

**LEGAL PROFESSION (AMENDMENT) ACT 2012
LEGAL PROFESSION (INTERNATIONAL SERVICES) (AMENDMENT) RULES 2012
LEGAL PROFESSION (PROFESSIONAL CONDUCT) (AMENDMENT) RULES 2012
LEGAL PROFESSION (LAW CORPORATION) (AMENDMENT) RULES 2012
LEGAL PROFESSION (LIMITED LIABILITY LAW PARTNERSHIP) (AMENDMENT)
RULES 2012**

This brief outlines the key legislative provisions which will apply to collaborations between Singapore Law Practices and Foreign Law Practices; and Singapore Law Practices which wish to employ corporate structures; with effect from 1 June 2012.

INTRODUCTION

1. The legal services market today is a globalised one and increasingly competitive. To provide Singapore Law Practices (SLPs) with greater flexibility in their business strategies and to collaborate with Foreign Law Practices (FLPs) to enhance their international competitiveness, sections 10, 11, 12 and 14 of the Legal Profession (Amendment) Act 2012 and its subsidiary legislation, the Legal Profession (International Services) (Amendment) Rules 2012 (LPIS Rules), will implement various changes¹ to provide the legislative framework for SLPs to do so.
2. SLPs will also be accorded greater flexibility to expand their practices and will be able to employ a corporate structure to enjoy various incentives available only to companies. The main provisions giving effect to these measures are found in the Legal Profession (Professional Conduct) (Amendment) Rules 2012 (PC Rules), the Legal Profession (Law Corporation) (Amendment) Rules 2012 (LC Rules) and the Legal Profession (Limited Liability Law Partnership) (Amendment) Rules 2012 (LLLP Rules).

COLLABORATIONS BETWEEN SLPS AND FLS/FLPS

(A) “Foreign Collaboration Requirements” to apply to SLP-FLP collaborations

3. SLPs which wish to collaborate with foreign lawyers (FLs) or FLPs in the ways described in paragraph 4 will need to comply with specific minimum criteria which are referred to as “foreign collaboration requirements”² in rule 3A of the LPIS Rules, and summarised as follows: -

¹ The sum effect of these changes is that SLPs will be able to share up to one-third (33 per cent) of its profits and equity with FLs and/or FLPs.

² Equivalent criteria will apply to law firms incorporated as companies rather than partnerships. References to ‘partner’ refer to ‘director’ in the context of a law corporation.

- a. Singapore Lawyer (SL)³ : FL⁴ ratio of at least 2:1.
- b. SL partner⁵: FL partner ratio of at least 2:1.⁶
- c. The Managing Partner(s) must be an SL, and at least 2/3 of the voting rights in a management/executive committee or equivalent, if any, must be held by SLs.
- d. At least 2/3 of the equity share of the firm must be held by SLs.
- e. At least 2/3 of the voting rights in the firm must vest in SLs.
- f. The cumulative amount of payment out of profits by the SLP during any financial year of that SLP to all FLs and/or FLPs shall not exceed a third of the profits⁷ of that SLP during that financial year.

Requirements a. to e. are referred to as the “foreign collaboration (general) requirements” (Rule 3A(1) of the LPIS Rules), while requirement f. is referred to as the “foreign collaboration (profit) requirement” (Rule 3A(2) of the LPIS Rules).

4. Collaborations between SLPs and FLs/FLPs as set out below will require the Attorney-General’s approval, and are subject to the SLP complying with the above-mentioned “foreign collaboration requirements”:
 - a. SLPs which employ FLs within their local practices and the FLs share in the profits and equity of the local practice;
 - b. SLPs which tie up with FLPs based overseas through profit and equity sharing arrangements and/or concurrent partnership arrangements; and
 - c. SLPs which tie up with FLPs based in Singapore (viz Qualifying Foreign Law Practices and Licensed FLPs) through Joint Law Ventures or Formal Law Alliances under the enhanced framework which allows profit and equity sharing arrangements and/or concurrent partnership arrangements.

(B) SLPs which employ FLs within their local practices

³ ‘SLs’ here refer to advocates and solicitors holding a Singapore Practising Certificate who are not nominees for FLs or FLPs.

⁴ Foreign Practitioner Certificate holders are counted as FLs.

⁵ ‘Partner’ here refers to all partners, whether equity partners, salaried partners or other types of partner.

⁶ The total number of SLs who are partners of the SLP must be at least 2 times the total number of FLs who are partners.

⁷ The annual financial statement of the SLP will be used to determine the profit base. Thus, for example, revenue from overseas offices will be included only if it is put into the SLP accounts (instead of being utilised overseas).

5. FLs employed within an SLP will now be able to take a greater profit and equity share in the SLP of up to one-third (33 per cent) with the approval of the Attorney-General, subject to the SLP complying with “foreign collaboration requirements” (Rules 34(1), 34(1A), 35(5A) read with rule 3A of the LPIS Rules).
6. Previously, FLs were permitted to take up to 25 per cent profit and equity share in a SLP. Approvals granted on conditions imposed under the previous framework will be preserved (Rules 35(2) to 35(5) of the LPIS Rules). FLs with existing approvals to hold up to 25 per cent profit and equity in a SLP who wish to augment that share up to the new one-third cap will need to apply to the Attorney-General for approval, which will be subject to the SLP meeting the “foreign collaboration requirements”.

(C) SLPs which tie up with FLPs based overseas

(i) FLs within an overseas FLP will be able to take a greater profit and equity share in the SLP

7. FLs within an overseas FLP will be able to take a greater profit and equity share in the SLP up to the one-third cap (33 per cent), with the Attorney-General’s approval, which will be subject to the SLP complying with the “foreign collaboration requirements” (Rules 34(1), 34(1A) and 35(5A) read with rule 3A of the LPIS Rules). Such FLs will need to seek the Attorney-General’s approval under section 130L(1) of the Legal Profession Act (LPA) to hold profit and equity share in the SLP, and will be required to register as FLs under either section 130I or 130K of the LPA (Rule 34(1) of the LPIS Rules).

(ii) The overseas FLP will be able to take profit and equity share in the SLP

8. An FLP based overseas will now be able to take a profit and equity share in the SLP up to the one-third cap (33 per cent) with the Attorney-General’s approval which is subject to the SLP complying with the “foreign collaboration requirements” (Rules 35A(2) and 35A(6) read with rule 3A of the LPIS Rules). Such an FLP will need to seek the Attorney-General’s approval under section 130L(6) of the LPA to hold a profit and equity share in the SLP (Rule 35A(1) of the LPIS Rules). FLs will be able to act as a nominee of an FLP or another FL, with the Attorney-General’s approval (Rules 35(1), 35(1A)(b), 35(1B) and 35(1E) of the LPIS Rules).

(iii) Concurrent partnerships permitted in the SLP and the overseas FLP

9. Lawyers who are partners in the overseas FLP and are granted approval to take a profit and equity share in the SLP, will be able to concurrently be partners in the SLP and the overseas FLP with the Attorney-General’s approval, which will be subject to the SLP complying with the “foreign collaboration requirements” and the Attorney-General being satisfied that such an arrangement would not give rise to any actual or potential conflict of interests (Rules 35(1), 35(1A)(a), 35(1B), 35(1C) and 35(5A) read with rule 3A of the LPIS Rules).
10. SLs who are partners in the SLP are already able to concurrently be partners in the SLP and the overseas FLP.

(D) SLPs which tie up with FLPs based in Singapore

11. SLPs and FLPs based in Singapore may collaborate under a Formal Law Alliance (FLA) or a Joint Law Venture (JLV).

(i) FLA

12. The FLA enables the SLP and FLP to collaborate as two freestanding firms with the benefit of co-branding and billing, and sharing of office premises, resources and client information. The FLA framework will be enhanced to enable SLPs and FLPs which collaborate by way of an FLA, to share the profit and equity of the SLP, at both individual and entity level, of up to the one-third (33 per cent) cap with the approval of the Attorney-General; such applications will be subject to the SLP complying with “foreign collaboration requirements” (Rules 8(1)(ea), 9(4), 9(4A), 34(1A), 35(5A), 35A(2) and 35A(6) read with rule 3A of the LPIS Rules).

13. FLs who are partners and are granted approval to take a profit and equity share in the SLP, will be able to concurrently be partners in the SLP and the FLP with the Attorney-General’s approval, which will be subject to the SLP complying with the “foreign collaboration requirements” and the Attorney-General being satisfied that such an arrangement would not give rise to any actual or potential conflict of interests (Rules 35(1), 35(1A)(a), 35(1B), 35(1C) and 35(5A) read with rule 3A of the LPIS Rules). Similarly, SLs who are partners will be able to concurrently be partners in the SLP and the FLP with the Attorney-General’s approval (Rules 9(2A), 9(2B) and 9(2C) read with rule 3A of the LPIS Rules). FLs will also be able to act as a nominee of an FLP or another FL, with the Attorney-General’s approval (Rules 35(1), 35(1A)(b), 35(1B) and 35(1E) of the LPIS Rules).

14. Qualifying Foreign Law Practices (QFLPs) will now be able to enter into FLAs with SLPs (Rules 9(2) and 11(3A) of the LPIS Rules) subject to the collaborating SLP complying with the “foreign collaboration requirements” (Rules 8(1)(ea), 9(4) and 9(4A) read with rule 3A of the LPIS Rules). QFLPs that enter into FLAs will continue to enjoy their QFLP privileges and may practise Singapore law in the “permitted areas of legal practice”⁸ through SLs registered under section 130N of the LPA or a FL registered under section 130I of the LPA.

15. Existing FLAs that wish to come under the enhanced FLA framework will need to apply for the Attorney-General’s approval, which will be subject to the SLP complying with the “foreign collaboration requirements” (Rule 8(1)(ea), 9(4) and 9(4A) read with rule 3A of the LPIS Rules).

(ii) JLV

16. The framework will be enhanced to allow all lawyers (FLs and SLs) in JLVs to hold concurrent partnerships in the JLV and the constituent SLP of the JLV with the Attorney-General’s approval which is subject to the SLP meeting the “foreign

⁸ Section 130A(1) of the LPA read with rule 3 of LPIS Rules.

collaboration requirements” and the Attorney-General being satisfied that such an arrangement would not give rise to any actual or potential conflict of interests (Rules 5(9), 5(9A) and 5(9B) read with rule 3A of the LPIS Rules). Previously, only SLs of the constituent SLP were permitted to hold concurrent partnerships in the JLV and the constituent SLP (existing Rule 5(8) of the LPIS Rules).

17. Profit-sharing and holding of equity will now be allowed at both individual and entity level under the enhanced framework, of up to the one-third cap (33 per cent) with the approval of the Attorney-General; such applications will be subject to the SLP complying with “foreign collaboration requirements” (Rule 5(7A), 5(9A), 34(1A), 35(5A), 35A(2) and 35A(6) read with rule 3A of the LPIS Rules). Under the previous framework, JLVs were permitted to share up to 49 per cent of the profits in the constituent SLP, but only in the “permitted areas of legal practice”. (Under the new framework, JLVs may still, if they wish, arrange to share up to 49 per cent of the profits of the constituent SLP in the “permitted areas”, but this will be subject to the overall one-third cap.) (Rule 5(6) to 5(7A) of the LPIS Rules)
18. Existing JLVs which wish to come under the enhanced JLV framework will need to seek the Attorney-General’s approval which will be subject to the SLP complying with “foreign collaboration requirements” (Rules 4(2)(ga) and 5 read with rule 3A of the LPIS Rules).
19. A QFLP will now be able to form a JLV with an SLP and retain their QFLP licence (Rule 11(3A) of the LPIS Rules). All conditions applicable to JLVs will apply except the requirement that the FL partners or directors are not to exceed the number of SL partners or directors of the JLV; and the SL: FL ratio – the more generous SL: FL ratio in a QFLP (where a QFLP may employ up to 4 SLs for every FL employed) will apply (Rules 4(2)(f) and (g) of the LPIS Rules). The QFLP will be required to practise “permitted areas of legal practice” through the JLV (Rule 11(3B) of the LPIS Rules).

SLPS EMPLOYING CORPORATE STRUCTURES

20. SLPs whether structured as a sole-proprietorship, partnership, Limited Liability Law Partnership or Law Corporation will be able to form one related law corporation and benefit from various incentives including tax incentives which are only available to companies (Rule 5 of the PC Rules, Rules 1A, 10 to 15 of the LC Rules and Rules 1A, 10 to 13 of the LLLP Rules).
21. In this regard, two tax incentives SLPs can benefit from are: -
 - a. The “Development and Expansion Incentive” (DEI) which aims to encourage law practices to do more international legal services work from Singapore. The DEI is administered by the Economic Development Board (EDB) and is open to law practices incorporated as companies in Singapore. Law practices awarded the incentive will enjoy a 10 per cent concessionary tax rate for up to 5 years on their qualifying income derived from the provision of international legal services in Singapore (refer to **Annex A** for details); and

- b. The Tax Incentive for International Arbitration with Hearings in Singapore (“IArb incentive”), which seeks to encourage law practices to increase the provision of legal services rendered for international arbitration with substantive hearings held in Singapore. Law practices awarded the incentive will enjoy a 50 per cent tax exemption for a period not exceeding five years on their qualifying income exceeding a base amount, derived from international arbitration cases which culminate in hearings held in Singapore within the incentive period. With effect from 1 July 2012, enhancements will be made to the IArb incentive to extend it to all qualifying income arising from arbitration cases so long as the work is substantially done in Singapore and cases which, if not for the case having been settled, would have been heard in Singapore. The IArb incentive is also administered by EDB and is available to both partnerships and law corporations.

22. Changes have also be introduced to allow SLs working in a SLP to hold executive appointments in companies set up by the SLP for related activities, for instance, where the SLP wishes to establish a company to offer patent agent and other IP related services (Rule 11 of the PC Rules). Previously, SLs were prohibited from doing so.