

Changes to Listing Rules: Tenure of Independent Directors Capped at Nine Years; Remuneration of Directors and CEOs Must Be Disclosed

On 11 January 2023, Singapore Exchange Regulation (**SGX RegCo**) announced the implementation of two key changes to the Singapore Exchange Securities Trading Limited (**SGX-ST**) Listing Rules (Mainboard) and the SGX-ST Listing Rules (Catalist) (collectively, **Listing Rules**): (a) the imposition of a nine-year hard tenure limit for independent directors (**IDs**); and (b) the mandatory disclosure of the remuneration of each director and the chief executive officer (**CEO**) in issuers' annual reports. This follows SGX RegCo's public consultation paper dated 27 October 2022 (**Consultation Paper**). SGX RegCo has also released its responses to feedback received through the public consultation (**Response Paper**). Consequential revisions have also been made to the Code of Corporate Governance (**Code**) and the Practice Guidance to reflect the rule changes.

In summary:

- (a) Prior to the rule changes, a long-serving ID with aggregate tenure exceeding nine years could not be regarded as independent unless his / her appointment had been approved in two separate resolutions by: (i) all shareholders; and (ii) shareholders, excluding the directors and the CEO and their associates (**Two-Tier Vote**). The Two-Tier Vote exception has been revoked with immediate effect. As a transitional measure, an existing ID who has exceeded the tenure limit as at 11 January 2023 may continue to be regarded as independent under the revised regime until the date of the issuer's annual general meeting (**AGM**) held for the financial year ending on or after 31 December 2023 (**Transition Period**). This hard tenure limit does not apply to a listed business trust (**BT**) or real estate investment trust (**REIT**) which complies with the regulations governing BTs and REITs respectively.
- (b) Annual reports in respect of a financial year ending on or after 31 December 2024 must specifically disclose the remuneration paid to each individual director and the CEO, together with a breakdown which must include the base or fixed salaries, variable or performance-related income or bonuses, benefits in kind, stock options granted, share-based incentives and awards, and other long-term incentives. This remuneration disclosure requirement applies to BTs and REITs as well.

The SGX RegCo press release can be found [here](#).

The SGX RegCo Response Paper can be found [here](#).

The Monetary Authority of Singapore (**MAS**) press release can be found [here](#).

Background

On 13 September 2022, KPMG Singapore (**KPMG**) published a report evaluating disclosures by listed companies based on the Code. SGX RegCo and the Corporate Governance Advisory Committee released statements on the KPMG Report which, among other things, indicated upcoming rule changes to board renewal and remuneration disclosures following public consultation. On 27 October 2022, the

Consultation Paper on the proposed amendments was released. Please refer to our previous updates [here](#) and [here](#) for further background.

Nine-Year Hard Tenure Limit for IDs

Prior to 11 January 2023, Rule 210(5) of the SGX-ST Listing Rules (Mainboard) and Rule 406(3) of the SGX-ST Listing Rules (Catalist) provided that an ID who has served for an aggregate period of more than nine years (whether before or after listing) was to be regarded as non-independent, unless the Two-Tier Vote exception applied. With effect from 11 January 2023, the Two-Tier Vote exception is no longer available. However, an ID who crosses the nine-year mark may continue to be considered independent until the conclusion of the next annual general meeting of the issuer. Consequential amendments have also been made to Provision 2.1 of the Code and Practice Guidance 2 to reflect the rule change.

In imposing a hard tenure limit, SGX RegCo seeks to “**halt [the] trend**” of issuers being resistant to board renewal, and to address the risk that increased tenure length may erode a director’s independence. SGX RegCo commented that its proposal to limit the tenure of IDs received broad market support during the public consultation process. Companies should see the change as an opportunity to “**inject new skills, experience and knowledge into their board**”, said SGX RegCo CEO Mr Tan Boon Gin. In response to issuers who fear the loss of long-serving IDs who have accrued significant knowledge and experience, SGX RegCo remarked that such IDs can be retained and re-designated as non-independent directors. It was also SGX RegCo’s considered decision to impose a hard tenure limit as this would be “**clear and simple for issuers to administer**”, as opposed to alternative approaches suggested by some respondents to the Consultation Paper. In its press release, SGX RegCo quoted Minister for Social and Family Development Mr Masagos Zulkifli as encouraging issuers to “**think actively about succession planning and refresh their boards with the right mix of board directors to best chart their path forward**”, and commenting that this development is “**also is in line with our action plans in the White Paper on Singapore Women’s Development, to increase the representation of women on boards**”.

As a transitional measure, an existing ID who has exceeded the tenure limit as at 11 January 2023 may continue to be regarded as independent under the revised regime up until the date of the issuer’s AGM held for the financial year ending on or after 31 December 2023 (i.e., in 2024). This Transition Period is intended to minimise disruption and gives affected issuers more than a year’s lead time from 11 January 2023 to conduct succession planning and identify suitable replacements.

For completeness, Practice Note 4.2 makes clear that the tenure limit does not apply to listed BTs and REITs which comply with the regulations governing BTs and REITs respectively.

Mandatory Disclosure of Director and CEO Remuneration in Annual Reports

Issuers’ annual reports in respect of a financial year ending on or after 31 December 2024 must contain the specific remuneration of each director and the CEO (paid by the issuer and its subsidiaries), and a breakdown in percentage terms. The breakdown must include base or fixed salaries, variable or performance-related income or bonuses, benefits in kind, stock options granted, share-based incentives and awards, and other long-term incentives. These new requirements are reflected in new Rule 1207(10D) of the SGX-ST Listing Rules (Mainboard) and new Rule 1204(10D) of the SGX-ST Listing Rules (Catalist).

In its Response Paper, SGX RegCo remarked that, while there has been feedback that such disclosure could raise competitive, sensitivity, and privacy concerns, such concerns are outweighed by fiduciary duties to act in the best interests of the company and its shareholders, given that such disclosures would allow investors to better ascertain whether the directors and CEOs are “***appropriately incentivised in line with shareholder interests***”. Where an issuer is concerned about unfair comparisons being drawn, SGX RegCo has advised that it should explain the appropriateness of the level of remuneration.

This remuneration disclosure requirement applies to BTs and REITs, which must likewise disclose the remuneration paid to individual directors and CEOs of BT trustee-managers and REIT managers in their annual reports. For REITs, consequential amendments will be made to the MAS Notice to All Holders of a Capital Markets Services Licence for Real Estate Investment Trust Management (REIT Managers) (MAS Notice SFA 04-N14) to make clear such remuneration disclosure is now mandatory. These amendments will take effect on 1 January 2025.

Consequential amendments have also been made to Provision 8.1 of the Code and Practice Guidance 8.

Concluding Remarks

In light of these rule changes, it is critical that issuers plan well in advance for board renewal and start the search for suitable ID candidates early. Issuers should also avail themselves of this opportunity to recalibrate their boards, including in terms of gender mix, having regard to the recommendations of the Code and the Practice Guidance on board diversity, and Rule 710A of the Listing Rules which requires an issuer to account for its progress towards achieving targets set in its board diversity policy.

If you would like information or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or any of the following Partners:



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