

THE FAIR CONSIDERATION FRAMEWORK

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The Singapore Ministry of Manpower ("**MOM**") introduced a new framework, known as the Fair Consideration Framework ("**FCF**"), which requires employers to consider Singaporeans fairly before hiring employment pass ("**EP**") holders. This new measure came amidst concerns of a rising foreign population in Singapore, with foreigners estimated to make up nearly half of Singapore's population by 2030. [Recognising that providing better jobs and diverse opportunities to meet Singaporean's aspirations are the ultimate objectives of Singapore's economic growth, Acting Minister for Manpower, Tan Chuan-Jin, explained that the FCF is aimed to encourage employers to give Singaporeans, especially graduates and professionals, managers and executives ("**PMEs**"), a fair chance at job and development opportunities.

Requirement to Advertise

Under the FCF, all firms are required to consider Singaporeans fairly for jobs, based on merit. In this regard, all firms are strongly encouraged to advertise their job vacancies and must ensure that they are open to Singaporeans.

In addition, firms making new EP applications are required to advertise the job vacancy on a new jobs bank administered by the Singapore Workforce Development Agency before submitting an EP application to MOM. The firm will be required to quote the advertisement ID number in the EP application as evidence of complying with this requirement. This requirement applies even if a firm uses a recruitment agency. Advertisement at the jobs bank will be free-of-charge.

The advertisement must be open to Singaporeans, run for at least 14 calendar days and should also comply with the Tripartite Guidelines on Fair Employment Practices promulgated by MOM, the National Trades Union Congress and the Singapore National Employers Federation. In particular, firms should abide by the principle to recruit and select employees on the basis of merit such as skills, experience or ability to perform the job, regardless of age, race, gender, religion, family status or disability.

As a practical consideration, small firms with 25 or fewer employees and those jobs that pay a fixed monthly salary of S\$12,000 and above will be exempted from this advertising requirement. As these firms employ around 25% of EP holders, a vast majority of the new EP applications will still be subject to the advertising requirement.

The advertising requirement will take effect from 1 August 2014.

Although firms are required to comply with the advertising requirement, it should be noted that they are free to hire employees based on merit, taking into account other factors including the candidates' qualifications, experience, interpersonal skills and other qualities that are related to the demands of the job. MOM has clarified that it will not review the merits of a firm's hiring decision.

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Additional Scrutiny for Discriminatory HR Practices

Apart from the advertising requirements, MOM and other government agencies will identify firms that have scope to improve their hiring and career development practices. This includes, without limitation, firms that may have disproportionately fewer PME Singaporeans when compared to others in the same industry or firms that have had repeated complaints of discriminatory recruitment practices.

MOM may require such firms to provide additional information such as charts with nationality information, recruitment processes, the framework for staff progression, staff grievance handling procedures and plans to develop local internal staff to take on higher roles or reduce reliance on EP holders.

If the firms are not responsive, MOM may impose additional requirements such as requiring the firm to attest that it will not displace any similarly employed Singaporean within 60 calendar days before or after applying or renewing EPs and displaying a factsheet containing key information submitted to MOM at its workplace. MOM may also increase its scrutiny when reviewing EP applications from these firms. In some instances, these firms may also have their work pass privileges curtailed.

Firms that will be subject to additional scrutiny will be notified from the first quarter of 2014.

Enhanced EP Qualifying Requirements

In line with the rising salaries, the qualifying salary for new EP applications will be raised from S\$3,000 to S\$3,300.

As with the current regime, the qualifying salary for each applicant will vary depending on his qualifications and experience. As such, young graduates from good educational institutions can qualify if they earn at least S\$3,300 while older applicants will have to command higher salaries commensurate with their work experience to qualify.

The new qualifying requirement will take effect from 1 January 2014.

For existing EP holders, MOM will phase in the new requirements for renewal of passes over the next 2 to 3 years depending on when their current passes expire. EP holders whose passes expire before 1 January 2014 will receive a one-time renewal based on existing EP criteria. Passes that expire between 1 January 2014 and 30 June 2014 (both dates inclusive) will receive a one-time renewal of up to one year on existing EP criteria. All passes that expire after 30 June 2014 will have to meet the new qualifying criteria for renewal. EP holders should note that these transitional measures do not apply if there is a change of employers.

Conclusion

With the first of the changes scheduled to take effect from 1 January 2014, firms should take note of these new requirements when considering hiring foreign employees in Singapore.

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