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## No fishing expeditions in 'white' tax waters here

*Market watchers welcome safeguards and say move will help industry grow*

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(SINGAPORE) With Singapore poised to graduate to the 'white list' of the Organisation for Economic Cooperation and Development (OECD), trust and estate practitioners are confident that there are sufficient safeguards in place to prevent indiscriminate prying into taxpayers' accounts.

Industry players welcome the progress. '(This) allows Singapore to maintain its standing as a respected and responsible member of the international community. It also places Singapore on equal footing with other trust jurisdictions around the world,' said Raymond Chee, head of OCBC Trustee.

Ban Su-Mei, partner at KhattarWong's tax and trust department, noted that from a reputational point of view, it is important that Singapore moves off the 'grey list'.

'When choosing a jurisdiction, clients look at various factors - an important one being the reputational risk of that jurisdiction and how that jurisdiction would fare under scrutiny of their domestic revenue authority,' she said.

'With Singapore moving to the 'white list', clients also need to be assured that banking secrecy and trust confidentiality still exists.'

This balancing act is apparently something Singapore is trying to achieve. It will soon exit from the OECD 'grey list' once it signs the 12th DTA (avoidance of double taxation agreement), Finance Minister Tharman Shanmugaratnam told Parliament on Monday.

The OECD has placed countries on its 'grey list' for not substantially implementing its standard on information sharing on tax matters. Countries on the 'white list' have largely implemented the standards and have formal agreements with at least 12 other jurisdictions.

Singapore has reached an agreement with 20 jurisdictions and signed 11. Meanwhile, Hong Kong, which is also on the OECD 'grey list', is scrambling to amend its legislation and plans to turn 'white' too.

While proposing amendments to the Income Tax Act to allow Singapore to adopt the standard, Mr Tharman also stressed there are safeguards in the Bill to protect taxpayers against 'fishing expeditions'.

Spurious or frivolous requests for information will not be entertained. Requests have to be specific, detailed and relevant, and jurisdictions must show that they have already pursued all domestic means to access the requested information.

For information protected by the Banking Act and the Trust Companies Act, there is a judicial process to follow. The Inland Revenue Authority of Singapore (IRAS) will have to apply to the High Court to access the requested information. The affected taxpayer and bank or trust company can also appeal against the court order.

'Just because Singapore has adopted the new standard on Exchange of Information, it does not mean that banking secrecy and trust confidentiality are now eroded,' Khattar- Wong's Ms Ban said. 'The safeguards are sufficiently robust and will give comfort to taxpayers and clients who do not have any tax skeletons in their closet.'

Other delegates at the 3rd Asia Conference of the Society of Trust and Estate Practitioners (STEP) yesterday also gave the Bill a thumbs-up.

Richard Hay, head of the private capital group of the London office of Stikeman Elliott, noted that the judicial process required to elicit information covered by bank or trust confidentiality is 'a tremendous protection'.

'(Singapore) has high standards of global regulation, and it leaves no doubt of its commitment to deal with money laundering and terrorism issues,' he said.

Nick Jacob, deputy chairman of STEP Worldwide, said: 'The court here will not allow a 'fishing expedition' by a foreign government. The beauty of the Singapore system is they will push it through very quickly, whereas with another jurisdiction, the process gets bogged down.'

But the devil is in the details and some practitioners perceive some practical challenges. 'It remains a big question mark how the provisions will be construed and applied,' said Seah Ching Ling, associate director at Drew & Napier's tax and private client services group.

KhattarWong's Ms Ban felt that one issue would be how much specifics the requesting authority needs to produce before the request is granted.

Speaking at the two-day conference yesterday, Minister for Law and Second Minister for Home Affairs K Shanmugam reiterated that Singapore is not a haven for laundered money and that it has a strong legal framework to fight against money laundering and terrorism financing.

Prospects for Singapore's trust industry remain positive despite the recent financial crisis, he added, thanks to Asia's economic fundamentals, rising wealth and greater asset protection and structured wealth transfer. To date, Singapore has licensed close to 40 trust companies.

'Singapore will continue to grow as a trust jurisdiction,' Mr Shanmugam said.

'The rise in trust activity here will mean that we will also have to ensure disputes can be dealt with properly.'

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