



# APAC Corporate secretarial newsletter

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mazars

## As businesses expand their operations into new countries, it brings a wealth of opportunities but also creates compliance risks.

With its economies driving global growth, Asia Pacific (APAC) is an inviting region for multinational corporations seeking expansion.

Each jurisdiction in the region has its own rules and regulations so getting compliance right is a challenge faced by businesses of all sizes. To minimize these challenges, our APAC corporate secretarial newsletter provides information on how to ensure compliance on an international scale and helps businesses gain comprehensive insights into the business landscape across APAC.

### Corporate secretarial annual assurance package

In managing corporate secretarial compliance across multiple countries, you will face different filing formats, deadlines, and reporting requirements. It can also be problematic and inefficient using multiple local providers and hiring specialists in country.

### How can we help you?

Mazars offers a comprehensive corporate secretarial annual assurance package that is seamless and efficient. By centralizing your company secretarial services with one experienced firm, you retain greater control over the various regulations required to comply across multiple countries. We have a consistent package which covers the mandatory filings in each country with a retainer offering a discount on one-off services required when you have a corporate action that gives rise to a filing.

For more information, please visit our [Global Corporate Secretarial Services](#).



**Justin Lim**

Partner, Head of Outsourcing in Singapore,  
and APAC Head of Corporate Secretarial

# Contents

## 5 Key updates in Australia

Corporations Act 2001 Compliance Check: Is Your Company Compliant?  
Mandatory climate disclosure

## 6 Key updates in China

Security of personal information outbound transfers

## 8 Key updates in Hong Kong

Implementation of Unique Business Identifier for entities under the administration of the Registrar of Companies of Hong Kong  
Reduction of stamp duty on stock transactions

## 9 Key updates in India

Companies (Incorporation) 2nd Amendment Rules, 2023  
Clarification on holding of Annual General Meeting (AGM) and EGM through video Conference (VC) or other Audio visual means (OAVM) and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with Rules made thereunder - Extension of timeline  
National Single Window System for Incorporation of Companies in India  
Companies (Prospectus and Allotment of Securities) 2nd Amendment Rules, 2023  
Companies (Management and Administration) 2nd Amendment Rules, 2023

## 12 Key updates in Indonesia

Enactment of Presidential Regulation No. 57 of 2023 concerning Mandatory Report of Job Vacancies  
Current development and practical issues in interacting with the Indonesia Investment Coordinating Board (BKPM) and its Online Single Submission (OSS) system.  
Government Regulation No. 12 of 2023 regarding the Issuance of Business Permits, Business Facilitation, and Investment Facilities for Business Actors in Ibu Kota Nusantara (IKN)  
Decree of the Minister of Energy and Mineral Resources No. 258.k/MB.01/MEM.B/2023 on Guidelines for the Granting of Mining Business License Areas and Special Mining Business License Areas for Metal Minerals and Coal  
Circular of the Director – General of Sea Transportation No. SE-DJPL 25/2023 on Supervision of the Implementation of Shipping Registrations and Business Licensing Activities for Sea Transportation Business  
Regulation of the Minister of Law and Human Rights Number 22 of 2023 on Visas and Stay Permits

# Contents

## 15 Key updates in Japan

No recent regulatory updates in Japan to report in this edition.

## 16 Key updates in Korea

The Enforcement Decree of the Korean Foreign Exchange Transaction Act and Foreign Exchange Transaction Regulations were partially amended in 2023

## 17 Key updates in Malaysia

SSM - Annual Dialogue 2023

LHDNM – Practice Note No. 3/2023

SSM-Display Registered Company/Business Name and Number on Website

## 18 Key updates in Philippines

Internet Transactions Act of 202

SEC eSPARC online business registration

## 21 Key updates in Singapore

Updates on Corporate Service Providers Bill (the “CSP Bill”)

## 22 Key updates in Taiwan

No recent regulatory updates in Taiwan to report in this edition.

## 23 Key updates in Thailand

Recent Department of Business Development rulings on aspects of the Foreign Business Act  
Foreign businesses providing loans to affiliates and subsidiaries

## 25 Key updates in Vietnam

No recent regulatory updates in Vietnam to report in this edition.

# Australia

## Key updates

### Corporations Act 2001 Compliance Check: Is Your Company Compliant?

At Mazars, we recommend at the start of each engagement, for our Corporate Secretarial Services team to conduct an entity health check. The health check is to ensure all company details are up-to-date and accurate and in compliance with the Corporations Act 2001 (Cth) (the 'Act'). By doing so, it eliminates any surprises down the track which may result in the company having to pay unnecessary penalties due to late lodgement of ASIC related documentation as well as the possibility of also being prosecuted for not meeting its required obligations under the Act.

Our entity health check covers a 5 year look back period whereby the team will review the following:

- Constitution
- Current and former Company details
- Current and former Company officers
- Current and former share capital
- Members register
- Minutes and/or resolutions

On completion of the entity health check, our team will provide a draft report which will highlight their findings by way of a risk grading. Should any inconsistencies be found, the report will advise of the recommendations and any rectification actions which should be adopted by the company in order to remain fully compliant.

Should you wish for our Corporate Secretarial Services team to perform an entity health check for your company, please email [corporateservices@mazars.com.au](mailto:corporateservices@mazars.com.au)

### Mandatory climate disclosure

The introduction of climate reporting for large Australian corporations and financial institutions will become mandatory and will be phased in from July 2024 making the climate-related disclosure, that will be reported in the Annual Report, as one of the greatest changes in corporate reporting in a decades.

ASIC Chair, Joe Longo said, 'the most successful and resilient companies will look at mandatory climate reporting not as a compliance exercise, but as an opportunity to demonstrate how they are building long-term value'.

The Climate Governance Initiative (CGI) has developed along with policy-makers, regulators, industry experts and the director community, a comprehensive guide which provides an overview of the proposed reporting framework, key director obligations, and practical steps which directors can take in order to ready their organisations for the regime. We recommend that directors review the proposed framework and familiarise themselves with the current climate reporting landscape, the legal duties and responsibilities as directors in respect of climate reporting, and any practical steps they can take to meet their obligations to report on climate-related risks and opportunities. By doing so, your organisation will be well prepared in meeting the new climate reporting obligations by identifying any gaps which may need to be considered, as well the need to upskill, or make technical investments and seeking external support, if required.

More information can be found [here](#).

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# China

## Key updates

### Security of personal information outbound transfers

#### What are outbound data transfers?

- When a data processor<sup>1</sup> is transferring or storing overseas personal information generated domestically.
- When personal information generated and stored domestically can be accessed by an overseas organization.

<sup>1</sup> Data processor: an individual or organization that independently decides on the purpose and manner of processing data, i.e., a company.

#### When should a security assessment for outbound data transfers be declared?

Under any of the following circumstances, a data processor shall declare a security assessment for outbound data transfers:

- Transfer critical data<sup>2</sup> overseas.
- Transfer personal information or information on critical information infrastructure overseas.
- Transfer personal information overseas by a data processor processing information of more than 1 million individuals.
- Transferred personal information overseas of more than 100 thousand individuals, or sensitive personal information<sup>3</sup> of more than 10 thousand individuals since 1 January of the previous year.

<sup>2</sup> Critical data: data that, once tampered with, destroyed, leaked, illegally obtained, or illegally used, may endanger national security, economic activities, social stability, public health and security, etc.

<sup>3</sup> Sensitive personal information: personal information that is likely to result in damage to the dignity of any natural person or affect his/her personal or property safety once disclosed or illegally used, for example biometric identification, bank account, etc.

Please note that if a data processor does not meet the above thresholds and conditions, a Standard Contract drafted by the Cyberspace Administration shall still be signed between the personal information handler<sup>4</sup> and the overseas recipient. The contract shall specify the rights and obligations of both parties.

<sup>4</sup> Personal information handler: an organization or individual that independently determines the handling of personal information.

### How to comply with data outbound transfer rules?

If a personal information handler needs to transfer personal information outside of China, it shall fulfil any of the following pre-requisites:

- Perform a self-assessment on the security of the outbound data transfer and submit to Cyberspace Administration for registration and review.
- Obtain a certification issued by a specialized agency on protection of personal information in accordance with the provisions of the Cyberspace Administration.
- Sign a Standard Contract, following the template released by the Cyberspace Administration, with the overseas recipient and submit for registration.

### Timeline

- Results of outbound data transfer security assessments for outbound data transfer are valid for 2 years.
- The measures on Standard Contract are effective since 1 June 2023.
- Rectifications shall be completed by 30 November 2023, if it is found that any outbound transfers are not in compliance with the above-mentioned requirements.

### Points of attention

- For most Multiple National Company (“MNC”) companies, the Standard Contract might be the most suitable measure to comply with data outbound transfer regulations.
- Outbound transfers of personal information shall not be carried out until a Standard Contract is effective.

## How Mazars can help you

We can help you evaluate your business scenario and choose the best way to comply with such regulations, by:

- A quick diagnosis on your Chinese company's current status on personal information protection and cross border data transfer needs
- A complete personal information protection risk assessment, if needed
- Provide suggestions to Management on compliance internal control improvement including awareness training, and assist you to execute and monitor the improvement actions
- Assist you to prepare the Standard Contract and registration to Cyberspace Administration, or
- Assist you to complete the self-assessment report and registration to Cyberspace Administration, or
- Assist you to get certified by an authorized agency for the protection of personal information

If you need further information or assistance on the above, please feel free to contact your Mazars' point of contact as usual.

### References:

- Standing Committee of the National People's Congress, Presidential Decree No.84: Data Security Law of the People's Republic of China (link [here](#) in Chinese)
- Standing Committee of the National People's Congress, Presidential Decree No.91: Personal Information Protection Law of the People's Republic of China (link [here](#) in Chinese)
- Cyberspace Administration of China, Decree No. 11: Security Assessment Measures for Outbound Data Transfers (link [here](#) in Chinese)
- Cyberspace Administration of China, Decree No. 13: Measures on the Standard Contract for Outbound Transfer of Personal Information (link [here](#) in Chinese)
- Ministry of Finance, Cai Kuai [2023] No. 11: Notice on Promulgation of the Interim Provisions on Accounting Treatment for Enterprise Data Resources (link [here](#) in Chinese)
- Standard Contract for Outbound Transfer of Personal Information drafted by Cyberspace Administration (link [here](#) in Chinese template)

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# Hong Kong

## Key updates

### Implementation of Unique Business Identifier for entities under the administration of the Registrar of Companies of Hong Kong

As a result of advanced technological development worldwide, UBI has been adopted in many other economies over the world to enable governments and businesses to uniquely identify legal entities in various transactions and regulatory interactions.

To sustain Hong Kong's leading position as an international financial centre and to ease the communication and exchange of data across government departments and businesses to enhance public service delivery and regulate entities more effectively, the Hong Kong Companies Registry undertakes to implement UBI in 2 phases for entities under the administration of the Registrar of Companies of Hong Kong.

#### Phase 1 – commenced on 1 November 2021

The first phase was implemented for Limited Partnership Funds only with effect from 1 November 2021.

#### Phase 2 – commenced on 27 December 2023

The second phase was implemented at the same time with the launch of the revamped Integrated Companies Registry Information System on 27 December 2023, and extended to cover other types of entities as follows:-

- a. Companies incorporated or registered under the Companies Ordinance (Chapter 622);
- b. Open-ended fund companies incorporated or registered under Part IVA of the Securities and Futures Ordinance (Chapter 571);
- c. Limited partnerships registered under the Limited Partnership Ordinance (Chapter 37);
- d. Registered trustees corporations incorporated under the Registered Trustees Incorporation Ordinance (Chapter 306); and
- e. Other entities formed or registered under various Ordinances administered by the Registrar of Companies.

The Business Registration Number (“BRN”), i.e. the first 8-digits of the Business Registration Certificate number, assigned by the Business Registration Office of the Inland Revenue Department (“IRD”) is adopted as the UBI of companies / entities. The UBI is used for filing specified forms and documents with the Companies Registry and for communication with government departments and businesses.

To facilitate the implementation of Phase 2 of UBI, the Registrar of Companies has revised 117 specified forms relating to the following Ordinances for use from 27 December 2023:

- Companies Ordinance (Chapter 622);
- Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32);
- Securities and Futures Ordinance (Chapter 571) and Securities and Futures (Open-ended Fund Companies) Rules (Chapter 571AQ).

### Reduction of stamp duty on stock transactions

As one of the measures of enhancing stock market liquidity to promote the sustainable development of the market, the Bill introduced a reduction of the stamp duty chargeable for the sale or purchase of Hong Kong stock.

To lower investors' transaction costs, improve market sentiment, and enhance the competitiveness of Hong Kong's stock market, the Legislative Council passed the Stamp Duty (Amendment) Stock Transfers Bill 2023 on 15 November 2023 to give effect to the measure of reducing the rate of stamp duty chargeable on a contract note for the sale or purchase of any Hong Kong stock (not being jobbing business) from 0.13% to 0.1% with effect from 17 November 2023.

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# India

## Key updates

### **Companies (Incorporation) 2<sup>nd</sup> Amendment Rules, 2023**

The Ministry of Corporate Affairs (MCA) issued a notification dated 2 August 2023 of the Companies (Incorporation) 2<sup>nd</sup> Amendment Rules, 2023 effective from 2 August 2023.

The Rules have replaced the form to be used by companies for filing applications to the Central Government (Regional Director) for approval of Compromises, Arrangements, Amalgamations and conversions.

**Significance:** With this amendment, the Ministry of Corporate Affairs (MCA) has introduced Web Form RD-1 i.e., the form used for filing an application to the Central Government (Regional Director) on the V3 Portal. The web form now incorporates an additional purpose, the 'Notice of approval of the scheme of merger in CAA-11'. The CAA-11 is the requisite format of the Notice of approval of the scheme of merger (to be filed by the transferee company to the Central Government, Registrar and the Official Liquidator). In case this purpose is selected, the corresponding CAA-11 would be attached to the form. Further, the form has been updated to incorporate details of the transferor company, specifying the CIN and name of the company.

### **Clarification on holding of Annual General Meeting (AGM) and EGM through video Conference (VC) or other Audio visual means (OAVM) and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with Rules made thereunder - Extension of timeline**

The Ministry of Corporate Affairs (MCA) issued a notification dated 25 September 2023 of the Clarification on holding of Annual General Meetings (AGM) and extraordinary general meetings (EGM) through video Conference (VC) or Other Audio Visual means (OAVM) and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with Rules made thereunder - Extension of timeline effective from 25 September 2023.

The Ministry of Corporate Affairs vide circular dated 25.09.2023 has issued a Clarification on the holding of Annual General Meetings (AGM) and EGMs through video conferences or other audio visual means. It has been decided to allow companies whose AGMs are due in the Year 2023 or 2024, to conduct their AGMs through VC or OAVM on or before 30 September 2024.

**Significance:** According to this clarification from the MCA, as interpreted by corporate law experts, companies in India with financial year endings on 31 December 2023, or 31 March 2024, are eligible to conduct virtual AGMs. However, it has been emphasised this extension of the facility for virtual meetings does not grant any extension of statutory timelines for holding such meetings.

The provision allowing AGMs and EGMs to be conducted virtually was initially introduced in 2020 in response to public health concerns during the COVID-19 pandemic. This eliminated the need to appoint proxies, as corporate representatives could participate in these significant meetings remotely.

Initially, extraordinary general meetings were only permitted to be conducted via VC/OAVM between April and June 2020. Subsequently, this provision was extended multiple times:

- a. until 30 September and 31 December 2020;
  - b. until 30 June 2021, and 31 December 2021;
  - c. until 30 June 2022, and 31 December 2022;
  - d. until 30 September 2023;
- and now, it has been extended to
- e. until 30 September 2024.

## National Single Window System for Incorporation of Companies in India

The Ministry of Corporate Affairs (MCA) issued a notification dated 23 October 2023 of the National Single Window System for Incorporation of Companies in India effective from 23 October 2023.

The MCA announced that forms for incorporation of companies and LLPs can be filed through the National Single Window System (NSWS) as well, as MCA has integrated with NSWS to provide an additional option to stakeholders for filing applications for incorporation of company or LLP. In other words, now an incorporation application can be filed through two portals. The first is the MCA portal and the second being the National Single Window System ('NSWS') portal. The application filed on the NSWS portal shall be forwarded to the MCA for further processing.

**Significance:** NSWS is a digital platform under the Department of Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry. This portal is aimed at providing guidance to entrepreneurs with respect to the central and state government approvals required by businesses they are proposing to start and allowing entrepreneurs to apply for same through the NSWS portal. The portal also allows the stakeholders to apply for a maximum of such approvals through this same portal. NSWS hosts applications for approvals from thirty-one central departments and twenty-two state governments. Approvals from all these ministries and departments can be made through NSWS portal. In addition to this, the portal also provides information relating to various government schemes which may prove beneficial to businesses. The portal also provides a facility to create a secured document repository. The documents can be ones uploaded and used for making all required applications.

This collaboration offers businesses a dual portal system for company and LLP incorporation, providing greater flexibility and convenience. Importantly, NSWS does not reinvent ministry processes but serves as a central hub, forwarding applications to the relevant ministries for efficient processing.

## Companies (Prospectus and Allotment of Securities) 2<sup>nd</sup> Amendment Rules, 2023

The Ministry of Corporate Affairs (MCA) issued a notification dated 27 October 2023 of the Companies (Prospectus and Allotment of Securities) 2<sup>nd</sup> Amendment Rules, 2023 effective from 27 October 2023.

The amendment omits Rule 12(6) of the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2014 and correspondingly amended Form PAS-2, Form PAS-3 and Form PAS-6.

### Share Warrants for Public Companies

Public companies that issued share warrants prior to the commencement of the Companies Act, 2013, and have not yet converted them into shares face new requirements. Within three months of the rules coming into force, these companies must inform the Registrar about the details of these share warrants through Form PAS-7. Within six months, they must ask the bearers of the share warrants to surrender them and have the shares dematerialised in their accounts.

The company must notify the bearers via a notice in Form PAS-8 placed on its website and publish the same notice in a vernacular newspaper in circulation in the district and in the language of the State of its registered address and in an English language newspaper. If a bearer fails to surrender the share warrants within the specified time, the company is obligated to convert them into dematerialised form and transfer them to the Investor Education and Protection Fund.

This change encourages transparency and ensures that share warrants are dematerialised.

### Dematerialisation for Private Companies

Private companies also face significant changes, with a focus on the dematerialisation of their securities. Notably, every private company, except for small companies, must issue securities only in dematerialised form and facilitate the dematerialisation of all their securities in accordance with the Depositories Act, 1996, and its regulations.

Private companies that aren't Small Companies as defined and in terms of their audited financial statements for financial years ending on or after 31 March 2023, have eighteen months to comply with these rules.

Additionally, such private companies must ensure that all securities held by their promoters, directors, and key managerial personnel are dematerialised before making any new securities offers, buybacks, issuing bonus shares, or rights offers.

Existing holders of securities intending to transfer or subscribe to new securities must also ensure their holdings are in dematerialised form. This encourages a shift towards more secure and efficient dematerialisation practices.

The rules also state that sub-rules 4 to 10 of rule 9A apply mutatis mutandis to the dematerialisation of securities under this rule.

It's essential to note that government companies are exempt from these provisions, as these rules primarily target private companies.

**Significance:** The objective of this amendment is the dematerialisation of securities. Forms PAS-7 and PAS-8, through which this must be done, have also been introduced.

## Companies (Management and Administration) 2<sup>nd</sup> Amendment Rules, 2023

The Ministry of Corporate Affairs (MCA) issued a notification dated 27 October 2023 of the Companies (Management and Administration) 2<sup>nd</sup> Amendment Rules, 2023 effective from 27 October 2023.

Pursuant to the Amended Rules, each company will designate a person (Designated Person) to report beneficial interests in the company's shares to the Registrar of Companies (ROC).

The MCA has introduced the following new provisions, by inserting sub-rules 4 to 8 after sub-rule 3, in rule 9 of the Companies (Management and Administration) Rules, 2014:

- Each company is mandatorily required to have a Designated Person to furnish information and extend co-operation to provide information to the ROC or any other authorised officer with respect to the beneficial interests in its shares.
- A company may designate any of the following persons to fulfil the aforesaid requirement:
  - Company secretary if required to be appointed under the Companies Act, 2013 (CA 2013), or any other key managerial personnel
  - Each director if there is no company secretary or key managerial personnel
- Until a company appoints a Designated Person, the following will be deemed to be the Designated Person:
  - Company secretary if required to be appointed under the CA 2013, or each managing director or manager in case no company secretary is appointed
  - Each director if there is no company secretary, managing director or manager

- Details of the Designated Person will be provided in the annual return, and any change in the Designated Person will be reported to the ROC in e-Form GNL-2.

**Significance:** Each company will now designate a person to report the beneficial interests in its shares to the ROC or any other authorised officer. The details of the designated person are required to be disclosed in the annual return. The annual return is an e-form filed with ROC, and the present change would require a modification in the existing format so as to facilitate the provision of such information. Further, since the provisions are applicable from 27 October, 2023, the disclosure should be applicable for the annual return filed for FY 23-24 and onwards. Any changes in the designated person(s) are also required to be intimated to the ROC in e-form GNL-2. No timeline has been specified for filing the same, but this should be filed within a reasonable period of time.

The introduction of the concept of, "designated person" with respect to the, "beneficial interest" in the shares of a company, will have the impact of assigning responsibility and accountability on the designated person with respect to compliance with the provisions of the Act relating to beneficial interest. Recently, many companies have received advisories from the ministry to ensure compliance with the provisions of declaration of beneficial ownership, and the present amendment would act as a "single point assistance" to the authorities in their inspection of companies with respect to compliance with declaration of "beneficial interest".

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# Indonesia

## Key updates

Following recent changes in Indonesia's regulatory corridor, for Indonesia's foreign investment environment we have compiled several regulatory practices that may be relevant to foreign investment company or potential business player that wishes to enter Indonesia as follows:

### **Enactment of Presidential Regulation No. 57 of 2023 concerning Mandatory Report of Job Vacancies**

President of the Republic of Indonesia issued President Regulation No. 57 of 2023 about "Mandatory Reporting of Job Vacancies" on 25 September 2023. In that regulation, stated that both domestic and overseas job vacancies must be reported to the Ministry of Manpower through the Manpower Information System (WLKP). The mandatory reporting of domestic job vacancies for employers nationwide necessitated the inclusion of specific information in these reports. That includes:

- Identity of the employer
- Position title
- The number of employees required
- The vacancy period
- Details about the positions such as age, gender, educational background, competence, work experience and salary.

The information submitted through the WLKP System is not only for official purposes but should also be made accessible to the general public. The intention of such implementation aside for serving job seekers and employers, is to have these job vacancy-related information plays a crucial role in the planning, structuring, placement, and analysis of manpower-related matters. Employers are required to report any filled job vacancies to the Ministry of Manpower through the WLKP System.

While the implementation currently is not strict, we need to note that regulation-wise failure to adhere to the domestic vacancy reporting mandate, including the omission of already filled vacancies, may result in the imposition of administrative sanctions against the concerned employers.

### **Current development and practical issues in interacting with the Indonesia Investment Coordinating Board (BKPM) and its Online Single Submission (OSS) system**

#### **Still Limited Features of OSS system**

While the OSS system has been enacted for 5 years now, the system which has been updated several times and recently with the Risk-Based Assessment framework, unfortunately still provides confusions to the business player in terms of how to properly utilize the system to fulfil the business player compliance requirements.

The BKPM has issued several guidelines for business player to ease them in adapting and using the system as a one-stop compliance portal throughout the years. However, we have seen and receive some report from business player that the features that are promised to ease business player have not yet been effectively implemented. Even some core features such as data recording and registration still frequently show error in which data and information registration cannot be done, or need some manual assistance from the BKPM IT department to be sorted.

As such, the system still gives a certain degree of uncertainty to business player in which may affect the plan such as when to realize their investment, pre-requisites in doing business, regulatory and compliance enforcement, and information and licensing assurance. It is advisable for business player, from time to time to review and carry-out check to their compliance and ensure that they have tried to fulfil their compliance obligations through the system and by connecting manually to the BKPM officer (through email, or other communication channel) to avoid future exposure to their business continuation in Indonesia.

## Recent Practice on Investment Realization Report Through OSS System

In Indonesia, all companies, including local companies and foreign investment companies must submit the investment activities report, known as Laporan Kegiatan Penanaman Modal (LKPM). The companies will have to start submitting LKPM once the Online Single Submission (OSS) system issues the NIB to the said company. The regulation that governing the LKPM are Regulation of the Indonesian Investment Coordinating Board No. 5 of 2021 on Guidelines and Procedures for Risk-Based Supervision of Business Licensing (BKPM Regulation No. 5 of 2021).

The LKPM submit period for small business is every 6 months in 1 year report, and for medium and large business is every 3 months in 1 year report (quarterly).

In the activities of submitting the LKPM, Mazars in Indonesia has encountered several practical issues, such as after we submitted the LKPM, the LKPM is rejected by saying “perlu perbaikan” by the reviewer/ the system even though the LKPM report is in accordance with the existing regulations and has been filled out completely. Another practical issue is when the LKPM Reporting from the other company is on the Mazars in Indonesia’s client LKPM Dashboard.

Therefore, Mazars in Indonesia continues to coordinate with BKPM regarding the issues mentioned above. BKPM has explained that if a submitted LKPM need to change for improvement even though it has been completed, it may be due to the system (IT) rejecting it. There’s no problem or consequences whatsoever regarding the LKPM that need to change for improvement because we already submitted on time. Further, the LKPM that need to change for improvement can be explained in the next subsequent LKPM reporting period. As for the LKPM of the other company appearing on the dashboard, it can be removed after coordinating with the BKPM IT Team.

## Government Regulation No. 12 of 2023 regarding the Issuance of Business Permits, Business Facilitation, and Investment Facilities for Business Actors in Ibu Kota Nusantara (IKN)

With the plan to relocate the capital of the Republic of Indonesia to East Kalimantan, the government has issued Government Regulation No. 12 of 2023 to regulate the issuance of business permits, business facilitation, and investment facilities for business actors in Ibu Kota Nusantara (IKN).

According to this regulation, in Article 5, it is stated that Business Permits in IKN are not subject to provisions regarding restrictions on foreign ownership in specific business sectors. Furthermore, in Article 6, it is explained that business permits

in IKN, as mentioned in Article 5, are subject to partnership requirements with micro, small, medium enterprises (MSMEs), or cooperatives in accordance with the provisions of the applicable legislation.

Business actors intending to initiate and conduct business activities in IKN must also meet the basic requirements for business permits and sector-specific business permits. Additionally, business actors may employ foreign workers for specific positions, with approval for the use of foreign workers valid for a period of 10 (ten) years and extendable.

Business permits in IKN will continue to be processed through the integrated Online Single Submission (OSS) Electronic System.

## Decree of the Minister of Energy and Mineral Resources No. 258.k/MB.01/MEM.B/2023 on Guidelines for the Granting of Mining Business License Areas and Special Mining Business License Areas for Metal Minerals and Coal

In an effort to boost investment in the mineral and coal mining sector, the Minister of Energy and Mineral Resources has recently revised the guidelines for designating Mining Business License Areas (WIUP) and Special Mining Business License Areas (WIUPK) specifically for metal mineral and coal mining activities.

While these adjustments have been applied to the overall process of obtaining WIUPK through the priority list and the auction process for securing WIUP and WIUPK, it is important to note that under the new procedure, WIUP and WIUPK can only be obtained by business entities that do not currently hold any of the following types of mining business licenses: Mining Business Licenses (IUP), Special IUP (IUPK), IUPK as a continuation of operation contracts/agreements, Community Mining Licenses (IPR), Rock Mining Licenses (Surat Izin Penambangan Batuan/SIPB), Mining Service Business Licenses (Izin Usaha Jasa Pertambangan/ IUJP), Transportation and Sales Licenses, Contracts of Work (Kontrak Karya/KK), or Coal Contracts of Work (Perjanjian Karya Pengusahaan Pertambangan Batubara/ PKP2B).

## Circular of the Director – General of Sea Transportation No. SE-DJPL 25/2023 on Supervision of the Implementation of Shipping Registrations and Business Licensing Activities for Sea Transportation Business

The circular stipulates that owners of vessels structured as Indonesian legal entities involved in foreign investment through joint ventures must adhere to three specific measures, including:

1. Adjusting the relevant shareholder composition in the pertinent company's deeds to comply with provisions related to vessel registration. These provisions specify that parties engaged in domestic investments as part of the joint venture must take the form of:
  - a. National sea transportation companies where the entirety of the relevant shares is owned by Indonesian citizens and engaged in commercial activities; and/or
  - b. Indonesian legal entities where the entirety of the relevant shares is owned by Indonesian citizens and engaged in non-commercial activities (such as social activities, tourism, sports-related activities).
2. All vessel registrations conducted before 2 February 2021 (i.e., the date of the promulgation of Regulation of the Government No. 31 of 2021 on the Organization of the Shipping Sector) will remain valid. However, the aforementioned adjustment of data and information outlined in vessel registrations must be completed and reported to the relevant official registrars and registrars handling title transfers.

## Regulation of the Minister of Law and Human Rights Number 22 of 2023 on Visas and Stay Permits

The Golden Visas are designed to attract eligible foreigners, both corporate and individual investors, to invest in Indonesia and contribute to the country's economic development.

According to the regulation, Golden Visas are granted to foreigners as the basis for a stay permit lasting from 5 to 10 years.

To qualify for a 5-year stay in Indonesia, individual investors aiming to establish a company in the country must invest a minimum of US\$25,000,000. For a 10-year stay permit, individual investors are required to invest at least US\$50,000,000.

Golden Visa holders are no longer obligated to apply for a temporary stay permit (ITAS). Additionally, they are entitled to the following facilities:

1. Use of priority checking lanes in official Immigration Check Areas, as provided by the Minister.
2. Priority services at Immigration Offices; or
3. Priority services from relevant government agencies and/or ministries, in accordance with cooperation agreements.

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# Japan

## Key updates

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# Korea

## Key updates

### The Enforcement Decree of the Korean Foreign Exchange Transaction Act and Foreign Exchange Transaction Regulations were partially amended in 2023.

Please refer to the following for key amendments.

1. Amendment to the Enforcement Decree of the Foreign Exchange Transactions Act.
  - a. Relaxation of the threshold for violations that are subject to punitive measures and the penalty amount.
    - i. Increase the threshold applicable to violation of the capital transaction reporting obligation, which could be warned\* by the authority from “not more than USD 20,000” to “not more than 50,000”.

\* Warning is the lightest penalty that authority may impose.

  - ii. Reduced the penalty amount for the violation of an ex post facto reporting from KRW 7,000,000 to KRW 2,000,000.
2. Amendment to the Foreign Exchange Transaction Regulations
  - a. Relaxation of requirements for submission of supporting documents for overseas remittance
    - i. Increased the threshold of overseas remittance amounts, which requires preliminary reporting and supportive documents, from USD 50,000 to USD 100,000 per year.
  - b. Relaxation of thresholds, which requires the Ministry of Economy and Finance and Bank of Korea for large-scale foreign currency loans.
    - i. Raised the annual aggregate thresholds for reporting of large-scale foreign currency loans which requires the Ministry of Economy and Finance and Bank of Korea reporting from USD 30,000,000 to USD 50,000,000.

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# Malaysia

## Key updates

### SSM - Annual Dialogue 2023

Suruhanjaya Syarikat Malaysia (“SSM”) had conducted Annual Dialogue 2023 on 5 December 2023 to disseminate information and provide clarifications on issues raised by participants pertaining to the Act, in particularly on the operations and enforcement matters.

Please click [Amendment Bill 2023](#) for further details.

### LHDNM – Practice Note No. 3/2023

On 5 December 2023, Lembaga Hasil Dalam Negeri Malaysia (“LHDNM”) issued the Practice Note No. 3/2023 providing clarification relating to the tax treatment on copyright and software payments by a distributor and a reseller to a non-resident.

Please click [Practice Note No. 3/2023](#) for further details.

### SSM-Display Registered Company/ Business Name and Number on Website

On 1 November 2023, Suruhanjaya Syarikat Malaysia (“SSM”) issued notices to create awareness on Section 30(2)(b) of the Companies Act 2016 (the Act) that mandates all companies registered under the Act must prominently display their company name and registration number on their websites and social media. Failure to comply with such requirements may subject to a penalty of RM50,000 or a 3-year imprisonment, or both.

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# Philippines

## Key updates

### Internet Transactions Act of 2023

President Ferdinand Marcos Jr. signed a new Republic Act regarding Internet Transactions between businesses and customers. Highlighting the new rules and guidelines for doing online transactions with fellow businesses and customers.

On 5 December 2023, President Ferdinand Marcos Jr. signed into law [Republic Act No. 11967 or The Internet Transactions Act of 2023](#). This new law applies to all business-to-business and business-to-consumer internet transactions where one of the parties is situated in the Philippines or where the digital platform, e-retailer, or online merchant is availing of the Philippine market and has minimum contacts within the said market.

Excluded from the coverage of the new law are online media content, and consumer-to-consumer (C2C) transactions.

Highlights of the law are as follows:

#### I. Obligations and remedies of online consumers

Online consumers are those who purchase, lease, receive or subscribe to goods or services over the internet for a fee. They are expected to exercise ordinary diligence when entering internet transactions.

Confirmed orders cannot be cancelled if: (1) the items have already been paid for, or (2) the goods are perishable in nature, and (3) they are already in possession of a third party for its delivery.

However, cancellation can be made under the following circumstances: (1) the online consumer uses electronic or digital payment and authorized the crediting of the amount despite cancellation, (2) the online consumer reimburses the third-party delivery service as a pre-condition for the cancellation of the order; (3) the transaction allows cancellation for a fee; or (4) the parties agree on the cancellation.

#### II. Obligations of E-marketplaces

E-marketplaces are the digital platforms whose business is to connect online consumers with online merchants, facilitate and conclude the sales, process the payment of the products, goods or services through the platform, or facilitate the shipment of goods or provide logistics services and post-purchase support

within such platforms, and otherwise retains oversight over consummation of the transaction. They are required to ensure that the relevant information about the internet transactions on their platform are properly identifiable. Specifically, this requires identifiable transactions, person/s on whose behalf they are made, promotional offers, submission of merchant information such as identification, address, contact details, among others. E-marketplaces are also required to maintain a list of all online merchants registered under their platform and ensure that data covered by the Data Privacy Act is complied with. The goods or services must indicate the price, description and condition.

Sale of regulated goods are prohibited unless the e-marketplace has the relevant license or permit for the sale.

#### III. E-retailers and online merchants

E-retailers refer to those who sell goods or services directly to online consumers through its own website, webpage or application.

On the other hand, an online merchant is those who sell non-financial goods or services to online consumers through an e-marketplace or third-party digital platform.

An e-retailer shall also be considered an online merchant if it offers the same goods or services outside its own website through a third-party digital platform and the online consumer purchases, leases, subscribes to, or obtains the service of the e-retailer through the said third-party platform.

##### 1. Obligations

Both e-retailers and online merchants are required to indicate price of goods and services offered and ensure that the goods are received by the online consumer according to the terms and conditions of the transaction. The goods are required to be delivered in full including its accessories and in a quality fit for its use.

Where the e-retailer or online merchant is a digital goods or service provider, the digital goods or services shall be of quality and functional, or the services shall be of the same type as advertised or described. Where the transaction involves a digital platform

that offers a performance of a service, said service shall be performed and completed according to the terms of the contract. Internet Transactions Act of 2023

The e-retailer is required to publish on its homepage all its relevant corporate details such as corporate, trade or business name, physical shop address or place of business, contact details and the like. It has to ensure that data privacy laws are complied with.

## 2. Liability

E-retailers or online merchants are primarily liable to indemnify the online consumer should there be any civil action or administrative complaints arising from internet transactions contrary to any of the Law's requirements. They are also subsidiarily liable to the extent of damages suffered by the online consumer as a direct result of the transaction.

The e-marketplaces or digital platforms shall be solidarity liable if it fails to remove or disable access to goods or services that are illegal, injurious, unsafe or dangerous.

## SEC eSPARC online business registration

This guide showcases the Electronic Simplified Processing of Application for Registration of Company (eSPARC), the Securities and Exchange Commission's (SEC) new online facility catering to the application for registration of One Person Corporations (OPC) and Domestic Corporations (Both Stock and Non-stock). Online business registration Mazars Corporate Secretarial services.

The [SEC-ESPARC](#) is a facility created by the SEC to help streamline the online business registration in the Philippines of OPCs and Domestic Corporations that have two (2) or more incorporators [these include natural persons, partnerships, associations, or corporations, singly or jointly with others, but they cannot exceed fifteen (15) in number].

The online business registration system allows applicants/appointed representatives to submit a company name and input details of the articles of incorporation for review by the Commission. Furthermore, the program also allows for applications for the recording of partnerships and licensing to do business for foreign communications.

Those who register with E ePARC would only have to wait for **three (3) working days** to get their approval if no further comments from the SEC evaluator. Using this system will also exempt the application for registration/licensing of Partnership, Lending, Financing and Foreign Corporations during uploading of documents process.

However, it should be noted that the submission of four (4) sets of required documents to the selected SEC processing office must be done within thirty (30) calendar days from the payment date of the registration fees.

## What is eSPARC

The eSPARC is a system for online business registration in the Philippines implemented in 2021 as a replacement for the SEC's past Company Registration System (CRS). Its creation aimed to fulfil the various corporation's need to be able to register their establishments efficiently without going through face-to-face interactions.

Eventually, eSPARC was integrated with the Philippine Business Hub (PBH), an all-round online government portal that allows businesses to register with the Bureau of Internal Revenue (BIR), Local Government Units (LGUs), the Food and Drug Administration (FDA), and other social service agencies (Security System [SSS], Home Development Mutual Fund (HDMF), commonly known as the (Pag-IBIG), Philippine Health Insurance Corporation (PhilHealth)).

Thanks to the integration, applicants can directly move from E-SPARC to the PBH, the information given in E-SPARC will carry over to the PBH, speeding up the registration process for the other agencies. For more details on how the transfer works click the following link [HERE](#).

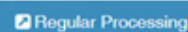
## E-SPARC Registration Options

### Welcome to SEC eSPARC

Electronic Simplified Processing of Application for Registration of Company

Please select the appropriate company type and nature of your business. **Make sure to read all the instructions first** so that your application conforms with the conditions specified in the chosen registration type.

 OneSEC Processing

 Regular Processing

eSPARC provides two registration options depending on what kind of establishment is being registered to the SEC.

The first option, **Regular Processing**, should be selected if the company is a:

- OPC
- Foreign Corporation
- Domestic Corporation (including stock and non-stock) with two or more incorporations.
- Partnership/Association

The second option, **OneSEC Processing (One-day Submission and E-registration of Companies)**, lets individuals/businesses receive a faster one-day review of their application after completing their submission.

However, this option is only available to **domestic corporations that meet the following requirements:**

- Has a proposed corporate name with a name descriptor according to its industry classification.
- Has a proposed corporate name that does not contain a Trade Name or any set of letters that act as an acronym, and is not subject to any name appeal
- Has an All-Filipino company classification, meaning that incorporators, directors, and subscribers of the corporation are natural persons and residents of the Philippines.
- The company is not located in any economic zone.
- The company is in a perpetual corporate term of existence.
- The company can pay registration fees immediately in the SEC Payment Portal.
- None of the company officers or members have pending/convicted criminal cases, administrative cases, or government sanctions.

### eSPARC for Corporate Secretarial Requirements

#### I. Naming your company

eSPARC can help you finalize your company name. The program will require you to submit certain information to move forward with your application, among the requirements needed is your Company Name and Type of Company it is. Applicants should plan ahead before settling on a name for the application.

If you have difficulty choosing an appropriate name, you can check the "[SEC Corporation Name Guidelines](#)" for reference. Upon entering your name in the text box, the system will then inform you if the name provided is usable or not, depending on whether someone has already used it or if it's compliant with the SEC's guidelines.

#### II. Requirements for generating Corporate Secretarial documents

eSPARC can also generate certain documents to help applicants fulfil Corporate Secretarial (CorpSec) requirements, however, the applicant must first submit the following information:

Details on the company's representatives [Names, position, TIN, and contact details of the person filing the SEC registration]

- The company type, classification, and industry
- Their address, purpose, fiscal year details
- The company's total term of existence [The establishment's total number of years in operation]

- The company's capital structure [Their total amount of shares/ authorized capital stock.
- A list of the company's directors, incorporations, and/or subscribers

#### III. Generating the Corporate Secretarial documents using eSPARC

The applicant needs to submit soft copies of the required documents to complete their online business registration with eSPARC. These will vary depending on what kind of application was processed using the system.

Furthermore, eSPARC only accepts documents submitted in a **PDF file format** – their name must also match the content of the document being submitted.

The eSPARC can generate various documents to complete the online registration and gather requirements for CorpSec and help the applicant complete their registration. However, some still need to be gathered from other sources.

- The documents are as follows:
  - Articles of Incorporation or Articles of Partnership
  - Cover Sheet
  - By-Laws
  - Secondary Licenses
  - Endorsement from Government Agencies
  - Name Appeal [Note that this document for appeal only applies if the applicant failed in the name verification portion of the application but still wishes to proceed with the trade name]

Registering with the SEC provides many benefits since it provides definite proof that your business is legitimate and conforms with the SEC guidelines. This opens many opportunities for business since other entities will be more willing to collaborate with them.

The eSPARC provides business owners with a more convenient way for businesses to attain the benefits stated earlier. By using this online business registration system in the Philippines, business owners from all over the country can easily finalize their SEC registration.

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# Singapore

## Key updates

### Updates on Corporate Service Providers Bill (the “CSP Bill”)

To strengthen the anti-money laundering (AML) controls in Singapore, and in line with the recommendations of the Financial Action Task Force (FATF) and comments gathered from a public consultation, a series of measures have been proposed to refine Singapore’s AML framework. These measures encompass the introduction of new legislation, the Corporate Service Providers Bill (the “CSP Bill”), revisions to the Accounting and Corporate Regulatory Authority (ACRA) Act of 2004 and proposed amendments to the Companies Act of 1967 (the “Companies Act”).

Given the recent billion-dollar money laundering case that happened in Singapore, an Inter-Ministerial Committee (“IMC”) has been set up to review Singapore’s AML regime and to keep the regime up to date with increasingly sophisticated crimes.

#### CSP Bill

To improve Singapore’s compliance with the FATF’s recommendations and to maintain Singapore’s reputation as a trusted financial hub, ACRA has proposed the enactment of a new CSP Bill.

The key objectives of the CSP Bill are to: (1) support supervisory effectiveness; (2) remained aligned with prevailing international standards and (3) mitigate key risk concerns for the sector.

Some of the proposed legislative provisions to be part of CSP Bill are:

- require all entities or persons providing corporate secretarial services in and from Singapore to register with the ACRA as corporate services providers (CSP), regardless of whether they need to transact with ACRA;
- increase the financial penalties on officers, owners or partners of CSPs for breaches of anti-money laundering/countering the financing of terrorism (AML/CFT) obligations;
- require all CSPs providing corporate secretarial services (e.g.: incorporation, acting/arranging for people to act as directors/shareholders, providing registered office address) in and from Singapore to be subject to AML/CFT obligations and supervision;

- require CSPs to implement group-wide AML/CFT measures for their branches/ subsidiaries;
- require all CSPs to ensure that the individuals they appoint to act as nominee directors are fit and proper and satisfy prescribed training requirements should they hold more than a legally prescribed number of nominee directorships by way of business; and
- require nominee directors or shareholders to disclose their nominee status and identity of their nominators to ACRA. Their nominee status will be available to the public.

The following materials are available on the ACRA website <https://www.acra.gov.sg/>

[Annex A](#): Proposed amendments to the Companies Act, ACRA Act (and their related subsidiary legislation), and new Corporate Service Providers Bill

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# Taiwan

## Key updates

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# Thailand

## Key updates

### Recent Department of Business Development rulings on aspects of the Foreign Business Act

#### Whether the provision of staff benefits by a foreign company is a restricted business under the Foreign Business Act (“FBA”)

Many majority foreign-owned companies provide benefits to staff members. Examples include a company residence, canteen, first aid rooms, advance payments for medical expenses, or a company shuttle bus.

The Foreign Business Affairs Division of the Department of Business Development (“DBD”) of the Ministry of Commerce recently issued a ruling stating that staff benefits provided by majority foreign-owned companies are not considered restricted businesses under the FBA in the following cases:

- Expenses for such are not charged to staff members or the company does not earn income from the benefits provided.
- Such benefits are stated clearly in the company’s work rules, staff handbook, or similar notifications and are available for the Thai authorities to refer to.
- If the company makes an advance payment to staff members for things such as medical expenses, the company must not charge interest, and must not record it in its accounting books.

#### Scope of business activities for international transportation

Under the FBA, domestic transportation, regardless of whether by land, water, or air, is a restricted business. Foreigners must obtain a licence from the Minister of the Ministry of Commerce and the approval of the Cabinet before conducting such a business.

However, international transportation is not a restricted business under the FBA. Thus, foreigners are allowed to conduct such a business without obtaining a licence from the Ministry of Commerce. The Foreign Business Affairs Division of the DBD recently issued a ruling stating that the scope of business activities for international transportation are as follows:

- ticket sales and reservations;
- transportation of passengers and goods; and
- contact and coordination with contractors for providing ground services in airports.

Source: [DBD’s ruling in March 2023](#) (Document in Thai language)

## Foreign businesses providing loans to affiliates and subsidiaries

Under the Foreign Business Act, foreign businesses are generally restricted from providing loans unless they have first obtained a foreign business license (“FBL”). However, the Ministry of Commerce has set out certain regulations under which foreign businesses are not required to obtain an FBL to provide loans to affiliates and subsidiaries in Thailand.

Ministerial Regulation No. 4 (2019) states that a foreign business must hold shares in, or have management control of, affiliates or subsidiaries to which it provides loans.

If the foreign business does not meet these conditions, then it can provide loans to affiliates or subsidiaries in one of the following ways:

Options	Scope of business and activities	Key qualification/ requirements	Incentives
Apply for a BOI certificate to conduct business as an International Business Center (“IBC”)	<ul style="list-style-type: none"> <li>Providing loans in foreign currency to affiliates or subsidiaries in foreign countries.</li> <li>Providing loans in Thai baht to affiliates or subsidiaries in Thailand.</li> <li>Providing loans in Thai baht to affiliates or subsidiaries in Vietnam and countries bordering Thailand for trading or investing in Thailand or those countries only.</li> </ul>	<ul style="list-style-type: none"> <li>The foreign business’s scope of business must already include one or more additional IBC business activities, except for acting as a treasury centre and conducting international trade activities.</li> <li>The foreign business must have registered capital of at least THB 10 million.</li> </ul>	Non-tax incentives, such as: <ul style="list-style-type: none"> <li>work permit and visa applications; and</li> <li>land ownership.</li> </ul>
Apply for a BOI certificate to conduct business as a Trade and Investment Support Office (“TISO”)	Same as an IBC	<p>The foreign business’s scope of business must already include one or more additional TISO business activities.</p> <p>The foreign business must have annual selling and operating expenses of at least THB 10 million.</p>	Same as an IBC
Apply for an FBL	No limitations	<p>The foreign business provides loans to its affiliates or subsidiaries, but the conditions set out in Ministerial Regulation No. 4 are not met.</p> <p>The foreign business must have minimum capital of THB 3 million or 25% of an average three years’ estimated expenses, whichever is greater.</p>	Body copy

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# Vietnam

## Key updates

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