

Restructuring & Insolvency

# Bankruptcy Regime Administered by Private Trustees in Bankruptcy in Effect from 1 November 2023

## Introduction

From 1 November 2023, bankruptcy estates are required to be administered by Private Trustees in Bankruptcy ("**PTIBs**"), except for cases where the Official Assignee ("**OA**") considers there is public interest and consents to be appointed as the trustee in bankruptcy.

This marks a significant development for Singapore's personal bankruptcy regime, where the OA would previously act as the trustee administering the bankruptcy in most cases. The reform seeks to reduce the usage of public resources involved in private debt recovery while ensuring that bankruptcy cases continue to be managed in an orderly manner.

The new PTIB-administered bankruptcy regime applies to bankruptcy orders made by the Singapore High Court in bankruptcy applications filed on or after 1 November 2023. The amendments also introduce certain changes to protect persons dealing with bankrupts and provide continued support to the PTIB industry.

We have previously covered the introduction of these amendments in the Restructuring and Dissolution (Amendment) Act 2023. For more information on the details of the new regime, please see our earlier Legal Update [here](#).

In this Update, we highlight the key features of the amendments that have come into force from 1 November 2023.

## Bankruptcy Regime in Singapore

While bankruptcy estates in Singapore were previously administered by the OA, in 2016 changes were implemented to require Institutional Creditors making bankruptcy applications to apply for PTIBs to be appointed as trustees administering the bankruptcy.

The Restructuring and Dissolution (Amendment) Act 2023 was passed in Parliament on 9 January 2023. This served to introduce the amendments necessary to implement a PTIB-administered bankruptcy regime, extending PTIB administration to cases where debtors and all types of creditors apply for bankruptcy orders.



## Restructuring & Insolvency

The amendments have since come into force on 1 November 2023.

### **PTIB Administration**

PTIBs must now be appointed to act as trustees in all bankruptcy cases, unless the OA has consented to be the trustee. The OA will only consent to be the trustee in a bankruptcy where it considers there to be public interest in the bankruptcy administration.

The key features of the amended administration process are as follows:

- **Nomination of trustee** – When applying to the Court for a bankruptcy order, a licensed insolvency practitioner must be nominated to act as the trustee in bankruptcy.
- **Written consent** – Before applying to the Court, written consent from the licensed insolvency practitioner to administer the bankruptcy case must be obtained.
- **Prerequisite for bankruptcy order** – The Court will not make a bankruptcy order on the application if neither a licensed insolvency practitioner nor the OA has consented to act as the trustee in bankruptcy.

### **Other Amendments**

Other amendments have also come into force to support the switch to a PTIB-administered bankruptcy regime:

**Record of undischarged bankrupts** – To provide enhanced protection for persons dealing with bankrupts in commercial transactions, undischarged bankrupts are required to submit information on their current employment status and employment history. A record of this information will be maintained by the OA, which will be publicly searchable upon the payment of a prescribed search fee of S\$6.

**Remuneration of PTIBs by agreement** – PTIBs now have an additional means of determining their remuneration, namely by agreement of all creditors. This is to account for challenges faced by PTIBs where there are unsuccessful attempts at convening creditors' meetings, or where there is a lack of response from creditors.

Previously, a trustee's remuneration had to be approved: (i) by agreement between the trustee and the creditors' committee; (ii) if there was no such agreement, by a special resolution of creditors; or (iii) where there was no determination under the previous two modes, by determination of the Court.

A trustee's remuneration may now be approved by agreement between the PTIB and all the creditors:

- The creditors will be deemed to have agreed to the trustee's remuneration if they have been duly notified of the remuneration sought by the trustee and have not objected within the prescribed time.

## Restructuring & Insolvency

- The creditors may object to the remuneration sought within the prescribed time. The trustee will then have to secure either a special resolution of creditors or approval by the Court.

## Concluding Words

Parties applying to Court for bankruptcy orders should note the new requirements under the PTIB-administered bankruptcy regime. In particular, applicants should ensure that they have nominated a licensed insolvency practitioner to act as the trustee in bankruptcy, and that they have obtained the practitioner's written consent.

For further queries, please feel free to contact our team below.

## Contacts



**Chua Beng Chye**  
Deputy Head, Restructuring &  
Insolvency

T +65 6232 0419

[beng.chye.chua@rajahtann.com](mailto:beng.chye.chua@rajahtann.com)



**Cherie Tan**  
Partner, Restructuring &  
Insolvency

[cherie.tan@rajahtann.com](mailto:cherie.tan@rajahtann.com)

---

Please feel free to also contact Knowledge Management at [eOASIS@rajahtann.com](mailto:eOASIS@rajahtann.com)

## Our Regional Contacts

### R&T SOK & HENG | *Cambodia*

#### R&T Sok & Heng Law Office

T +855 23 963 112 / 113

F +855 23 963 116

kh.rajahtannasia.com

### RAJAH & TANN | *Myanmar*

#### Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346

F +95 1 9345 348

mm.rajahtannasia.com

### RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

#### Rajah & Tann Singapore LLP

#### Shanghai Representative Office

T +86 21 6120 8818

F +86 21 6120 8820

cn.rajahtannasia.com

### GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

#### Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32

F +632 8552 1977 to 78

www.cagatlaw.com

### ASSEGAF HAMZAH & PARTNERS | *Indonesia*

#### Assegaf Hamzah & Partners

##### Jakarta Office

T +62 21 2555 7800

F +62 21 2555 7899

##### Surabaya Office

T +62 31 5116 4550

F +62 31 5116 4560

www.ahp.co.id

### RAJAH & TANN | *Singapore*

#### Rajah & Tann Singapore LLP

T +65 6535 3600

sg.rajahtannasia.com

### RAJAH & TANN | *Thailand*

#### R&T Asia (Thailand) Limited

T +66 2 656 1991

F +66 2 656 0833

th.rajahtannasia.com

### RAJAH & TANN | *Lao PDR*

#### Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239

F +856 21 285 261

la.rajahtannasia.com

### RAJAH & TANN LCT LAWYERS | *Vietnam*

#### Rajah & Tann LCT Lawyers

##### Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673

F +84 28 3520 8206

### CHRISTOPHER & LEE ONG | *Malaysia*

#### Christopher & Lee Ong

T +60 3 2273 1919

F +60 3 2273 8310

www.christopherleeong.com

##### Hanoi Office

T +84 24 3267 6127

F +84 24 3267 6128

www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

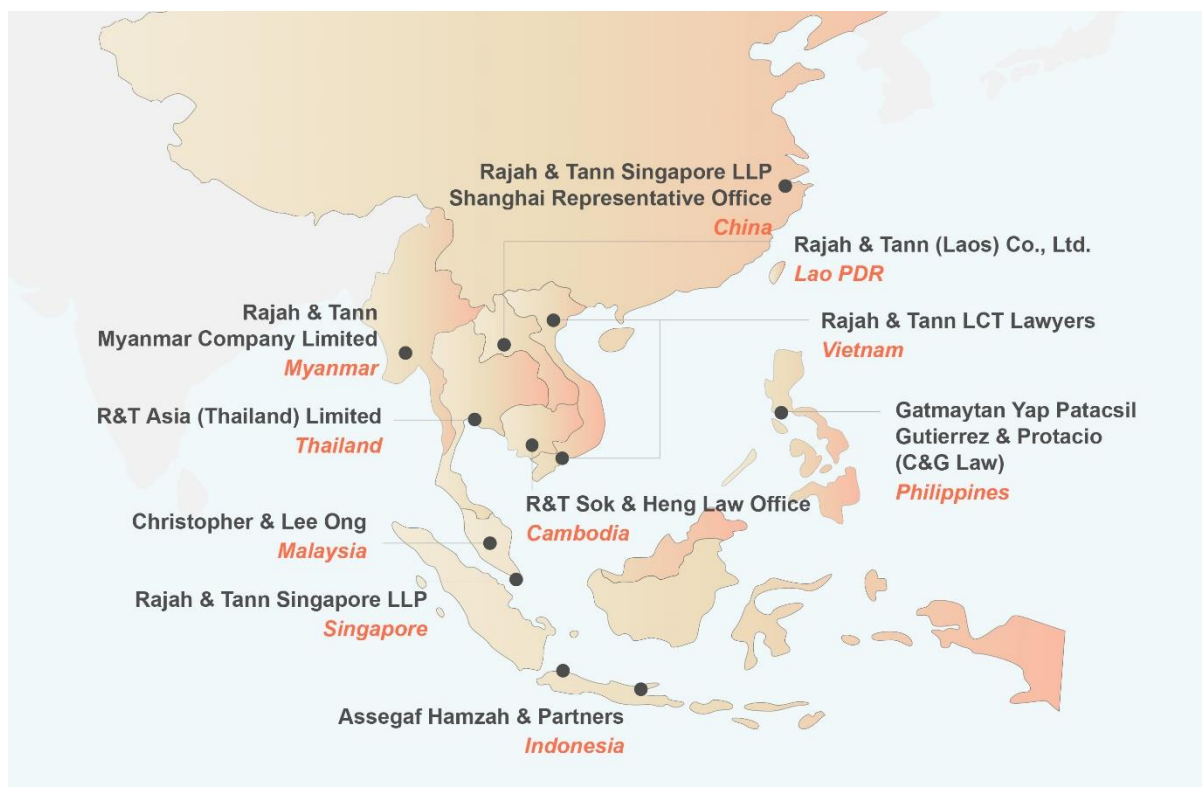
This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

# Client Update: Singapore

2023 NOVEMBER

**LAWYERS  
WHO  
KNOW  
ASIA**

## 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.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge Management at [eOASIS@rajahtann.com](mailto:eOASIS@rajahtann.com).