



Singapore's Significant Investments Review Bill

March 2024

Introduction

Decisionmakers and stakeholders who are engaged in deals involving Singapore should take note that the Ministry of Trade and Industry of Singapore (“**MTI**”) announced that a new Significant Investments Review Bill (the “**SIR Law**”), which was passed into law in Parliament on 9 January 2024. The commencement date for the Significant Investments Review Act 2023 has not yet been announced.

This update highlights some of the key features of the SIR Law.

Parties intending to undertake M&A in the future should consider the potential implications of the proposed legislation, which is expected to be passed in 2024.

Currently, Singapore has sector-based legislation imposing ownership and control regulations and restrictions on entities operating in certain sectors (e.g. telecommunications, banking and utilities). In line with enhanced global scrutiny on investments in critical entities, the SIR Law seeks to complement such sector-based legislation by imposing ownership and control regulations and restrictions on certain “designated entities” and entities who have acted against Singapore’s national security interests, even if these entities do not fall within currently regulated sectors.

What are “designated entities”?

Further detail on which entities will be “designated” has not been provided at this stage, and these may be entities incorporated, formed or established in Singapore, entities carrying out activities in Singapore or entities providing goods and services to persons in Singapore.

The Minister of Trade and Industry of Singapore (the “**Minister**”) has indicated that it is expected that “only a handful of critical entities will be designated under this Bill”, given that certain entities considered critical to Singapore’s national security would already be covered by existing sector-based legislation.

Referencing other countries who have adopted similar legislation, it is possible that “designated entities” may include those operating in the artificial intelligence, cybersecurity, aerospace and semiconductor space.

Key provisions in the SIR Law

It is proposed under the SIR Law that:

(1) Notification or approval obligations for changes in control or ownership of designated entities:

- Buyers must notify the Minister after becoming a 5% controller of a designated entity.
- Buyers must seek prior approval from the Minister before becoming a 12%, 25% or 50% controller or indirect controller of a designated entity.
- Buyers must seek prior approval from the Minister before acquiring, as a going concern, parts of the business or undertaking of a designated entity.
- Sellers must seek prior approval from the Minister when ceasing to be a 75% or 50% controller of a designated entity.
- Designated entities must notify the Minister of the abovementioned changes after becoming aware of them.

Transactions occurring without the required approvals are void, though affected persons may still apply to the MTI for validation notices.

(2) Management of designated entities:

- Prior approval from the Minister must be sought for the appointment of key officers of a designated entity (e.g. directors, CEO and chairman of the board). Officers may be removed by the Minister if appointed without the required approvals.
- The Minister may remove key officers in the interest of national security.

(3) Other restrictions:

- Prior consent from the Minister must be sought before a designated entity may be voluntarily wound up or dissolved, to ensure the security and reliability of the critical functions of such entities.
- The Minister may direct the assumption of control of the designated entities business in the event of national security issues or the disruption of essential services.

(4) Points to note for non-designated entities:

Although the Minister has indicated that only a handful of entities will be designated under the SIR Law, the SIR Law also provides the Minister with powers to review transactions undertaken by an entity that has acted against Singapore's national security interests within a period of 2 years after the transaction, and make certain national security interest directions.

This applies to entities that satisfy any of the following conditions:

- the entity is incorporated, formed or established in Singapore;
- the entity carries out any activity in Singapore; or
- the entity provides any goods or services to any person in Singapore.

An exhaustive list of transactions that may be reviewed by the Minister has also been provided in the SIR Law, and they relate to:

- a transacting party acquiring any equity interest, or acquiring the control of any voting power in the entity;
- a transacting party disposing of any equity interest or control of any voting power in the entity;
- a transacting party becoming an indirect controller of the entity; or
- a transacting party acquiring the business or undertaking, or any part of the business or undertaking, of the entity.

The national security interest directions under the SIR Law that may be made by the Minister include:

- directing the transfer or disposal of any equity interest in the entity held by the transacting party;
- directing that the transfer of or disposal of the equity interest in the entity be restricted; or
- directing the transacting party to transfer or dispose of his or its control of voting power in the entity on any conditions the Minister considers appropriate.

(5) Appeals process:

Persons who wish to seek reconsideration of the Minister's decisions under the SIR Law may appeal to the Reviewing Tribunal set up under the MTI, which will comprise three individuals appointed by the President (out of which one, being the chairperson, will be a Supreme Court judge).

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