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Duane Morris & Selvam Country Investment Series

SINGAPORE

Duane Morris & Selvam Country Investment Series:

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This publication leverages our extensive experience in Singapore to provide a broad understanding and helpful observations of Singapore's legal environment in relation to foreign direct investment, business structures and merger and acquisitions ("**M&A**").

Singapore is known for its pro-business environment, strong legal system and ability to attract sizable foreign investments and business entrepreneurs. However, challenges remain and businesses need to be agile in order to thrive within Singapore's rapidly changing business and social climates.

We believe you will find this publication serves as a helpful starting point as you plan new, and manage existing, investments and businesses in Singapore.

The information in this publication is for general information only. It does not constitute legal advice and should not be relied upon as such. Specific professional advice should always be sought for your specific circumstances. If you have any queries or require more detailed advice, please do not hesitate to get in touch with us.

Arfat Selvam, Managing Director
Eduardo Ramos-Gómez, Partner
Krishna Ramachandra, Managing Director
Leon Yee, Managing Director
Sarbjit Singh Chopra, Director

Duane Morris & Selvam LLP

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INTRODUCTION

Investment Environment in Singapore

A vibrant city-state located in the heart of Asia, Singapore offers global investors unparalleled access to global markets. Singapore continues to be well-regarded as an AAA-rated economy with strong growth potential and as a sound and stable location for business expansion as well as for investments.

New businesses looking for opportunities should know that Singapore stands firmly on a solid foundation built on a strong financial and regulatory framework, with a rule-of-law and stable government—compelling attributes that come together to form a conducive environment for companies eyeing a move to expand into the region with Singapore as its base. Singapore is attuned to the needs of businesses and the need to protect invention and innovation in order to expand business opportunities in Singapore.

The Singapore legal system is a rich tapestry of laws, institutions, values, history and culture. However, with socio-economic and politico-legal changes driven by increased globalisation and regionalisation, the legal system will need to constantly evolve to keep up. In Singapore, the legal system and the government have responded swiftly and deftly in creating new laws and institutions or adapting existing ones.

For instance, with an aim to reduce the regulatory burden on companies, improve business flexibility and the corporate governance landscape in Singapore, the Singapore Parliament passed the Companies (Amendment) Bill No. 25 of 2014 on 8 October 2014, setting out more than 200 amendments to the Singapore Companies Act (Cap 50, 2006 Rev Ed.) (the "**Act**") that became effective in July 2015. Key amendments include the following: The prohibition on giving financial assistance will no longer apply to private companies; both private and unlisted public companies may pass written resolutions and send documents and notices to shareholders electronically, provided this mode of communication is stated in the company's constitutional documents; and the obligation to disclose interests in transactions will be extended to chief executive officers ("**CEOs**"), in addition to directors.

To attract businesses ready to invest in Singapore, the government also keeps its tax rates and tax laws competitive and takes a strategic, holistic approach toward stewardship of key pillars of the economy, such as petrochemicals, electronics and clean energy.

Entering Singapore

All businesses must be registered with the Accounting and Corporate Regulatory Authority ("**ACRA**").

Foreign companies wishing to operate in Singapore can choose to incorporate a limited liability company, sole-proprietorship or limited partnership; or register a branch office, subsidiary company or representative office.

Special licenses are needed for some businesses, such as banking, newspaper and printing presses, insurance and gaming under the Banking Act (Cap 19, 2008 Rev Ed.), Newspaper and Printing Presses Act (Cap 206, 2002 Rev Ed.), Insurance Act (Cap 142, 2002 Rev Ed.) and Casino Act (Cap 33A, 2007 Rev Ed.), respectively.

Special licenses are also required for the manufacture or retail of goods, such as cigars and fireworks, under the Tobacco (Control of Advertisements and Sale) Act (Cap 309, 2011 Rev Ed.) and Dangerous Firework Act (Cap 72, 2014 Rev Ed.), respectively.

The Singapore government offers a one-stop Online Business Licensing Service ("**OBLS**") for business licence applications. The OBLS allows businesses to submit one or multiple licence applications to the relevant government agencies.

Types of Business Structures / Investment Vehicles

There are limited restrictions on foreign ownership of companies and local equity participation is not required in businesses established in Singapore. Singapore entities and businesses can be up to 100-percent owned by a foreign national or company.

Limited Liability Company

A private limited company is one of the most popular forms of business and investment vehicles used in Singapore. It is a separate legal entity and shareholders are not liable for the company's debts beyond the amount of share capital they have contributed. A private limited company can be either limited by shares or limited by guarantee. However, private limited companies operating in Singapore typically prefer to be limited by shares. This is because a company limited by guarantee will not obtain its initial working capital from members via a subscription for shares (as is the case in a company limited by shares).

A private limited company can be 100-percent foreign owned and only a minimum of S$1 in paid-up capital is required to establish a company. A company can be registered as quickly as within 24 hours. However, the company must appoint a company secretary within six months of registration and must have a Singapore resident as a director (or a foreigner holding an EntrePass or Employment Pass) at all times. In order to register a Singaporean company, one must also provide a local Singapore address as the registered address of the company. The registered address must be a physical address (can be either a residential or commercial address) and cannot be a P.O. Box.

Foreigners cannot represent themselves in Singapore to incorporate a business in Singapore. Foreigners intending to set up a company in Singapore must engage a professional corporate secretarial firm to register a Singaporean company. There is no requirement for foreigners to obtain any special Singapore visa if they merely want to incorporate a private limited company but have no plans to relocate to Singapore. They are free to operate their company from overseas as well as visit Singapore on a visitor visa whenever required to attend to company matters on a short-term basis. However, they will need to find a local resident director since each company must have at least one local director. Professional corporate secretarial firms offering Singapore incorporation services often offer the service of a local nominee director for this purpose.

Foreigners with plans to relocate to Singapore to operate their company are required to obtain an Employment Pass or Entrepreneur Pass type of work permit. Once they have obtained a work permit, they can act as the local resident director of their company. All incorporation formalities (as well as work permit formalities, if applicable) can be handled without foreigners having to visit Singapore. The only exception may be opening a bank account, depending upon the choice of bank.

A private limited company is also subject to favourable tax rates. All Singapore resident companies are eligible for partial tax exemption, which effectively translates to an income tax rate of about 8

percent on profits of up to S$300,000 yearly and a maximum income tax rate of 17 percent on profits over S$300,000.

Sole Proprietorship or Partnership

The sole proprietorship or partnership is the simplest form of business organisation and is usually more suitable for small-scale businesses. Both the sole proprietor and the partners are subject to unlimited liability with regard to the debts of the business.

Any person who is carrying on business in Singapore either as a sole proprietor or in partnership is required to register a business firm with the Registry of Companies and Businesses. However, some forms of businesses, which are carried out by professionals such as architects, engineers and doctors, are instead required to register with their respective professional bodies.

A sole proprietorship or partnership may be required to appoint a manager who is responsible for the management of the business. If the sole proprietor or each of the partners of a business firm is a foreigner, then the manager must be a Singapore citizen, a Singapore permanent resident or a valid Employment Pass holder.

Limited Partnership

This business vehicle gives the owners the flexibility of operating as a partnership whilst giving them limited liability. It combines the benefits of a partnership with those of private limited companies. It provides a structure, which comprises at least one general partner with unlimited liability and limited partners with limited liability, and separates ownership from management. There are generally three parties in a limited partnership ("**LP**")—a limited partner, a general partner and a local manager. An individual or a corporation may become a general partner or a limited partner of an LP.

The LP is a vehicle that is well suited to limited life and self-liquidating funds. The LP may therefore appeal to niche markets like private equity and fund investment businesses. It is also attractive to investors who do not wish to take an active management role and who prefer to entrust management to someone willing to bear unlimited liability. Each partner need not be ordinarily resident in Singapore, which makes the LP attractive to foreign investors. However, a local manager has to be appointed if every general partner is ordinarily resident outside Singapore.

Registration is relatively quick and convenient and costs only S$50. After registration, the name of the LP has to contain the words "limited partnership" or the abbreviation "LP" in all its invoices and official correspondences.

Unlike an incorporated company, an LP has less burdensome reporting requirements and administrative duties, but as the LP has a limited life span of just one year, its registration has to be renewed on an annual basis. Also, the LP exists as long as there is one general partner and one limited partner. If there is no limited partner, the partnership will be suspended, and the LP will be converted to a firm registered under the Business Registration Act (Cap 32, 2004 Rev Ed.).

Limited Liability Partnership

A limited liability partnership ("**LLP**") is another form of business in Singapore. This structure was introduced to give potential entrepreneurs a greater choice of business vehicles as well as to attract foreign investment. Similar to an LP, an LLP gives owners the flexibility of operating as a partnership whilst giving them limited liability, combining the benefits of a partnership with those of private limited companies. However, unlike an LP, an LLP is not subject to the requirement of having at least one general partner with unlimited liability. LLPs in Singapore are governed by the Limited Liability Partnership Act (Cap 163A, 2006 Rev Ed.).

An LLP requires at least two partners, who can be individuals or body corporates and at least one manager who is an individual ordinarily resident in Singapore. It is relatively quick and inexpensive to set up, with fewer formalities and compliance procedures than a company. There are no statutory requirements for general meetings, directors, company secretary and share allotments.

Partners of an LLP will not be held personally liable for any business debts incurred by the LLP. However, a partner may be held personally liable for claims from losses resulting from his own wrongful act or omission.

However, to minimize abuse and provide protection to parties who deal with LLPs, there are safeguards in law. An LLP is required to upkeep its financial records as well as report its financial status of solvency or insolvency annually. Further, as the partners enjoy limited liability, it cannot be terminated as easily as a general partnership.

Other Arrangements

The following arrangements may also be suitable for foreign companies intending to carry out business activities in Singapore.

Subsidiary Company

A subsidiary company is a locally incorporated private limited company whose majority shareholder is another local or foreign company. Singapore allows 100-percent foreign ownership in companies. Therefore, a foreign company may incorporate a local limited liability company in Singapore (*i.e.*, subsidiary company) and own 100 percent of its shareholding.

A Singapore subsidiary is the most preferred registration option for small to mid-sized foreign businesses interested in establishing their presence in Singapore. A properly structured local subsidiary company is an excellent tax-efficient corporate body. A Singapore subsidiary company is considered a separate entity from the foreign company even if the foreign company is the only shareholder. The liabilities of the subsidiary company are not extended to the parent company. For taxation purposes, the subsidiary may be treated as a Singapore resident company and, as such, is eligible for tax exemptions and incentives available to local companies.

The name for the subsidiary can be different from that of the parent company and is subject to approval by the Registrar of Companies. The Act requires the appointment of one or more directors. At least one director must be a Singapore resident (citizen, permanent resident, or employment pass holder) person. A Singapore subsidiary must maintain a registered office in Singapore and keep its statutory documents in that office.

Branch Office

A Singapore branch office, like a subsidiary, is a registered legal entity. However, unlike a subsidiary, a branch office is treated as an extension of the foreign company. This means that the foreign company's head office bears the ultimate responsibility for any liabilities arising due to the positive acts or acts of omission of the Singapore branch office. From a taxation point of view, a branch office is generally considered a non-resident entity and therefore is not eligible for the tax exemptions and incentives available to local companies in Singapore. Consequently, setting up a branch office is a less attractive option for small to mid-sized businesses.

The name of the Singapore branch office must be the same as that of the head office and must be approved before branch office registration. The company registrar generally approves the proposed name unless a name is identical to an existing company name.

The Act requires that a branch office appoint two agents who are ordinarily resident in Singapore to accept services of process and notices. A branch office must have a registered office address in Singapore.

A Singapore branch office is allowed to conduct any type of business activity that falls within the scope of its parent company and can repatriate its earnings and capital. The portion of the income of the branch office, which is derived from or attributable to the operations carried out outside Singapore, will not be subject to taxes. Only the earnings derived from its operations in Singapore will be subject to the prevailing local corporate tax rates.

Representative Office

Foreign companies that are interested only in exploring the market or managing the company affairs without conducting any business activity of a profit-yielding nature can set up a representative office in Singapore. A representative office is a temporary setup without any legal persona. Therefore, it cannot enter into any contract or engage in trading directly or on behalf of the foreign company. Representative offices in Singapore can undertake only market research or feasibility studies on behalf of their parent company.

The foreign company bears implicit liability for the activities of the representative office in Singapore. The representative office must be staffed by a representative from the foreign company's head office and can engage a small number of local support staff not exceeding five employees.

International Enterprise Singapore ("**IE Singapore**") is the registration authority for representative offices for most industries, including manufacturing, business services, commerce and other sectors but excluding banking, finance, insurance that have to be registered with the Monetary Authority of Singapore ("**MAS**").

Choosing the Right Business Structure / Investment Vehicle

Deciding on the right business structure to incorporate in Singapore will depend on the particular situation and plans of an investor. Foreign investors usually carry on business through locally incorporated companies or branches.

Most foreign investors prefer to set up private limited companies because the tax position is simpler and provides for the ability to qualify for incentives, depending on the industry, location and office type. Subsidiaries of foreign corporations that do not wish to raise share capital or borrow funds from the public usually register as private companies and may commence business immediately after incorporation.

Limits on Foreign Investment

Singapore's legal framework and public policies are generally favourable toward foreign investors. Foreign investors are not required to enter into joint ventures or relinquish management control to local interests, and local and foreign investors are subject to the same laws.

Apart from regulatory requirements in some sectors, the government screens investment proposals only to determine eligibility for various incentive regimes. Singapore does not impose restrictions on reinvestment or repatriation of earnings or capital. The judicial system upholds the sanctity of contracts, and decisions are effectively enforced.

The exceptions to Singapore's general openness to foreign investment exist in telecommunications, broadcasting, domestic news media, financial services, legal and other professional services and property ownership. These industries are generally perceived to be critical to national interests. Under Singapore law, articles of incorporation may also include shareholding limits that restrict ownership in corporations by foreign persons.

Incentives for Investing in Singapore

The Economic Development Board ("**EDB**") is keen to stimulate business investment in Singapore. Together with other major government agencies, such as IE Singapore, MAS, and Maritime and Port Authority of Singapore ("**MPA**"), they operate a number of incentives and development schemes. Some notable incentives and schemes are described below.

Mergers and Acquisitions Scheme

Under the Mergers and Acquisitions Scheme, a qualifying Singaporean company can claim a deduction of 5 percent of the cost of acquisition, up to a maximum of S$5 million, for all qualifying share acquisitions in the basis period. The Mergers and Acquisitions Scheme also provides deductibility of transaction costs and stamp duty relief. The EDB's approval is required for waiving the condition that the ultimate holding company for the group must be incorporated and tax resident in Singapore.

Tax Incentives

The Singapore government offers multi-national companies ("**MNCs**") and investors a variety of tax incentives in order to attract investments into Singapore. The incentives may come in the form of income tax exemption or taxation at certain concessionary rates, usually at 5 percent or 10 percent.

Applications for tax incentives are subject to the approval of the relevant government bodies. The success of applications greatly depends on the merits of each case, the potential economic benefits for Singapore and the extent of investors' commitments in terms of total business spending and fixed asset investment.

In order to encourage the development of high-growth and high value-add financial activities in Singapore, MAS and the Inland Revenue of Singapore ("**IRAS**") have been granting various tax incentives for the financial services sector.

Income derived from either a Singapore or offshore fund potentially could be exempt from tax on all its sources of income and gains if such a fund is managed by a Singapore resident fund manager, subject to conditions.

Singapore-based fund managers could also secure a concessionary tax rate of 10 percent (compared with the usual tax rate of 17 percent, subject to conditions, for qualifying fee income earned from the management of qualifying funds.

Other financial sector incentives also cover the debt capital market, equity market and derivatives market. These incentives are subject to various conditions and qualifying income could be taxed at a concessionary rate of between 5 percent and 12 percent.

Financial Sector Development Fund ("FSDF")

Financial institutions with substantive business plans to establish or expand their operations in Singapore may apply for MAS tax incentives or grant schemes under the FSDF. Successful applicants must satisfy rigorous requirements with respect to the scale and quality of activities to be conducted in Singapore. Notable schemes available under the FSDF include the Financial Training Scheme ("FTS"), Institute of Banking and Finance Standards Training Scheme ("IBF-STS") and Financial Scholarship Programme ("FSP").

IDM Jump-start and Mentor ("i.JAM") Programme

The i.JAM Programme aims to drive innovation and entrepreneurship. Under the i.JAM Programme, support is extended to start-ups and individuals in their exploration of the technical merit or feasibility of technologies and ideas that have the potential to create business disruptions and build new industry subsectors through a network of incubators appointed by i.JAM. Successful applicants stand to enjoy up to S$250,000 in seed funding.

Technology Incubation Scheme ("TIS")

The TIS is an initiative under the National Framework for Innovation and Enterprise ("**NFIE**") programme, which was set up in March 2008. Under the TIS, successful start-up applicants stand to receive full grants of their investment.

The National Research Foundation ("**NRF**") Singapore may co-invest up to 85 percent of investment (up to S$500,000 per company) into a Singapore-based start-up, on recommendation from a Technology Incubator nominated by the NRF. The Technology Incubator will be required to co-invest the remaining 15 percent of investment into the start-up and provide active mentorship and direction to the start-up.

As an incentive and to better align the interests of all parties toward the success of the start-up companies, the Technology Incubator will also be given an option to purchase NRF's stake in the start-up within three years by repaying the capital plus interest.

Technology Enterprise Commercialisation Scheme ("TECS")

The TECS is managed by SPRING Singapore, an agency under the Ministry of Trade and Industry responsible for helping Singapore enterprises grow and building trust in Singapore products and services. The TECS aims to facilitate the formation and growth of start-ups with strong technology intellectual property and a scalable business model. Through the TECS, SPRING provides early-stage funding to successful applicants to support such developmental efforts toward the commercialisation of proprietary technology solutions.

The TECS is a competitive grant in which proposals are evaluated based on both technical and commercial merits by a team of reviewers. Applicants may apply for either the Proof of Concept ("**POC**") grant or the Proof of Value ("**POV**") grant, depending on the stage of development of the technology or solution.

To be eligible for the TECS, the applicant must be registered for less than five years at the time of award; have a local shareholding of at least 30 percent, group annual sales turnover of no more than S$100 million or group employment size of no more than 200 workers; and conduct its core activities in Singapore.

SPRING Start-up Enterprise Development Scheme ("SPRING SEEDS")

SPRING SEEDS Capital Pte Ltd ("**SSC**"), the investment arm of SPRING Singapore, manages SPRING SEEDS, an equity-based co-financing option for Singapore-based start-ups with innovative products and/or processes with intellectual content and strong growth potential across international markets.

To be eligible for investment consideration, interested start-ups must satisfy numerous criteria, including being a Singapore-based company with core activities carried out in Singapore, being incorporated as a private limited company for less than five years, having a paid-up capital of at least S$50,000 and being able to evidence substantial innovative and intellectual content for its products and/or services and/or applications.

For approved deals by the SPRING SEEDS investment panel, SSC matches the sum invested by third-party investor(s) dollar-for-dollar, up to a maximum of S$2 million. The total sum will be invested in tranches, based on identified milestones.

Setting Up and Operating in Singapore

Directors' Duties and Responsibilities

Requirement of directorship

Under the Act, the minimum number of directors required is one. The maximum number of directors usually will be stated in the company's articles. There must be at least one director of the company who is ordinarily resident in Singapore. The minimum age to be appointed as a director is 18 years old in Singapore. In addition to the age requirement, a director must be physically and mentally capable of carrying out his duties.

Duties of a director

Directors are fiduciaries of the company that appoints them. A fiduciary is a person who is expected to act in the interests of another person. Hence, as a director, one has a fiduciary duty to act in the way he honestly believes to be in the best interest and benefit of the company.

Directors are also agents of the company. This means that directors are acting on behalf of the company and in turn, the company is bound by the acts of the directors. Thus, it is vital for a director to exercise reasonable skill, care and diligence when carrying out duties as a director.

The fiduciary duties owed by directors to a company are mandated by both the common and statutory laws.

Some key fiduciary duties include the following:

Duty to act honestly and in bona fide manner in the interest of the company (section 157(1)): Directors, when acting as directors, may consider only the interests of the company when making decisions and any personal or third party's interests must be disregarded. Directors will be held liable if they have acted without first considering the interests of the company. As a director, it is essential to act honestly at all times when carrying out duties of the directors. When dealing with co-directors, a director should be honest and must not conceal any material facts. Any attempt to defraud the company or gain an advantage for oneself or others at the expense of the company will amount to dishonesty, and it may result in civil action or criminal prosecution, or both. Certain transactions undertaken by directors which are not profitable may still be in the interest of the company, provided the director can prove that the transaction is bona fide in the interests of the company. Examples include sponsorships or charitable donations. Even though these transactions do not generate profit, they may be beneficial to the company if they serve to enhance the company's corporate image. To avoid a possible breach of fiduciary duties, it is prudent to obtain the approval of shareholders at a general meeting for such transactions.

Duty to avoid conflicts of interest (section 156): It is vital for directors to give undivided loyalty to the company. Under both common and statutory laws, a director should not place himself in a position where the interests of the company may or in fact do come into conflict with his personal interests. An example where a conflict of interest may arise is when the director directly or indirectly enters into transactions with the company. This includes buying or selling property to the company. Another

example is the exploitation of corporate information and business opportunities without the permission of the company. Directors are not allowed to divert business intended for the company to themselves or a third party. A director who sets up another firm to rival and compete for contracts with the company will have breached his fiduciary duties.

Duty to exercise care, skill and reasonable diligence: Under both the common law and statutory law, directors are expected to exercise reasonable care, skill and diligence in managing the company. If an individual director holds himself out to possess or in fact possesses a higher degree of qualifications or skills, he will be held to a higher standard of care, skill and diligence when carrying out his duties as a director. However, the standard of care, skill and diligence will not be lowered beyond the minimum objective standard required of a reasonable director to accommodate any inadequacies in the individual director's knowledge or experience.

Duty to not make improper use of any information: A director has a duty to not make improper use of any information acquired by virtue of his position as director to gain, directly or indirectly, an advantage for himself or for any other person or cause detriment to the company (section 157(2)). Should a director do so, he is guilty of an offence and liable to the company for any profit he gains or for losses suffered by the company. A director who buys or sells securities of the company while he is in possession of any insider information concerning the company commits an insider dealing offence under section 218 of the Securities and Futures Act (Cap 289, 2006 Rev Ed.) ("**SFA**").

Duty to act for the proper purpose: A director should be aware that powers conferred upon directors by the articles should be used only for proper purposes. Certain powers are conferred on directors for particular purposes. If a director uses his powers to pursue objectives other than the purpose for which the powers are conferred, even if his objectives are still in the interests of the company, the use of such powers may be restrained. A commonly misused power is the power to issue shares, which is ordinarily intended to raise capital. If a director issues shares to dilute a member's shareholdings, gain control of the company, preserve control of the board or prevent a takeover bid, he has made improper use of his powers as a director.

Board meetings and quorum

A director has the responsibility of ensuring that the company complies with all of its statutory requirements on time. Important requirements include the holding of the company's Annual General Meeting ("**AGM**") and the subsequent filing of Annual Returns ("**AR**") by the specified due dates. ACRA sends out reminders to companies and their directors to fulfil these obligations.

AGMs are conducted under the direction of the chairman of the meeting, who is usually the chairman of the board of directors. The chairman regulates the conduct of the meeting to ensure that it is properly run. If the articles of the company do not clearly specify who should serve as chairman, any member can be elected at the meeting to serve as chairman.

A quorum is the minimum number of people who must be present at the meeting for it to be considered legally valid. If the quorum is not stated in the articles of the company, any two members or proxies personally present at the meeting are enough to form the quorum.

Directors' Liability

If a director breaches his duties, he may be subjected to either civil or criminal liabilities, or both. Proceedings for civil liabilities are initiated by the company, to which these civil liabilities are owed, while criminal liabilities are initiated by the public prosecutor. As there is considerable overlap between the common law duties and statutory duties, a breach in a common law duty may also result in a breach in statutory duties. Generally, statutory duties are enforced by regulatory bodies such as ACRA or by the public prosecutor, while common law duties are enforced by the company.

If a director makes improper use of information, he also would have breached section 157(2) of the Act and the common law. Under the Act, the director will be liable to return to the company any profit made by him or compensate the company for any damage suffered by the company as a result of the breach; and he will be guilty of an offence, subjecting him to a fine not exceeding S$5,000 or imprisonment for a term not exceeding one year.

Under section 156 of the Act, if a director fails to disclose potential conflicts of interest in any transaction, he is subjected to a fine not exceeding S$5,000 or imprisonment not exceeding one year.

In Singapore, it is common for directors and executive officers to obtain Directors' and Officers' ("**D&O**") liability insurance. This is usually purchased by their company for their benefit.

Employment of Locals

As Singapore's primary asset is its people, the government has gone to great lengths to build a highly educated and professionally qualified workforce and maintain exceptional employment standards and practices. To upkeep such standards, the Singapore government has entrusted the Ministry of Manpower ("**MOM**") and the Workforce Development Agency ("**WDA**") with the responsibility of regulating labour standards.

As the governing authority for Singapore's workforce, MOM enforces the regulations and guidelines set forth by the Employment Act (Cap 91, 2009 Rev Ed.) in order to ensure and maintain high standards on all aspects of employment. The Employment Act applies only to every employee (regardless of nationality) who is under a contract of service with an employer, except (a) any person employed in a managerial or executive position earning more than S$4,500 basic monthly salary; (b) any seaman; (c) any domestic worker; and (d) any person employed by a statutory board or the Singapore government.

The WDA is the government-accredited agency focused on keeping Singaporean employees up to date and current in their respective industries. To do so, WDA regularly conducts industry-accredited upgrading courses for the workforce.

As the primary piece of legislation, the Employment Act governs the hiring, employment and dismissal of employees. The Employment Act provides the relevant workers with rights and benefits, including the right to maternity protection, childcare leave for parents, and the right to workmen's compensation for injuries sustained at work. Female employees that have been employed for more than three (3)

months may be eligible for paid maternity leave benefits. Employers are also prohibited from dismissing any employees on maternity leave.

The Employment Act does not stipulate a minimum salary that must be paid to employees. In other words, salary is subject to negotiation between the employer and the employee. There is also no requirement of bonus payment under the Employment Act. However, the salary must be paid at least once a month within seven days after the end of the salary period. Overtime pay, if applicable, must be paid within 14 days of the stipulated salary period. Annual bonus equivalent to at least one month's salary, commonly known as a 13th month payment, has become a common practice in Singapore. The actual amount of annual bonus varies from employee to employee, according to the policy of the company, and normally will be tied to the employee's performance as well as the performance of the company.

The Employment Act imposes restrictions on working hours, protecting workmen whose salaries do not exceed S$4,500 per month or employees whose salaries do not exceed S$2,000 per month. A "workman" is defined under the Employment Act as someone whose job involves manual labour. Under Part IV of the Employment Act, employees are generally not allowed to work for more than six consecutive hours without a period of leisure, for more than eight hours in a day and for more than 44 hours in a week.

For employees falling outside the Employment Act, the relationship between the employer and employee is regulated almost exclusively by contract. The governing law of the contract will depend on the choice of law clause in the contract. Parties are generally free to contract as they choose under an employment contract, subject to certain statutory requirements and limits as provided for in legislation and public policy.

It may be prudent to have a written employment contract in Singapore. Typically, only senior management employees may have the bargaining power to negotiate their employment contracts. Most employment contracts include several important clauses, such as the employee's appointment, duration of employment contract, remuneration package and termination.

Further, all employers are required to make Central Provident Fund ("**CPF"**) contributions. CPF is a social security savings plan that covers healthcare, retirement and home ownership. The contribution rate varies depending on the age, the wage band and the status of the employee (*i.e.*, Singaporean citizen or permanent resident). The maximum amount of CPF contribution payable is based on a monthly salary ceiling of S$5,000. Voluntary contributions can be paid in addition to the mandatory contributions.

The employer is required to pay the employer's and employee's share of CPF contributions monthly for all employees (Singapore citizens and Singapore permanent residents) at the rates set out in the Central Provident Fund Act (Cap 36, 2013 Rev Ed.). The contributions payable should be based on the employee's actual wages earned for the month. The employer deducts the employee's share from the salary of the employee.

CPF contributions are not allowed for foreigners working in Singapore under an Employment Pass, S Pass or a Work Permit and for directors' fees.

Employment of Foreigners

Foreign nationals intending to enter Singapore to take up employment or to engage in business must obtain a work pass from MOM.

MOM issues work passes in the following categories: Employment Pass (P Pass, Q1 Pass, PEP), S Pass and Work Permit.

Primarily, the Singapore government has adopted a policy of encouraging well-qualified and skilled foreigners who can contribute to the country's economy to join the workforce in Singapore. Immigration rules have also been liberalised to recognise such persons as potential permanent residents.

The EDB also introduced another permanent residence scheme known as the Global Investor Programmme. This programme targets foreigners with outstanding entrepreneurial ability and substantial financial resources to invest in Singapore.

Foreigners who plan to exercise employment or establish businesses in Singapore must obtain the necessary approval from the relevant authority prior to the commencement of employment.

Work Passes

P Pass

A P Pass is given to a foreigner in a professional, managerial, executive or specialist position. The P Pass is further split into two categories according to different criteria.

Q1 Pass

The Q1 Pass is meant for a foreigner whose fixed monthly salary is S$3,000 and above with requirements depending on his/her qualifications and experience.

Personalised Employment Pass ("PEP")

While an individual employment pass is tied to an employer, the PEP allows its holder to remain in Singapore without a job for up to six months while seeking employment opportunities. It is issued only once with a validity period of three years and is non-renewable. PEP holders must earn at least an annual salary of S$144,000 in each calendar year of the PEP.

S Pass

A foreigner whose fixed monthly salary is at least S$2,200 is eligible for an S Pass. S Pass applicants are assessed on a points system, taking into account such factors as salary, educational qualifications, skills, job type and work experience.

Currently, the number of S Pass holders a company can employ is capped at a sub-Dependency Ceiling ("**sub-DC**") of 15 percent of the company's total workforce in the services sector and 20 percent in the remaining sectors.

Work Permit

A foreigner whose fixed monthly salary is not more than S$2,200 is required to apply for a work permit. The permit can be categorised into “semi-skilled” and “unskilled” depending on the educational level and industry sector under which the applicant is employed.

An employer intending to hire workers from North Asian Sources, Non-Traditional Sources and the People’s Republic of China to work in Singapore will need to furnish a security bond of S$5,000 per worker, and pay foreign worker levies for them.

Foreign Worker Levy

Employers are also required to pay a foreign worker levy, which is a pricing mechanism designed to regulate the number of foreign workers in Singapore. The number of S Pass holders and work permit holders that a company is allowed to hire is limited by quota and subject to this levy. The levy rates vary across industries and are tiered. Generally, a company that hires more foreign workers is subject to higher foreign levy rates.

Exemptions

However, a foreigner can engage in certain work-related activities in Singapore for a short period of time without a work pass if he notifies MOM upon arrival. A foreigner can work in a work pass exempted activity for the duration of the short-term visit, up to a maximum of 60 days. Work pass exempt activities include arbitration and mediation services, exhibitions, journalism, junket activities, performances, seminars and conferences.

Business Culture and Etiquette

Although Singapore is generally regarded as a business-friendly economy, as with any country, there are social rules and protocols that foreigners should take note of when doing business in Singapore. A few points that are worth keeping in mind include:

Language

There are four official languages in Singapore – English, Mandarin, Malay and Tamil.

English is the language of business and administration, and it is widely spoken. Translation and interpreting services are usually available at hotel business centres, but these services are unlikely to be required as most Singaporeans are bilingual.

Meetings And Presentations

Name cards are an essential part of business protocol. They should be presented with both hands and with the name facing the recipient. No elaborate bowing is necessary in formal business meetings. A firm handshake will suffice. When addressing Chinese people, the family name is used. When addressing Malay people, the first of their two family names is used. Singaporean Indians use a variety of conventions, so it is advisable to use the family name. Punctuality is important, so effort should be made to arrive on time.

Negotiations

Singapore has a formal business culture with many rules of etiquette, which vary between the Chinese, Malay and Indian members of the population. Singaporeans are often cautious and keen to make sure they are doing business with the right person. Therefore, it is necessary to first establish trust and rapport with a Singaporean counterpart. Generally, small talk is common at the outset of meetings and one may be asked personal questions.

Personal relationships and networking are key elements of doing business in Singapore. Status and hierarchy are important in Singapore business culture, where many companies have a top-down structure. Decisions are nearly always made by the senior management and subordinates avoid directly questioning or criticizing their superiors.

Intellectual Property Protection

The Intellectual Property Office of Singapore ("**IPOS**") is the government body responsible for registering patents, trademarks and designs in Singapore, all of which can be applied for electronically through the IPOS website. The site also provides searchable trademark, patent and design databases.

Singapore ranks top in intellectual property protection in Asia. According to the World Economic Forum's ("**WEF**") Global Competitiveness Report 2014–2015, Singapore retained its ranking as top in Asia and second in the world for intellectual property protection in 2014. This marks the fourth-consecutive year the country has retained these top marks for intellectual property ("**IP**") protection.

Intellectual property law in Singapore covers the following four areas:

Patents

Patents are protected on a first-to-file basis. Inventions are protected in Singapore under the Patents Act (Cap 221, 2005 Rev Ed.). Registration may be obtained in two ways: through a domestic application filed with the Registry of Patents within IPOS or through an international application filed in accordance with the Patent Cooperation Treaty, with IPOS acting as the receiving office of the application. A person who has earlier filed an application for registration in a Paris Convention / World Trade Organisation ("**WTO**") country may, if he files for registration in Singapore within 12 months from the date of such application, claim a right of priority.

Trademarks

Trademarks are protected on a first-to-file basis. Singapore has a dual system of trademark law: Protection for trademarks may be available both under the Trade Marks Act (Cap 332, 2005 Rev Ed.) ("**TMA**") and at common law. These two systems are independent of each other. Protection under the TMA is conditional upon registration of the trademark with the Registry of Trade Marks within IPOS. However, there is one exception. Special protection is granted under the TMA for "well-known" trademarks, regardless of whether they are registered. Registration may be obtained in two ways: through a domestic application filed with the Registry of Trade Marks or an international application filed under the Madrid Protocol, designating Singapore as a country where protection is sought. A

person who has earlier filed an application for registration in a Paris Convention / WTO country may, if he files for registration in Singapore within six months from the date of such application, claim a right of priority. The trademark monopoly is limited to use in relation to the goods or services for which the trademark is registered. Singapore follows the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

Registered **Design**

Registered designs are protected on a first-to-file basis. Protection of industrial designs is available under the Registered Designs Act (Cap 266, 2005 Rev Ed.). Registration may be obtained in two ways: a domestic application filed with the Registry of Designs within IPOS or an international application filed in accordance with the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, designating Singapore as a country where protection is sought. A person who has previously filed an application for registration in a Paris Convention / WTO country may, if he files for registration in Singapore within six months from the date of such application, claim a right of priority.

Copyright

Copyright law in Singapore is governed by the Copyright Act (Cap 60, 2006 Rev Ed.). An author automatically enjoys copyright protection as soon as he creates and expresses his work in a tangible form. There is no need to file for registration to get copyright protection. For a work to be protected by copyright in Singapore, it has to be original and expressed in a tangible form such as in a recording or in writing. Originality simply means there is a degree of independent effort in the creation of the work.

M&A

In an increasingly globalised world, M&As are essential mechanisms of shareholder value enhancement. M&As facilitate access to new markets, capacities and technologies, as well as enable organisations to grow core competencies. Well-planned and strategic M&As are transforming a number of corporations into global or regional powerhouses and enabling unprecedented growth beyond geographical market limitations.

At the same time, M&As are not without risks. Corporations need to secure the right deal at the right time and price, as well as integrate the acquisition to realise their strategic objectives. Just as vital, corporations need to evaluate investment opportunities carefully, carry out due diligence thoroughly and know when to walk away. Given the complexity involved, it is not surprising that many acquisitions fall short of what acquirers expected.

In recent years, private equity has emerged as an important source of capital. The proliferation of private equity-driven deals in Asia is increasing competition for investments and pushing up valuation. It is now even more essential for private equity firms to identify the right deals, understand their target's potential and maximise value in deal structuring. Post-deal value creation and the right exit strategy are also integral to achieving desired returns.

Despite the slowing down of the European economy, the level of M&A activity in Asia has increased and is anticipated to continue to grow with the economic recovery and return of Asian economies to their pre-financial crisis growth path.

According to a report by Thomson Reuters, 2014 saw the most M&A activities in Singapore to date, with real estate, industrials and financials taking the biggest market shares with their announced deals. The value of announced M&As involving Singaporean companies surged 110.4 percent in 2014 compared to the first nine months of 2013, and surpassed the annual volume in 2013. Total cross-border deal activity soared 139.7 percent to US$38.0 billion compared to the first nine months of 2013. This was driven largely by a triple-digit percentage growth in deal value for both inbound and outbound deals.

Legal Framework

In Singapore, parties are largely free to negotiate terms and conditions of the sale and purchase of the business/shares of a company. Generally, the contractual provisions for the acquisition of a Singaporean company are often driven by commercial considerations and share the same basic components and features of acquisition agreements in other jurisdictions.

The Companies Act, the Competition Act (Cap 50B, 2006 Rev Ed.) and the Code of Takeovers and Mergers ("**Take-over Code**") are the main laws and regulations governing a merger or acquisition. Singapore listed companies' acquisition and disposal activities are also regulated by the Singapore Exchange's Listing Rules.

The Companies Act provides for protection of creditors by its various capital preservation provisions, such as the rule preventing the undervalued sale of a business and preferring one creditor over another in the event of a company's insolvency, and particularly in relation to M&As, provisions on the prohibition of financial assistance by a company to the acquirer in the purchase of its shares.

The Competition Act prohibits mergers that have resulted, or are expected to result in a substantial lessening of competition within any market of goods or services in Singapore. Although it is not compulsory to notify the Competition Commission of Singapore (the "**CCS**") about a merger, in order to avoid potential additional cost and inconvenience at the later stages of a M&A transaction, a party who is unsure whether a proposed acquisition is prohibited by the Competition Act may want to notify the CCS for preliminary ruling.

Part VIII of the SFA contains legislative provisions relating to take-over offers. Section 138 of the SFA provides for the establishment of an advisory body known as the Securities Industry Council ("**SIC**"). The SIC is the regulator that oversees the Take-over Code and is part of the MAS. Section 140 lists the offences relating to take-over offers. Under the SFA, it is an offence for a person to give notice or publicly announce that he intends to make a take-over offer if he has no intention to make one. It is also an offence to make a take-over offer if a person has no reasonable or probable grounds for believing that he will be able to perform his obligations pursuant to the offer being accepted or approved.

The Take-over Code applies primarily to the acquisition of 30 percent or more of the voting control of public companies. However, unlisted public companies with more than 50 shareholders and having net tangible assets of S$5 million or more must also observe, wherever possible and appropriate, the provisions of the Take-over Code as set out in its General Principles and Rules.

The Employment Act of Singapore is another piece of legislation that has to be taken into consideration in M&As. When a business or part thereof is transferred from the seller to the purchaser, section 18A of the Employment Act automatically operates to transfer the contracts of employment to the purchaser. In addition, all the seller's rights, powers, duties and liabilities under, or in connection with, the employment contracts of the employees, are transferred to the purchaser and any act or omission done before the transfer in respect of such contracts shall be deemed to have been done by the purchaser. However, the Employment Act does not cover employees in managerial or executive positions. For such employees, the contract will not be automatically transferred by law and the parties will have to enter into negotiations.

Singapore is generally an open economy with minimal foreign ownership or investment restrictions when it comes to M&As. There are, however, statutes relating to some particular industries, which govern take-over activity in Singapore. These restrictions limit the percentage of ownership or require prior regulatory approval for ownership in companies engaged in those industries. These industries are generally industries perceived to be critical to national interests, such as banking, finance, insurance and media.

Private M&A

Private M&A transactions are generally unregulated. However, the Act may be applicable or relevant in certain acquisitions.

Issues that may be relevant to acquisitions and covered in the Act include: fiduciary duties of directors, the prohibition against financial assistance by a company for the acquisition of its shares and the procedural requirements for the disposal of a company's business.

For instance, where a business sale involves the disposal by the vendor of the whole or substantially the whole of its undertaking or property, the prior approval of the vendor's shareholders in general meeting must be obtained pursuant to section 160 of the Act. The approval required is a simple majority vote of the shareholders present and voting at the general meeting.

If financing for the acquisition is required by the purchaser in a share sale, the assets of the target Singaporean company cannot be offered as security to the purchaser's lenders. Section 76 of the Act prohibits the giving of financial assistance by a Singaporean company in connection with the acquisition of its shares, and the giving of financial assistance includes the provision of security by a Singaporean company. However, it is possible for a Singaporean company to provide financial assistance under "whitewash" procedures as specified in the Act. With the amendments to the Act that are expected to come into force in July 2015, the prohibition on giving financial assistance will no longer apply to private companies.

Public M&A

Compared to private M&As, public M&As in Singapore are subject to greater exposure to regulatory scrutiny. The Take-over Code applies to the acquisition of voting control of public companies. It applies to corporations (including corporations not incorporated under Singapore law) with a primary listing of their equity securities in Singapore and business trusts or real estate investment trusts ("**REITs**") with a primary listing of their units in Singapore. The Take-over Code, which is administered by the SIC, was drafted with listed public companies and listed registered business trusts in mind. With respect to foreign-incorporated companies and foreign-registered business trusts, the Take-over Code applies only to those with a primary listing in Singapore.

The Take-over Code seeks to ensure that take-overs and mergers are conducted in accordance with good business practice for the fair and equal treatment of all shareholders. The SIC does not concern itself with the commercial merits of take-overs and mergers.

The Take-over Code contains general principles, rules and notes. However, the Take-over Code acknowledges that it is impracticable to create rules in sufficient detail to cover all scenarios that can arise in take-over and merger transactions. Therefore, it is essential that both the letter and spirit of the Take-over Code must be observed, especially in circumstances not explicitly covered by any Rules.

Breach of the Take-over Code may result in the imposition of sanctions by the SIC. Sanctions that the SIC may impose include private reprimands, public censure and, where the breach is flagrant, further

action as the SIC thinks fit, including actions designed to deprive the offender temporarily or permanently of its ability to enjoy the facilities of the securities market.

Acquisition / Takeover Methods

The business of a Singaporean company generally may be acquired by a Share Sale or a Business Sale. The purchaser may either acquire the issued shares of the Singaporean company that carries on the business (a "**Share Sale**"), or acquire the business (assets and liabilities) of the Singaporean company (a "**Business Sale**").

For a Share Sale, the purchaser is not required to be a Singaporean company or have a legal presence in Singapore. For a Business Sale, the purchaser must be a Singaporean company, or a branch of a foreign company registered in Singapore. It is an offence to carry on business in Singapore without the legal presence of a Singapore-incorporated company or a Singapore branch.

Generally, a Share Sale is a more straightforward transaction as it involves merely a transfer of ownership of the shares in the Singaporean company. In contrast, a Business Sale entails the passing of asset titles from the Singaporean company to the purchaser. Examples of the Singaporean company's assets include land and premises, book debts, intellectual property rights, goodwill, insurance, hire purchase and other contracts, and plant and machinery. Given the need to transfer each asset or category of asset, from the Singaporean company to the purchaser, the parties will have to enter into numerous assignment or novation agreements.

Alternatively, section 215A of the Act has prescribed a third option of statutory amalgamation procedures to acquire the business of a Singaporean company. Such a process may involve either two or more companies amalgamating and continuing as one company or two or more companies amalgamating and forming a new company. The main distinguishing factor of the amalgamation process is that it does not require the sanction of the High Court, unlike a scheme of arrangement. The approval of the SIC is required for the exemption of certain provisions of the Take-over Code. These provisions include those relating to the offer timetable, acceptances, keeping the offer open for 14 days after it is revised, and the right of acceptors to withdraw their acceptances.

Competition Law

The CCS has the powers to investigate and adjudicate anti-competitive activities and to enforce the Competition Act. In particular, CCS focuses on activities that have appreciable adverse effect on competition in Singapore. CCS may launch a formal investigation, where it has reasonable grounds for suspecting that the Competition Law has been infringed. CCS is empowered to issue a written notice to require businesses to provide documents and information, as well as to enter any premises to carry out inspections.

The Competition Act was enacted with the aim of enhancing the competitiveness of the Singapore economy by prohibiting certain anti-competitive business activities and regulating the conduct of market players. All business entities conducting business in Singapore, whether foreign, domestic or government-owned entities, are required to comply with the Competition Act.

Mainly, three types of activities are prohibited under the Competition Act.

The first type of prohibited activity is a merger that substantially lessens competition within any market for goods or services in Singapore. This prohibition applies even where the merger takes place outside of Singapore, or where any party involved in a merger is located outside Singapore.

A party that is unsure of whether a proposed acquisition is prohibited by the Competition Act may apply to the CCS for a decision regarding whether the acquisition, if carried into effect, will infringe the provisions of the Competition Act. Generally, the CCS considers that competition concerns are unlikely to arise unless the merger results in a merged entity with a market share of 40 percent or more; or a merged entity with a market share of between 20 percent and 40 percent and a post-merger CR3 ratio of 70 percent or more. The CR3 is defined as the concentration ratio measured by adding the market shares of the three biggest firms in the market.

While merger notification to the CCS is voluntary, the CCS requires all parties involved in mergers to conduct a self-assessment, in accordance with the methodologies in the guidelines published by the CCS, read with its decided cases, on whether a merger filing is necessary.

The second type of prohibited activity is making agreements, decisions and practices that prevent, restrict or distort competition in Singapore. An example includes colluding with competitors to fix prices or to limit production supply in the market. However, certain agreements are exempted from the provisions of the Competition Act. For example, vertical agreements entered into between two or more businesses are generally not considered as anti-competitive agreements under the Competition Act.

The third type of prohibited activity is the abuse of a dominant position. Though being dominant is not against the law, when a dominant player in a market uses its power to unduly restrict competition, such an action may be considered as abuse. Abusive tactics may include exclusive dealing, where the dominant player binds other businesses into working exclusively with itself, or predatory pricing, where the dominant player sets extremely low prices to drive competitors out of the market.

TAXATION

Tax Treaties

Currently, Singapore has entered into double tax agreements ("**DTA**") with more than 70 countries worldwide, including Japan, China, Malaysia, Indonesia and the United Kingdom.

A DTA signed between Singapore and another country serves to relieve double taxation of income earned in one country by a resident of the other country. The DTA specifies the taxing rights between Singapore and the treaty country on certain cross-border income and may also provide for reduction or exemption of tax. The key benefits of a DTA include the avoidance of double taxes, lower withholding taxes and a preferential tax regime. These benefits serve to minimize the tax burden pertaining to a holding company structure.

This extensive DTA network, coupled with the absence of capital gains and dividends tax, makes Singapore a very attractive jurisdiction for business investments through a Singapore incorporated holding company.

Corporate Tax

Singapore's tax system is often regarded as simple and investor-friendly, as it offers a level playing field for foreign investors, with no foreign ownership restrictions and no foreign exchange controls.

Income of a company (whether tax resident or not) that is accrued in or derived from Singapore or is received in Singapore from outside Singapore is subject to corporate income tax, unless the income is specifically exempt from tax.

The prevailing corporate income tax rate is 17 percent with a partial tax exemption on normal chargeable income of up to S$300,000 as follows: 75-percent exemption on the first S$10,000 of normal chargeable income, and 50-percent exemption on the next S$290,000 of normal chargeable income. Accordingly, the effective tax rate on the first S$300,000 of normal chargeable income is around 8 percent. The balance of chargeable income in excess of S$300,000 is fully taxable at the prevailing rate of 17 percent.

New start-up companies may also enjoy tax exemptions. The tax exemption scheme for new start-up companies was introduced by IRAS to support entrepreneurship and help local enterprises grow. The tax exemption is open to all new companies except a company whose principal activity is that of investment holding or the development of properties for sale, investment, or both. Eligible companies must also be incorporated in Singapore, be a tax resident in Singapore for that year of assessment

("**YA**") and not have more than 20 shareholders throughout the basis period for that. Under this scheme, qualifying new companies are given full exemption on the first S$100,000 normal chargeable income and a further 50-percent exemption on the next S$200,000 of normal chargeable income for the first three consecutive YAs.

Further, the Minister for Finance announced in Budget 2015 that the Corporate Income Tax Rebate given to all companies to help them deal with rising business costs for YA 2013 to YA 2015 will be extended to YA 2016 and YA 2017. The Corporate Income Tax Rebate for YA 2016 and YA 2017 is 30 percent of corporate tax payable, subject to a cap of S$20,000 for each YA. For YA 2013 to YA 2015, all companies will be granted a 30-percent Corporate Income Tax Rebate capped at S$30,000 for each YA.

Dividends and Foreign-Sourced Income

The tax on dividend income is zero percent. No withholding tax is levied on post-tax dividends paid from Singapore. A Singapore-resident company may enjoy tax exemption for its foreign-sourced dividends, foreign-branch profits and foreign-sourced service income (*i.e.*, income where the services are rendered in the course of the taxpayer's trade, business or profession through a fixed place of operation in a foreign jurisdiction) received in Singapore if the following three conditions are met:

In the year the income is received in Singapore, the highest rate of tax of the foreign jurisdiction from which the income is received is not less than 15 percent.

The income is subject to tax in the foreign jurisdiction.

IRAS is satisfied that the tax exemption would be beneficial to the Singapore-resident company.

Furthermore, dividends issued by Singapore-resident companies are tax-exempt in Singapore in the hands of the shareholders.

Withholding Tax

There is a requirement to withhold tax when certain specified payments, such as interest, royalty and service fees (in respect of services performed in Singapore), are made to non-Singapore residents. The domestic withholding tax rates are generally 15 percent, 10 percent and 17 percent for interest, royalty and service fee payments, respectively. The rates may be reduced under the provisions of existing tax treaties between Singapore and relevant countries. Dividend payments made to non-resident shareholders are not subject to Singapore withholding tax.

Stamp Duty

Stamp duty is levied on certain commercial and legal documents as prescribed in the Stamp Duties Act (Cap 312, 2006 Rev Ed.). They include documents relating to the transfer, conveyance and assignment of shares and immovable property. The chargeable instrument must be stamped within 14 days of its execution in Singapore. Any chargeable instrument executed outside of Singapore must be stamped within 30 days of its first receipt in Singapore.

The Third Schedule to the Stamp Duties Act ("**Third Schedule**") sets out the person liable to pay stamp duty, unless there is an agreement to the contrary that some other party is liable. Under the Third Schedule, the transferee is the party liable to pay stamp duty in transactions involving the transfer of shares and immovable property.

The stamp duty rate for the transfer of shares is 0.2 percent of the purchase price or the net asset value of the shares. The stamp duty rate for the transfer of immovable property is computed based on the purchase price or market value of the property, whichever is higher.

In relation to the transfer of immovable property, the transferee has to pay buyer stamp duty, chargeable at the rate of 1 percent on the first S$180,000, 2 percent on the next S$180,000 and 3 percent in relation to the remainder. Depending on the date of acquisition, transfer of residential immovable property within one to four years of the date of acquisition also attracts additional duty that is borne by the transferor. This is referred to as seller stamp duty. For properties acquired on and after 14 January 2011, the amount of seller stamp duty payable (based on a rate of 16 percent, 12 percent, 8 percent or 4 percent) depends on the holding period of the property. Generally, the longer the holding period of the property, the smaller the amount of duty payable as a lower rate applies.

Others

There is no capital gains tax for companies or individuals in Singapore. Correspondingly, capital loss expenses are not allowed as deductions. However, where a gain is considered to be revenue in nature, such gain could be subject to tax if it is sourced in Singapore.

There is also no thin capitalisation regime in Singapore. No thin capitalisation rules are in effect that will impact the amount of debt that can be borrowed or guaranteed by entities incorporated in Singapore.

DISPUTE RESOLUTION

Cross-border transactions are increasingly common in today's business world. Where one or two international parties contract to do business in Singapore or in the region, it is essential to consider the issues of choice of governing law and the venue for dispute resolution.

Singapore offers an ideal choice, both for governing law and for venue for dispute resolution. Singapore's law and legal system have their roots in English law, one of the most widely-used systems of law for governing international business. Given its robust legal system, Singapore is well-placed to offer international parties a venue to resolve their disputes fairly, efficiently and economically.

Litigation in the Courts

The Supreme Court consists of the Court of Appeal and High Court. The High Court is a court of first instance, generally for claims beyond the jurisdiction of the State Courts.

The State Courts consist of the District Court and the Magistrates' Court. The District Court's general pecuniary jurisdiction is limited to claims of up to S$250,000. The Magistrates' Court's general pecuniary jurisdiction is limited to claims of up to S$60,000.

The informal process of the Small Claims Tribunal (which is governed by its own specific rules, not by the procedural rules that govern the main courts just mentioned) has jurisdiction over claims of up to S$10,000 (which may be increased to S$20,000 subject to the written agreement of the parties).

The main sources of law include the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed.), the State Courts Act (Cap 321, 2007 Rev Ed.) and other statutes, which have procedural application or contain procedural provisions, the Rules of Court, practice directions, case law and the inherent powers of the court.

Singapore's Supreme Court comprises highly experienced judges with a wide range of commercial expertise drawn from both the public and private sectors. The litigation process is open, transparent and quick. Disputes involving contested facts are disposed of on average within 12–18 months of commencement. From the decision of a trial court, there is a right of appeal to Singapore's Court of Appeal. It is able to hear and dispose of an appeal within a few months of the trial court's judgment. There is no possibility of any additional delay through further appeals.

The Singapore International Commercial Court ("**SICC**") was officially launched on 5 January 2015 and is part of an initiative to grow the legal services sector and to expand the scope for the internationalisation and export of Singapore law. The SICC seeks to promote Singapore as a leading forum for legal services and international commercial dispute resolution, offering parties in transnational businesses an additional option of having their commercial disputes adjudicated by a panel of experienced judges comprising specialist commercial judges from Singapore and international judges from both civil law and common law traditions.

Alternative Dispute Resolution ("ADR")

The liberalising of the financial industry in Singapore has led to growth of the ADR sector. Singapore has made great strides in establishing itself as one of the dispute resolution epicentres alongside London and Hong Kong. Having established its reputation for impartiality, integrity, excellent infrastructure and highly qualified professionals, it has become the forum of choice.

Mediation

The Singapore government has actively encouraged prospective litigants to engage in mediation before turning to the courts. Formal or institutionalised mediation was established in the 1990s with the Court Mediation Centre, renamed the Primary Dispute Resolution Centre, in the State Courts, the Singapore Mediation Centre ("**SMC**"), the Community Mediation Centres and other agencies and tribunals. In other words, mediation is practised in the various sectors of society catering to the diverse ethnic and social backgrounds of Singaporeans, from the grassroots community to

government and business. Mediation is an attractive form of dispute resolution method as it guarantees confidentiality and is generally cheaper and faster than litigation.

In 2014, against the backdrop of a significant growth in trade and investment within Asia and the corresponding need for cross-border commercial dispute resolution services, the Singapore International Mediation Institute ("**SIMI**") and the Singapore International Mediation Centre ("**SIMC**") were launched, marking a major milestone in Singapore's development as a regional dispute resolution hub.

Unlike in arbitration, there is no legislation dealing specifically with mediation with the exception of the Community Mediation Centres Act (Cap 49A, 1998 Rev Ed.). The common law principles of contract are applicable when adjudicating mediation clauses. The general view is that the existence of a mediation clause does not preclude the jurisdiction of the courts.

As an illustration of the acceptance of mediation as a form of dispute resolution in Singapore, as at 31 July 2014, 2,475 matters were referred to the SMC, with 73 percent of disputes successfully settled. Since its establishment, about S$3.2 billion worth of disputes have been mediated at the SMC, the highest quantum being S$209 million.

Arbitration

Like mediation, arbitration has a 20-year history in Singapore. The Arbitration Act (Cap 10, 2002 Rev Ed.) and International Arbitration Act (Cap 143A, 2002 Rev Ed.) were passed in the 1990s after Singapore acceded to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1986. Awards made in Singapore, either in respect of a domestic or international arbitration, are binding and enforceable. For example, if a counterparty is from a New York Convention country, an award obtained in Singapore against that counterparty is enforceable in the latter´s country.

Similar to mediation, for the past 20 years, arbitration has gained traction as a popular dispute resolution method. In 2010, Singapore was named the regional leader in Asia for seat of arbitration by the International Arbitration Survey.

Arbitration is also well supported by various institutions, expert arbiters and infrastructure to ensure that the arbitration process is seamless, efficient and professional. The Singapore International Arbitration Centre ("**SIAC**") and the Singapore Chamber of Maritime Arbitration are two local non-institutional organisations that promote arbitration with their own panel of arbitrators and rules. The SIAC also provides training and certification. The SIAC, together with Maxwell Chambers, Asia's first integrated dispute resolution complex, offer state-of-the-art hearing facilities and comprehensive services to support the conduct of arbitration.

According to the 2014 SIAC annual report, from 2011 to 2014, SIAC has consistently received more than 200 new cases each year. Over the last 10 years, new case filings at SIAC have grown by 200 percent, reinforcing Singapore's position as one of the fastest-growing arbitral institutions globally. For new cases filed in 2014, the total sum in dispute amounted to S$5.04 billion, with the highest claim amount being S$2.40 billion.

FOR MORE INFORMATION

To learn more, please contact:

Arfat Selvam, Managing Director
Duane Morris & Selvam LLP
P: +65.6311.0031
aselvam@duanemorrisselvam.com

Eduardo Ramos-Gómez, Partner
Duane Morris & Selvam LLP
P: +65.6311.3650
eramos-gomez@duanemorris.com

Krishna Ramachandra, Managing Director
Duane Morris & Selvam LLP
P: +95.9510.3041
kramachandra@duanemorrisselvam.com

Leon Yee, Managing Director
Duane Morris & Selvam LLP
P: +65.6311.0057
lyee@duanemorrisselvam.com

Sarbjit Singh Chopra, Director
Duane Morris & Selvam LLP
P: +65.6311.0041
ssingh@duanemorrisselvam.com