Key legislative amendments to be effected in Phase 2

Details of selected key legislative amendments to be effect in Phase 2 in Q1 2016

Selected key legislative amendments to be effected in Phase 2 (Q1 2016)

Topic	Current Provision/Requirement	Changes and Background
No maximum age limit for directors [Repeal of section 153]	Approval from shareholders must be sought for the appointment of person who is 70 years old and above as director of a public company or subsidiary of a public company.	This requirement will be done away with. **Background** • A person's ability to act as a director of a company is not principally determined by his age. • Other factors should be taken into account. • Today, persons of or above 70 years of age can be capable of doing the job of a director, and are often re-appointed in practice.
CEO disclosures [Amendment of section 156]	Directors are required to disclose: (a) Conflict of interests in transactions (b) Shareholdings in company and related corporations	Such disclosures will be extended to CEOs of companies, given the increasingly important role that CEOs play in company decisions. This change is consistent with the approach already adopted for listed companies under the Securities and Futures Act, under which similar disclosures by both directors and CEOs are already required.
Debarment regime [New section 155B]	N.A.	A new debarment regime is introduced: (a) The Registrar is empowered to debar any director or company secretary of a company that has failed to lodge any documents at least three months after the prescribed deadlines (b) A debarred person cannot take on any new appointment as a director or company secretary. May continue with existing appointments (c) The Registrar will lift the debarment when the default has been rectified or on other prescribed grounds. **Background** • Prevent irresponsible directors and company secretaries from

		holding similar positions in other companies. • Promote greater compliance with filing requirements.
New multiple proxies regime for indirect investors and CPF members [Amendments to section 181]	Unless the articles of a company provide otherwise, a member of a company can only appoint up to 2 proxies who can only vote by poll. There is a 48-hour cut-off time before the meeting for submission of proxy form.	A new multiple-proxies regime will be introduced, which would allow specified intermediaries, such as banks and capital markets services licence holders which provide custodial services, to appoint more than two proxies. This will enable indirect investors, including CPF investors, to be appointed as proxies to participate in shareholders' meetings. Indirect investors will be given the same rights as direct investors to vote at the shareholders' meetings. **Background** • Facilitates indirect investors attending and voting at shareholders' meetings as proxies. • Enhances corporate governance and encourages more active shareholder participation. • Longer cut-off time so that companies have more lead time to process proxy submissions and handle administrative matters.
Liberalising electronic transmission of notices and documents [New section 387C]	Companies may transmit documents and notices by electronic means subject to certain conditions stated in the Act. For publication of notice or documents via a website, there is a need for: (i) the company and the member to agree in writing to such mode of transmission; (ii) agreement must be in relation to the meeting to which the notice relates or to the document being transmitted; (iii) the notice or document must be published on the website such that it is or can be made legible; (iv) the member must be notified of the publication and how notice or document may be accessed; and (v) the notice must continue to be published until the conclusion of the meeting.	The procedures for a company's use of electronic transmission have been reduced and made simpler. Companies may specify the means of electronic transmission in its constitution. A company's constitution can provide for electronic transmission to be the default mode of communication with members. Safeguards will be provided in regulations, e.g.: (a) Where member has an option to ask for physical copies, he must be notified of the option. (b) If documents are published on a website, the company must notify members by such means specified in the company's constitution. (c) Important documents such as those relating to takeovers and rights issues must still be sent to members in physical copy instead of electronically. **Background** • Increases efficiency and speed in communications for companies. • Reduce cost for companies in sending out documents and notices to their members.
Remove one-share-one-vote restriction for public companies [New sections 64 and 64A]	Each equity share issued by a public company confers the right at a poll to one vote, and to one vote only. There is no such restriction for private companies.	The amendment will allow public companies to issue shares with different voting rights and give public companies greater flexibility in capital management. It also gives investors a wider range of investment opportunities. The United States, United Kingdom and Australia already allow companies to issue classes of shares with different voting rights, subject to companies' articles, although Australia restricts listed companies from doing so through its listing rules. Safeguards will be introduced to protect the rights of existing

		shareholders and ensure that investors are well informed. (see below). *Note: SGX and MAS are reviewing whether dual-class share structures should be permitted for listed companies. SGX's existing policy of not listing issuers with dual-class share structures will continue to apply pending the conclusion of the review.* **Safeguards:** (a) Shareholders' approval for issuance of shares (special resolution). (b) Information on voting rights for each class of shares must accompany the notice of meeting & proposed resolution. (c) The rights of shares must be specified in the companies' constitutions and must be clearly demarcated so that shareholders know the rights attached. (d) Holders of non-voting shares must have equal voting rights for resolutions on (i) winding up and (ii) varying of the rights of non-voting shares.
Exemption from preparation of financial statements for dormant unlisted companies [New section 201A]	A dormant company is exempted from the statutory audit requirements but is still required to prepare financial statements.	A dormant non-listed company (other than a subsidiary of a listed company) is exempt from requirement to prepare financial statements, if: (a) the company fulfils the substantial assets test; and (b) the company has been dormant from the time of formation or since the end of the previous financial year. The substantial assets test is that the total assets of the company at any time within the financial year must not exceed $500,000. For a parent company, the consolidated total assets of group at any time within the financial year must not exceed $500,000. Dormant listed companies and their subsidiaries, and dormant unlisted companies which do not fulfil the substantial asset test must prepare financial statements but are exempt from audit. This remains unchanged from the current position. **Background** The new exemption from preparation reduces regulatory costs for dormant companies which have lower public impact.
ACRA will maintain the electronic register of members for private companies [New section 189A, amended sections 190 to 196, new sections 190A to D, and amended section 12]	All companies are required to maintain and update physical registers of members.	The amendment will see ACRA maintaining the registers of members of private companies in electronic form. Private companies will be required to file information concerning share ownership and changes in share ownership for registration with ACRA, for example, returns of allotment of shares and share transfers. The date of filing of that information will be taken as the effective date of entry of a person into the register as a member or the date of cessation of a person as a member. **Background** This will improve public accessibility to the register of members and removes the administrative need for private companies to maintain physical registers.
Directors, chief executive officers and	These individuals must report their residential addresses and changes to	The amendment will allow an individual to reflect an alternate address at which he can be located, instead of his residential

secretaries will be allowed to report alternate address in place of their residential address [New section 173 and sections 173A to I, new section 36, new sections 368A and B, new section 370A, amended section 372 and amended section 12]	these with ACRA. Information on residential addresses is publicly available. Note that "manager" is the term for a "chief executive officer" in the current Companies Act.	address, in ACRA's public records. Safeguards will be in place to minimise fraudulent reporting and filing of invalid addresses. An address must satisfy certain legal conditions in order to be an alternate address. For example, it must be an address where the individual can be located and must be in the same jurisdiction as his residential address. It also cannot be a post office address or the same as his residential address. If the individual cannot be located at his alternate address reported, ACRA will be empowered to investigate and after going through due process, replace his alternate address with his residential address. Such an individual may be subject to criminal sanctions for not being locatable at his alternate address. He will also not be allowed to report another alternate address for three years. For persons who have opted to report alternate addresses to replace their residential addresses reported before this new policy was introduced, the residential address would still be available in the extracts of the old records filed as these are historical records and it would not be cost effective to block them. **Background** Allowing the reporting of an alternate address, subject to necessary safeguards for cases where an individual cannot be located at the address, will protect the privacy of individuals.
Merging of memorandum and articles into a single document called the constitution [New section 4(12), amended section 22, and new sections 35 to 37 and 39]	A person incorporating a company must submit the memorandum and articles of the company to ACRA. The articles may adopt all or any of the regulations contained in Table A of the Fourth Schedule.	The memorandum and articles will be merged into a single document called the constitution and a person desiring to incorporate a company must submit the constitution of the company to ACRA. Companies do not need to take any steps or incur any costs to merge their current memorandum and articles. The law will deem these to be merged to form the constitution of the company. ACRA will provide model constitutions for private companies and others (if applicable) in the secondary legislation and publish this publicly in due course. A company may choose to adopt a model constitution or draft its own. If it adopts a model constitution without amendments, it does not need to file the said document but can refer to the title chosen during registration. In addition, the model constitution adopted can be either the constitution as at the point of registration or whatever version of the constitution that is in force from time to time. Where the latter is chosen, there is no need for companies to amend its constitution whenever changes are made to the model constitution. **Background** These changes streamline the administrative process for companies and reduces their set-up cost if they choose to adopt the models constitutions.

Selected key legislative amendments to be effected in Phase 1

Frequently Asked Questions on the phased implementation of the Companies (Amendment) Act 2014