

# Employee Share Plans in Singapore: Overview

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A Q&A guide to employee share plans in Singapore.

The Q&A gives a high-level overview of the key practical issues, including whether share plans are common and can be offered by foreign parent companies, the structure and rules relating to the different types of share options, share purchase plans, share award plans, and phantom plans, taxation, corporate governance guidelines, consultation duties, exchange control regulations, prospectus requirements, necessary regulatory consents and filings, and formalities.

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## Employee Participation

1. Is it common for employees in your jurisdiction to be offered participation in an employee share plan?

It is common for public listed companies, public unlisted companies, and private companies to offer employee share plans in Singapore. Employee share plans are used as a form of incentive arrangement for employees, including executive directors and non-executive directors. Their purpose is to align the interests of participants with the interests of the shareholders of the company.

2. Can employees in your jurisdiction be offered participation in a share plan where the shares to be acquired are in a foreign parent company?

Companies in Singapore can offer employees participation in a share plan where the shares are in a foreign parent company, subject to compliance with Singapore securities offering laws (see [Question 33](#) and [Question 34](#)). The primary source of securities offering law in Singapore is the *Securities and Futures Act 2001* (SFA).

## Share Option Plans

3. What types of share options can be granted in your jurisdiction?

All Singapore companies can generally offer share option plans. The committee administering the plan usually has discretion to select participants based on criteria defined in the plan. Companies can grant options with different specified conditions within the same plan, such as time-based or performance-based conditions. Participants can subscribe for and acquire the shares once they have met the conditions attached to the option, if any.

Share option plans are more commonly offered by private companies and public unlisted companies. Public companies listed on the Singapore Securities Exchange (SGX-ST) tend to offer share award plans rather than share option plans.

There are no tax-qualified programmes that result in favourable tax treatment for the employee under an employee share option plan.

## Grant

4. What rules apply to the grant of employee share options?

## Share Option Plan

For a company listed on the SGX-ST (SGX Listco) or any of its subsidiaries, share option plans must comply with the SGX-ST listing manual (Listing Manual). These rules include limits on participants, limits on the number of participants in certain classes within the plan, and limits on the maximum entitlement each class can receive. An SGX Listco must obtain its shareholders' approval to implement a share option plan.

**Discretionary/all-employee.** Companies can grant share options on a discretionary basis to individuals. Companies do not need to grant share options to all employees on the same terms. Under the plan rules or the letter of grant given to participants at the time of grant, the committee administering the plan usually has the discretion to select participants and set conditions to the grant of options.

**Non-employee participation.** SGX Listcos must restrict participation in share option plans to directors and employees of the company and its subsidiaries, subject to the following exceptions:

- Directors and employees of an associated company can participate in the plan if the SGX Listco has control over the associated company. A company is an associated company if the SGX Listco or its group holds between 20% and 50% the shares in that company.

- Directors and employees of the SGX Listco's parent company and subsidiaries who have contributed to the success and development of the SGX Listco can participate in the plan.

SGX Listcos must obtain independent shareholders' approval for each grantee in separate resolutions in the following circumstances:

- Participation in a share option plan by controlling shareholders or their associates. Unless the SGX-ST determines otherwise, a controlling shareholder is a person who:
  - holds 15% or more of the total voting rights in the company (directly or indirectly); or
  - in fact dominates decision-making about the financial and operating policies of the company.

An associate of a controlling shareholder who is an individual includes:

- their immediate family;
  - the trustees of any trust of which their immediate family is a beneficiary or, in the case of a discretionary trust, is a discretionary object; or
  - any company in which the controlling shareholder and their immediate family together (directly or indirectly) have an interest of 30% or more.
- A grant of options to a director or an employee of the SGX Listco's parent company or its subsidiaries which would increase the grantee's holding to 5% or more of the total number of options available to participants of that kind.

There are no restrictions on non-employee participation for private companies and public unlisted companies. These companies can grant options to non-employees such as non-executive directors, consultants, and prospective employees.

For all types of companies, there are other securities offering considerations to take into account if participation in the share option plan is extended to non-employees (see [Question 33](#) and [Question 34](#)).

Public companies or private companies whose holding company or ultimate holding company is a public company should also consider potential financial assistance issues. These companies are generally prohibited from giving financial assistance for the acquisition of shares in the company, its holding company, or its ultimate holding company. However, an exception may apply for share option plans, if the financial assistance is given for the acquisition or proposed acquisition of shares in the company, holding company, or ultimate holding company, to be held by or for the benefit of employees (including salaried directors) of the company or a related corporation.

In addition, if it is contemplated that loans be made to the participants in Singapore to enable them to make payment of the exercise price, the company granting the loan should also consider potential moneylending issues.

For both listed and unlisted public companies, there is a five-year limit on the exercise period for share options. This increases to ten years if the grantee is an employee or salaried director of the company, its subsidiary, holding company, or a subsidiary of its holding company.

**Maximum value of shares.** The Listing Manual prescribes the following limits:

- The total number of shares available in all share plans of the SGX Listco must not exceed 15% of the total number of issued shares, excluding treasury shares and subsidiary holdings.
- The total number of shares available to controlling shareholders and their associates must not exceed 25% of the shares available under a plan.
- The number of shares available to each controlling shareholder or their associate must not exceed 10% of the shares available under a plan.
- The total number of shares available to directors and employees of the SGX Listco's parent company and its subsidiaries must not exceed 20% of the shares available under a plan.

There are no limits on the maximum number of shares for which private companies and public unlisted companies can grant options, provided that the company obtains the prior approval of its shareholders for the issuance of shares granted under the options.

**Market value.** For SGX Listcos, the maximum discount on the shares must not exceed 20% and must be approved by shareholders in a separate resolution. Employees can only exercise options granted at discount after two years from the date of grant and options granted without a discount after one year from the date of grant.

There are no restrictions on the exercise price for private companies and public unlisted companies.

5. What are the tax and social security implications of the grant of the option?

## Share Option Plan

There are no Singapore income tax implications on the grant of a share option.

Singapore does not have a social security scheme, but employers are statutorily required (subject to certain exceptions) to contribute to a state provident fund, known as the Central Provident Fund (CPF) for employees who are Singapore citizens or Singapore permanent residents. Part of the CPF contributions can be deducted from the employee's monthly salary. The CPF contribution rates depend on whether the employee is a Singapore citizen or permanent resident and the employee's age and income. For Singapore citizens earning at least SGD750 in monthly wages, the contribution rates generally range from 7.5% to 17% of monthly wages (employer) and from 5% to 20% of monthly wages (employee).

CPF contributions must only be made in respect of any remuneration in money due or given to an employee in respect of their employment. Therefore, the employee and employer need not pay CPF in respect of the grant of options provided that no cash payment is made on grant of the options.

## Vesting

6. Can the company make the exercise of share options subject to certain performance or time-based vesting conditions?

## Share Option Plan

Singapore companies can attach time-based and performance-based vesting conditions to the exercise of share options. Typically, the vesting conditions, vesting date, and vesting schedule are determined either:

- In the terms of the plan.
- By the committee implementing the plan and notified to participants on the grant of the options.

A company can attach any conditions it considers appropriate to achieve the purposes of the plan. Performance conditions vary widely. Targets can be:

- Company performance targets (for example, EBITDA (earnings before interest, taxes, depreciation, and amortisation) or revenue targets).
- Individual performance targets.
- A combination of both.

7. What are the tax and social security implications when any performance or time-based vesting conditions are met?

## Share Option Plan

There are generally no Singapore income tax implications on the vesting of an option.

The employee and employer need not pay CPF contributions on the vesting of an option provided that the employer does not make any cash payments to the employees when the performance or time-based vesting conditions are met.

## Exercise

8. What are the tax and social security implications of the exercise of the option?

## Share Option Plan

**Income tax.** Gains from a share option plan are taxable in the year when the employee exercises the share option. However, if there is a selling restriction in place, the gains are taxable in the year when the selling restriction is lifted.

The taxable gain is the market price of the shares on the date of exercise or the date the selling restriction is lifted, minus the exercise price. If the open market price of the shares is not readily available, the net asset value of the shares can be used instead.

The employee must pay any income tax on the gains from a share option plan. An employee's total income, including any gains from share option plans, is subject to income tax at the following rates:

- Singapore tax residents: at a progressive rate of up to 24% with effect from year of assessment 2024.
- Non-Singapore tax residents: at 15% or at the progressive tax rates for residents, whichever is higher.

**Deferred tax payment.** Under the Qualified Employee Equity-Based Remuneration (QEEBR) Scheme, employees can defer paying tax on share option gains for up to five years, with interest. A share option plan qualifies under this scheme if it meets the following vesting period requirements:

- If the exercise price is equal to or above the market price at the time of grant, the employee cannot exercise the share option within one year from the grant of the option.
- If the exercise price is less than the market price at the time of grant, the employee cannot exercise the share option within two years after grant.

The QEEBR Scheme generally applies if all the following conditions are met:

- The employee is employed in Singapore at the time of grant.
- The company for which the employee was working at the time of grant (or an associated company) granted the share option.
- The employer is not liable for the tax on any gains from the share options.

**CPF contributions.** CPF contributions are not payable on the exercise of share options provided that the options are not cash-settled. If a participant elects to receive cash instead of shares on the exercise of the options, both employer and employee must pay CPF contributions in respect of the cash amount received (see [Question 5](#)).

## Sale

9. What are the tax and social security implications when shares acquired on exercise of the option are sold?

### Share Option Plan

There is no capital gains tax in Singapore. A sale of shares by an individual is generally considered capital in nature and not subject to Singapore income tax. A sale of shares acquired on exercise of an option is also not subject to Singapore income tax.

If employees are selling shares held in their own names, CPF contributions are not payable on sale proceeds.

### Share Purchase Plans

10. What types of share purchase plan are operated in your jurisdiction?

Generally, all Singapore companies can offer share purchase plans. Companies can offer opportunities to employees to purchase shares in the employer company (or the parent company of the employer company). Share purchase plans are typically offered to a select group of senior employees.

Share purchase plans are not as commonly offered in Singapore as share option plans and share award plans. It is not common for SGX Listcos to adopt share purchase plans and SGX Listcos tend to offer share award plans or share option plans, rather than share purchase plans.

There are no tax qualified programmes that result in favourable tax treatment for the employee under a share purchase plan.

### Purchase

11. What rules apply to share purchase plans?

### Share Purchase Plan



**Discretionary/all-employee.** Companies can grant share purchase opportunities on a discretionary basis. There is no requirement to grant share purchase opportunities to all employees on similar terms. Typically, share purchase plans are offered to a select group of senior employees who are offered the opportunity on similar terms.

**Non-employee participation.** There are no restrictions on non-employee participation for private companies and public unlisted companies. These companies can grant shares to non-employees such as non-executive directors, consultants, and prospective employees. A company that extends a share purchase plan to non-employees must also be aware of further securities law and financial assistance considerations (see [Question 4](#)).

**Maximum value of shares.** There are no limits on the maximum number of shares that a private company or and public unlisted company can award under share purchase plans. However, if the company in which the participants will purchase shares is a Singapore company, the company must obtain shareholders' approval before the issuance of shares.

**Payment for shares and price.** Participants typically pay a price for the shares under share purchase plans, which may be at nominal value below the prevailing market price of the shares. Some companies may also make a loan to participants to fund the participants' purchase of shares under the share purchase plan.

12. What are the tax and social security implications of the acquisition or purchase of shares?

## Share Purchase Plan

**Income tax.** If there are no selling restrictions, gains are taxable in the year the shares are granted under a share purchase plan. If there is a selling restriction on the shares, the gains are taxable instead in the year when the selling restriction is lifted.

The taxable gains are the share's market price on the date of grant or on the date the selling restriction ends, minus the price paid for the shares. If the market price of the shares is not readily available, the net asset value of the shares can be used instead.

See [Question 8](#) for the applicable income tax rates.

**Deferred tax payment.** The QEEBR Scheme also applies to qualified share purchase plans on the same terms as for share option plans (see [Question 8](#)).

A share purchase plan qualifies for QEEBR if it meets the following holding period requirements:

- If the price paid by the employee is greater than or equal to the share's market price at the time of grant, the employee must not sell the shares for half a year after grant.
- If the employee does not pay for the shares or the price is less than the share's market price at the time of grant, the employee must not sell the shares for one year after the grant.

**CPF contributions.** The employee and employer need not pay CPF contributions on the acquisition or purchase, provided that the employer does not make any cash payments to the employee in relation to the share purchase plan.

## Vesting

13. Can the company offer the shares subject to performance or time-based vesting conditions?

## Share Purchase Plan

Companies can subject the shares issued to participants under share purchase plans to time-based or performance-based conditions. However, this is not common as it makes the administration of the plan more complicated, as the issued shares have to be repurchased if the vesting conditions are not met.

A company can attach any conditions it considers appropriate to achieve the purposes of the plan.

14. What are the tax and social security implications when any performance or time-based vesting conditions are met?

## Share Purchase Plan

Gains from share purchases are taxable in the year in which the shares vest. If there is a selling restriction, the gains are taxable in the year when the selling restriction is lifted. The taxable gains are the market price of the shares on the date of vesting or the date the selling restriction is lifted, minus the price paid for the shares.

CPF contributions are not payable if no cash payments are made to the employee on vesting.

There are no tax-qualified programmes that result in favourable tax treatment for the employee under a share purchase plan.

## Sale

15. What are the tax and social security implications when the shares are sold?

## Share Purchase Plan

Gains from the subsequent sale of shares acquired under a share purchase plan are generally not subject to Singapore income tax (see [Question 9](#)).

There is no capital gains tax in Singapore.

CPF contributions are not payable on the sale of shares acquired under a share purchase plan if employees are selling shares held in their own names.

## Share Award Plans

16. What types of share award plans are operated in your jurisdiction?

Under share award plans, companies grant fully paid-up shares either outright or subject to time-based or performance-based conditions. These plans give participants the right to receive fully paid-up shares, their equivalent value in cash, or a combination of both. Participants typically do not pay the company for the shares.

Share award plans are a common form of incentive arrangement for Singapore companies.

SGX Listcos must comply with the Listing Manual when implementing share award plans. These rules include:

- Obtaining shareholders' approval before the implementation of the plan.
- Limits on the shares available under the plan.
- Limits on participants.
- Limits on the number of participants in certain classes.
- Limits on the maximum entitlement each class can receive.

There are no tax-qualified programmes that result in favourable tax treatment for the employee under a share award plan.

## Grant

17. What rules apply to the initial grant of share awards?

## Share Award Plan

**Discretionary/all-employee.** Companies can grant share awards on a discretionary basis. There is no requirement to grant share awards to all employees on similar terms. Typically, the rules of the plan provide that the committee administering the plan has discretion to select participants and specify the conditions of the grant in accordance with the terms of the plan or the letter of grant given to participants at the time of grant.

**Non-employee participation.** SGX Listcos can only offer share award plans to directors and employees of the company and its subsidiaries, except that:

- Directors and employees of an associated company can participate in the plan if the SGX Listco has control over the associated company.
- Directors and employees of the SGX Listco's parent company and its subsidiaries who have contributed to the success and development of the SGX Listco can participate in the plan.

An SGX Listco must obtain independent shareholders' approval in separate resolutions for each grantee in the following circumstances:

- Participation in a share award plan by controlling shareholders or their associates.
- Awards to a director or an employee of the SGX Listco's parent company or its subsidiaries which would increase the grantee's holding to 5% or more of the total number of awards available to participants of that kind.

There are no restrictions on non-employee participation for private companies and public unlisted companies. These companies can grant shares to non-employees such as non-executive directors, consultants, and prospective employees.

A company that extends a share award plan to non-employees must also be aware of further securities law and financial assistance considerations (see [Question 4](#)).

**Maximum value of shares.** For SGX Listcos, the same limits apply to share awards as share options (see [Question 4](#)).

For private companies and public unlisted companies, there are no limits on the maximum number of shares that a company can award under share award plans. However, if the company in which the participants will purchase shares is a Singapore company, the company must obtain shareholders' approval before the issuance of shares.

**Payment for shares and price.** Companies typically issue share awards free of charge to participants.

18. What are the tax and social security implications of the grant of shares?

## Share Award Pan

**Income tax.** If there are no selling restrictions, gains are taxable in the year the shares are granted under a share award plan. If there is a selling restriction on the shares, the gains are taxable instead in the year when the selling restriction is lifted.

On the basis that the share awards are issued free of charge to participants, the taxable gains are the share's market price on the date of grant or on the date the selling restriction ends. If the market price of the shares is not readily available, the net asset value of the shares can be used instead.

See [Question 8](#) for the applicable income tax rates.

**Deferred tax payment.** The QEEBR Scheme also applies to qualified share award plans on the same terms as for share option plans (see [Question 8](#)).

Since the employee does not pay for the shares, a share award plan qualifies for QEEBR if the employee does not sell the shares for one year after the grant.

**CPF contributions.** The employee and employer need not pay CPF contributions on the acquisition or purchase, provided that the employer does not make any cash payments to the employee on the award of shares.

## Vesting

19. Can the company grant the share awards subject to performance or time-based vesting conditions?

## Share Award Plan

It is common for the rules of the plan to provide that the committee implementing the plan has discretion to award shares subject to time-based or performance-based vesting conditions. Typically, the vesting conditions, vesting date, and vesting schedule are determined either:

- In the terms of the plan.
- By the committee implementing the plan and notified to participants on the grant of the awards.

A company can attach any conditions it considers appropriate to achieve the purposes of the plan.

20. What are the tax and social security implications when any performance or time-based vesting conditions are met?

## Share Award Plan

Gains from share awards are taxable in the year in which the shares vest. If there is a selling restriction, the gains are taxable in the year when the selling restriction is lifted. On the basis that the share awards are issued free of charge to participants, the taxable gains are the market price of the shares on the date of vesting or the date the selling restriction is lifted.

CPF contributions are not payable if no cash payments are made to the employee on vesting.

There are no tax-qualified programmes that result in favourable tax treatment for the employee under a share award plan.

## Sale

21. What are the tax and social security implications when the shares are sold?

## Share Award Plan

Gains from the subsequent sale of shares acquired under a share award plan are generally not subject to Singapore income tax (see [Question 9](#)).

There is no capital gains tax in Singapore.

CPF contributions are not payable on the sale of shares acquired under a share award plan if employees are selling shares held in their own names.

## Phantom or Cash-Settled Share Plans

22. What types of phantom or cash-settled share plan are operated in your jurisdiction?

Singapore law permits phantom share plans, although these are not as common as share option and share award plans. Companies can also offer share options or share awards that are wholly or partly in the form of cash rather than shares under share option and share award plans.

One advantage of phantom share plans and share plans settled purely in cash is that companies do not need to obtain shareholders' approval because no shares will be issued under the plan.

There are no tax-qualified programmes that result in favourable tax treatment for the employee.

## Grant

23. What rules apply to the grant of phantom or cash-settled awards?

### Phantom and Cash-Settled Share Plans

**Discretionary/all-employee.** A company can grant phantom shares or cash-settled awards on a discretionary basis. Companies do not need to offer these plans to all employees on the exact same terms.

**Maximum value of awards.** There is no maximum value of awards that can be granted either on a per-company or per-employee basis.

24. What are the tax and social security implications when the award is made?

### Phantom and Cash-Settled Share Plans

There is no specific Singapore income tax applicable to phantom shares or cash-settled awards. Employees are not subject to income tax on the grant of phantom shares or cash-settled awards.

Employer and employee CPF contributions are payable when the award entails a payment of cash to the employee.

## Vesting

25. Can phantom or cash-settled awards be subject to performance or time-based vesting conditions?

### Phantom and Cash-Settled Share Plans

Phantom shares or cash-settled awards can be subject to performance or time-based vesting conditions in the same way as share awards or share options.

26. What are the tax and social security implications when any performance or time-based vesting conditions are met?

### **Phantom and Cash-Settled Share Plans**

Income tax liability arises if the vesting of phantom shares or cash-settled awards entitles the employee to payments under the plan. The taxable amount is the value of the payments under the phantom shares or cash-settled awards.

The employee must pay the income tax. See [Question 8](#) for the applicable income tax rates.

Employer and employee CPF contributions are payable if the employee receives cash payments when performance or time-based vesting conditions are met.

### **Payment**

27. What are the tax and social security implications when the phantom or cash-settled award is paid out?

### **Phantom and Cash-Settled Share Plans**

Income tax liability arises when the phantom or cash-settled awards are paid out.

The employee pays income tax. See [Question 8](#) for the applicable income tax rates.

Employer and employee CPF contributions are payable when cash payments are made to an employee in respect of phantom shares or cash-settled awards.

### **Corporate Governance Guidelines, Market Rules, or Other Guidelines**



28. Are there any corporate governance guidelines, market rules or regulations, approval or disclosure requirements, or other guidelines that apply to all or certain employee share plans?

For SGX Listcos, the *Code of Corporate Governance 2018 (CG Code)* sets out the following mandatory principles in relation to remuneration:

- The board must have a formal and transparent procedure for:
  - developing policies on director and executive remuneration; and
  - fixing the remuneration packages for individual directors and key management personnel.

No director can be involved in deciding their own remuneration.

- The level and structure of remuneration of the board and key management personnel must be appropriate and proportionate to the sustained performance and value creation of the company, taking into account its strategic objectives.
- The company must be transparent on its remuneration policies, level and mix of remuneration, the procedure for setting remuneration, and the relationships between remuneration, performance, and value creation.

In particular, the CG Code provides that companies should ensure that:

- A significant, appropriate proportion of executive directors' and key management personnel's remuneration is structured to link rewards to corporate and individual performance.
- Performance-related remuneration aligns with the interests of shareholders, stakeholders, and the company's long-term success.
- The remuneration of non-executive directors is appropriate to their contributions, such as effort, time, and responsibilities.
- Remuneration is appropriate to:
  - attract, retain, and motivate the directors in their role; and
  - encourage key management personnel to manage the company for long-term success.

If an SGX Listco's practices vary from provisions of the CG Code, it must explicitly state in its annual report the provision from which it has varied and the reason for the variation. The company must also explain how its own practices are consistent with the objectives of the relevant underlying principle.

## Employment Law

29. Is consultation or agreement with, or notification to, employee representative bodies required before an employee share plan can be launched?

There is no general requirement to inform or consult employee representatives such as trade unions before implementing employee share plans. However, an employer may be obliged to do so under a collective bargaining agreement.

30. Do participants in employee share plans have rights to compensation for loss of options or awards on termination of employment or other situations that may cause loss?

A participant's entitlement to compensation for loss of options or awards is determined in accordance with the terms of the employee share plan or in their contract of employment or service.

## Exchange Control

31. Do exchange control regulations affect employees sending money from your jurisdiction to another to purchase shares under an employee share plan?

There are no foreign exchange control requirements in Singapore. Therefore, no prior approval is required on payment, remittance, and capital transfers in any currency to any country.

However, a person transferring over SGD20,000 of any physical currency or bearer negotiable instruments in and out of Singapore must submit a NP727 form to the Immigration Counter on arrival or on departure from Singapore.

32. Do exchange control regulations permit or require employees to repatriate proceeds derived from selling shares in another jurisdiction?

There are no foreign exchange control requirements in Singapore (see [Question 31](#)).

## Securities Laws

33. What are the requirements under securities laws or regulations for the offer of shares, securities, or other rights under, and participation in, an employee share plan?

Under the SFA, an offer of securities or securities-based derivatives contracts to persons in Singapore must be accompanied by a prospectus lodged and registered with the Monetary Authority of Singapore, unless an exemption applies (see [Question 34](#)).

The definition of "securities" under the SFA is very wide and includes:

- Shares.
- Units in a business trust.
- Any instrument conferring or representing a legal or beneficial ownership interest in a corporation, partnership, or limited liability partnership.
- Debentures.

"Securities-based derivatives contracts" is defined as any derivatives contract of which the underlying thing or any of the underlying things is a security or a securities index, but does not include any derivatives contract that is, or that belongs to a class of derivatives contracts that is, prescribed by regulations made under the SFA.

An offer of shares under a share option, share purchase, or share award plan may constitute an offer of securities under the SFA, while an offer of incentives or awards under a phantom or cash-settled share plan may constitute an offer of securities-based derivatives contracts under the SFA, which must be accompanied by a prospectus unless exempted. A company making an offer in reliance of an exemption does not need to make any filings.

34. Are there any exemptions from securities laws or regulations for employee share plans? If so, what are the conditions for the exemption(s) to apply?

The SFA sets out exemptions to the prospectus requirement (see [Question 33](#)). Below are the key features of the exemptions that companies most often rely on when offering employee share plans. The exemptions may be subject to other conditions and restrictions under the SFA which are not specified in detail below, including restrictions on advertisements and selling or promotional expenses (see Subdivision (4), Division 1, Part 13, SFA).

These exemptions do not apply if both:

- The company makes the offer on the basis that the person will sell the securities or securities-based derivatives contracts to another person.
- The subsequent offer does not qualify for an exemption.

In these cases, the company will be deemed to be making an offer to the final offeree and therefore subject to the prospectus requirements. Any document used to make the subsequent offer will be deemed to be a prospectus issued by the company.

### **Qualifying Persons Exemption**

A company may not need to produce a prospectus if both:

- A qualifying person will hold the securities or securities-based derivatives contracts, or these will be held for the benefit of a qualifying person.
- The securities or securities-based derivatives contracts are those of the company or its related corporations.

A qualifying person includes:

- A bona fide director or equivalent person.
- A former director or equivalent person.
- A consultant or adviser.
- An employee or former employee of the entity or of a related corporation.
- The spouse, widow or widower, child, adopted child, or step-child below the age of 18 of any of the above.

A related corporation includes a holding company, a subsidiary, or a fellow subsidiary of the entity.

### **Small Offers Exemption**

A person offering securities or securities-based derivatives contracts to another person may not need to prepare a prospectus if both:

- The total amount raised by the offeree within any 12-month period does not exceed SGD5 million or its equivalent in a foreign currency.
- For each offer, the offeror gives the offeree:
  - a prescribed written statement that the offer is made reliant on an exemption under the SFA without a prospectus registered with the Monetary Authority of Singapore; and
  - a notification in writing that the securities or securities-based derivatives contracts to which the offer relates must not be subsequently sold to any person unless certain specified requirements under the SFA are met.

## Private Placement Exemption

A person making offers of securities or securities-based derivatives contracts to no more than 50 persons within a 12-month period may not need to prepare a prospectus. The limit is on the number of offerees rather than the number of people accepting the offer.

## Other Regulatory Consents or Filings

35. Are there any data protection requirements or obligations for an offer of shares, securities, or other rights under, and participation in, an employee share plan?

The *Personal Data Protection Act 2012* (PDPA) sets out the regulatory framework for the protection of personal data, alongside other data protection statutes, common law, and sector-specific legislation and regulations. Any company that collects, uses, or discloses personal data to offer an employee share plan must comply with the PDPA and other relevant legislation.

Under the PDPA, personal data is data, true or not, about an individual who can be identified either:

- From that data.
- From that data combined with other information to which the organisation has access or is likely to have access.

Under the PDPA, a company must obtain the consent of the individual to collect, use, or disclose personal data, unless a statutory exception applies under the First or Second Schedule to the PDPA.

A common statutory exemption that extends to employee share plans is that companies can collect, use, and disclose employees' personal data without consent to manage or terminate employment relationships, as long as this use is reasonable and notified to employees beforehand. To rely on this statutory exemption, organisations must:

- Notify the employee of the purposes for which the employer is collecting, using, and disclosing personal data.
- On request by the employee, provide the business contact information of a person who can answer questions on behalf of the organisation about the collection, use, or disclosure of the personal data.

Further, organisations must not transfer any personal data outside Singapore except in accordance with the requirements of the PDPA, to ensure that organisations provide a standard of protection that is comparable to the protection under the PDPA. In practice, the most common way to comply with this requirement is to enter into a data transfer agreement with the overseas recipient that both:

- Requires the recipient to provide to the transferred personal data a standard of protection that is at least comparable to the protection under the PDPA.

- Specifies the countries and territories to which the personal data can be transferred under the contract.

36. Are there any other regulatory consents and filing requirements or other administrative obligations for an offer of shares, securities, or other rights under, and participation in, an employee share plan?

## Income Tax

Unless an employee has received a notification from the Inland Revenue Authority of Singapore (IRAS) informing the employee that the employee has been selected for the No-Filing Service, an employee is generally required to file their individual income tax returns each year, by 15 April for a paper filing or 18 April for an e-filing. If the employee needs to paper file their income tax returns, the IRAS generally sends this employee the relevant paper tax return between February and March each year. For more information on e-filing, see *IRAS: e-Filing your Income Tax Return*.

An employer participating in the *Auto-Inclusion Scheme* (AIS) must report the employee's employment income to the Singapore tax authorities, including any taxable benefits from employee share plans. In this case, the employee does not need to include details of share plan benefits in their individual tax return.

If the employer is not participating in the AIS, it must provide employees with details of their employment income, including any taxable benefits from share plans, in time for the employee to file and declare their return by 15 April for a paper filing or 18 April for an e-filing.

## Regulated Entities

Companies that are regulated (by industry, sector, or due to the activities that they undertake) may be subject to approval and notification requirements for shareholders holding above certain shareholding thresholds. Employee shareholders of regulated entities should be mindful of approval and notification requirements if they hold above the relevant shareholding thresholds.

## Formalities

37. What are the applicable legal formalities for employee share plans in your jurisdiction?

## Translation Requirements

Although there is no statutory requirement for companies to present employee share plans in any particular language, it is customary for companies to present share plans in English.

## Email or Online Agreements

Companies and employees can enter into contracts relating to employee share plans electronically, through online forms or by email.

## Witnesses/Notarisation Requirements

There is no requirement to witness or notarise contracts under employee share plans for them to be binding.

## Employee Consent

It is generally recommended that participating employees sign a formal acceptance form or letter to acknowledge and accept the conditions of the share plan.

If the *Employment Act 1968* (Employment Act) applies to the employee, an employer can make deductions from the employee's salary with the written consent of the employee. The employee's consent can be withdrawn at any time. While it may be possible for deductions to be made from an employee's salary in respect of payments required from an employee under employee share plans, there is some suggestion that the regulator considers that deductions can only be used for programmes that benefit the employee, such as payment for insurance/medical benefits. The Employment Act applies generally to all employees in Singapore, except seafarers, domestic workers, and other persons specified by the Singapore Government from time to time and published in the *Government Gazette*.

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