

Annex A: MOF and ACRA's responses to key feedback on the draft Corporate Registers (Miscellaneous Amendments) Bill 2021

1. Proposed Amendment: Specify a 14-day time frame for foreign companies to update their register of members

Feedback: It is challenging for foreign companies with more than 50 members to update the register of members (ROM) that is kept at its registered office in Singapore within 14 days after any change in the particulars kept in the ROM. Foreign companies should instead be required to update their ROM within 28 days after any changes in the particulars contained in the register.

MOF and ACRA's response: **Accepted with modification.** The time frame for foreign companies to update their register of members will be changed, from 14 days to 30 days. This is aligned with section 372 of the Companies Act ("CA"), which requires foreign companies to update any changes in their particulars in ACRA's registers (e.g. particulars of directors and address of registered office) within 30 days.

2. Proposed Amendment: Require local companies, foreign companies and limited liability partnerships ("LLPs") to enter the particulars of the individual(s) with executive control in their registers of controllers, if no individual or legal entity having significant interest in or significant control over the company or LLP has been identified

a) Feedback: To provide greater clarity on the definition of individual(s) with executive control and what constitutes "executive control".

MOF and ACRA's response: **To be clarified.** Clarifications as to how the definition will be applied, will be addressed in the guidance that ACRA will publish when the proposal is to be implemented. The currently drafted definition of "executive control" is in line with the Financial Action Task Force's concept of beneficial ownership.

b) Feedback: This requirement is not necessary, because the existing definition of "significant control" in paragraph 1(c) of the Sixteenth Schedule to the CA already covers individuals who have the right to exercise, or actually exercise, significant influence or control over the company or foreign company. Where the director or chief executive officer ("CEO") actually exercises significant influence or control, that person would have already been regarded as a controller of the entity under the "significant control" test.

Furthermore, this requirement would mean that executive directors and CEOs that do not meet the "significant influence or control" requirement would have to be registered as controllers. The need for entering the particulars of the individuals with executive control into the register of registrable controllers is questionable, as these particulars were already required to be lodged with ACRA.

MOF and ACRA's response: **Not accepted.** The amendments are necessary as the existing definition of "significant control" in paragraph 1(c) of the Sixteenth Schedule to the CA does not require the directors or partners with executive control to be identified as the company/LLP's registrable controllers. While the particulars of the individuals with executive control over the company, foreign company and LLP may have already been lodged with ACRA through other transactions, these particulars should also be kept in the register of registrable controllers, so that in the event that no individual or legal entity having significant interest in or significant control over the company or LLP has been identified, the individuals with executive control will be regarded as the registrable controllers of the entity.

3. Proposed Amendment: Clarify that local companies should update their register of nominee directors within 7 days after receiving information from the directors

Feedback: To consider providing a 14-day time frame for companies to update their information on nominee directors and nominee shareholders, for alignment with the 14-day time frame in section 173A of the CA for companies to provide details on their directors, chief executive officers, secretaries or auditors.

MOF and ACRA's response: **Not accepted.** The proposed time frame of 7 days ensures that the register of nominee directors is updated in a timely manner by the company. We have assessed that the 7-day timeframe will give the company sufficient time to comply with the requirement to update the register, which is kept by the company.

4. Proposed Amendment: Require local companies and foreign companies to keep non-public registers of nominee shareholders

- a) Feedback: With respect to the proposed definition of "nominee shareholders" in the draft Bill, to clarify (a) whether the proposed definition is intended to capture nominators who are secured creditors in relation to shares in the company; and (b) the application of the concept of being "accustomed" in the proposed definition.

MOF and ACRA's response: **To be clarified.** The policy intent is not to include secured creditors in the proposed definition and will be clarified in the guidance that ACRA will publish, together with the concept of being "accustomed".

- b) Feedback: To consider implementing an additional measure of requiring the disclosure of any natural person(s) who own or control the nominator. Where the nominator is a legal entity, the company should be required to ascertain (and nominators be required to disclose) whether any of the nominator's shareholders are themselves registered as nominee shareholders. This requirement should continue until the company reaches the ultimate nominator who is a natural person.

MOF and ACRA's response: **Not accepted, feedback noted for future reviews.** At this stage, the policy intent is not to require nominators that are legal entities to disclose their nominee shareholders. MOF and ACRA will continue to monitor international developments and enhance the requirement where necessary.

- c) Feedback: To exempt (a) companies that are already required to keep similar registers in other countries from the requirement to keep a register of nominee shareholders in Singapore; and (b) nominee shareholders and their nominators that are funds, trusts or trustees from having to disclose their particulars.

MOF and ACRA's response: **Not accepted.** On (a), the standards of the Financial Action Task Force require the particulars of the nominee shareholders to be kept in Singapore and ACRA would not be able to exhaustively determine the countries which require similar registers to be kept for the purpose of implementing exemptions. On (b), it would not be appropriate to provide blanket exemptions for funds, trusts and trustees as they are set up differently, each with varying degree of powers and duties, and may be capable of being nominee shareholders and nominat