Collective actions can only be conducted in Singapore by way of representative proceedings. They require the permission of the court, which will weigh the practical and economical advantages for would-be claimants of asserting and enforcing a claim in this way against any prejudicial consequences for the respondent. However, this is a developing area of the law in Singapore. It is likely that the courts will progress the jurisprudence and procedure relating to the conduct of such proceedings in future proceedings.

What forms of collective actions are permitted in this jurisdiction and under what authority?

The only avenue for collective redress under Singapore law is by way of representative proceedings. Order 15 Rules 12 of the Singapore Rules of Court provides that where numerous persons have the same interest in proceedings, the proceedings may be commenced and continued by one or more claimants as representing the other persons.

Who may bring them?

The proceedings may be commenced by any person(s) who has the same interest as the persons whom he seeks to represent. In determining whether persons have the same interest, the court will consider the following factors:

> The class of represented persons must be capable of clear definition. This is critical because it identifies the individuals who are entitled to relief and who will be bound by the judgment.

> The proposed representative(s) must adequately represent the interests of the entire class and must capably prosecute the interests of the entire class.

> There must be significant issues of fact or law common to all the claimants. The court must compare the significance of the common issues between the claimants with the significance of the issues which differ between them.

> All the claimants must have the same interest in the relief granted.

Opt in or opt out?

Opt in.

Key Contacts

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Whether an action is allowed to proceed as a representative action is subject to the court’s discretion. The court must be persuaded that it is appropriate for the case to proceed as a representative action, having regard to factors such as whether the respondent would be disadvantaged by the action being brought as a representative action (e.g., the inability to raise separate defences against different claimants), as well as cost considerations. The Singapore Court of Appeal has stated that, while representative actions offer a practical and economical method of asserting and enforcing a claim, this must be weighed against any prejudicial consequences for the respondent in the representative action.

Further, representative action is not available in the normal way in relation to proceedings which concern (a) the administration of the estate of a deceased person; (b) property subject to a trust; and (c) the construction of a written instrument, including a statute. However, in such cases, the court may appoint a person to represent the class of interested persons where the class includes persons who are not readily ascertainable or who cannot be found, or where the court otherwise regards it as appropriate to do so.

The Singapore Court of Appeal has indicated that it will take a broad and flexible approach to considering whether it is appropriate for an action to proceed as a representative action, as well as in administering and shaping the representative proceedings as they unfold. This is a developing area of the law, and it is likely that courts in future representative proceedings will take the opportunity to develop the jurisprudence and procedure relating to the conduct of such proceedings.

In October 2018, the Singapore Ministry of Law and Supreme Court launched a public consultation on widespread reforms to Singapore’s civil litigation process. The proposed reforms do not significantly alter the procedure for representative proceedings but it remains to be seen whether further changes are proposed following the consultation process.

This is a developing area of law.