

Singapore's New Significant Investments Regime

Singapore announces a new regime to manage significant investments into entities considered critical to its national interests.

Key Points:

- The new regime widens the scope of regulation in local and foreign investment in Singapore.
- Greater scrutiny will apply to investment in certain designated entities considered to be critical to Singapore's national interests.

The Ministry of Trade and Industry (MTI) introduced the [Significant Investments Review Bill](#) (the Bill) to parliament on 6 November 2023. The Bill aims to protect the national interests of Singapore by regulating significant investment in, and control of, critical entities. Entities that are considered critical to Singapore's national security will be designated under the regime and will be regulated accordingly. The Bill also provides scope for the Minister of Trade and Industry to review transactions involving entities that have acted against Singapore's national interests, even if such entities are not designated under the Bill. Therefore, the scope of the proposed new legislation is not finite.

Singapore currently has a range of legislation that applies to safeguard investment across sectors, including regulation of telecommunications, banking, and utilities, however, the Bill intends to capture entities that are not already regulated under the existing framework. If passed, the Bill will apply to both local and foreign investments in Singapore. Moreover, the regime will be overseen by a new Office of Significant Investments Review set up under MTI, providing a single point of contact for stakeholders. The second reading of the Bill is expected in January 2024.

Designated Entities

Entities that may be designated under the new regime are broadly defined and include: (i) entities incorporated, formed, or established in Singapore, (ii) entities that carry out any activity in Singapore, or (iii) entities that provide goods and services to any person in Singapore. The Minister has advised that most critical entities in Singapore are already covered by existing legislation, and only a small number of entities likely will be designated under the Bill.¹

The new regime imposes disclosure and approval obligations on designated entities as well as buyers and sellers of such designated entities (along with their associates which is broadly defined), in respect of their ownership and control, including:

Latham & Watkins operates worldwide as a limited liability partnership organized under the laws of the State of Delaware (USA) with affiliated limited liability partnerships conducting the practice in France, Hong Kong, Italy, Singapore, and the United Kingdom and as an affiliated partnership conducting the practice in Japan. Latham & Watkins operates in Israel through a limited liability company, in South Korea as a Foreign Legal Consultant Office, and in Saudi Arabia through a limited liability company. © Copyright 2023 Latham & Watkins. All Rights Reserved. Under New York's Code of Professional Responsibility, portions of this communication contain attorney advertising. Prior results do not guarantee a similar outcome. Results depend upon a variety of factors unique to each representation. Please direct all inquiries regarding our conduct under New York's Disciplinary Rules to Latham & Watkins LLP, 1271 Avenue of the Americas, New York, NY 10020-1401, Phone: +1.212.906.1200.

- Buyers must **notify** the Minister when they acquire (alone or together with their associates) an equity interest or control of the voting power (whether direct or indirect) in a designated entity of 5% or more, and **must seek approval** before increasing their interests at 12%, 25%, and 50%. Designated entities must also notify the Minister on becoming aware of such changes.
- Sellers must notify the Minister when they dispose of (alone or together with their associates) an equity interest or control of voting power (whether direct or indirect) in a designated entity of 50% or 75%. Designated entities must also notify the Minister on becoming aware of such changes.
- A person must not acquire as a going concern the business or undertaking or any part of the business or undertaking of a designated entity without prior approval.
- Prior approval must be obtained regarding appointing certain officers, including chief executive officers, directors, and board chairpersons (and the Minister shall have the right to remove such officers if they are deemed to be acting against the interests of national security).
- Designated entities may not be wound up voluntarily without approval to ensure the security and reliability of critical functions.

In addition to the above, the Bill empowers the Minister to review ownership and control transactions in non-designated entities when an entity is deemed to have acted in a way that is contrary to Singapore's national interests, and to take certain remedial action in certain circumstances e.g., a party may be required to dispose of their equity stake. The new regime also sets out clear processes to appeal decisions and independent reviews via a tribunal.

US and UK Comparisons

Singapore's move to introduce greater scrutiny in its investment framework is largely consistent with moves by other countries around the world to protect their national interests. As the focus on national security continues to grow, more onerous investment review regimes are becoming the norm globally.

The United States' Committee on Foreign Investment in the United States (CFIUS) has authority to review certain foreign direct investments into US businesses. The application of CFIUS is more specific than what is proposed under the Bill, which has blanket application to both local and foreign investors. CFIUS has authority to review (i) covered control transactions, which could result in a foreign person having direct or indirect control rights in a US business, (ii) covered investments, which are an acquisition of equity interest that affords the foreign person certain non-controlling but non-passive rights in a US business that involves critical technology, covered investment critical infrastructure, or sensitive personal data, and (iii) covered real estate transactions, which afford a foreign person certain property rights in land that is located near certain sensitive US government facilities or ports. Similar to the new regime proposed in Singapore, CFIUS has broad authority to evaluate whether such transactions could impair US national security. CFIUS has the authority to negotiate or impose mitigation measures to address any risk to national security arising from a covered transaction, as well as to refer a transaction to the President of the United States to suspend or prohibit.

Like Singapore, the UK moved from a very relaxed approach to foreign investment (with no general obligation to notify foreign investments) to a formal national security screening regime under the National Security and Investment Act 2021 (NSIA), which came into force in 2022. The UK regime under the NSIA resembles the Singapore regime in that both local and foreign investors are treated the same. Under the NSIA, there is a mandatory requirement to obtain approval from the UK Secretary of State for

transactions crossing certain shareholding and voting rights thresholds (the lowest thresholds being 25% or more of shares or voting rights, or voting rights that enable the investor to secure or prevent the passage of any class of resolution) when the target is active in the UK in one or more of 17 specified sectors of the economy (e.g., artificial intelligence, defence, advanced robotics, and others). Furthermore, the Secretary of State retains a power to intervene on his own initiative in a broad range of transactions that do not meet the mandatory filing threshold. Similar to Singapore and the US, the Secretary of State has broad authority to assess whether such investments could give rise to a risk to UK national security, and if so, act to block or unwind the transaction, or impose conditions.

Implications

Investors have long viewed Singapore as a desirable destination for investment due to its robust financial and legal systems. The drive to impose greater stringency in reviewing investment in Singapore mirrors a move by countries globally to best protect their national security. The Bill reflects Singapore's move away from the largely unregulated approach towards a more nuanced regulation.

Going forward, when making significant investments in Singapore, investors will need to consider whether they are investing in an entity that may be considered critical to Singapore's national interests and therefore caught under the new legislation. If applicable, investors will need to factor into their transaction timelines the approval and ongoing disclosure requirements imposed under the new legislation. The Bill currently proposes that approval must be sought prior to the transaction taking place, however MTI is expected to provide greater clarity on these processes in due course.

If you have questions about this Client Alert, please contact one of the authors listed below or the Latham lawyer with whom you normally consult:

[Farhana Sharmeen](#)

farhana.sharmeen@lw.com
+65.6437.5364
Singapore

[Marcus Lee](#)

marcus.lee@lw.com
+65.6437.5452
Singapore

[Sharon Lau](#)

sharon.lau@lw.com
+65.6437.5464
Singapore

You Might Also Be Interested In[Regulatory Updates in Asia ESG — August 2023](#)[Singapore Finalises New Stablecoin Regulatory Framework](#)[Singapore Expands Scope of Shareholders Excluded for Calculating Compulsory Acquisition Threshold](#)

Client Alert is published by Latham & Watkins as a news reporting service to clients and other friends. The information contained in this publication should not be construed as legal advice. Should further analysis or explanation of the subject matter be required, please contact the lawyer with whom you normally consult. The invitation to contact is not a solicitation for legal work under the laws of any jurisdiction in which Latham lawyers are not authorized to practice. A complete list of Latham's Client Alerts can be found at www.lw.com. If you wish to update your contact details or customize the information you receive from Latham, [visit our subscriber page](#).

Endnotes

¹ [Introduction of the Significant Investments Review Bill](#), Ministry of Trade and Industry Press Release, 3 November 2023.