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Legal Update

Cross-Border M&A Through Singapore: Six Issues for Regional Buyers and Sellers

Singapore can provide a coherent framework for a regional acquisition. But a Singapore holding company, a Singapore-law agreement and a Singapore dispute resolution clause address different risks. None is a substitute for understanding the business, the jurisdictions in which it operates and how the transaction will work after completion.

Cross-border M&A through Singapore is not necessarily M&A in Singapore. The acquisition vehicle may be incorporated here, while the factories, licences, customers and employees that underpin the investment are spread across several countries. The distinction matters: the transaction can be organised centrally, but its risks cannot always be resolved centrally.

Recent transactions illustrate the point. In May 2026, ENEOS announced agreements to acquire Chevron's downstream fuels and lubricants marketing businesses across six jurisdictions, including Singapore, Malaysia, Indonesia and Australia, for an announced US$2.17 billion. The acquisition was expressly structured through a Singapore special purpose vehicle. Earlier, in February 2026, a KKR-led consortium with Singtel announced an agreement to acquire the remaining 82% of ST Telemedia Global Data Centres for S$6.6 billion. These announcements illustrate Singapore's role both as an acquisition platform for regional operating businesses and as a base for investment in digital infrastructure.

For regional buyers and sellers, the practical question is not simply whether to transact through Singapore. It is how to make the structure, regulatory process, contractual protections and eventual remedies work together. We set out six issues below, which in our opinion, deserve particular attention.

1. Choose the acquisition structure around the business – not the other way around

Before deciding which entity to acquire, the parties should establish exactly what the buyer expects to own and control at completion.

An acquisition chart should do more than show shareholdings. It should identify the entities holding material licences, land, intellectual property, customer contracts and employees.

Where, for example, a factory occupies land owned by a founder, or a business uses software owned by an affiliate outside the sale perimeter, acquiring the operating company's shares may not deliver the commercial package the buyer has priced.

The choice between a holding-company acquisition, direct acquisitions of operating subsidiaries and an asset transaction should follow that analysis. Local advisers should then confirm the consequences in each operating jurisdiction, including foreign ownership restrictions, change-of-control approvals, transfer formalities and taxes. The fact that only shares in a Singapore parent will change hands should be a question for that review, not a reason to dispense with it.

Tax planning requires a similar distinction between form and substance. Singapore incorporation does not, by itself, establish Singapore tax residence. IRAS generally looks to where the company's control and management are exercised. A foreign-owned investment holding company should therefore not assume that a local registered address and occasional board documentation will establish entitlement to Singapore tax treaty benefits. The actual decision-making arrangements and relevant eligibility requirements matter.

Exit planning also needs to account for section 10L of the Income Tax Act 1947. The foreign-sourced disposal gains regime applies to relevant disposals from 1 January 2024 and can bring gains on foreign assets—including gains that are capital in nature—within Singapore tax where they are received in Singapore by covered entities in relevant groups. The regime contains exclusions; adequate economic substance is particularly important for foreign non-intellectual-property assets, while foreign intellectual-property assets are subject to different rules.

This does not mean that every exit through a Singapore holding company is taxable. It means that "capital gain" is not a sufficient tax conclusion. Nor should a sale by an investor of shares in a Singapore parent be treated as interchangeable with a sale by that parent of a foreign subsidiary.

The structure should therefore be tested across the investment's full life: acquisition funding, tax residence, ongoing substance requirements and exit. Buyers should understand the ongoing cost of maintaining the intended structure. Sellers should examine whether a proposed pre-completion reorganisation creates additional tax, consent or execution risk—and agree who bears it before undertaking the exercise.

2. Treat regulatory clearance as a negotiated transaction risk

Regulatory approval is not merely an item on a completion checklist. It can determine whether the deal happens, when it happens and whether the business ultimately acquired resembles the business originally valued.

Singapore's merger notification regime illustrates why labels can mislead. Notification to the Competition and Consumer Commission of Singapore is voluntary, but compliance with the prohibition against mergers that substantially lessen competition in Singapore is not. Parties remain responsible for assessing their transaction, and the regulator may investigate transactions that have not been notified.

The proposed Grab–Trans-cab acquisition provides a practical reminder. In July 2024, the parties abandoned the transaction after the competition regulator issued a provisional decision raising competition concerns. This was a withdrawal, not a final prohibition decision, but the commercial lesson is the same: regulatory analysis can affect the viability of an agreed acquisition.

Investment screening requires separate attention. Under Singapore's Significant Investments Review Act 2024, transactions involving designated entities can trigger notification or approval obligations at prescribed ownership or control thresholds. These requirements are not confined to acquisitions of an entire business: indirect control and upstream holding-company transactions may also be relevant. Importantly, certain disposals require approval too, making this a seller's issue as well as a buyer's. Sector-specific ownership and control rules must also be considered.

The designated-entity list is not the whole national-security analysis. The Act also provides targeted powers concerning non-designated entities that have acted against Singapore's national security interests, where a relevant ownership or control transaction occurred within two years before that conduct. Those powers should not be mistaken for a general approval requirement for every acquisition, but neither should they be overlooked.

For a regional transaction, the parties should prepare a coordinated approvals map before signing. It should identify the relevant jurisdictions, filing responsibilities, information requirements, dependencies and realistic review periods. The timetable should allow for incomplete filings, further information requests and potentially more detailed review, rather than treating an initial assessment period as a guaranteed clearance date.

The sale and purchase agreement should then allocate the resulting uncertainty. How far must the buyer go to obtain approval? Must it accept restrictions on the acquired business, dispose of assets or change its existing operations? Who controls communications with regulators? When may the parties terminate, and who bears the cost of a failed process?

A seller seeking completion certainty should negotiate a defined clearance commitment, rather than rely on a general promise to cooperate. A buyer should understand the limits of any obligation to accept remedies. Both should distinguish mandatory legal requirements from approvals included principally for commercial protection. A long-stop date – the final date for satisfying completion condition – does not resolve these questions by itself.

3. Convert due diligence findings into contractual outcomes

A due diligence report is useful only if its findings influence the transaction.

The objective should not be to produce the longest possible list of qualifications. It should be to determine which matters must be corrected before completion, which justify a price adjustment, which require a specific indemnity and which the buyer is prepared to accept.

Ong Han Nam v Borneo Ventures Pte Ltd [2021] SGCA 21 demonstrates the importance of precision. The dispute arose from the acquisition of a majority interest in the Malaysian Sutera Harbour group. In addressing a land-title warranty, Singapore's Court of Appeal rejected the argument that references in documents provided during due diligence sufficiently disclosed the relevant adverse interest. The underlying land sale agreement had not been disclosed, and the supposed references were described as "obscure and oblique". The Court upheld the finding of breach of that warranty, although other aspects of the appeal had different outcomes.

For sellers, the lesson is not simply to provide more documents. Material exceptions should be explained clearly and linked to the warranties they qualify. A document that permits an experienced adviser to suspect a problem is not necessarily equivalent to a disclosure that identifies the problem.

For buyers, the corresponding lesson is to address known issues expressly. A buyer that discovers a material licensing problem should decide whether it requires a cure before completion, a specific allocation of resulting losses, or a revised valuation. It should not assume that a broad compliance warranty will necessarily provide the intended answer after the matter has been disclosed.

The agreement should also define how disclosure works. Does the entire data room qualify the warranties, or only specifically identified disclosures? What standard of detail is required? Whose knowledge counts, and what enquiries must those individuals make? Can disclosures be updated between signing and completion, and what consequences follow if an update reveals a serious new issue?

Preserving an agreed, indexed version of the disclosed materials can help avoid a later dispute over what was available, when it became available and which version the buyer reviewed.

Warranty and indemnity insurance may provide another route for allocating certain risks, including direct recourse against an insurer under a buyer-side policy. Its usefulness nevertheless depends on the actual coverage, exclusions and underwriting. Known or disclosed problems should not be assumed to be insured merely because the transaction has a policy.

The practical discipline is to connect each material finding to a decision. Otherwise, the parties may complete with an extensively documented risk that neither has clearly agreed to bear.

4. Negotiate the price mechanism – and the ability to collect the price

Agreement on a headline valuation is not the same as agreement on the amount ultimately payable.

The parties should test the proposed pricing mechanism against worked examples. For completion of accounts, the agreement should explain how cash, debt and working capital are calculated, which accounting policies prevail and how disputed classifications are resolved. Particular attention should be given to shareholder balances, transaction expenses, customer advances, restricted cash and intra-group items.

For a locked-box structure, the parties should identify permitted payments to the seller and its connected persons, prohibited value transfers and the remedy if those restrictions are breached. In a multi-currency business, they should also specify the exchange rates and dates used for calculating adjustments. A formula that appears clear in one currency may produce a different bargain when applied across several subsidiaries.

Earn-outs require additional care because the party controlling the business after completion may also influence the amount payable to the seller. The agreement should address the financial measure, accounting consistency, allocation of group costs, diversion of customers or opportunities, investment decisions and access to supporting records.

CJM and others v CJT [2021] SGHC(I) 4 illustrates the evidential difficulty. In the underlying arbitration, a majority of the tribunal found that the buyer had breached an obligation to grow the company's business in good faith. A different majority nevertheless rejected the sellers' earn-out loss claim because causation and actual loss had not been established. The Singapore International Commercial Court declined to set aside the challenged portions of the award. The court was reviewing the challenge to the award, not rehearing the commercial merits; the practical warning is that establishing a breach and proving the resulting earn-out loss are separate tasks.

An earn-out should therefore provide not only a promise about conduct but also workable information and verification rights. The parties should distinguish an accounting disagreement suitable for an independent expert from a legal dispute over breach, interpretation or manipulation of the business. Buyers, in turn, should preserve enough operational flexibility to integrate and manage the acquisition without inadvertently breaching an unrealistic operating covenant.

Non-cash consideration presents a related issue. In *Oon Koon Cheng and another v Li Hua* [2026] SGHC 169, decided in August 2026, an acquisition involved consideration partly

satisfied through listed shares and a separate personal undertaking to repurchase those shares. The High Court upheld the undertaking and awarded damages for its breach. Although the transaction was domestic, it highlights a point equally relevant to regional deals: share consideration and a future repurchase promise are not economically identical to cash at completion. eLitigation

The identity and financial standing of the payment obligor consequently deserve the same attention as the payment formula. A seller accepting deferred consideration from an acquisition vehicle should consider whether a parent guarantee, escrow or security is warranted. A buyer should ask the equivalent question about post-completion warranty and indemnity claims against the seller.

Neither side should finish negotiating the amount without also considering the assets and arrangements supporting payment.

5. Design governance, exit and dispute resolution as one package

Where a founder retains shares, management rolls over its investment or a buyer acquires less than full ownership, completion is the beginning of a continuing relationship.

The shareholders' agreement should translate that relationship into an operating framework. Board representation and veto rights are only part of the exercise. The parties should agree how budgets are approved, who provides additional funding, what happens if a shareholder does not participate, how related-party transactions are controlled and which information each investor receives.

Minority protection should be sufficiently robust to prevent material prejudice without making ordinary operations unmanageable. Equally, a majority investor's control should not leave a continuing founder dependent on goodwill for access to information, distributions or an eventual exit.

Exit provisions need to be tested as carefully as entry provisions. A put option, drag-along right or deadlock mechanism should be examined against realistic scenarios: the proposed purchaser cannot fund the acquisition, regulatory approval is unavailable, the parties disagree on valuation, or the necessary share-transfer documents are not delivered. Identifying the intended commercial outcome is only the first step; the documents should provide a practicable route to it.

Dispute resolution must support this framework. In *Anupam Mittal v Westbridge Ventures II Investment Holdings* [2023] SGCA 1, the dispute concerned an Indian company and a shareholders' agreement governed by Indian law, with arbitration seated in Singapore. Singapore's Court of Appeal held that pre-award arbitrability had to satisfy both the law governing the arbitration agreement and Singapore law as the law of the seat. On the

particular facts, it concluded that Singapore law governed the arbitration agreement and upheld the anti-suit injunction.

The drafting implication is important: the governing law of the main contract, the governing law of the arbitration agreement and the seat of arbitration are distinct choices. They should be considered expressly, rather than left to assumptions about what a reference to "Singapore arbitration" achieves.

The transaction documents should also be coordinated. The sale agreement, shareholders' agreement, guarantees and ancillary undertakings should not unintentionally send closely connected disputes to different forums or leave an essential obligor outside the chosen process. Accounting expert provisions should fit alongside, rather than conflict with, the broader dispute resolution clause.

Finally, enforcement should be assessed where the relevant assets and corporate interests are located. The New York Convention provides an international framework for recognising and enforcing arbitral awards, but it does not make enforcement automatic. Its refusal grounds include non-arbitrability and public policy under the law of the enforcing state.

Local advice remains important where the desired outcome involves changes to a foreign company's share register, local statutory remedies or enforcement against assets abroad. A Singapore forum can determine a contractual dispute; the transaction team should separately establish how the resulting remedy will be implemented.

6. Plan cash repatriation before it becomes a financing problem

Acquiring a regional business is only half the transaction; ensuring that cash can move through the group is the other. A structure consolidated under a Singapore holding company may look efficient in a financial model, but accounting profit at an operating subsidiary is not the same as cash that is legally distributable, freely remittable or available in Singapore when required.

Singapore itself currently does not impose withholding tax on dividends. That, however, addresses only the outward leg from Singapore. The operating subsidiaries generating the cash may be subject to local corporate-law distribution or solvency tests, foreign-exchange or remittance procedures, withholding taxes, minority rights, regulatory restrictions or lender covenants. A buyer that places acquisition debt at a Singapore acquisition vehicle should therefore not assume that target EBITDA can be upstreamed on the timetable needed to service that debt.

Cash-repatriation analysis should therefore form part of financial and legal due diligence. Buyers should review each material entity's retained earnings and dividend capacity, historical remittances, local withholding and treaty positions, restrictions on cash pooling, and third-party financing arrangements. Singapore tax treatment of inbound cash should also be

modelled: foreign-sourced dividends received in Singapore by a Singapore tax-resident company may qualify for exemption, but only if the statutory conditions are met.

Alternative extraction routes—such as management or service fees, royalties, interest and repayment of intercompany debt—should not be treated as interchangeable substitutes for dividends. They require a real commercial basis, appropriate documentation and compliance with applicable withholding tax, transfer pricing, deductibility, interest-limitation and other local rules. IRAS applies the arm's-length principle to related-party transactions, including cross-border loans.

The transaction documents should reflect the intended cash-flow model. If surplus cash is to be extracted before completion, sellers should ensure that any pre-completion dividend or related-party payment is lawful and consistent with the locked-box, leakage or completion-account provisions. Buyers should consider whether restricted or effectively trapped cash deserves full credit as "cash" in the purchase-price bridge, and post-completion governance provisions should not inadvertently prevent lawful distributions required by the agreed financing model. A structure that secures ownership but leaves the operational cash inaccessible may be legally sound and commercially inefficient.

Conclusion

The strongest reason to structure a regional acquisition through Singapore is not that doing so removes complexity. It is that the parties can organise that complexity within a coherent transaction framework.

For buyers, the priority is to connect ownership, regulatory permissions and contractual protection to the business actually being acquired. For sellers, it is to establish a clear sale perimeter, credible completion commitments and a realistic route to receiving the agreed consideration without open-ended exposure.

The essential work is therefore connective: linking local due diligence to the acquisition structure, regulatory analysis to the timetable, identified risks to negotiated remedies, acquisition financing to realistic cash flows, and contractual rights to practical enforcement. A well-drafted Singapore agreement is an important part of that work. It should be the product of the analysis, not a substitute for it.

Law and developments considered as at 5 October 2026. This article provides general information and is not a substitute for advice on a particular transaction.

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