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MAS Introduces New Corporate Structure for Investment Fund

In April 2017, the Monetary Authority of Singapore ('MAS') concluded a public consultation on the Singapore Variable Capital Company ('S-VACC'), a new corporate structure for investment funds designed to offer asset managers greater flexibility and lower costs, and further enhance Singapore's status as a focal point for asset management in Asia.

Currently, there are three types of structures used by investment funds in Singapore: unit trusts; companies formed under the Companies Act; and limited partnerships. The S-VACC seeks to complement these existing structures with one that is tailored for investment funds. With the S-VACC framework, the MAS aims to offer a flexible and efficient platform for fund managers to co-locate fund domiciliation with their substantive fund management activities in Singapore.

The proposed framework is intended to cater to both open-ended and closed-end investment funds and allow for segregation of assets and liabilities of sub-funds within an umbrella structure. This will allow asset managers to achieve cost efficiencies by consolidating administrative functions at the umbrella fund level.

Shares of the S-VACC would generally be issued and redeemed at net asset value to ensure accountability and transparency for creditors.

Incorporation would be made through the Accounting and Corporate Regulatory Authority ('ACRA') and supervised by MAS through the Securities and Futures Act. MAS would also regulate the fund manager. A minimum of one director who is ordinarily resident in Singapore would be required, and at least one director of the S-VACC must also be a director of the fund management company.

The regulation would be separate from Singapore company legislation and allow a customised corporate structure which dispenses with elements of existing company law that are not conducive to investment funds. It would also allow domestic conversion and foreign inward re-domiciliation of an existing fund to an S-VACC.

Singapore Companies (Amendments) Act 2017

Following recent amendments to the Singapore Companies Act, new requirements have been introduced which will affect companies.

Key Legislative Amendments Taking Effect from 31 March 2017.

Register of Controllers

To make the beneficial ownership and control of business entities more transparent, all companies will be required to maintain a register of controllers.

As per the significant interest test, a registrable controller is:

- for companies with share capital, an individual who has an interest in more than 25% of the shares or shares with more than 25% of total voting power;

- for companies without share capital, an individual who has right to share in more than 25% of the capital or profits of the company.

Alternatively, as per the significant control test, a registrable controller is an individual who:

- holds the right to appoint or remove directors who hold majority of the voting rights at directors' meetings; or
- holds more than 25% of the rights to vote on matters that are to be decided upon by a vote of the members of the company; or
- exercises or has the right to exercise significant influence or control over the company.

Register of Nominee Directors

Companies will also be required to maintain a register of nominee directors that will contain the particulars of the nominator of the company's nominee director.

A director is a nominee if he is accustomed or under an obligation whether formal (legal) or informal (arrangement) to act under the directions, instructions or wishes of any other person.

The registers will be maintained at the company's registered office either in paper or electronic format. They will not be public but have to be produced to the Registrar, an officer of the Accounting and Corporate Regulatory Authority ('ACRA') or a public agency upon request.

A grace period of 60 days from the date of commencement of the new law will be provided to existing entities, while new entities will have 30 days to comply from incorporation.

'Is My Single Family Office Required to Be Licensed in Singapore?'

The Monetary Authority of Singapore ('MAS') recently issued new guidance on the licensing and registration of fund management companies to clarify the regulatory treatment for single family offices ('SFOs').

In the absence of a definition under the Securities and Futures Act ('SFA') or the Financial Advisers Act ('FAA'), a SFO refers to an entity which manages assets for and on behalf of only one family and is wholly owned or controlled by members of the same family.

MAS confirmed that it has no intention to license or regulate SFOs and will therefore maintain the current class exemptions under the SFA and FAA subject to successful application by the SFO.

The first exemption is for a corporation which manages funds for its related corporations. Typically this would take the form of a group holding company having the sole and entire participation in the SFO and the Investment Fund managed by the SFO itself. The corporation may rely on the licensing exemption under paragraph 5(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

Alternatively, a corporation that provides financial advisory services to its related corporations may rely on the licensing exemption under regulation 27(1)(b) of the Financial Advisers Regulations.

If the entity does not fall under the two above mentioned exemptions but in substance manages funds on behalf of a single family only, it may seek a licensing exemption from the MAS under section 99(1)(h) of the SFA.

The application for exemption to be a SFO, which can take between two and four months depending on the complexity of the arrangement, shall include the following information to facilitate MAS' assessment:

- Names of the shareholders and directors of the SFO;
- A chart depicting the shareholding structure of

the SFO;

- A description of how the SFO is related to the investment fund vehicle and the family/beneficiaries;
- A description of the profile of the family whose assets will be managed by the SFO; and
- A description of the nature of activities to be carried out by the SFO.

Broadly speaking, the typical SFO arrangements considered by MAS are as follows and it is therefore advisable to include such information when applying for licensing exemption:

- Where there is no common holding company, but the assets managed by the SFO are held directly by natural persons of a single family;
- Where assets are held under a discretionary trust, the settlor of the trust and the beneficiaries are members of the same family;
- Where a family trust is set up for charitable purposes, the charitable trusts are funded exclusively by settlor(s) from a single family;
- Where non-family members such as key employees of the SFO are shareholders in the SFO for the purpose of alignment of economic interest and risk-sharing, the initial assets and additional injection of funds are funded exclusively by a single family.

Singapore has demonstrated its top position as one of the world's leading centres for investment funds and asset management, with approximately US\$1.8trn of total assets managed by Singapore-based asset managers, according to MAS 2015 data.

Its political stability, well respected regulatory standards and friendly tax system offer an attractive environment for local and international business.

For more information, please contact
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Pacific Catastrophe Risk Insurance Facility

The Cook Islands was selected as the domicile of choice for the Pacific Catastrophe Risk Insurance Facility (PCRIF) based on its well-established international financial services sector, robust regulatory regime, and implementation of international standards. The PCRIF is designed to provide participating Pacific island nations with disaster risk assessment and financing tools to allow enhanced disaster risk management and climate change adaptation.

The PCRIF was established using the Cook Islands Foundations and Captive Insurance regimes and is administered by members of a foundation council to ensure that all participating countries have a stake in the ownership and administration of the PCRIF. The council is made up of representatives from the Cook Islands, the Marshall Islands, Samoa, Tonga, Vanuatu as well as four other members representing developing partners.

The foundation, in turn, owns a captive insurance company called Pacific Catastrophe Risk Insurance

Company which holds a captive insurance licence under the Cook Islands Captive Insurance Act 2013. The captive insurance company provides disaster relief insurance coverage to the participating countries and is managed by a board of directors nominated by the member countries and supported by a professional insurance manager.

The PCRIF has been supported and funded by, amongst others, the World Bank, the Asian Development Bank, the Pacific Islands Forum Secretariat, the government of Japan and the European Union. The PCRIF structure demonstrates the credibility of the Cook Islands Foundation and Captive Insurance regimes. It also exhibits international recognition that the Cook Islands has a strong legal and regulatory framework that can support an international infrastructure initiative.

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Asiaciti Trust News - Annual Seminar In Dubai

Senior executives from Asiaciti Trust Singapore, New Zealand and Dubai gathered at the Capital Club in Dubai on 16 May 2017, to present on the topic "Advising International Families on Estate Planning and Asset Protection".

The seminar was opened by Jerome Briggs, Chief Executive Officer, Asiaciti Trust Group. In his opening speech, Mr Briggs shared the Group's history and strong commitment to the MENA region as Asiaciti Trust begins its fifth year of operations in Dubai.

Presentations were made by Aaron Mullins, Lauren Willis and Laurence Black on solutions available to families, entrepreneurs and corporate clients, to satisfy their wealth structuring and asset preservation requirements in an ever-changing industry landscape.

The event concluded with a Q&A session, engaging dialogue between the panellists and an interactive audience.



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