

FAIR CONSIDERATION FRAMEWORK: QUESTIONS AND ANSWERS

Advertising Requirement

1. Can a firm advertise on other websites (instead of the Jobs Bank) or other platforms (e.g. newspapers)? Do firms have to pay a fee to advertise on the Jobs Bank?

- There is nothing to stop firms from advertising job vacancies on other platforms and websites. However, we would strongly encourage firms to also post their jobs on the Jobs Bank at www.jobsbank.gov.sg to extend their outreach to Singaporean job seekers.
- If an EP application is needed, firms must advertise on the Jobs Bank before submitting the application to MOM.
- Advertisements on the Jobs Bank will be free-of-charge.

2. If a firm engages a recruitment agency, is it still necessary to advertise on the Jobs Bank and who will be required to do so?

- Firms that use recruitment agencies will still need to advertise on the Jobs Bank. The recruitment agency may place the advertisement on behalf of the firm.

3. Must the job in the EP application match the job advertised on the Jobs Bank? How will MOM know whether a firm has advertised on the Jobs Bank before submitting an EP application?

- Yes, it goes without saying that the job in the EP application must, naturally, match the one advertised on the Jobs Bank. Each job advertisement on the Jobs Bank will have a Job Posting ID issued by WDA. The firm will be required to provide the Job Posting ID when applying for an EP.

4. The firm had not advertised on the Jobs Bank because it did not intend to hire foreigners, but subsequently decided to hire a foreigner because it had not found a suitable Singaporean. Would the firm have to advertise on the Jobs Bank before submitting the EP application?

- Yes, regardless of the circumstances for hiring an EP holder, the firm must advertise on the Jobs Bank for at least 14 calendar days before it submits an EP application. This is to ensure that Singaporeans interested in the job are able to have access to the job information before the firm makes the hiring decision.

5. Must the job advertisement on the Jobs Bank specify Singaporeans only?

- In accordance with the Tripartite Guidelines on Fair Employment Practices, employers should avoid specifying any nationality in their job advertisements.

6. I am a Singaporean and was not successful in getting the job that I applied for. The firm hired an EP holder instead. Can I lodge a complaint with MOM?

- Employers take into account a range of factors in deciding on a suitable person to recruit. These factors can include the person's qualifications, experience, interpersonal skills, and other qualities that are related to the demands of the job. MOM does not review the merits of a firm's individual hiring decision, as the firm is best placed to decide on which candidate can do the job. What is important is that the hiring process is fair and that Singaporeans are considered fairly based on merit.
- If you suspect that a firm has not been fair in its hiring process, you can give us your feedback at 6438-5122 or through our online feedback form (<http://www.mom.gov.sg/feedback>).

7. Why does the advertising requirement apply only to firms applying for EPs, and not for S Passes or Work Permits?

- We have not made this compulsory for firms submitting applications for S passes or Work Permits, because there are other tools, such as levies and dependency ratio ceilings that spur firms to search for suitable Singaporeans before applying for an S pass or Work Permit. Nonetheless, we will monitor the hiring of S pass and Work Permit holders, and review if the advertising requirement needs to be extended to these groups.

8. There are some positions which must be filled immediately or urgently. For such positions, must the firm still post the advertisement for at least 14 days?

- Yes. Firms are still required to advertise before they can apply for an EP. They are still expected to consider Singaporeans fairly for job positions.

9. For some positions, the recruitment cycle could be much longer. Can we use a job advertisement where the closing date is more than three months from the date of EP applications?

- No. The intent of the advertising requirement is to promote labour market transparency. Firms are required to re-advertise before they submit a new EP application if the closing date of the original job advertisement is more than three months from the date of EP application.

10. If the firm advertises five vacancies on the Jobs Bank, is it only allowed to hire a maximum of five EP holders based on that advertisement?

- Yes, the firm will not be allowed to apply for more EPs than the number of job vacancies indicated in the advertisement.

11. Will MOM accept an EP application if the salary offered is higher than the range declared to the Jobs Bank in the job advertisement?

- Employers may have been able to attract more qualified Singaporean applicants for the job if the advertisement had included better information about the salary for the job. Employers are, therefore, encouraged to provide a good indication of the salary range that they are prepared to offer. However, we are aware that there may be instances where the salary of the most suitable candidate could exceed the advertised salary range. In such instances, we may ask the employer to provide more information.

EP application process

12. The firm is now asked to provide a reason for not being able to hire a Singaporean. What is the purpose of that?

- The reasons provided by firms will help MOM better understand whether there were skills gaps between what employers are looking for and the skills possessed by Singaporeans. This will enable adjustments to be made to our education and training programmes where necessary, to equip Singaporeans with the skills in demand.

13. What if the list does not contain the reason for my company not hiring a Singaporean for that role?

- There is an option to select "Others" if none of the reasons in the list provided matches your firm's reason for not hiring a Singaporean. MOM may contact your firm for more information.

14. Must firms retain records of interviews and job offer decisions?

- It is not a requirement, but it will be in the interest of the firms to retain interview and job offer records to support their fair hiring practices, in the event that a complaint of discriminatory hiring is made against the firms.

15. It is difficult to hire Singaporeans because the unemployment rate is low and there are some jobs which Singaporeans are not interested in. Even if I advertise on the Jobs Bank, I will not be able to hire Singaporeans.

- Employers should not assume that they are unable to hire Singaporeans. Such assumptions are at the root of unfair and discriminatory hiring practices. The Fair Consideration Framework is a signal to change such mindsets.
- Employers have a role to play to make their firms attractive places to work. This means paying attention to career and wage progression, engaging employees, and designing work arrangements that enables their employees to contribute their best to the firm.
- If employers need assistance to find local job seekers, they can contact CaliberLink at 6777 3377 or via email at enquiry@caliberlink.gov.sg. CaliberLink has a database of available local professionals (including experienced professionals looking for a mid-career switch). CaliberLink can help to link employers with these local professionals.

Jobs exempted from the Advertising Requirement

16. Why are jobs in small firms with 25 or fewer employees exempted from the advertising requirement?

- Jobs in firms with 25 or fewer employees are exempted from the advertising requirement as such small businesses typically do not have sophisticated HR management to respond to many applications. Additionally, applying the FCF to the larger firms will yield the greatest benefit, given that they employ most of the EP holders.
- However, these firms are still subject to the other components of the Fair Consideration Framework. They are still expected to consider Singaporeans fairly for jobs, and furnish reasons for why they could not find a suitable Singaporean for the job. If MOM or TAFEP receives complaints that a firm may have nationality-based unfair hiring practices, MOM may impose additional requirements or take action against the firm.

17. Why are firms not required to advertise jobs which pay a fixed monthly salary of \$12,000 and above on the Jobs Bank?

- Jobs paying less than \$12,000 a month cover about 94% of the local workforce, hence most jobs would be covered by the advertising requirement.

Many employers typically recruit for positions paying \$12,000 and above using executive search firms, rather than through open advertisements. We expect employers to instruct their headhunters to source for candidates on merit, including Singaporean candidates. If complaints are received that a firm may have nationality-based unfair hiring practices, they may be subjected to additional scrutiny and have their work pass privileges curtailed.

18. Why are jobs to be filled by Intra-Corporate Transferees (ICTs) exempted from the FCF's advertising requirement?

- The advertising requirement on the Jobs Bank will not apply to jobs to be filled by ICTs. However, the EP applicant would have to meet the stringent definition of ICTs under the World Trade Organisation (WTO)'s General Agreement on Trade in Services (GATS), or any applicable free trade agreements to which Singapore is party, in order to be exempted.
- Under WTO GATS, an ICT is understood to be one of these:
 - a) Manager**
 - Primarily directs the organisation or a department or sub-division of the organisation; and
 - Supervises and controls the work of other supervisory, professional or managerial employees; and
 - Has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation); and
 - Exercises discretionary authority over day-to-day operations.
 - b) Executive**
 - Primarily directs the management of the organisation; and
 - Exercises wide latitude in decision-making; and
 - Receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the business.
 - c) Specialist**
 - Possesses knowledge at an advanced level of expertise; and
 - Possesses proprietary knowledge of the organisation's service, research, equipment, techniques or management.
- Additionally, under WTO GATS, an ICT must have worked for the firm outside Singapore for a period of not less than one year before being posted to the branch, affiliate or subsidiary in Singapore. Entry for these ICTs under WTO GATS is limited to a three year period that may be extended for up to two additional years, for a total term not exceeding five years.

19. What documents are required to show that the EP applicant is an ICT?

- Taking reference from WTO GATS, the employer must declare that the EP applicant has worked for the firm for at least one year before being posted to the branch, affiliate or subsidiary in Singapore.
- The employer must also provide documents that establish that the EP applicant meets the definition of an ICT. Such documents include the organisational chart of the firm in Singapore and the applicant's position in it. Where the applicant is a specialist, the applicant's job description should show that the applicant possesses knowledge at an advanced level of expertise.

20. As part of my firm's talent development programme, we rotate young graduate trainees from our overseas branches, subsidiary or affiliates to Singapore for learning and development. They may not qualify to be an ICT as they may not have worked abroad for at least one year before posting to Singapore. Do we still need to advertise before submitting new EP applications for these trainees?

- Firms are required to meet the advertising requirement if the EP applicant does not meet the definition of ICTs under the WTO GATS or a relevant free trade agreement.
- Advertising on the Jobs Bank will also give the firm an opportunity to assess if there are other qualified Singaporean candidates with suitable competencies that can be considered for these positions.

21. Why has MOM decided to exempt jobs that are necessary for short-term contingencies from the advertising requirement?

- Firms may need to address unexpected contingencies and transfer staff from their overseas branches, affiliates and subsidiaries for short-term and temporary deployments. In such instances, it is not practical to apply the advertising requirement.
- While we exempt jobs that are necessary for short term contingency (i.e. period of employment in Singapore is not more than one month), the EP holder will not be eligible to renew the EP nor apply for a new EP for a period of three months after the expiry of the previous EP. If employers need to bring in foreign staff for a longer duration on EP, they must meet the advertising requirement.

22. My firm needs to bring a foreigner in on a temporary basis, for the individual's development purposes, or to perform an essential role that no one else is able to do. Thus, this is not an actual "job opening" created in Singapore. Why do I still have to advertise for such a role?

- Firms will be required to advertise if the EP applicant does not meet the definition of ICTs under the WTO GATS or a relevant free trade agreement; or the job does not meet the requirement of a short term contingency (i.e. the period of employment in Singapore of one month or less in duration).
- Advertising on the Jobs Bank will also give the firm an opportunity to assess if there are qualified Singaporean candidates with suitable competencies who are willing to perform such roles, even though they are temporary. Employers should also not automatically assume that they are unable to find suitably-qualified Singaporeans.

Others

23. We have graduate recruitment programmes where we participate in career fairs at local and overseas universities to recruit students one or two years prior to their graduation. While we can advertise on the Jobs Bank concurrently at the point of recruitment, the current job advertisement validity of three months would no longer be valid at the point of graduation (assuming the best candidate is a foreign student).

- Employers who recruit undergraduates at local and overseas universities prior to their graduation will be permitted to use job advertisements posted on the Jobs Bank not longer than two years before the date of EP application. Such employers will be required to:
 - a) state clearly in the job advertisement on the Jobs Bank that they are searching for suitable candidates to fill future positions;
 - b) submit the EP application for the new graduate within six months from the date of completion of degree; and
 - c) take part in recruitment exercises at one of the local autonomous universities in the same year the job advertisement is posted, by either participating in campus career fairs or posting on the university's job portal¹.

24. My firm currently has a foreign trainee on Training Employment Pass (TEP). If I intend to offer the foreign trainee a permanent position, do I still need to advertise on the Jobs Bank before applying EP?

- Yes, the firm is required to advertise on the Job Bank. TEPs are issued for the purposes of training, not permanent work. There may be qualified Singaporean job seekers who are interested in the permanent positions offered.

¹ Employers are required to keep records for the foreign employee's first two years of employment and furnish when MOM ask for it.

25. What is the definition and components of fixed monthly salary that would qualify for advertising exemption? Does fixed monthly salary include accommodation cost?

- Fixed monthly salary is the sum of basic monthly salary and fixed monthly allowances. Fixed monthly salary does not include variable allowances, bonus, annual wage supplement, commissions, overtime pay etc. It is the amount that you commit to pay the worker even if there is no work assigned, or if he is on medical leave.
- The employer may choose to pay a fixed monthly allowance as a regular component of the EP applicant's salary, which the latter can use to purchase such accommodation, amenities or services of his choosing. The fixed monthly allowance may be counted in the fixed monthly salary as long as the amount payable does not vary from month to month.

Example: An EP applicant's basic monthly salary is \$5,000 and he is also paid a fixed monthly allowance of \$3,000. The EP applicant's fixed monthly salary is therefore \$8,000.

- The employer may also choose to build rental cost into the EP applicant's basic salary, and then deduct the same amount to pay the landlord. Fixed monthly salary is based on the pre-deduction amount. Deductions can be made from the EP applicant's fixed monthly salary. If the employee is covered under the Employment Act (EA), EA limits on deductions apply. In all cases, the value of accommodation, amenities and services deducted must be accepted by the EP applicant and the deduction cannot exceed the cost of what is provided. The employer must obtain the consent of the EP applicant of the amount to be deducted from the fixed monthly salary.
- Example: An employer pays an EP holder a fixed monthly salary of \$8,000, of which \$3,000 is for housing. The employer is allowed to make a deduction of \$3,000 from the EP applicant's fixed monthly salary to a third party who provides the EP applicant's accommodation, as long as it fulfills the conditions below:
 - You must obtain the worker's agreement on the value of the deduction;
 - The value of the deduction cannot be more than the cost of the service or good provided

In this case, the net salary credited to the EP holder's bank account is \$5,000 after the deduction, but the fixed monthly salary remains as the pre-deduction amount of \$8,000.

- Rental cost that is not included or declared as part of the employee's fixed monthly salary will not be counted. This is because the amount can vary depending on the cost of the rental.

Firms Subject to Additional Scrutiny

26. How many firms would MOM expect to be subjected to additional scrutiny? What type of firms may attract additional scrutiny?

- We do not have a numerical target or estimate.
- Firms which may have room to improve their hiring and career development practices may be selected for additional scrutiny. These firms may have a disproportionately low concentration of Singaporeans at the Professional, Managerial and Executive (PME) level compared to others in their industry, or have had repeated complaints of nationality-based hiring practices. Other government agencies which regulate selected industries may also refer such firms to MOM.
- MOM, together with the other government agencies, will seek to understand the reasons for a low concentration of Singaporeans in the firm. This will also include understanding the firm's HR practices such as recruitment and grievance handling processes.

27. How will MOM follow up on the information gathered from firms subject to additional scrutiny?

- MOM will assess if HR practices are fair in these firms. No further action is needed on the part of these firms if their HR practices are fair. Otherwise, we will ask the firm to submit and comply with a plan to make improvements. If a firm is uncooperative or does not adhere to the plan, it should expect to have its work pass privileges curtailed.