

## Client Alert

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## Strategic Trade (Amendment) Act 2017

Following the publication of the *Strategic Trade (Amendment) Act 2017* (“**Amending Act**”) in the Federal Gazette on 21 June 2017, the Malaysian Government has appointed 8 September 2017 as the date on which the changes effected under the Amending Act have come into operation.

### Background

The Malaysian export control rules are prescribed under the *Strategic Trade Act 2010* (“**STA**”) which was first implemented on 1 January 2011. The provisions of the STA apply to any person who exports, transships, brings-in-transit and brokers strategic items or unlisted items, whereby a permit is required from relevant authorities including the Strategic Trade Controller of the Ministry of International Trade and Industry (“**MITI**”).

### Key Changes

In our earlier client alert published on 4 July 2017, we have discussed in detail the key changes introduced under the Amending Act, which can be summarised as follows:

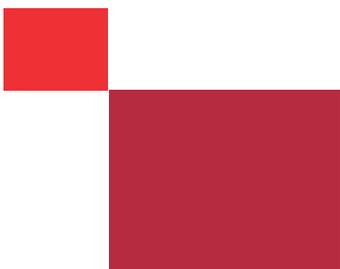
- a) Refined ‘brokering’ definition and carve-out for ‘ancillary services’
- b) Broader definition of ‘authorised officers’
- c) Presumption as to export
- d) Requirement of ‘End-Use’ Statements now optional rather than mandatory
- e) Replacement of minimum fines to maximum fines
- f) Power to compound offences under the STA

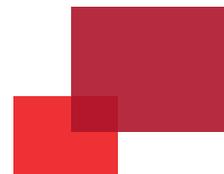
For more information on the Amending Act and how it can affect your business, please see our earlier client alert published on 4 July 2017 [here](#).

### Regulations for Compounding of Offences Expected to be Published

We wish to highlight that the new Section 50A under the Amending Act empowers MITI (with the approval of the Public Prosecutor) to make regulations to prescribe:

- a) any offence under the STA and any regulations made under the STA that may be compounded;





- b) the criteria for compounding such offence; and
- c) the method and procedure for compounding such offence.

We understand that the drafting of the regulations are currently underway and the regulations are expected to be finalised and published in the Federal Gazette in due course, possibly by the end of the first quarter of 2018.

## **Conclusion**

In view of the significant changes introduced by the Amending Act, companies must familiarise themselves with such amendments and thoroughly review their existing supply chain and internal protocols, to ensure continuous compliance with the law. As previously highlighted, whilst the Amendment Act has introduced more flexibility to the STA, the extension of enforcement powers to additional government authorities and agencies may result in more stringent enforcement of export control rules going forward.

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