



Inward Re-Domiciliation Regime in Singapore

An Overview

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From 11 October 2017, a new inward re-domiciliation regime in Singapore, instituted by the Companies (Amendment) Act 2017, has taken effect, allowing foreign corporate entities to transfer their registration to Singapore.

Under Section 358(1) of the Companies Act (the "Act"), a foreign corporate entity may apply to the Registrar to be registered as a company limited by shares under the Act. Foreign entities that want to re-domicile to Singapore must be bodies corporate that can adapt their legal structure to the companies limited by shares structure under the Act.

What is Re-Domiciliation?

Re-domiciliation is a process whereby a corporate entity migrates to a new jurisdiction by transferring its registration from the jurisdiction in which it is incorporated to the new jurisdiction.

When a company wants to move its operations to another jurisdiction, the usual way will be to set up a new corporate entity in the new jurisdiction and transfer its operations, assets and liabilities to the new company. This method will result in the company starting afresh in the new jurisdiction and losing its corporate history.

On the other hand, re-domiciliation will allow the continuation of the operations of the original company in the new jurisdiction as though the company never ceased operations thus preserving its corporate history, branding and identity.

Benefits of Re-Domiciling to Singapore

Singapore has consistently been ranked as one of the top competitive economies in the world according to the World Economic Forum. Key constituents of Singapore's economic robustness include a stable macroeconomic environment, pro-business legislations, efficient tax regime, healthy public finances and public institutions that are transparent and highly efficient, as well as the nation's political stability, legal structure and highly-skilled workforce.

Foreign companies looking to re-domicile to Singapore can take advantage of these

favourable conditions by positioning themselves in a business hub that serves as a gateway to other regional Asian markets.

With the introduction of Singapore's new re-domiciliation regime, foreign companies can easily move their global or regional headquarters here with minimal disruptions to their business operations and without losing their corporate history and identity.

Application for Registration

A foreign corporate entity that wants to apply for transfer of registration must complete the "Application for Transfer of Registration under Section 358(1)" form and email the completed application form to the Accounting and Corporate Regulatory Authority (ACRA) with all the necessary documentation (as specified in the form) to the designated email address (ACRA_BFD_Application@acra.gov.sg).

Minimum Criteria

Foreign companies applying for inward re-domiciliation under section 358(1) of the Act must meet the following minimum requirements as set out under Regulation 7 of the Companies (Transfer of Registration) Regulations 2017:

1. The foreign corporate entity satisfies any two (2) of the following criteria:
 - a. The value of the foreign corporate entity's total assets exceeds S\$10 million.
 - b. The annual revenue of the foreign corporate entity exceeds S\$10 million.
 - c. The foreign corporate entity has more than 50 employees.

Where the applicant company is a parent company, the foreign corporate group will have to meet any two of these three criteria on a consolidated basis. If the applicant company is a subsidiary, then either the applicant satisfies the above size criteria or its parent meets the size criteria if that parent is a Singapore-incorporated company or is a foreign corporate entity that has transferred its registration to Singapore.

2. There is no ground on which the foreign corporate entity could be found to be unable to pay its debts as at the date of the application by the foreign corporate entity for re-domiciliation
3. The value of the foreign corporate entity's assets is not less than the value of its liabilities (including contingent liabilities) as at the date of the application by the foreign corporate entity for re-domiciliation;

- 4.** The foreign corporate entity will be able to pay its debts in full within the period of 12 months after the date of commencement of its winding up if the intention is to commence winding up of the foreign corporate entity within 12 months immediately after the date of the application by the foreign corporate entity for re-domiciliation;
- 5.** If there is no intention to commence winding up of the foreign corporate entity within 12 months immediately after the date of the application by the foreign corporate entity for re-domiciliation, the foreign corporate entity must be able to pay its debts as they fall due during the period of 12 months immediately after the date of the application by the foreign corporate entity for re-domiciliation;
- 6.** The foreign corporate entity is authorised to transfer its incorporation under the law of its place of incorporation;
- 7.** The foreign corporate entity has complied with the requirements of the law of its place of incorporation in relation to the transfer of its incorporation;
- 8.** The application by the foreign corporate entity for re-domiciliation is not intended to defraud existing creditors of the foreign corporate entity and made in good faith
- 9.** No receiver, or receiver and manager, is in possession of, or has control over, any property of the foreign corporate entity and no proceeding to appoint a receiver, or receiver and manager, in respect of any property of the foreign corporate entity is ongoing or pending;
- 10.** The foreign corporate entity is not under judicial management and no proceeding to place the foreign corporate entity under judicial management is ongoing or pending;
- 11.** No compromise or arrangement made between the foreign corporate entity and another person or other persons is being administered and no proceeding to place the foreign corporate entity under any compromise or arrangement is ongoing or pending;
- 12.** The foreign corporate entity is not in liquidation or being wound up and no proceeding for liquidation or winding up against the foreign corporate entity is ongoing or pending; and
- 13.** No other judicial or administrative proceeding under a law relating to insolvency or adjustment of debt, in which the property or affairs of the foreign corporate entity are or would be subject to control or supervision by a judicial or administrative authority for the purpose of re-organisation or liquidation, is ongoing or pending.

A foreign corporate entity, subject to the Registrar's approval, need not satisfy the minimum requirements mentioned in items 2,3,4 and 5 above if it intends to undergo restructuring by applying to the Court under sections 210(1), 211B(1), 211C(1), 211I(1) or 227B of the Companies Act.

Effect of Re-Domiciliation

Foreign corporate entities that re-domicile to Singapore, will become Singapore companies and are required to adhere to regulations in the Companies Act accordingly. If the foreign corporate entity was registered as a branch under the Act prior to the application for re-domiciliation, the branch registration will cease with effect from the date of registration specified in the notice of transfer of registration.

The registration of a foreign corporate entity does not:

- (a)** create a new legal entity;
- (b)** prejudice or affect the identity of the body corporate constituted by the foreign corporate entity or its continuity as a body corporate;
- (c)** affect the property, or the rights or obligations, of the foreign corporate entity; or

d) render defective any legal proceedings by or against the foreign corporate entity,

and any legal proceedings that could have been continued or commenced by or against the foreign corporate entity before its registration may be continued or commenced by or against the company after the registration.

Timeline

ACRA has indicated that it may take up to two (2) months from the date of submission of all required documentation, to process the application for transfer of registration. This includes the time required for referral to another government agency for approval or review.



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