Regulation of the Practice of Law by Foreign Lawyers: Singapore

Submitted by: Singapore
REGULATION OF THE PRACTICE OF LAW BY FOREIGN LAWYERS: SINGAPORE

Jeffrey Chan Wah Teck, S.C.
Deputy Solicitor-General
SINGAPORE

SINGAPORE

• Former British colony
• Legal System introduced by British
• Common Law country
  – Legal System based on English Legal System
  – Follows traditions of English Legal Profession.
SINGAPORE LEGAL PROFESSION

• “Fused profession”
  – No distinction between barristers and solicitors
  – All are “Advocates & Solicitors”
• All Advocates & Solicitors are “Officers of the Court”
  – Admitted to practice by the Supreme Court
  – Primary duty to assist and defend the Court
• Regulated under Legal Profession Act.

REGULATION OF THE LEGAL PROFESSION

• Legal practice sole preserve of A & S
• Illegal for non-A & S to undertake work reserved for A & S
  – Pleading in courts
  – Acting in property transactions
  – But many exceptions permitted
• A & S traditionally practice as sole proprietors and partnerships.
Foreign Lawyers / Foreign law firms

- No statutory regime until 2000
- Law firms allowed to practice “offshore”
  - Home country law
  - International law
- Practice of Singapore law prohibited
- Conditions imposed by Attorney-General
- Breach can result in cancellation of employment passes of lawyers.

Growth of Singapore Legal Sector

- 1990-1997 Rapid economic growth
- 1997: ASIAN Financial Crisis
  - Reviews undertaken of bases of Singapore’s economy
  - Legal Services identified as growth opportunity
  - Need to attract top international law practices
    - Especially important for financial services sector
- Proposals to allow foreign law firm to practice Singapore law as an incentive.
NEW REGULATORY ENVIRONMENT

• Legal Profession Act amended in 2000
• New vehicles introduced:
  – Joint Law Ventures
  – Formal Law Alliances
• All foreign lawyers required to be registered
• Attorney-General established as regulatory authority for all Foreign Lawyers and Foreign Law Firms
• Legal Profession (International Services) Secretariat established.

JOINT LAW VENTURES

• Separate entity comprising constituent FLP and Singapore Law Practice (“SLP”)
  – Can be partnership or company
• Can bill as a single entity
• JLV able to undertake work that involves foreign as well as Singapore law.
FORMAL LAW ALLIANCES

• Formal collaborative arrangement between FLP and SLP
• No separate entity created
• Constituent FLP and SLP remain separate but co-operate under a statutory framework
  – SLP would undertake all Singapore law work required by the FLP’s clients.

Further developments

2005: JLVs allowed to undertake greater range of practices
  – foreign lawyers still not allowed to practice Singapore law
• Global financial environment develops
• Increasing demand for legal services
  – Growth of dispute resolution
  – Shortfall of good lawyers
  – More young lawyers working abroad
REVIEW IN 2006

• 2006: Review Committee appointed to examine enhancing Singapore legal sector
• Fundamental changes proposed
• Recommendations accepted by Government
• 2008 – Legal Profession Act amended

REFORMS IN 2008

• Qualifying Foreign Law Practices established:
  – Allowed to practice Singapore law through Singapore lawyers
  – Certain limited areas excluded
• JLVs enhanced
  – FLPs can share profits of SLPs
    • But cannot take management control
  – Singapore lawyers in JLVs can practice Singapore law in same areas as those in QFLPs
• Singapore lawyers in FLPs can practice Singapore law on matters that contemplate dispute resolution in Singapore.
REGULATORY AUTHORITY

- Attorney-General is approval and registering authority
  - Thus also has power to discipline
- Joint authority with Law Society over Singapore lawyers in Foreign Law Practices
- Ethical rules of Singapore Legal Profession applies to all foreign lawyers in modified form
- AG assisted by new “Legal Profession Secretariat”
  - Undertakes role of AG for both domestic and foreign lawyers and law firms
  - Expanded role as compared to previous LPIS.

“MEASURED” LIBERALISATION

- Singapore unique in allowing foreign law firms to practice local law
- Restrictions on foreign lawyers practicing local law still remains
- Balance struck between expected economic benefits and fundamental principles of legal profession
- Future developments expected
CONCLUSION

Jeffrey Chan Wah Teck, S.C.
Deputy Solicitor-General