complexities and challenges in inter-agency cooperation and collaboration within states in relation to international law efforts, whether in defending against or pursuing international claims, or negotiations on the international stage. Senior Partner [Andre Yeap, SC](#) from the [International Arbitration Practice](#) was one of the panellists.

The remaining parts of the webinar series were also conducted in the month of November.

The Public International Law Webinar Series was co-organised by David Grief International Consultancy, Duxton Hill Chambers (Singapore Group Practice), Fietta LLP, The Sydney Centre for International Law and Rajah & Tann Asia.

### Workplace Investigations: Practitioner's Roundtable

On 7 November 2022, Rajah & Tann organised a hybrid event titled "Workplace Investigations: Practitioner's Roundtable".

When conducting workplace investigations, employers have to navigate a detailed set of obligations imposed by the law, frequently under time pressure and adversarial conditions. In addition, employers face not just an increasingly challenging regulatory environment which exposes the company to sanctions from the authorities, but also litigation risk from the employees and reputational risk if the matter turns into a trial by media or public opinion.

The speakers at the Roundtable took the participants through the stages of the workplace investigation process, including organising, conducting and defending a workplace investigation. They discussed practical issues relating to each stage, such as (i) who the grievance handler should be; (ii)

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how quickly the investigation should proceed; (iii) whether an employer can search an employee's possessions or files; (iv) what information must the employee under investigation be given about the allegations against him; and (v) to what extent should the investigation report be shared with the complainant or the employee being investigated.

The speakers comprised [Desmond Wee](#) and [Jonathan Yuen](#), Heads of the [Employment & Benefits Practice](#) for non-contentious matters and disputes, respectively, [Luo Qinghui](#), Deputy Head of Employment & Benefits Practice (Disputes), and Partner [Doreen Chia](#).

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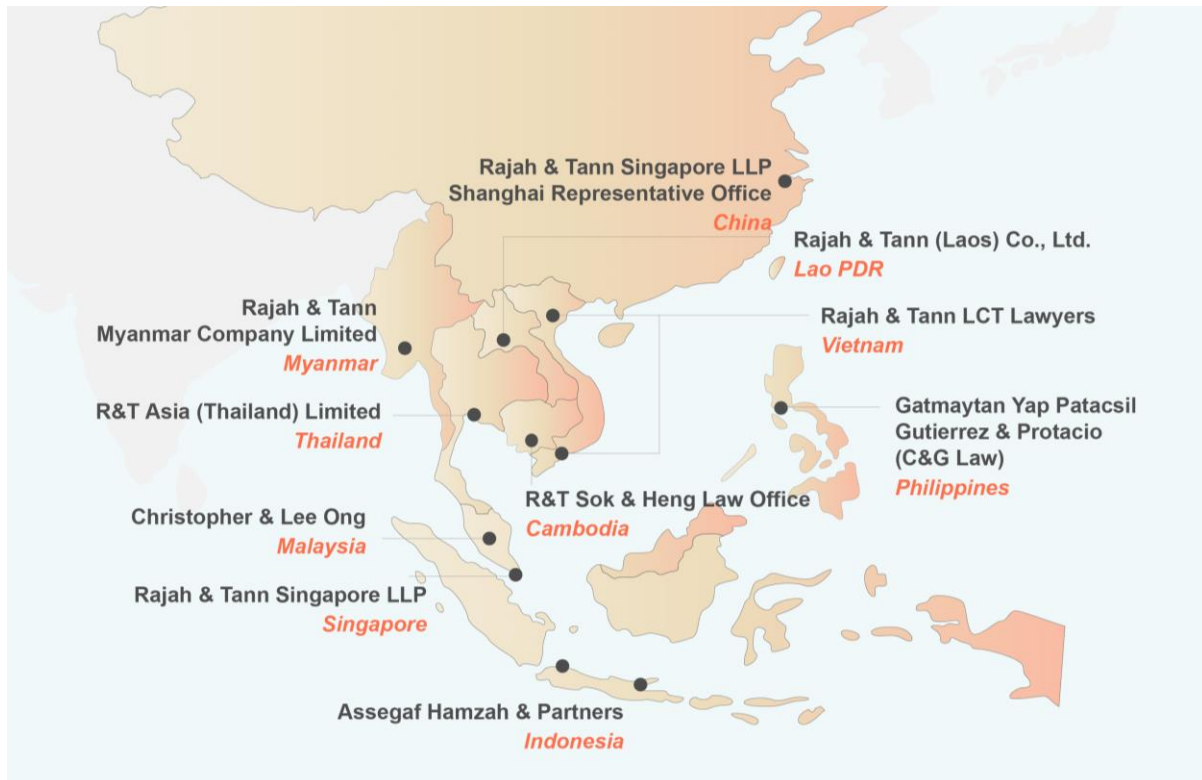
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## Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

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