

SGX RegCo and the Law Society of Singapore (“**LawSoc**”) have jointly issued a Best Practice Guide (the “**Guide**”) on 26 June 2020 to set out certain recommendations and best practices for Singapore lawyers making submissions (defined herein) to SGX RegCo on behalf of listed issuers. The Guide is made available [here](#) and will take effect immediately.

The Guide sets out the expectations of Singapore lawyers in the course of regulatory submissions and seeks to ensure that his conducts fulfils the statutory, common law and ethical standards and duties expected of him. The objective of the new administrative measures in naming the law firms for corporate actions in circulars is to foster greater accountability with a sense of ownership as well as appropriately honour the Singapore Law firm.

SGX RegCo has also highlighted that it would not tolerate improper conducts of Singapore lawyers such as (i) Deceiving or misleading SGX RegCo, (ii) Perpetuating a deception, and (iii) Contriving facts to assist a client.

*For the purpose of this Guide, “Submissions” means, inter alia, consultations on interpretations of the Listing Rules, applications for waivers, clarifications and/or submission of circulars to shareholders and similar documents to shareholders in relation to corporate actions undertaken by a listed company.*

A summary of the Guide is provided below.

## 1. Administrative Measures

1. **Confirmations by the listed company on legal adviser.** A Submission to SGX RegCo must include a confirmation (whether in the cover letter or otherwise) from the listed company on:
  - a. Whether the listed company has engaged any legal adviser for the corporate action and if such legal adviser has been appointed, the law firm and the partner(s)-in-charge must be named in the confirmation; and
  - b. Whether prior to the appointment of the legal adviser for the corporate action, it had engaged any other legal adviser(s) in relation to the same or similar subject matter.
2. **Legal adviser to be named in the circular.** If a legal adviser has been appointed by the listed company for a corporate action and a circular is to be sent by a listed company to its shareholders in connection with such corporate action, the law firm must be named in the circular.

## 2. Duty to uphold the legal framework of the Corporate Finance Market

1. **Expectation of SGX RegCo.** SGX RegCo expects Singapore lawyers to uphold the legal framework of the corporate finance market and its applicable regulations by,
  - (i) Giving impartial and competent advice to their listed company clients;
  - (ii) Having necessary experience to discharge their professional duties fully and professionally;
  - (iii) Being responsible (to the extent commensurate with the amount of control the Singapore lawyer has over his client) in preventing his client from misleading SGX RegCo in any manner and from otherwise acting improperly; and
  - (iv) Not engaging in any conduct which would be unlawful, unethical or otherwise improper, whether or not such conduct would promote the cause of his client.
2. **Breach of SFA.** Any Singapore lawyer who continues to represent a listed company with the knowledge that the listed company is or would be making a false or misleading statement to SGX RegCo should consider whether he might be committing or abetting the commission of an offence under section 330 of the SFA (Chapter 289). The said section provides that any person who knowingly makes a false or misleading statement to SGX RegCo or permits the same to be done may be found to have committed a breach of the SFA.

Depending on the circumstances and the gravity of the breach, SGX RegCo may take the following measures:-

- (i) Refusing submissions from the errant Singapore lawyer; and
- (ii) Referral to the Council of the Law Society of Singapore.

### 3. Best Practices in connection with Submissions to SGX RegCo

1. **Familiar with the listed company's duties under the listing rules.** A Singapore lawyer should act in the interest of his client, and be familiar with the listed company's own duties under the listing rules and remind his client of the same.
2. **Exercise Skill, Care and Diligence.** When advising and guiding listed companies on any corporate action, the Singapore lawyer is expected to exercise due skill, care and diligence.
3. **Announcements by listed company.** In preparing or reviewing announcements, the Singapore lawyer must remind his client of the need to ensure that the announcement is factual, clear and succinct, and complies with the requirements under the Listing Rules. In particular, the requirements set out in paragraph 25 of Appendix 7.1 to the SGX-ST Listing Rules (Mainboard) and paragraph 17 of Appendix 7A to the SGX-ST Listing Rules (Catalist).
4. **Avoiding conflicts of interest.** A Singapore lawyer must act prudently to avoid any conflict or potential conflict of interests. He must not act in a matter where by reason of his relationship with the client, would be difficult for him to maintain his professional independence.

*For example, where a Singapore lawyer who is a director of a listed company and is instructed to advise on the listed company's disclosure obligations, is of the view that he may not be objective or may be conflicted when reviewing the listed company's corporate actions, he should refrain from advising or assisting the listed company.*

5. **Providing reasonable timelines.** A Singapore lawyer shall give SGX RegCo reasonable time to review the listed company's matter, which depends, inter alia, on the complexity. On issues requiring clarification, the Singapore lawyer should consult SGX RegCo at the earliest opportunity so as to ensure that any application to SGX RegCo can be managed successfully.
6. **Reporting up.** Where circumstances suggest that there may be a breach of the Listing Rules by a listed company, the Singapore lawyer should as soon as practicable raise such concerns to the persons instructing the Singapore lawyer or an appropriate member of the management team.

If it appears the issues raised by the Singapore lawyer are not being adequately addressed and where the gravity of a breach would demand so, the Singapore lawyer should 'report up' the appropriate corporate hierarchy of the listed company to bring the issues to the attention of the most senior members of the listed company. The appropriate corporate hierarchy may consist of the chief legal officer or general counsel, the chief executive officer, the chairman of the audit committee or the chairman of the listed company.

7. **Cessation of representation of listed company.** Where the most senior members of a listed company fail to consider the issues raised, or the Singapore lawyer is effectively denied of an opportunity to bring the matter to the attention of the most senior members of the listed company, the Singapore lawyer may consider discharging himself from acting for the listed company.

The Singapore lawyer should immediately inform SGX RegCo of the fact that he has discharged himself from acting as the listed company's legal adviser if his representation had been earlier conveyed to SGX RegCo.

The Singapore lawyer should also note his duty to make a suspicious transaction report in circumstances involving corruption, drug dealing, criminal conduct, money laundering or terrorism financing as prescribed by the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) and other relevant statutes.

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## Useful References:

### SGX RegCo's Best Practice Guidance for Singapore Lawyers

<https://api2.sgx.com/sites/default/files/2020-06/SGX%20RegCo%20-%20LawSoc%20Best%20Practices%20Guide%20for%20Singapore%20Lawyers.pdf>

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- Public Share Placement
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- Dual and Secondary Listings
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- Corporate Transactions
- Privatisation



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- Provision of Sustainable Investment Solutions
- Portfolio and Wealth Management Services



### RESEARCH

- Equity Research for SMEs listed on SGX
- Industry-specific Research
- Corporate Flash Note
- Singapore Weekly Report
- Initiation Report
- Non-rated Report
- Knowledge Hub



### CATALYST SPONSORSHIP

- Advising on Compliance to Listing Obligations and Corporate Governance Code
- Review and Approve Announcements, Annual Reports and Circulars
- Intermediary between Company and SGX

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