ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-1(1)

ACCOUNTING AND CORPORATE REGULATORY AUTHORITY
(ACRA)

Company No: 200617072D

CERTIFICATE CONFIRMING INCORPORATION OF COMPANY UNDER THE NEW NAME

This is to confirm that GLOBAL MERCANTILE EXCHANGE PTE. LTD. incorporated under the Companies Act on 15/11/2006 did by a special resolution resolve to change its name to SINGAPORE MERCANTILE EXCHANGE PTE. LTD. and that the company is now known by its new name with effect from 12/01/2007.

GIVEN UNDER MY HAND AND SEAL ON 15/01/2007.

NURHAYATI NONGCHIK
ASST REGISTRAR
ACCOUNTING AND CORPORATE REGULATORY AUTHORITY (ACRA)
SINGAPORE

REGISTRAR OF COMPANIES & BUSINESSES
ACRA
ACCOUNTING & CORPORATE REGULATORY AUTHORITY
SINGAPORE

ACCOUNTING AND CORPORATE REGULATORY AUTHORITY
(ACRA) bizFILE

Company No: 200617072D

CERTIFICATE CONFIRMING INCORPORATION OF COMPANY UNDER THE NEW NAME

This is to confirm that ASIAN MERCHANTILE EXCHANGE PTE. LTD. incorporated under the Companies Act on 15/11/2006 did by a special resolution resolve to change its name to GLOBAL MERCANTILE EXCHANGE PTE. LTD. and that the company is now known by its new name with effect from 01/12/2006.

GIVEN UNDER MY HAND AND SEAL ON 04/12/2006.

CHUA SIEW YEN
ASSISTANT REGISTRAR
ACCOUNTING AND CORPORATE REGULATORY AUTHORITY (ACRA)
SINGAPORE

REGISTRAR OF COMPANIES & BUSINESSES
ACRA
ACCOUNTING & CORPORATE REGULATORY AUTHORITY
SINGAPORE

ACCOUNTING AND CORPORATE REGULATORY AUTHORITY
(ACRA)

Company No: 200617072D

CERTIFICATE CONFIRMING INCORPORATION OF COMPANY

This is to confirm that ASIAN MERCHANTILE EXCHANGE PTE. LTD. is incorporated under the Companies Act (Cap 50), on and from 15/11/2006 and that the company is a PRIVATE COMPANY LIMITED BY SHARES.

GIVEN UNDER MY HAND AND SEAL ON 16/11/2006.

LINDA LEE
ASSISTANT REGISTRAR
ACCOUNTING AND CORPORATE REGULATORY AUTHORITY (ACRA)
SINGAPORE

REGISTRAR OF COMPANIES & BUSINESSES
ACRA
ACCOUNTING & CORPORATE REGULATORY AUTHORITY
SINGAPORE

First published in the Government *Gazette*, Electronic Edition, on 21st April 2014 at 5.00 pm.

No. 934 — SECURITIES AND FUTURES ACT (CHAPTER 289)

APPROVED EXCHANGE/APPROVED HOLDING COMPANY

It is hereby notified for general information that, Singapore Mercantile Exchange Pte Ltd, which has been approved by the Monetary Authority of Singapore as an approved exchange pursuant to section 8(1) of the Securities and Futures Act, and as an approved holding company pursuant to section 81W(1) of the Securities and Futures Act, has changed its name to ICE Futures Singapore Pte. Ltd. with effect from 22nd April 2014.

[MPI-MIS 07/2010 Vol. 1]

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-1(3)

REGISTRATION NO.
200617072D

THE COMPANIES ACT (CAP. 50)

PRIVATE COMPANY LIMITED BY SHARES

MEMORANDUM

AND

ARTICLES OF ASSOCIATION

OF

SINGAPORE MERCANTILE EXCHANGE PTE. LTD.
(Formerly known as ASIAN MERCHANTILE EXCHANGE PTE. LTD. & GLOBAL MERCANTILE EXCHANGE PTE. LTD.)

INCORPORATED ON THE 15TH DAY OF NOVEMBER 2006
(Incorporating all amendment made up to 1 December 2006)
(Incorporating all amendment made up to 26 December 2006)
(Incorporating all amendment made up to 29 March 2007)

RAJAH & TANN
ADVOCATES & SOLICITORS
4 BATTERY ROAD
#15-01
BANK OF CHINA BUILDING
SINGAPORE 049908

THE COMPANIES ACT, CAP. 50

PRIVATE COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

of

#*ASIAN MERCHANTILE EXCHANGE PTE. LTD.

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1. The name of the Company is *ASIAN MERCHANTILE EXCHANGE PTE. LTD.

2. The Registered Office of the Company will be situated in the Republic of Singapore.

3. The liability of the members is limited.

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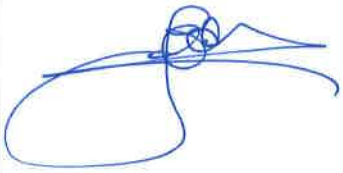
*The name of Company has been changed to "Global Mercantile Exchange Pte. Ltd." with effect from 1 December 2006 pursuant to a special resolution passed on 1 December 2006

#The name of Company has been changed to "Singapore Mercantile Exchange Pte. Ltd." with effect from 12 January 2007 pursuant to a special resolution passed on 26 December 2006

I/We, the person/several persons whose name(s), address(es) and description(s) are subscribed am/are desirous of being formed into a company in pursuance of this Memorandum of Association and I/we respectively agree to take the number of share(s) in the capital of the Company set opposite my name/our respective names.

Name(s), Address(es) and Description of Subscriber(s)	Number of Share(s) taken by the Subscriber(s)
ABDUL JABBAR BIN KARAM DIN 21 Siglap Hill Frankel Estate Singapore 456076 ADVOCATE & SOLICITOR	ONE (1) 
TOTAL NUMBER OF SHARE(S) TAKEN	ONE (1)

Dated this 15th day of November 2006.

Witness to the above signature(s):

Name: SHARON LIM SIEW CHOO
Title: A member of the
Singapore Association of the
Institute of Chartered
Secretaries and Administrators

THE COMPANIES ACT, CAP. 50

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

#*ASIAN MERCHANTILE EXCHANGE PTE. LTD.

PRELIMINARY

1. The regulations contained in Table "A" in the Fourth Schedule to the Companies Act, Cap. 50 shall not apply to the Company, but the following shall subject to repeal, addition and alteration as provided by the Act or these Articles be the regulations of the Company. Table "A" not to apply.

2. In these Articles, if not inconsistent with the subject or context, the words standing in the first column of the Table next hereinafter contained shall bear the meanings set opposite to them respectively in the second column thereof:- Interpretation.

WORDS		MEANINGS
"The Act"	..	The Companies Act, Cap. 50 or any statutory modification, amendment or re-enactment thereof for the time being in force or any and every other act for the time being in force concerning companies and affecting the Company and any reference to any provision of the Act is to that provision as so modified, amended or re-enacted or contained in any such subsequent Companies Act.
"These Articles"	..	These Articles of Association or other regulations of the Company for the time being in force.
"The Company"	..	The abovenamed Company by whatever name from time to time called.
"Directors"	..	The Director(s) for the time being of the Company or such number of them as have authority to act for the Company.
"Director"	..	Includes any person acting as a Director of the Company and includes any person duly appointed and acting for the time being as an Alternate Director.
"Dividend"	..	Includes bonus.

*The name of Company has been changed to "Global Mercantile Exchange Pte. Ltd." with effect from 1 December 2006 pursuant to a special resolution passed on 1 December 2006

#The name of Company has been changed to "Singapore Mercantile Exchange Pte. Ltd." with effect from 12 January 2007 pursuant to a special resolution passed on 26 December 2006

"Member"	..	A Member of the Company (which shall, where the Act requires, exclude the Company where it is registered as a member by virtue of its holding shares as treasury shares).
"Month"	..	Calendar month.
"Office"	..	The Registered Office of the Company for the time being.
"Paid Up"	..	Includes credited as paid up.
"Register"	..	The Register of Members.
"Seal"	..	The Common Seal of the Company or in appropriate cases the Official Seal or duplicate Common Seal.
"Secretary"	..	The Secretary or Secretaries appointed under these Articles and shall include any person entitled to perform the duties of Secretary temporarily.
"Singapore"	..	The Republic of Singapore.
"Writing" and "Written"	..	Includes printing, lithography, typewriting and any other mode of representing or reproducing words in a visible form.
"Year"	..	Calendar Year.

Words denoting the singular number only shall include the plural and vice versa.

Words denoting the masculine gender only shall include the feminine gender.

Words denoting persons shall include corporations.

Save as aforesaid, any word or expression used in the Act and the Interpretation Act, Cap. 1 shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.

BUSINESS

Any branch of business may be undertaken by Directors.

3. Subject to the provisions of the Act, the Memorandum of Association of the Company or these Articles, any branch or kind of business may be undertaken by the Directors at such time or times as they shall think fit, and further may be suffered by them to be in abeyance, whether such branch or kind of business may have been actually commenced or not, so long as the Directors may deem it expedient not to commence or proceed with such branch or kind of business.

PRIVATE COMPANY

Limited number of members and restrictions on transfer of shares.

4. The Company is a private company, and accordingly:-

(a) the number of the Members of the Company (not including persons who are in the employment of the Company or of its subsidiary and persons who having been formerly in the employment of the Company or of its subsidiary were while in the employment and have continued after the determination of that employment to be Members of the Company) shall be limited to fifty Provided that for the purposes of this provision where two or more persons hold one or more shares in the

Company jointly they shall be treated as a single Member; and

(b) the right to transfer the shares of the Company shall be restricted in the manner hereinafter appearing.

SHARES

Prohibition against financial assistance.

@5. Except as is otherwise expressly permitted by the Act, the Company shall not give, whether directly or indirectly and whether by means of the making of a loan, the giving of a guarantee, the provision of security, the release of an obligation or the release of a debt or otherwise, any financial assistance for the purpose of, or in connection with, the acquisition or proposed acquisition of shares or units of shares in the Company or its holding company.

Company may acquire its own issued ordinary shares.

6. The Company may, subject to and in accordance with the Act, purchase or otherwise acquire ordinary shares in the issued share capital of the Company on such terms and in such manner as the Company may from time to time think fit. The Company may deal with any such share which is so purchased or acquired by it in such manner as may be permitted by, and in accordance with, the Act (including without limitation, to hold such share as a treasury share).

Issue of Shares.

7. Save as provided by Section 161 of the Act, no shares may be issued by the Directors without the prior approval of the Company in General Meeting but subject thereto and to the provisions of these Articles, the Directors may allot or grant options over or otherwise dispose of the same to such persons on such terms and conditions (subject to the provisions of the Act) and at such time as the Company in General Meeting may approve.

Special Rights.

8. (a) The rights attached to shares issued upon special conditions shall be clearly defined in the Memorandum of Association or these Articles. Without prejudice to any special right previously conferred on the holders of any existing shares or class of shares but subject to the Act and these Articles, shares in the Company may be issued by the Directors and any such shares may be issued with such preferred, deferred, or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise as the Directors determine.

Treasury shares

(b) Notwithstanding anything in these Articles, a treasury share shall be subject to such rights and restrictions as may be prescribed in the Act and may be dealt with by the Company in such manner as may be permitted by, and in accordance with, the Act. For the avoidance of doubt, save as expressly permitted by the Act, the Company shall not be entitled to any rights of a Member under these Articles.

Variation of rights.

9. If at any time the share capital is divided into different classes, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may subject to the provisions of the Act, whether or not the Company is being wound up, be varied or abrogated with the sanction of a Special Resolution passed at a separate General Meeting of the holders of shares of the class and to every such Special Resolution the provisions of Section 184 of the Act shall with such adaptations as are necessary apply. To every such separate General Meeting the provisions of these Articles relating to General Meetings shall mutatis mutandis apply; but so that the necessary quorum shall be person(s) at least holding or representing by proxy or by attorney one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy or by attorney may demand a poll Provided always that where the necessary majority for such a Special Resolution is not obtained at the Meeting, consent in writing if obtained from the holders of three-fourths of the issued shares of the class concerned, within two months of the Meeting shall be as valid and effectual as a Special Resolution, carried at the Meeting.

@ By a Special Resolution passed on 29 March 2007, the Articles of Association of the Company be altered by inserting a new Article 5(A) (in the term set out in annex A)

ANNEX A

Article 5A: Optionally Convertible Preference Shares

The Company shall have the power to issue Optionally Convertible Preference Shares ("OCPS") at a price of S$1 per share or at such other price as the Company may determine from time to time **("Issue Price")**.

The holders of OCPS (the **"OCPS Holders"**) shall have the following rights and obligations:-

(a) **Dividend Provision and Status**: Out of the profits available for distribution and resolved to be distributed, the OCPS Holders shall be entitled, in priority to any payment of dividend to the holders of any other class of shares to be paid, in respect of each financial year or other accounting period of the Company, to a fixed non-cumulative preferential dividend **("Preferential Dividend")** of 5% of the Issue Price per annum. The OCPS Holders shall not be entitled to any further right of participation in the profits of the Company. The Preferential Dividend shall be paid on such date as the Directors may determine.

(b) **Liquidation Preference**: In the event of liquidation of the Company, the OCPS Holders have priority in the repayment of capital, being the Issue Price, together with any declared but unpaid dividend on a non-cumulative basis over ordinary shareholders with respect to any net proceeds from liquidation of the Company.

(c) **Conversion Rights and Conversion Ratio**: Each OCPS shall be convertible, at the sole discretion of the OCPS Holder and on the provision of 15 days written notice from such OCPS Holder, into one ordinary share in the capital of the Company.

(d) **Redemption and Redemption Premium:** Prior to the expiry of 20 calendar years from the date of issue of the OCPS, the Company shall be obliged, at the option of the OCPS Holders and on the provision of 15 days written notice from the OCPS Holders ("Redemption Notice"), to redeem the OCPS in full at a price of S$1.10 per share.

A Redemption Notice shall specify the number of OCPS to be redeemed and the time and place for such redemption. The relevant OCPS Holder shall be bound to surrender to the Company the certificate for its OCPS to be redeemed and the Company shall pay to the Holder the amount payable in respect of such redemption.

Upon the expiry of 20 calendar years from the date of issue of any OCPS, the Company shall redeem all such OCPS, regardless of whether the relevant OCPS Holder(s) consent to the redemption ("Automatic redemption"). Automatic Redemption shall take place at the registered office of the Company on the day immediately following the expiry of 20 calendar years from the date of issue of the OCPS or at such other time or place as the Company and the OCPS Holder(s) may agree.

(e) **Voting Rights**: OCPS Holders shall have no voting rights save that the consent of the majority of the OCPS Holders shall be required for the following resolutions:

(i) resolutions that vary the Preferential Dividend as stated in Article 5A(a)

(ii) resolutions that vary the terms relating to conversion and redemption of the OCPS as stated in Articles 5A(c) & 5A(d) respectively;

(iii) resolutions that involve the issue of new classes of shares that rank in priority or pari passu to OCPS;

(iv) any action that alters or changes the rights, preferences and privileges of OCPS;

JPS

(v) any action that authorizes the creation of or creates any new securities (including convertible debt) or reclassifies any issued securities of the Company into securities, having rights and privileges senior to or in preference over or ranking pari passu with the OCPS;

(vi) any action that increases the authorized number of OCPS or subdivides any OCPS;

(vii) any action that results in or gives rise to a capital reduction;

(viii) any action that involves the cancellation of equal amounts of OCPS and ordinary shares which has the effect of reducing the cash amount payable in aggregate as preferential dividend to an OCPS Holder, but which leaves the OCPS Holder's shareholding percentage unchanged;

(ix) any rights issue or issue of bonus shares to holders of other class of shares in the Company which would have the effect of decreasing the voting power of OCPS Holders vis-à-vis other classes of shareholders;

(x) any repurchase of the ordinary shares by the Company;

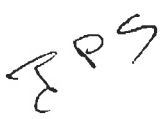
(xi) a dissolution or liquidation of the Company;

(xii) a return of capital on liquidation;

(xiii) a sale of all or substantially all of the Company's assets;

(xiv) amendments to the Company's Memorandum and Articles of Association; and

(xv) any action whereby the Company ceases to undertake the Company's existing businesses or undertakes any diversification of the Company into business areas unrelated to the Company's existing businesses.



10. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class or by these Articles as are in force at the time of such issue, be deemed to be varied by the creation or issue of further shares ranking equally therewith. Creation or issue of further shares with special rights.

11. The Company may pay commissions or brokerage on any issue of shares at such rate or amount and in such manner as the Directors may deem fit. Such commissions or brokerage may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. Power to pay commission and brokerage.

12. If any shares of the Company are issued for the purpose of raising money to defray the expenses of the construction of any works or the provisions of any plant which cannot be made profitable for a long period, the Company may, subject to the conditions and restrictions mentioned in the Act pay interest on so much of the share capital as is for the time being paid up and may charge the same to capital as part of the cost of the construction or provision. Power to charge interest on capital.

13. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust and the Company shall not be bound by or compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these Articles or by law otherwise provided) any other rights in respect of any share, except an absolute right to the entirety thereof in the registered holder. Exclusion of equities.

14. If two or more persons are registered as joint holders of any share any one of such persons may give effectual receipts for any dividend payable in respect of such share and the joint holders of a share shall, subject to the provisions of the Act, be severally as well as jointly liable for the payment of all instalments and calls and interest due in respect of such shares. Such joint holders shall be deemed to be one Member and the delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders. Joint holders.

15. No person shall be recognised by the Company as having title to a fractional part of a share or otherwise than as the sole or a joint holder of the entirety of such share. Fractional part of a share.

16. If by the conditions of allotment of any shares the whole or any part of the amount of the issue price thereof shall be payable by instalments every such instalment shall, when due, be paid to the Company by the person who for the time being shall be the registered holder of the share or his personal representatives, but this provision shall not affect the liability of any allottee who may have agreed to pay the same. Payment of instalments.

17. The certificate of title to shares in the capital of the Company shall be issued under the Seal in such form as the Directors shall from time to time prescribe and shall bear the autographic or facsimile signatures of at least one Director and the Secretary or a second Director or some other person appointed by the Directors, and shall specify the number and class of shares to which it relates and the amount paid on the shares, the amount (if any) unpaid on the shares and the extent to which the shares are paid up. The facsimile signatures may be reproduced by mechanical or other means provided the method or system of reproducing signatures has first been approved by the Auditors of the Company. Share Certificates.

18. Every person whose name is entered as a Member in the Register shall be entitled within two months after allotment or within one month after the lodgment of any transfer to one certificate for all his shares of any one class or to several certificates Entitlement to certificates.

in reasonable denominations each for a part of the shares so allotted or transferred. Where a Member transfers part only of the shares comprised in a certificate or where a Member requires the Company to cancel any certificate or certificates and issue new certificates for the purpose of subdividing his holding in a different manner the old certificate or certificates shall be cancelled and a new certificate or certificates for the balance of such shares issued in lieu thereof and the Member shall pay a fee not exceeding $2/- for each such new certificate as the Directors may determine.

New certificates may be issued.

19. If any certificate or other document of title to shares or debentures be worn out or defaced, then upon production thereof to the Directors, they may order the same to be cancelled and may issue a new certificate in lieu thereof. For every certificate so issued there shall be paid to the Company the amount of the proper duty, if any, with which such certificate is chargeable under any law for the time being in force relating to stamps together with a further fee not exceeding $2/- as the Directors may determine. Subject to the provisions of the Act and the requirements of the Directors thereunder, if any certificate or document be lost or destroyed or stolen, then upon proof thereof to the satisfaction of the Directors and on such indemnity as the Directors deem adequate being given, and on the payment of the amount of the proper duty with which such certificate or document is chargeable under any law for the time being in force relating to stamps together with a further fee not exceeding $2/- as the Directors may determine, a new certificate or document in lieu thereof shall be given to the person entitled to such lost or destroyed or stolen certificate or document.

RESTRICTION ON TRANSFER OF SHARES

Form of Transfer.

20. Subject to the restrictions of these Articles, any Member may transfer all or any of his shares, but every transfer must be in writing and in the usual common form, or in any other form which the Directors may approve. The instrument of transfer of a share shall be signed both by the transferor and by the transferee, and by the witness or witnesses thereto and the transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof. Shares of different classes shall not be comprised in the same instrument of transfer.

Retention of Transfers.

21. All instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Directors may refuse to register shall (except in any case of fraud) be returned to the party presenting the same.

Infant, bankrupt or unsound mind.

22. No share shall in any circumstances be transferred to any infant or bankrupt or person of unsound mind.

Directors' power to decline to register.

23. The Directors may, in their absolute discretion, decline to register any transfer of shares on which the Company has a lien or to a person of whom they do not approve but shall in such event, within one month after the date on which the transfer was lodged with the Company send to the transferor and transferee notice of the refusal. If the Directors refuse to register a transfer they shall within one month of the date of application for the transfer by notice in writing to the applicant state the facts which are considered to justify the refusal to register the transfer.

Instrument of transfer.

24. The Directors may decline to register any instrument of transfer of shares unless:-

(a) such fee not exceeding $2/- or such other sum as the Directors may from time to time require under the provisions of these Articles, is paid to the Company in respect thereof;

(b) the amount of proper duty (if any) with which each instrument of transfer of shares is chargeable under any law for the time being in force relating to stamps is paid; and

(c) the instrument of transfer is deposited at the Office or at such other place (if any) as the Directors may appoint accompanied by a certificate of payment of stamp duty (if any), the certificates of the shares to which the transfer relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other person on his behalf, the authority of the person so to do.

Register of Transfers.

25. The Company shall provide a book to be called "Register of Transfers" which shall be kept under the control of the Directors, and in which shall be entered the particulars of every transfer of shares.

Closure of Register.

26. The Register may be closed at such times and for such periods as the Directors may from time to time determine not exceeding in the whole thirty days in any year.

TRANSMISSION OF SHARES

Transmission on death.

27. In case of the death of a Member, the survivor or survivors, where the deceased was a joint holder, and the executors or administrators of the deceased, where he was a sole or only surviving holder, shall be the only persons recognised by the Company as having any title to his interest in the shares, but nothing herein shall release the estate of a deceased Member (whether sole or joint) from any liability in respect of any share held by him.

Persons becoming entitled on death or bankruptcy of Member may be registered.

28. Any person becoming entitled to a share in consequence of the death or bankruptcy of any Member may, upon producing such evidence of title as the Directors shall require, be registered himself as holder of the share upon giving to the Company notice in writing of such his desire or transfer such share to some other person. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall testify his election by executing to that person a transfer of the share. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the Member had not occurred and the notice or transfer were a transfer executed by such Member.

Rights of unregistered executors and trustees.

29. Save as otherwise provided by or in accordance with these Articles a person becoming entitled to a share in consequence of the death or bankruptcy of a Member shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share except that he shall not be entitled in respect thereof to exercise any right conferred by membership in relation to Meetings of the Company until he shall have been registered as a Member in respect of the share.

Fee for registration of probate etc.

30. There shall be paid to the Company in respect of the registration of any probate, letters of administration, certificate of marriage or death, power of attorney or other document relating to or affecting the title to any shares, such fee not exceeding $2/- as the Directors may from time to time require or prescribe.

CALLS ON SHARES

Calls on shares.

31. The Directors may from time to time make such calls as they think fit upon the Members in respect of any moneys unpaid on their shares and not by the terms of the issue thereof made payable at fixed times, and each Member shall (subject to

receiving at least fourteen days' notice specifying the time or times and place of payment) pay to the Company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the Directors may determine.

Time when made.

32. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed and may be made payable by instalments.

Interest on calls.

33. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest on the sum due from the day appointed for payment thereof to the time of actual payment at such rate not exceeding ten per cent per annum as the Directors determine, but the Directors shall be at liberty to waive payment of such interest wholly or in part.

Sum due on allotment.

34. Any sum which by the terms of issue of a share becomes payable upon allotment or at any fixed date, shall for all purposes of these Articles be deemed to be a call duly made and payable on the date, on which, by the terms of issue, the same becomes payable, and in case of non-payment all the relevant provisions of the Articles as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

Power to differentiate.

35. The Directors may on the issue of shares differentiate between the holders as to the amount of calls to be paid and the times of payments.

Payment in advance of calls.

36. The Directors may, if they think fit, receive from any Member willing to advance the same all or any part of the moneys uncalled and unpaid upon the shares held by him and such payments in advance of calls shall extinguish, so far as the same shall extend, the liability upon the shares in respect of which it is made, and upon the moneys so received or so much thereof as from time to time exceeds the amount of the calls then made upon the shares concerned the Company may pay interest at such rate not exceeding ten per cent per annum as the Member paying such sum and the Directors agree upon.

FORFEITURE AND LIEN

Notice requiring payment of calls.

37. If any Member fails to pay in full any call or instalment of a call on the day appointed for payment thereof, the Directors may at any time thereafter serve a notice on such Member requiring payment of so much of the call or instalment as is unpaid together with any interest and expenses which may have accrued.

Notice to state time and place.

38. The notice shall name a further day (not being less than fourteen days from the date of service of the notice) on or before which and the place where the payment required by the notice is to be made, and shall state that in the event of non-payment in accordance therewith the shares on which the call was made will be liable to be forfeited.

Forfeiture on non-compliance with notice.

39. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls and interest and expenses due in respect thereof be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited share and not actually paid before the forfeiture. The Directors may accept a surrender of any share liable to be forfeited hereunder.

Sale of shares forfeited.

40. A share so forfeited or surrendered shall become the property of the Company and may be sold, re-allotted or otherwise disposed of either to the person who was before such forfeiture or surrender the holder thereof or entitled thereto, or to any

other person, upon such terms and in such manner as the Directors shall think fit, and at any time before a sale, re-allotment or disposition the forfeiture or surrender may be cancelled on such terms as the Directors think fit. To give effect to any such sale, the Directors may, if necessary, authorise some person to transfer a forfeited or surrendered share to any such person as aforesaid.

Rights and liabilities of Members whose shares have been forfeited or surrendered.

41. A Member whose shares have been forfeited or surrendered shall cease to be a Member in respect of the shares, but shall notwithstanding the forfeiture or surrender remain liable to pay to the Company all moneys which at the date of forfeiture or surrender were payable by him to the Company in respect of the shares with interest thereon at ten per cent per annum (or such lower rate as the Directors may approve) from the date of forfeiture or surrender until payment, but such liability shall cease if and when the Company receives payment in full of all such money in respect of the shares and the Directors may waive payment of such interest either wholly or in part.

Company's lien.

42. The Company shall have a first and paramount lien and charge on every share (not being a fully paid share) registered in the name of each Member (whether solely or jointly with others) and on the dividends declared or payable in respect thereof for all calls and instalments due on any such share and interest and expenses thereon but such lien shall only be upon the specific shares in respect of which such calls or instalments are due and unpaid and on all dividends from time to time declared in respect of the shares. The Directors may resolve that any share shall for some specified period be exempt from the provisions of this Article.

Sale of shares subject to lien.

43. The Company may sell in such manner as the Directors think fit any share on which the Company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of fourteen days after notice in writing stating and demanding payment of the sum payable and giving notice of intention to sell in default, shall have been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or bankruptcy. To give effect to any such sale, the Directors may authorise some person to transfer the shares sold to the purchaser thereof.

Application of proceeds of such sale.

44. The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable and the residue, if any, shall (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

Title to shares forfeited or surrendered or sold to satisfy a lien.

45. A statutory declaration in writing that the declarant is a Director of the Company and that a share has been duly forfeited or surrendered or sold to satisfy a lien of the Company on a date stated in the declaration shall be conclusive evidence of the facts stated therein as against all persons claiming to be entitled to the share, and such declaration and the receipt of the Company for the consideration (if any) given for the share on the sale, re-allotment or disposal thereof together with the certificate of proprietorship of the share under Seal delivered to a purchaser or allottee thereof shall (subject to the execution of a transfer if the same be required) constitute a good title to the share and the person to whom the share is sold, re-allotted or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, surrender, sale, re-allotment or disposal of the share.

ALTERATION OF CAPITAL

Rights and privileges of

46. Subject to any special rights for the time being attached to any existing class of shares, any new shares shall be issued upon such terms and conditions and with such rights and privileges annexed thereto as the General Meeting resolving upon

the creation thereof shall direct and if no direction be given as the Directors shall determine subject to the provisions of these Articles and in particular (but without prejudice to the generality of the foregoing) such shares may be issued with a preferential or qualified right to dividends and in the distribution of assets of the Company or otherwise. new shares.

47. Unless otherwise determined by the Company in General Meeting any original shares for the time being unissued and any new shares from time to time to be created shall before issue be offered in the first instance to all the then holders of any class of shares in proportion as nearly as may be to the number of shares held by them. In offering such shares in the first instance to all the then holders of any class of shares the offer shall be made by notice specifying the number of shares offered and limiting the time within which the offer if not accepted will be deemed to be declined and after the expiration of that time or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the Directors may dispose of those shares in such manner as they think most beneficial to the Company and the Directors may dispose of or not issue any such shares which by reason of the proportion borne by them to the number of holders entitled to any such offer or by reason of any other difficulty in apportioning the same cannot, in the opinion of the Directors, be conveniently offered under this Article. Issue of new shares to Members.

48. Except so far as otherwise provided by the conditions of issue or by these Articles all new shares shall be subject to the provisions of these Articles with reference to allotments, payment of calls, lien, transfer, transmission, forfeiture and otherwise. New shares otherwise subject to provisions of Articles.

49. The Company may by Ordinary Resolution:- Power to consolidate, cancel and subdivide shares.

(a) consolidate and divide all or any of its share capital;

(b) cancel any shares which, at the date of the passing of the Resolution, have not been taken or agreed to be taken by any person or which have been forfeited and diminish the amount of its share capital accordingly;

(c) subdivide its shares or any of them (subject nevertheless to the provisions of the Act) provided always that in such subdivision the proportion between the amount paid and the amount (if any) unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived; and

(d) subject to the provisions of these Articles and the Act, convert any class of shares into any other class of shares.

50. The Company may reduce its share capital in accordance with the provisions of the Act and any other applicable law. Power to reduce capital.

STOCK

51. The Company may by Ordinary Resolution convert any paid up shares into stock and may from time to time by like resolution reconvert any stock into paid up shares. Power to convert into stock.

52. The holders of stock may transfer the same or any part thereof in the same manner and subject to the same Articles as and subject to which the shares from which the stock arose might previously to conversion have been transferred or as near thereto as circumstances admit but no stock shall be transferable except in such units as the Directors may from time to time determine. Transfer of stock.

53. The holders of stock shall, according to the number of stock units held by them, have the same rights, privileges and advantages as regards dividend, return of capital, voting and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except as regards dividend and return of capital and the assets on winding up) shall be conferred by any number of stock units which would not if existing in shares have conferred that privilege or advantage; and no such conversion shall affect or prejudice any preference or other special privileges attached to the shares so converted. Rights of stockholders.

54. All such of the provisions of these Articles as are applicable to paid up shares shall apply to stock and the words "share" and "shareholder" or similar expressions herein shall include "stock" or "stockholder". Interpretation.

GENERAL MEETINGS

55. In accordance with and subject to the provisions of the Act, the Company shall hold a general meeting as its Annual General Meeting (unless such meeting has been dispensed with in accordance with the provisions of the Act) in addition to any other meetings in that year. Annual General Meeting.

56. (a) All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings. Extraordinary General Meetings.

(b) The time and place of any General Meeting shall be determined by the Directors. Time and Place.

57. The Directors may, whenever they think fit, convene an Extraordinary General Meeting and Extraordinary General Meetings shall also be convened on such requisition or, in default, may be convened by such requisitionists, as provided by Section 176 of the Act. If at any time there are not within Singapore sufficient Directors capable of acting to form a quorum at a meeting of Directors, any Director may convene an Extraordinary General Meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors. Calling Extraordinary General Meetings.

NOTICE OF GENERAL MEETINGS

58. Subject to the provisions of the Act as to Special Resolutions and special notice, at least fourteen days' notice in writing (exclusive both of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of every General Meeting shall be given in the manner hereinafter mentioned to such persons (including the Auditors) as are under the provisions herein contained entitled to receive notice from the Company. Provided that a General Meeting notwithstanding that it has been called by a shorter notice than that specified above shall be deemed to have been duly called if it is so agreed:- Notice of Meetings.

(a) in the case of an Annual General Meeting, by all the Members entitled to attend and vote thereat; and

(b) in the case of an Extraordinary General Meeting, by a majority in number of the Members having a right to attend and vote thereat, being a majority together holding not less than 95 per cent of the total voting rights of all the Members having a right to vote at that meeting.

Provided also that the accidental omission to give notice to, or the non-receipt by, any person entitled thereto shall not invalidate the proceedings at any General Meeting.

59. (a) Every notice calling a General Meeting shall specify the place and the day and hour of the Meeting, and there shall appear with reasonable prominence in every such notice a statement that a Member entitled to attend and vote is entitled to appoint a proxy to attend and to vote instead of him and that a proxy need not be a Member of the Company. Contents of notice.

(b) In the case of an Annual General Meeting, the notice shall also specify the Meeting as such.

(c) In the case of any General Meeting at which business other than routine business is to be transacted, the notice shall specify the general nature of the business; and if any resolution is to be proposed as a Special Resolution or as requiring special notice, the notice shall contain a statement to that effect.

60. Routine business shall mean and include only business transacted at an Annual General Meeting of the following classes, that is to say:- Routine Business.

(a) Declaring dividends;

(b) Reading, considering and adopting the balance sheet, the reports of the Directors and Auditors, and other accounts and documents required to be annexed to the balance sheet;

(c) Appointing Auditors and fixing the remuneration of Auditors or determining the manner in which such remuneration is to be fixed; and

(d) Fixing the remuneration of the Directors proposed to be paid under Article 86.

PROCEEDINGS AT GENERAL MEETINGS

61. (a) No business other than the appointment of a chairman shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. Save as herein otherwise provided, two Members shall form a quorum, but in the event of the Company having only one Member (whether an individual or a corporation being beneficially entitled to the whole of the issued capital of the Company), such individual Member or a person representing such corporation shall be a quorum and shall be deemed to constitute a Meeting. If applicable, the provisions of Section 179 of the Act shall apply. For the purpose of this Article, "Member" includes a person attending by proxy or by attorney or as representing a corporation which is a Member. Provided that (a) a proxy representing more than one Member shall only count as one Member for the purpose of determining the quorum; and (b) where a Member is represented by more than one proxy such proxies shall count as only one Member for the purpose of determining the quorum. Quorum.

(b) If within half an hour from the time appointed for the Meeting a quorum is not present, the Meeting if convened on the requisition of Members shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Directors may determine, and if at such adjourned Meeting a quorum is not present within fifteen minutes from the time appointed for holding the Meeting, the Meeting shall be dissolved. No notice of any such adjournment as aforesaid shall be required to be given to the Members. Adjournment if quorum not present.

62. Subject to the provisions of the Act, the Members may participate in a General Meeting by conference telephone or by means of a similar communication Participation in a Meeting

equipment whereby all persons participating in the meeting are able to hear each other in which event such Members shall be deemed to be present at the meeting. A Member participating in a meeting in the manner aforesaid may also be taken into account in ascertaining the presence of a quorum at the meeting. Such a meeting shall be deemed to take place where the largest group of Members present for purposes of the meeting is assembled or, if there is no such group, where the Chairman is present. by conference telephone.

63. A resolution in writing may be passed by the Members in accordance with the provisions of the Act and may consist of several documents in the like form, each signed by one or more of such Members. Resolution in writing.

64. The Chairman of the Board of Directors shall preside as Chairman at every General Meeting. If there be no such Chairman or if at any Meeting he be not present within fifteen minutes after the time appointed for holding the Meeting or be unwilling to act, the Members present shall choose some Director to be Chairman of the Meeting or, if no Director be present or if all the Directors present decline to take the Chair, one of their number present, to be Chairman. Chairman.

65. The Chairman may, with the consent of any Meeting at which a quorum is present (and shall if so directed by the Meeting) adjourn the Meeting from time to time and from place to place, but no business shall be transacted at any adjourned Meeting except business which might lawfully have been transacted at the Meeting from which the adjournment took place. When a Meeting is adjourned for thirty days or more, notice of the adjourned Meeting shall be given as in the case of the original Meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned Meeting. Adjournment.

66. At any General Meeting a resolution put to the vote of the Meeting shall be decided on a show of hands unless a poll be (before or on the declaration of the result of the show of hands) demanded:- Method of voting.

(a) by the Chairman (being a person entitled to vote thereat); or

(b) by at least one Member present in person or by proxy or by attorney or in the case of a corporation by a representative and entitled to vote thereat; or

(c) by any Member or Members present in person or by proxy or by attorney or in the case of a corporation by a representative and representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the Meeting; or

(d) by a Member or Members present in person or by proxy or by attorney or in the case of a corporation by a representative, holding shares in the Company conferring a right to vote at the Meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right;

Provided always that no poll shall be demanded on the election of a Chairman or on a question of adjournment. Unless a poll be so demanded (and the demand be not withdrawn) a declaration by the Chairman that a resolution has been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the minute book shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. A demand for a poll may be withdrawn.

Taking a poll.

67. If a poll be duly demanded (and the demand be not withdrawn) it shall be taken in such manner (including the use of ballot or voting papers or tickets) as the Chairman may direct and the result of a poll shall be deemed to be the resolution of the Meeting at which the poll was demanded. The Chairman may, and if so requested shall, appoint scrutineers and may adjourn the Meeting to some place and time fixed by him for the purpose of declaring the result of the poll.

Votes counted in error.

68. If any votes be counted which ought not to have been counted or might have been rejected, the error shall not vitiate the result of the voting unless it be pointed out at the same Meeting or at any adjournment thereof and not in any case unless it shall in the opinion of the Chairman be of sufficient magnitude.

Chairman's casting vote.

69. In the case of equality of votes, whether on a show of hands or on a poll, the Chairman of the Meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a casting vote.

Time for taking a poll.

70. A poll demanded on any question shall be taken either immediately or at such subsequent time (not being more than thirty days from the date of the Meeting) and place as the Chairman may direct. No notice need be given of a poll not taken immediately.

Continuance of business after demand for a poll.

71. The demand for a poll shall not prevent the continuance of a Meeting for the transaction of any business, other than the question on which the poll has been demanded.

VOTES OF MEMBERS

Voting rights of Members.

72. Subject to the Act, these Articles and to any special rights or restrictions as to voting attached to any class of shares hereinafter issued on a show of hands every Member who is present in person or by proxy or attorney or in the case of a corporation by a representative shall have one vote (provided that in the case of a Member who is represented by two proxies, only one of the two proxies as determined by that Member or, failing such determination, by the Chairman of the meeting (or by a person authorised by him) in his sole discretion shall be entitled to vote on a show of hands) and on a poll every such Member shall have one vote for every share of which he is the holder.

Voting rights of joint holders.

73. Where there are joint registered holders of any share any one of such persons may vote and be reckoned in a quorum at any Meeting either personally or by proxy or by attorney or in the case of a corporation by a representative as if he were solely entitled thereto and if more than one of such joint holders be so present at any Meeting that one of such persons so present whose name stands first in the Register in respect of such share shall alone be entitled to vote in respect thereof. Several executors or administrators of a deceased Member in whose name any share stands shall for the purpose of this Article be deemed joint holders thereof.

Voting rights of Members of unsound mind.

74. A Member of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental disorders may vote whether on a show of hands or on a poll by his committee, curator bonis or such other person as properly has the management of his estate and any such committee, curator bonis or other person may vote by proxy or attorney, provided that such evidence as the Directors may require of the authority of the person claiming to vote shall have been deposited at the Office not less than forty eight hours before the time appointed for holding the Meeting.

75. Subject to the provisions of the Act and these Articles, every Member shall be entitled to be present and to vote at any General Meeting either personally or by proxy or by attorney or in the case of a corporation by a representative and to be reckoned in a quorum in respect of shares fully paid and in respect of partly paid shares where calls are not due and unpaid. Right to vote.

76. No objection shall be raised to the qualification of any voter except at the Meeting or adjourned Meeting at which the vote objected to is given or tendered and every vote not disallowed at such Meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the Meeting whose decision shall be final and conclusive. Objections.

77. On a poll votes may be given either personally or by proxy or by attorney or in the case of a corporation by its representative and a person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way. Votes on a poll.

78. An instrument appointing a proxy shall be in writing and:- Appointment of proxies.

(a) in the case of an individual shall be signed by the appointor or by his attorney; and

(b) in the case of a corporation shall be either under the common seal or signed by its attorney or by an officer on behalf of the corporation.

The Directors may, but shall not be bound to, require evidence of the authority of any such attorney or officer.

79. A proxy need not be a Member of the Company. Proxy need not be a Member.

80. An instrument appointing a proxy or the power of attorney or other authority, if any, must be left at the Office or such other place (if any) as is specified for the purpose in the notice convening the Meeting not less than forty-eight hours before the time appointed for the holding of the Meeting or adjourned Meeting (or in the case of a poll before the time appointed for the taking of the poll) at which it is to be used and in default shall not be treated as valid unless the Directors otherwise determine. Deposit of proxies.

81. An instrument appointing a proxy shall be in the following form with such variations if any as circumstances may require or in such other form as the Directors may accept and shall be deemed to include the right to demand or join in demanding a poll:- Form of proxies.

****ASIAN MERCHANTILE EXCHANGE PTE. LTD.**

"I/We,
of
a Member/Members of the abovenamed Company
hereby appoint
of
or whom failing
of
to vote for me/us and on my/our behalf
at the (Annual, Extraordinary or Adjourned,
as the case may be) General Meeting of
the Company to be held on the day
of and at every adjournment
thereof.

*The name of Company has been changed to "Global Mercantile Exchange Pte. Ltd." with effect from 1 December 2006 pursuant to a special resolution passed on 1 December 2006

#The name of Company has been changed to "Singapore Mercantile Exchange Pte. Ltd." with effect from 12 January 2007 pursuant to a special resolution passed on 26 December 2006

Dated this day of 20 ."

An instrument appointing a proxy shall, unless the contrary is stated thereon, be valid as well for any adjournment of the Meeting as for the Meeting to which it relates and need not be witnessed.

Intervening death or insanity of principal not to revoke proxy.

82. A vote given in accordance with the terms of an instrument of proxy (which for the purposes of these Articles shall also include a power of attorney) shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy, or of the authority under which the proxy was executed or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the Company at the Office (or such other place as may be specified for the deposit of instruments appointing proxies) before the commencement of the Meeting or adjourned Meeting (or in the case of a poll before the time appointed for the taking of the poll) at which the proxy is used.

Corporations acting by representatives.

83. Any corporation which is a Member of the Company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any Meeting of the Company or of any class of Members of the Company and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual Member of the Company.

DIRECTORS

Number of Directors.

84. Subject to the other provisions of Section 145 of the Act, the Company shall have at least one Director, and all Directors shall be natural persons.

Qualification.

85. A Director need not be a Member and shall not be required to hold any share qualification unless and until otherwise determined by the Company in General Meeting but shall be entitled to attend and speak at General Meetings.

Remuneration of Directors.

86. Subject to Section 169 of the Act, the remuneration of the Directors shall be determined from time to time by the Company in General Meeting, and shall be divisible among the Directors in such proportions and manner as they may agree and in default of agreement equally, except that in the latter event any Director who shall hold office for part only of the period in respect of which such remuneration is payable shall be entitled only to rank in such division for the proportion of remuneration related to the period during which he has held office.

Travelling expenses.

87. The Directors shall be entitled to be repaid all travelling or such reasonable expenses as may be incurred in attending and returning from meetings of the Directors or of any committee of the Directors or General Meetings or otherwise howsoever in or about the business of the Company in the course of the performance of their duties as Directors.

Extra Remuneration.

88. Any Director who is appointed to any executive office or serves on any committee or who otherwise performs or renders services, which in the opinion of the Directors are outside his ordinary duties as a Director, may, subject to Section 169 of the Act, be paid such extra remuneration as the Directors may determine.

Power of Directors to hold office of profit and to contract with Company.

89. Other than the office of Auditor (or Secretary in the case of the Company having only one Director), a Director may hold any other office or place of profit under the Company and he or any firm of which he is a member may act in a professional capacity for the Company in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine. Subject to the Act, no Director or intending Director shall be disqualified by his office from contracting or entering into any arrangement with the Company either as

vendor, purchaser or otherwise nor shall such contract or arrangement or any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested be avoided nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason only of such Director holding that office or of the fiduciary relation thereby established.

Directors to observe Section 156 of the Act.

90. Every Director shall observe the provisions of Section 156 of the Act relating to the disclosure of the interests of the Directors in transactions or proposed transactions with the Company or of any office or property held by a Director which might create duties or interests in conflict with his duties or interests as a Director. Subject to such disclosure, a Director shall be entitled to vote in respect of any transaction or arrangement in which he is interested and he shall be taken into account in ascertaining whether a quorum is present.

Holding of office in other companies.

91. (a) A Director may be or become a director of or hold any office or place of profit (other than as Auditor or Secretary in the case of the Company having only one Director) or be otherwise interested in any company in which the Company may be interested as vendor, purchaser, shareholder or otherwise and unless otherwise agreed shall not be accountable for any fees, remuneration or other benefits received by him as a director or officer of or by virtue of his interest in such other company.

Directors may exercise voting power conferred by Company's shares in another company.

(b) The Directors may exercise the voting power conferred by the shares in any company held or owned by the Company in such manner and in all respects as the Directors think fit in the interests of the Company (including the exercise thereof in favour of any resolution appointing the Directors or any of them to be directors of such company or voting or providing for the payment of remuneration to the directors of such company) and any such Director of the Company may vote in favour of the exercise of such voting powers in the manner aforesaid notwithstanding that he may be or be about to be appointed a director of such other company.

MANAGING DIRECTORS

Appointment of Managing Directors.

92. The Directors may from time to time appoint one or more of their body to be Managing Director or Managing Directors of the Company and may from time to time (subject to the provisions of any contract between him or them and the Company) remove or dismiss him or them from office and appoint another or others in his or their places.

Resignation and removal of Managing Director.

93. A Managing Director shall subject to the provisions of any contract between him and the Company be subject to the same provisions as to resignation and removal as the other Directors of the Company and if he ceases to hold the office of Director from any cause he shall ipso facto and immediately cease to be a Managing Director.

Remuneration of Managing Director.

94. The remuneration of a Managing Director shall from time to time be fixed by the Directors and may subject to these Articles be by way of salary or commission or participation in profits or by any or all of these modes.

Powers of Managing Director.

95. The Directors may from time to time entrust to and confer upon a Managing Director for the time being such of the powers exercisable under these Articles by the Directors as they may think fit and may confer such powers for such time and to be exercised on such terms and conditions and with such restrictions as they think expedient and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf and may from time to time revoke withdraw alter or vary all or any of such powers.

VACATION OF OFFICE OF DIRECTOR

Vacation of office of Director.

96. The office of a Director shall be vacated in any one of the following events, namely:-

(a) if he becomes prohibited from being a Director by reason of any order made under the Act;

(b) if he ceases to be a Director by virtue of any of the provisions of the Act or these Articles;

(c) if he resigns by writing under his hand left at the Office;

(d) if he has a receiving order made against him or suspends payments or compounds with his creditors generally; or

(e) if he is found lunatic or becomes of unsound mind.

APPOINTMENT AND REMOVAL OF DIRECTORS

Removal of Directors.

97. The Company may by Ordinary Resolution remove any Director before the expiration of his period of office, notwithstanding anything in these Articles or in any agreement between the Company and such Director.

Appointment in place of Director removed.

98. The Company may by Ordinary Resolution appoint another person in place of a Director removed from office under the immediately preceding Article.

Directors' power to fill casual vacancies and to appoint additional Director.

99. The Directors shall have power at any time and from time to time to appoint any person to be a Director either to fill a casual vacancy or as an additional Director but so that the total number of Directors shall not at any time exceed the maximum number fixed by or in accordance with these Articles.

ALTERNATE DIRECTORS

Appointment of Alternate Directors.

100. (a) Any Director may at any time by writing under his hand and deposited at the Office or by telefax, telex, cable or electronic mail sent to the Secretary appoint any person to be his Alternate Director and may in like manner at any time terminate such appointment. Any appointment or removal by telefax, telex, cable or electronic mail shall be confirmed as soon as possible by letter, but may be acted upon by the Company meanwhile.

(b) A Director or any other person may act as an Alternate Director to represent more than one Director and such Alternate Director shall be entitled at Directors' meetings to one vote for every Director whom he represents in addition to his own vote if he is a Director.

(c) The appointment of an Alternate Director shall ipso facto determine on the happening of any event which if he were a Director would render his office as a Director to be vacated and his appointment shall also determine ipso facto if his appointor ceases for any reason to be a Director.

(d) An Alternate Director shall be entitled to receive notices of meetings of the Directors and to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally, if his appointor is absent from Singapore or is otherwise unable to act as such Director, to perform all

functions of his appointor as a Director (except the power to appoint an Alternate Director) and to sign any resolution in accordance with the provisions of Article 106.

(e) An Alternate Director shall not be taken into account in reckoning the minimum or maximum number of Directors allowed for the time being under these Articles but he shall be counted for the purpose of reckoning whether a quorum is present at any meeting of the Directors attended by him at which he is entitled to vote Provided that he shall not constitute a quorum under Article 103 if he is the only person present at the meeting notwithstanding that he may be an Alternate to more than one Director.

(f) An Alternate Director may be repaid by the Company such expenses as might properly be repaid to him if he were a Director and he shall be entitled to receive from the Company such proportion (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, but save as aforesaid he shall not in respect of such appointment be entitled to receive any remuneration from the Company.

(g) An Alternate Director shall not be required to hold any share qualification.

PROCEEDINGS OF DIRECTORS

Meetings of Directors.

101. (a) The Directors may meet together for the despatch of business, adjourn or otherwise regulate their meetings as they think fit. Subject to the provisions of these Articles questions arising at any meeting shall be determined by a majority of votes and in case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

Participation in a Meeting by conference telephone.

(b) Any Director or his Alternate may participate at a meeting of the Directors by conference telephone or by means of a similar communication equipment whereby all persons participating in the meeting are able to hear each other in which event such Director or his Alternate shall be deemed to be present at the meeting. A Director or his Alternate participating in a meeting in the manner aforesaid may also be taken into account in ascertaining the presence of a quorum at the meeting. Such a meeting shall be deemed to take place where the largest group of Directors present for purposes of the meeting is assembled or, if there is no such group, where the Chairman is present.

Convening meetings of Directors.

102. A Director may and the Secretary on the requisition of a Director shall at any time summon a meeting of the Directors but it shall not be necessary to give notice of a meeting of Directors to any Director for the time being absent from Singapore.

Quorum.

103. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two, save where the Company has only one Director, such sole Director shall be a quorum and shall be deemed to constitute a meeting. A meeting of the Directors at which a quorum is present shall be competent to exercise all the powers and discretions for the time being exercisable by the Directors.

Proceedings in case of vacancies.

104. The continuing Directors may act notwithstanding any vacancies in their body but if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with these Articles the continuing Directors or Director may act for the purpose of filling up such vacancies or of summoning General Meetings of the Company but not for any other purpose. If there be no Directors or Director able or willing to act, then any two Members may summon a General Meeting for the purpose of appointing Directors.

105. The Directors may from time to time elect a Chairman and if desired a Deputy Chairman and determine the period for which he is or they are to hold office. The Deputy Chairman will perform the duties of the Chairman during the Chairman's absence for any reason. The Chairman and in his absence the Deputy Chairman shall preside as Chairman at meetings of the Directors but if no such Chairman or Deputy Chairman be elected or if at any meeting the Chairman and the Deputy Chairman be not present within five minutes after the time appointed for holding the same, the Directors present shall choose one of their number to be Chairman of such meeting.

Chairman of Directors.

106. A resolution in writing signed by a majority of the Directors for the time being and being not less than are sufficient to form a quorum shall be as effective as a resolution passed at a meeting of the Directors duly convened and held, and may consist of several documents in the like form each signed by one or more of the Directors. Provided that where a Director has appointed an Alternate Director, the Director or (in lieu of the Director) his Alternate Director may sign. The expressions "in writing" and "signed" include approval by telex, telefax, cable, telegram or via electronic mail by any such Director.

Resolutions in writing.

107. The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the Directors.

Power to appoint committees.

108. The meetings and proceedings of any such committee consisting of two or more members shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Directors, so far as the same are applicable and are not superseded by any regulations made by the Directors under the last preceding Article.

Proceedings at committee meetings.

109. All acts done by any meeting of Directors or of a committee of Directors or by any person acting as Director shall as regards all persons dealing in good faith with the Company, notwithstanding that there was some defect in the appointment of any such Director or person acting as aforesaid or that they or any of them were disqualified or had vacated office or were not entitled to vote be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

Validity of acts of Directors in spite of some formal defect.

GENERAL POWERS OF THE DIRECTORS

110. The management of the business of the Company shall be vested in the Directors who (in addition to the powers and authorities by these Articles or otherwise expressly conferred upon them) may exercise all such powers and do all such acts and things as may be exercised or done by the Company and are not hereby or by the Act expressly directed or required to be exercised or done by the Company in General Meeting but subject nevertheless to the provisions of the Act and of these Articles and to any regulations from time to time made by the Company in General Meeting provided that no regulations so made shall invalidate any prior act of the Directors which would have been valid if such regulations had not been made and in particular and without prejudice to the generality of the foregoing the Directors may at their discretion exercise every borrowing power vested in the Company by its Memorandum of Association or permitted by law together with collateral power of hypothecating the assets of the Company including any uncalled or called but unpaid capital; provided that the Directors shall not carry into effect any proposals for disposing of the whole or substantially the whole of the Company's undertaking or property unless those proposals have been approved by the Company in General Meeting.

General powers of Directors to manage Company's business.

111. The Directors may from time to time by power of attorney appoint any

Power to

company, firm or person or any fluctuating body of persons whether nominated directly or indirectly by the Directors to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with such attorney as the Directors may think fit and may also authorise any such attorney to subdelegate all or any of the powers, authorities and discretions vested in him. appoint attorneys.

112. All cheques, promissory notes, drafts, bills of exchange, and other negotiable or transferable instruments and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by Resolution determine. Signature of cheques and bills.

BORROWING POWERS

113. The Directors may borrow or raise money from time to time for the purpose of the Company or secure the payment of such sums as they think fit and may secure the repayment or payment of such sums by mortgage or charge upon all or any of the property or assets of the Company or by the issue of debentures or otherwise as they may think fit. Directors' borrowing powers.

SECRETARY

114. The Secretary or Secretaries shall and a Deputy or Assistant Secretary or Secretaries may be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit, and any Secretary, Deputy or Assistant Secretary so appointed may be removed by them, but without prejudice to any claim he may have for damages for breach of any contract of service between him and the Company. The appointment and duties of the Secretary or Secretaries shall not conflict with the provisions of the Act and in particular Section 171 thereof. Secretary.

115. Where the Company has only one Director, such Director may not hold the office of the Secretary. Sole Director not to act as Secretary

SEAL

116. (a) The Directors shall provide for the safe custody of the Seal, which shall only be used by the authority of the Directors or a committee of Directors authorised by the Directors in that behalf, and every instrument to which the Seal shall be affixed shall (subject to the provisions of these Articles as to certificates for shares) be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Directors in place of the Secretary for the purpose. Seal.

(b) The Company may exercise the powers conferred by the Act with regard to having an Official Seal for use abroad, and such powers shall be vested in the Directors. Official Seal.

(c) The Company may have a duplicate Common Seal as referred to in Section 124 of the Act which shall be a facsimile of the Common Seal with the addition on its face of the words "Share Seal". Share Seal.

AUTHENTICATION OF DOCUMENTS

Power to authenticate documents.

117. Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolutions passed by the Company or the Directors, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts; and where any books, records, documents or accounts are elsewhere than at the Office, the local manager and other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors as aforesaid.

Certified copies of resolution of the Directors.

118. A document purporting to be a copy of a resolution of the Directors or an extract from the minutes of a meeting of Directors which is certified as such in accordance with the provisions of the last preceding Article shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that such extract is a true and accurate record of a duly constituted meeting of the Directors.

DIVIDENDS AND RESERVES

Payment of dividends.

119. The Company may by Ordinary Resolution declare dividends but (without prejudice to the powers of the Company to pay interest on share capital as hereinbefore provided) no dividend shall be payable except out of the profits of the Company, or in excess of the amount recommended by the Directors.

Apportionment of dividends.

120. Subject to the rights of holders of shares with special rights as to dividend (if any), and the Act, (a) all dividends shall be declared and paid in proportion to the number of shares held by a Member but where shares are partly paid all dividends must be apportioned and paid proportionately to the amounts paid or credited as paid on the partly paid shares; and (b) all dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly. For the purposes of this Article, no amount paid or credited as paid on a share in advance of a call shall be treated as paid on the share.

Payment of preference and interim dividends.

121. If and so far as in the opinion of the Directors the profits of the Company justify such payments, the Directors may pay the fixed preferential dividends on any class of shares carrying a fixed preferential dividend expressed to be payable on a fixed date on the half-yearly or other dates (if any) prescribed for the payment thereof by the terms of issue of the shares, and subject thereto may also from time to time pay to the holders of any other class of shares interim dividends thereon of such amounts and on such dates as they may think fit.

Dividends not to bear interest.

122. No dividend or other moneys payable on or in respect of a share shall bear interest against the Company.

Deduction of debts due to Company.

123. The Directors may deduct from any dividend or other moneys payable to any Member on or in respect of a share all sums of money (if any) presently payable by him to the Company on account of calls or in connection therewith.

Retention of dividends on shares subject to lien.

124. The Directors may retain any dividend or other moneys payable on or in respect of a share on which the Company has a lien and may apply the same in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists.

Retention of dividends on

125. The Directors may retain the dividends payable on shares in respect of which any person is under the provisions as to the transmission of shares hereinbefore

contained entitled to become a Member or which any person under those provisions is entitled to transfer until such person shall become a Member in respect of such shares or shall duly transfer the same. shares pending transmission.

126. The payment by the Directors of any unclaimed dividends or other moneys payable on or in respect of a share into a separate account shall not constitute the Company a trustee in respect thereof. All dividends unclaimed after being declared may be invested or otherwise made use of by the Directors for the benefit of the Company and any dividend unclaimed after a period of six years from the date of declaration of such dividend may be forfeited and if so shall revert to the Company but the Directors may at any time thereafter at their absolute discretion annul any such forfeiture and pay the dividend so forfeited to the person entitled thereto prior to the forfeiture. Unclaimed dividends.

127. The Company may, upon the recommendation of the Directors, by Ordinary Resolution direct payment of a dividend in whole or in part by the distribution of specific assets and in particular of paid up shares or debentures of any other company or in any one or more of such ways; and the Directors shall give effect to such Resolution and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the footing of the value so fixed in order to adjust the rights of all parties and may vest any such specific assets in trustees as may seem expedient to the Directors. Payment of dividend in specie.

128. Any dividend or other moneys payable in cash on or in respect of a share may be paid by cheque or warrant sent through the post to the registered address of the Member or person entitled thereto, or, if several persons are registered as joint holders of the share or are entitled thereto in consequence of the death or bankruptcy of the holder to any one of such persons or to such persons and such address as such persons may by writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to such person as the holder or joint holders or person or persons entitled to the share in consequence of the death or bankruptcy of the holder may direct and payment of the cheque if purporting to be endorsed or the receipt of any such person shall be a good discharge to the Company. Every such cheque or warrant shall be sent at the risk of the person entitled to the money represented thereby. Dividends payable by cheque.

129. A transfer of shares shall not pass the right to any dividend declared on such shares before the registration of the transfer. Effect of transfer.

RESERVES

130. The Directors may from time to time set aside out of the profits of the Company and carry to reserve such sums as they think proper which, at the discretion of the Directors, shall be applicable for meeting contingencies or for the gradual liquidation of any debt or liability of the Company or for repairing or maintaining the works, plant and machinery of the Company or for special dividends or bonuses or for equalising dividends or for any other purpose to which the profits of the Company may properly be applied and pending such application may either be employed in the business of the Company or be invested. The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided. The Directors may also without placing the same to reserve carry forward any profits which they may think it not prudent to divide. Power to carry profit to reserve.

CAPITALISATION OF PROFITS AND RESERVES

Power to capitalise profits.

131. The Company may, upon the recommendation of the Directors, by Ordinary Resolution resolve that it is desirable to capitalise any sum for the time being standing to the credit of any of the Company's reserve accounts or any sum standing to the credit of the profit and loss account or otherwise available for distribution, provided that such sum be not required for paying the dividends on any shares carrying a fixed cumulative preferential dividend and accordingly that the Directors be authorised and directed to appropriate the sum resolved to be capitalised to the Members holding shares in the Company in the proportions in which such sum would have been divisible amongst them had the same been applied or been applicable in paying dividends and to apply such sum on their behalf either in or towards paying up the amounts (if any) for the time being unpaid on any shares held by such Members respectively, or in paying up in full unissued shares or debentures of the Company, such shares or debentures to be allotted and distributed and credited as fully paid up to and amongst such Members in the proportion aforesaid or partly in one way and partly in the other.

Implementation of resolution to capitalise profits.

132. Whenever such a resolution as aforesaid shall have been passed, the Directors shall make all appropriations and applications of the sum resolved to be capitalised thereby and all allotments and issues of fully paid shares or debentures (if any) and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provision by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions and also to authorise any person to enter on behalf of all the Members interested into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further shares to which they may be entitled upon such capitalisation or (as the case may require) for the payment up by the Company on their behalf, by the application thereto of their respective proportions of the sum resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares and any agreement made under such authority shall be effective and binding on all such Members.

MINUTES AND BOOKS

Minutes.

133. The Directors shall cause minutes to be made in books to be provided for the purpose:-

(a) of all appointments of officers made by the Directors;

(b) of the names of the Directors present at each meeting of Directors and of any committee of Directors; and

(c) of all Resolutions and proceedings at all Meetings of the Company and of any class of Members, of the Directors and of committees of Directors.

Keeping of Registers, etc.

134. The Directors shall duly comply with the provisions of the Act and in particular the provisions in regard to registration of charges created by or affecting property of the Company, in regard to keeping a Register of Directors, Managers, Secretaries and Auditors, the Register, a Register of Mortgages and Charges and a Register of Directors' Share and Debenture Holdings and in regard to the production and furnishing of copies of such Registers and of any Register of Holders of Debentures of the Company.

135. Any register, index, minute book, book of accounts or other book required by these Articles or by the Act to be kept by or on behalf of the Company may be kept either by making entries in bound books or by recording them in any other manner. In any case in which bound books are not used, the Directors shall take adequate precautions for guarding against falsification and for facilitating discovery.

Form of registers, etc.

ACCOUNTS

136. The Directors shall cause to be kept such accounting and other records as are necessary to comply with the provisions of the Act.

Directors to keep proper accounts.

137. Subject to the provisions of Section 199 of the Act, the books of accounts shall be kept at the Office or at such other place or places as the Directors think fit within Singapore. No Member (other than a Director) shall have any right of inspecting any account or book or document or other recording of the Company except as is conferred by law or authorised by the Directors or by an Ordinary Resolution of the Company.

Location and inspection.

138. The Directors shall, in accordance with the provisions of the Act, cause to be prepared and to be laid before the Company in General Meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as may be necessary (unless such meeting has been dispensed with in accordance with the provisions of the Act).

Presentation of accounts.

139. A copy of every balance sheet and profit and loss account which is to be laid before a General Meeting of the Company (including every document required by the Act to be annexed thereto) shall not less than fourteen days (or, where such meeting has been dispensed with in accordance with the provisions of the Act, twenty-eight days before the date such meeting was to be held) before the date of the Meeting be sent to every Member of, and every holder of debentures (if any) of, the Company and to every other person who is entitled to receive notices from the Company under the provisions of the Act or of these Articles Provided that this Article shall not require a copy of these documents to be sent to any person of whose address the Company is not aware or to more than one of the joint holders of a share in the Company or the several persons entitled thereto in consequence of the death or bankruptcy of the holder or otherwise but any Member to whom a copy of these documents has not been sent shall be entitled to receive a copy free of charge on application at the Office.

Copies of accounts.

AUDITORS

140. Auditors shall be appointed (unless the Company is exempted from such requirement under the Act) and their duties regulated in accordance with the provisions of the Act. Every Auditor of the Company shall have a right of access at all times to the accounting and other records of the Company and shall make his report as required by the Act.

Appointment of Auditors.

141. Subject to the provisions of the Act, all acts done by any person acting as an Auditor shall, as regards all persons dealing in good faith with the Company, be valid, notwithstanding that there was some defect in his appointment or that he was at the time of his appointment not qualified for appointment.

Validity of acts of Auditors in spite of some formal defect.

142. The Auditors shall be entitled to attend any General Meeting and to receive all notices of and other communications relating to any General Meeting to which any Member is entitled and to be heard at any General Meeting on any part of the business of the Meeting which concerns them as Auditors.

Auditors' right to receive notices of and attend at General Meetings.

NOTICES

Service of notice.

143. (a) Any notice may be given by the Company to any Member in any of the following ways:-

(i) by delivering the notice personally to him; or

(ii) by sending it by prepaid mail to him at his registered address in Singapore or where such address is outside Singapore by prepaid air-mail; or

(iii) by sending a cable or telex or telefax or by electronic mail containing the text of the notice to him at his registered address in Singapore or where such address is outside Singapore to such address or to any other address as might have been previously notified by the Member concerned to the Company; or

(iv) by such other manner as may be prescribed by the Act (including without limitation, by electronic communication).

(b) Any notice or other communication served under any of the provisions of these Articles on or by the Company or any officer of the Company may be tested or verified by telex or telefax or electronic mail or telephone or such other manner as may be convenient in the circumstances but the Company and its officers are under no obligation so to test or verify any such notice or communication.

Service of notices in respect of joint holders.

144. All notices and documents (including a share certificate) with respect to any shares to which persons are jointly entitled shall be given to whichever of such persons is named first on the Register and notice so given shall be sufficient notice to all the holders of such shares.

Members shall be served at registered address.

145. Any Member with a registered address shall be entitled to have served upon him at such address any notice to which he is entitled under these Articles.

Service of notices after death etc. of a Member.

146. A person entitled to a share in consequence of the death or bankruptcy of a Member or otherwise upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the share, and upon supplying also an address for the service of notice, shall be entitled to have served upon him at such address any notice or document to which the Member but for his death or bankruptcy or otherwise would be entitled and such service shall for all purposes be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the share. Save as aforesaid any notice or document delivered or sent by post to or left at the registered address of any Member in pursuance of these Articles shall (notwithstanding that such Member be then dead or bankrupt or otherwise not entitled to such share and whether or not the Company shall have notice of the same) be deemed to have been duly served in respect of any share registered in the name of such Member as sole or joint holder.

When service effected.

147. (a) Any notice given in conformity with Article 143 shall be deemed to have been given at any of the following times as may be appropriate:-

(i) when it is delivered personally to the Member, at the time when it is so delivered;

(ii) when it is sent by prepaid mail to an address in Singapore or by

prepaid airmail to an address outside Singapore, on the day following that on which the notice was put into the post;

(iii) when the notice is sent by cable or telex or telefax or electronic mail, the day it is so sent; and

(iv) in the case of any notice given in any other manner, at such times as may be prescribed by the Act.

(b) In proving such service or sending, it shall be sufficient to prove that the letter containing the notice or document was properly addressed and put into the post office as a prepaid letter or airmail letter as the case may be or that a telex or telefax or electronic mail was properly addressed and transmitted or that a cable was properly addressed and handed to the relevant authority for despatch.

Signature on notice.

148. Any notice on behalf of the Company or of the Directors shall be deemed effectual if it purports to bear the signature of the Secretary or other duly authorised officer of the Company, whether such signature is printed or written.

Day of service not counted.

149. When a given number of days' notice or notice extending over any other period is required to be given the day of service shall not, unless it is otherwise provided or required by these Articles or by the Act, be counted in such number of days or period.

Notice of General Meeting.

150. (a) Notice of every General Meeting shall be given in manner hereinbefore authorised to:-

(i) every Member;

(ii) every person entitled to a share in consequence of the death or bankruptcy or otherwise of a Member who but for the same would be entitled to receive notice of the Meeting; and

(iii) the Auditor for the time being of the Company.

(b) No other person shall be entitled to receive notices of General Meetings.

Notice of meetings of Directors or any committee of Directors.

151. The provisions of Articles 143, 147, 148 and 149 shall apply mutatis mutandis to notices of meetings of Directors or any committee of Directors.

WINDING UP

Distribution of assets in specie.

152. If the Company is wound up (whether the liquidation is voluntary, under supervision, or by the Court) the Liquidator may, with the authority of a Special Resolution, divide among the Members in specie or kind the whole or any part of the assets of the Company and whether or not the assets shall consist of property of one kind or shall consist of properties of different kinds and may for such purpose set such value as he deems fair upon any one or more class or classes of property to be divided as aforesaid and may determine how such division shall be carried out as between the Members or different classes of Members. The Liquidator may, with the like authority, vest the whole or any part of the assets in trustees upon such trusts for the benefit of Members as the Liquidator with the like authority thinks fit and the liquidation of the Company may be closed and the Company dissolved but so that no Member shall be compelled to accept any shares or other securities in respect of which there is a liability.

INDEMNITY

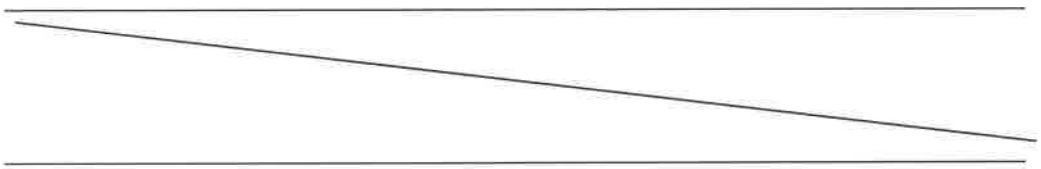
Indemnity of Directors and officers.

153. Subject to the provisions of the Act, every Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto and in particular and without prejudice to the generality of the foregoing no Director, Manager, Secretary or other officer of the Company shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or for joining in any receipt or other act for conformity or for any loss or expense happening to the Company through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Company or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Company shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects shall be deposited or left or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto unless the same shall happen through his own negligence, wilful default, breach of duty or breach of trust.

SECRECY

Secrecy.

154. No Member shall be entitled to require discovery of or any information respecting any detail of the Company's trade or any matter which may be in the nature of a trade secret, mystery of trade or secret process which may relate to the conduct of the business of the Company and which in the opinion of the Directors it will be inexpedient in the interest of the Members of the Company to communicate to the public save as may be authorised by law.



NAME(S), ADDRESS(ES) AND DESCRIPTION OF SUBSCRIBER(S)

ABDUL JABBAR BIN KARAM DIN

21 Siglap Hill
Frankel Estate
Singapore 456076

ADVOCATE & SOLICITOR

Dated this 15th day of November 2006.

Witness to the above signature(s):

Name: SHARON LIM SIEW CHOO
Title: A member of the Singapore Association of the Institute of Chartered Secretaries and Administrators

REGISTRATION NO.
200617072D

THE COMPANIES ACT (CAP. 50)

PRIVATE COMPANY LIMITED BY SHARES

MEMORANDUM

AND

ARTICLES OF ASSOCIATION

OF

SINGAPORE MERCANTILE EXCHANGE PTE. LTD.
(Formerly known as ASIAN MERCHANTILE EXCHANGE PTE. LTD. & GLOBAL MERCANTILE EXCHANGE PTE. LTD.)

RAJAH & TANN
ADVOCATES & SOLICITORS
4 BATTERY ROAD
#15-01
BANK OF CHINA BUILDING
SINGAPORE 049908

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-5(1)

Securities and Futures Act
(CHAPTER 289)

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Subdivision 4 Disclosure by trustee-manager

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SECURITIES AND FUTURES ACT

(CHAPTER 289)

(Original Enactment: Act 42 of 2001)

REVISED EDITION 2006

(1st April 2006)

An Act relating to the regulation of activities and institutions in the securities, futures and derivatives industry, including leveraged foreign exchange trading, and of clearing facilities, and for matters connected therewith.

[Act 34 of 2012 wef 01/08/2013]

[1st January 2002: Parts I, VIII, IX, X and XV (except section 314), First and Second Schedules ;

1st July 2002: Parts XIII and XIV ;

1st October 2002: Parts II to VII, XI and XII, section 314 and Third Schedule]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Securities and Futures Act.

Interpretation

2.—(1) In this Act, unless the context otherwise requires —

"advising on corporate finance" has the meaning given to it in the Second Schedule;

"advocate and solicitor" means an advocate and solicitor of the Supreme Court or a foreign lawyer as defined in section 2(1) of the Legal Profession Act (Cap. 161);

[Act 34 of 2012 wef 18/03/2013]

"appointed representative", in respect of a type of regulated activity, has the meaning given to that expression in section 99D, and "appointed representative" means an appointed representative in respect of any type of regulated activity;

[2/2009 wef 26/11/2010]

"approved clearing house" means a corporation that is approved by the Authority under section 51(1)(*a*) as an approved clearing house;

[Act 34 of 2012 wef 01/08/2013]

"approved exchange" means a corporation that is approved by the Authority under section 8(1) as an approved exchange;

"approved holding company" means a corporation that is approved by the Authority under section 81W as an approved holding company;

"auditor" means a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2) and, in Divisions 1 and 1A of Part XIII, when used in relation to an entity not being a company, includes —

(*a*) a person who is duly registered, licensed, approved or otherwise authorised to practise as an auditor (such practice to include the issue of any opinion, report or other document on the audit of any financial statement) —

(i) under the laws of the place where the entity is formed or constituted; or

(ii) under the laws of the place of his practice, if the auditing standards that are or will be applied to the financial statements of the entity are —

(A) auditing standards commonly applied in that place; or

(B) international auditing standards (by whatever name called); or

(*b*) such other person as may be approved by the Authority in any particular case to be an auditor for such entity;

"Authority" means the Monetary Authority of Singapore established under the Monetary Authority of Singapore Act (Cap. 186);

"book" includes any record, register, document or other record of information, and any account or accounting record, however compiled, recorded or stored, whether in written or printed form or on microfilm or in any other electronic form or otherwise;

"business rules", in relation to an approved holding company, a securities exchange, a futures exchange, a recognised market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house or a recognised clearing house, means the rules, regulations, by-laws or such similar body of statements, by whatever name called, that govern the activities and conduct of —

(*a*) the approved holding company, securities exchange, futures exchange, recognised market operator, approved clearing house or recognised clearing

house and its members, or the licensed trade repository or licensed foreign trade repository and its participants; and

(*b*) other persons in relation to it,

whether or not those rules, regulations, by-laws or similar body of statements are made by the approved holding company, securities exchange, futures exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house or recognised clearing house or are contained in its constituent documents; but does not include the listing rules of a securities exchange or recognised market operator (which is an overseas securities exchange);

[Act 34 of 2012 wef 01/08/2013]

"business trust" has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

"capital markets products" means any securities, futures contracts, contracts or arrangements for the purposes of foreign exchange trading, contracts or arrangements for the purposes of leveraged foreign exchange trading, and such other products as the Authority may prescribe as capital markets products;

"capital markets services licence" means a licence that is granted by the Authority under section 86 to a person to carry on a business in any regulated activity;

"chairman" means a chairman of a board of directors;

"chief executive officer" —

(*a*) in relation to an approved exchange, a recognised market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house, an approved holding company or the holder of a capital markets services licence, means any person, by whatever name called, who is —

(i) in the direct employment of, or acting for or by arrangement with, the approved exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, approved holding company or holder of a capital markets services licence, as the case may be; and

(ii) principally responsible for the management and conduct of the business of the approved exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, approved holding company or holder of a capital markets services licence, as the case may be, in Singapore; or

[Act 34 of 2012 wef 01/08/2013]

(*b*) in relation to a corporation (other than one referred to in paragraph (*a*)), means any person, by whatever name called, who is in the direct employment

of, or acting for or by arrangement with, the corporation, and who is principally responsible for the management and conduct of the business of the corporation;

[2/2009 wef 29/07/2009]

"clearing facility" has the meaning given to it in Part II of the First Schedule;

"clearing or settlement" has the meaning given to it in Part II of the First Schedule;

"closed-end fund" means an arrangement referred to in paragraph (*a*) or (*b*) of the definition of "collective investment scheme" under which units that are issued are exclusively or primarily non-redeemable at the election of the holders of units, but does not include —

(*a*) an arrangement referred to in paragraph (*a*) of that definition —

(i) which is a trust;

(ii) which invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and

(iii) all or any units of which are listed for quotation on a securities exchange; or

(*b*) an arrangement referred to in paragraph (*a*) of that definition which is, or which belongs to a class or description of arrangements which is, specified by the Authority, by notification published in the *Gazette*, to be an arrangement that is not a closed-end fund, or a class or description of arrangements that are not closed-end funds, as the case may be;

[Act 34 of 2012 wef 18/03/2013]

"Code on Collective Investment Schemes" means the Code on Collective Investment Schemes referred to in section 284 which is issued by the Authority under section 321 (1);

"collective investment scheme" means —

(*a*) an arrangement in respect of any property —

(i) under which —

(A) the participants do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions in respect of such management; and

(B) the property is managed as a whole by or on behalf of a manager;

(ii) under which the contributions of the participants and the profits or income from which payments are to be made to them are pooled; and

(iii)

the purpose or effect, or purported purpose or effect, of which is to enable the participants (whether by acquiring any right, interest, title or benefit in the property or any part of the property or otherwise) —

(A) to participate in or receive profits, income, or other payments or returns arising from the acquisition, holding, management or disposal of, the exercise of, the redemption of, or the expiry of, any right, interest, title or benefit in the property or any part of the property; or

(B) to receive sums paid out of such profits, income, or other payments or returns; or

(*b*) an arrangement which is an arrangement, or is of a class or description of arrangements, specified by the Authority as a collective investment scheme by notice published in the *Gazette*,

but does not include —

(i) an arrangement operated by a person otherwise than by way of business;

(ii) an arrangement under which each of the participants carries on a business other than investment business and enters into the arrangement solely incidental to that other business;

(iii) an arrangement under which each of the participants is a related corporation of the manager;

(iv) an arrangement made by or on behalf of an entity solely for the benefit of persons, each of whom is —

(A) a bona fide director or equivalent person, a former director or equivalent person, a consultant, an adviser, an employee or a former employee of that entity or, where that entity is a corporation, a related corporation of that entity; or

(B) a spouse, widow or widower, or a child, adopted child or step-child below the age of 18 years, of such director or equivalent person, former director or equivalent person, employee or former employee;

(iv*a*) an arrangement made by or on behalf of 2 or more entities solely for the benefit of persons, each of whom is —

(A) a bona fide director or equivalent person, a former director or equivalent person, a consultant, an adviser, an employee or a former employee of any of those entities or, where any of those entities is a corporation, a related corporation of the entity which is a corporation; or

(B)

a spouse, widow or widower, or a child, adopted child or step-child below the age of 18 years, of such director or equivalent person, former director or equivalent person, employee or former employee;

(v) a franchise;

(vi) an arrangement under which money received by an advocate and solicitor from his client, whether as a stakeholder or otherwise, acting in his professional capacity in the ordinary course of his practice, or under which money is received by a statutory body as a stakeholder in the carrying out of its statutory functions;

(vii) an arrangement made by any co-operative society registered under the Co-operative Societies Act (Cap. 62) in accordance with the objects thereof solely for the benefit of its members;

(viii) an arrangement made for the purposes of any chit fund permitted to operate under the Chit Funds Act (Cap. 39);

(ix) an arrangement arising out of a life policy within the meaning of the Insurance Act (Cap. 142);

(x) a closed-end fund constituted either as an entity or a trust;

(xi) [*Deleted by Act 31/2004*]

(xii) an arrangement which is an arrangement, or is of a class or description of arrangements, specified by the Authority as not constituting a collective investment scheme by notice published in the *Gazette*;

"commodity" means gold or any produce, item, goods, article or financial instrument, and includes an index, right or interest in such commodity other than a financial instrument; and such other index, right or interest of any nature as the Authority may, by notification in the *Gazette*, prescribe to be a commodity;

[Act 34 of 2012 wef 01/08/2013]
[35/2007 wef 27/02/2008]

"company" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"connected person", in relation to —

(*a*) an individual, means —

(i) the individual's spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; and

(ii) a firm, a limited liability partnership or a corporation in which the individual or any of the persons mentioned in sub-paragraph (i) has control of not less than 20% of the voting power in the firm, limited liability partnership or corporation, whether such control is exercised individually or jointly; or

(*b*) a firm, a limited liability partnership or a corporation, means another firm, limited liability partnership or corporation in which the first-mentioned firm, limited liability partnership or corporation has control of not less than 20% of the voting power in that other firm, limited liability partnership or corporation,

and a reference in this Act to a person connected to another person shall be construed accordingly;

"corporation" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"customer" means —

(*a*) in relation to a holder of a capital markets services licence —

(i) for the purposes of Parts IV, VI, VII and XV, a person on whose behalf the holder carries on or will carry on any regulated activity; or

(ii) for the purposes of Part V, a person on whose behalf the holder carries on or will carry on any regulated activity, or any other person with whom the holder, as principal, enters or will enter into transactions —

(A) for the sale or purchase of securities;
(B) for the sale or purchase of futures contracts; or
(C) in connection with leveraged foreign exchange trading,

but does not include such person or class of persons as may be prescribed; or

(*b*) for the purposes of Part III and the definition of "user", a person on whose behalf a member of an approved exchange, an approved clearing house or a recognised clearing house, as the case may be, carries on any activity regulated under this Act, but does not include —

(i) the member, with respect to dealings for the member's own account;

(ii) any officer, director, employee or representative of the member; or

(iii) a related corporation of the member, with respect to accepted instructions to deal for an account belonging to, and maintained wholly for the benefit of, that related corporation;

[2/2009 wef 29/03/2010]
[Act 34 of 2012 wef 01/08/2013]

"dealing in securities" has the meaning given to it in the Second Schedule;

"debenture", except for the purposes of Part XIII, includes any debenture stock, bond, note and any other debt securities issued by a corporation or any other entity, whether constituting a charge or not, on the assets of the issuer but does not include —

(*a*)

a cheque, letter of credit, order for the payment of money or bill of exchange; or

(*b*) for the purposes of the application of this definition to a provision of this Act in respect of which any regulations made thereunder provide that the word "debenture" does not include a prescribed document or a document included in a prescribed class of documents, that document or a document included in that class of documents, as the case may be;

"defalcation" means misapplication, including misappropriation, of any property;

"derivative", in relation to a unit in a business trust, has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

"derivatives contract" —

(*a*) means any of the following (not being any securities or any futures contract):

(i) a forward contract;

(ii) an option contract;

(iii) a swap contract;

(iv) any contract, arrangement or transaction that is, or that belongs to a class of contracts, arrangements or transactions that is, prescribed by the Authority by regulations made under section 341 for the purposes of this sub-paragraph; but

(*b*) does not include any contract, arrangement or transaction that is, or that belongs to a class of contracts, arrangements or transactions that is, prescribed by the Authority by regulations made under section 341 for the purposes of this paragraph;

[Act 34 of 2012 wef 01/08/2013]

[*Deleted by Act 34 of 2012 wef 01/08/2013*]

"director" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"entity" includes a corporation, an unincorporated association, a partnership and the government of any state, but does not include a trust;

"executive officer", in relation to an approved exchange, a recognised market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house, an approved holding company, the holder of a capital markets services licence, or any other corporation, means any person, by whatever name called, who is —

(*a*) in the direct employment of, or acting for or by arrangement with, the approved exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, approved holding company, holder of a capital markets services licence, or other corporation, as the case may be; and

(*b*) concerned with or takes part in the management of the approved exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, approved holding company, holder of a capital markets services licence, or other corporation, as the case may be, on a day-to-day basis;

[Act 10 of 2013 wef 18/04/2013]

"exempt market operator" means —

(*a*) a corporation that is exempted under section 14(2);

(*b*) a corporation declared under section 14(8) to be an exempt market operator; or

(*c*) a corporation operating a market included in a class of markets in relation to which a declaration under section 14(9) is in force;

"exempt person" means a person who is exempted under section 99;

"financial instrument" includes any currency, currency index, interest rate, interest rate instrument, interest rate index, share, share index, stock, stock index, debenture, bond index, a group or groups of such financial instruments, and any other thing that is prescribed by the Authority by regulations made under section 341 for the purposes of this definition;

[Act 34 of 2012 wef 01/08/2013]

"financial year" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"firm" has the same meaning as in section 2(1) of the Business Registration Act (Cap. 32);

"foreign company" has the same meaning as in section 4(1) of the Companies Act;

"foreign exchange trading" has the meaning given to it in the Second Schedule;

"forward contract" —

(*a*) means a contract under which one party agrees to transfer title to a specified underlying thing, or a specified quantity of a specified underlying thing, to another party at a specified future time and at a specified price payable at that time, whether or not there is any intention —

(i) to effect an actual delivery of the underlying thing;

(ii) to effect a settlement of any difference in the price or value of the underlying thing or, if the contract relates to 2 or more underlying things, of any difference in the price of one or more of the underlying things; or

(iii) to effect a settlement determined with reference to the underlying thing or, if the contract relates to 2 or more underlying things, determined with reference to one or more of the underlying things; but

(*b*) does not include a futures contract;

[Act 34 of 2012 wef 01/08/2013]

"franchise" means a written agreement or arrangement between 2 or more persons by which —

(*a*) a party (referred to in this definition as the franchisor) to the agreement or arrangement authorises or permits another party (referred to in this definition as the franchisee), or a person associated with the franchisee, to exercise the right to engage in the business of offering, selling or distributing goods or services in Singapore under a plan or system controlled by the franchisor or a person associated with the franchisor;

(*b*) the business carried on by the franchisee or the person associated with the franchisee, as the case may be, is capable of being identified by the public as being substantially associated with a trade or service mark, logo, symbol or name identifying, commonly connected with or controlled by the franchisor or a person associated with the franchisor;

(*c*) the franchisor exerts, or has authority to exert, a significant degree of control over the method or manner of operation of the franchisee's business;

(*d*) the franchisee or a person associated with the franchisee is required under the agreement or arrangement to make payment or give some other form of consideration to the franchisor or a person associated with the franchisor; and

(*e*) the franchisor agrees to communicate to the franchisee, or a person associated with the franchisee, knowledge, experience, expertise, know-how, trade secrets or other information whether or not it is proprietary or confidential;

"fund management" has the meaning given to it in the Second Schedule;

"futures contract" means —

(*a*) for the purposes of Part I of the First Schedule —

(i) a contract the effect of which is that —

(A) one party agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party at a specified future time and at a specified price payable at that time; or

(B) the parties will discharge their obligations under the contract by settling the difference between the value of a specified quantity of a specified commodity agreed at the time of the making of the contract and at a specified future time,

and includes a futures option transaction, but does not include such contract or class of contracts as the Authority may prescribe; or

[2/2009 wef 20/04/2009]

(ii)

such other contract or class of contracts as the Authority may prescribe;

(*b*) for the purposes of any other provision in this Act —

(i) a contract the effect of which is that —

(A) one party agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party at a specified future time and at a specified price payable at that time pursuant to the terms and conditions set out in the business rules of a futures market or pursuant to the business practices of a futures market; or

(B) the parties will discharge their obligations under the contract by settling the difference between the value of a specified quantity of a specified commodity agreed at the time of the making of the contract and at a specified future time, such difference being determined in accordance with the business rules or practices of the futures market at which the contract is made,

and includes a futures option transaction, but does not include such contract or class of contracts as the Authority may prescribe; or

[2/2009 wef 20/04/2009]

(ii) such other contract or class of contracts as the Authority may prescribe;

"futures exchange" means an approved exchange in respect of the operation of its futures market;

"futures market" has the meaning given to it in Part I of the First Schedule;

"futures option transaction" means an option on a specified futures contract which is transacted in accordance with the business rules or practices of a futures exchange, recognised market operator or futures market on which the transaction is made;

"holding company" has the same meaning as in section 5(4) of the Companies Act (Cap. 50);

"leveraged foreign exchange trading" has the meaning given to it in the Second Schedule;

[*Deleted by Act 2/2009 wef 26/11/2010*]

"licensed foreign trade repository" means a corporation that has in force a foreign trade repository licence granted by the Authority under section 46E(2);

[Act 34 of 2012 wef 01/08/2013]

[*Deleted by Act 2/2009 wef 26/11/2010*]

"licensed trade repository" means a corporation that has in force a trade repository licence granted by the Authority under section 46E(1);

[Act 34 of 2012 wef 01/08/2013]

"limited liability partnership" has the same meaning as in section 2(1) of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);

"listing rules", in relation to a corporation that establishes or operates, or proposes to establish or operate, a securities market of a securities exchange or a recognised market operator, or an overseas securities exchange that establishes or operates or proposes to establish or operate a securities market of a recognised market operator, means rules governing or relating to —

(*a*) the admission to the official list of the corporation or overseas securities exchange, of corporations, governments, bodies unincorporate or other persons for the purpose of the quotation on the securities market of the corporation or overseas securities exchange of securities issued, or made available by such corporations, governments, bodies unincorporate or other persons, or the removal from that official list and for other purposes; or

(*b*) the activities or conduct of corporations, governments, bodies unincorporate and other persons who are admitted to that list,

whether those rules are made —

(i) by the corporation or overseas securities exchange or are contained in any of the constituent documents of the corporation or overseas securities exchange; or

(ii) by another person and adopted by the corporation or overseas securities exchange;

"manager", in relation to a collective investment scheme, means a person, by whatever name called, who is responsible for managing the property of, or operating, the collective investment scheme;

"market" has the meaning given to it in Part I of the First Schedule;

"member", in relation to an approved exchange, a recognised market operator, an approved clearing house or a recognised clearing house, means a person who holds membership of any class or description in the approved exchange, recognised market operator, approved clearing house or recognised clearing house, whether or not he holds any share in the share capital of the approved exchange, recognised market operator, approved clearing house or recognised clearing house, as the case may be;

[Act 34 of 2012 wef 01/08/2013]

"newspaper" has the same meaning as in section 2 of the Newspaper and Printing Presses Act (Cap. 206);

"officer" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"option contract" —

(*a*) means a contract providing for an option to acquire or dispose of a specified underlying thing, or a specified quantity of a specified underlying thing, whether or not there is any intention —

(i) to effect an actual delivery of the underlying thing;

(ii) to effect a settlement of any difference in the price or value of the underlying thing or, if the contract relates to 2 or more underlying things, of any difference in the price or value of one or more of the underlying things; or

(iii) to effect a settlement determined with reference to the underlying thing or, if the contract relates to 2 or more underlying things, determined with reference to one or more of the underlying things; but

(*b*) does not include any securities;

[Act 34 of 2012 wef 01/08/2013]

"overseas futures exchange" means a person operating a futures market outside Singapore which is regulated by a financial services regulatory authority of a country or territory other than Singapore;

"overseas securities exchange" means a person operating a securities market outside Singapore which is regulated by a financial services regulatory authority of a country or territory other than Singapore;

"participant" means —

(*a*) for the purposes of Part II, a person who may participate in one or more of the services provided by an approved exchange, a recognised market operator or an exempt market operator, in its capacity as an approved exchange, a recognised market operator or an exempt market operator, as the case may be;

[Act 34 of 2012 wef 01/08/2013]

(*aa*) for the purposes of Part IIA, a person who may participate in one or more of the services provided by a licensed trade repository or licensed foreign trade repository, in its capacity as a licensed trade repository or licensed foreign trade repository, as the case may be;

[Act 34 of 2012 wef 01/08/2013]

(*b*) for the purposes of Part III, a person who, under the business rules of an approved clearing house or a recognised clearing house, may participate in one or more of the services provided by the approved clearing house or recognised clearing house, in its capacity as an approved clearing house or a recognised clearing house, as the case may be; or

[Act 34 of 2012 wef 01/08/2013]

(*c*) for the purposes of any other provision of this Act, a person who participates in a collective investment scheme by way of owning one or more units in a collective investment scheme;

"partner" and "manager", in relation to a limited liability partnership, have the respective meanings assigned to them in section 2(1) of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);

"prescribed written law" means this Act or any of the following written laws:

(*a*) Banking Act (Cap. 19);

(*b*) Finance Companies Act (Cap. 108);

(*c*) Financial Advisers Act (Cap. 110);

(*d*) Insurance Act (Cap. 142);

(*e*) Monetary Authority of Singapore Act (Cap. 186);

(*f*) Money-changing and Remittance Businesses Act (Cap. 187); or

(*g*) such other written law as the Authority may by order prescribe;

"principal", in relation to a representative, means a person whom the representative is in the direct employment of, is acting for or is acting by arrangement with, and on behalf of whom the representative carries or will carry out any regulated activity;

[Act 34 of 2012 wef 18/03/2013]

"providing credit rating services" has the meaning given to it in the Second Schedule;

[S 20/2012 wef 17/01/2012]

"providing custodial services for securities" has the meaning given to it in the Second Schedule;

"provisional representative", in respect of a type of regulated activity, has the meaning given to that expression in section 99E, and "provisional representative" means a provisional representative in respect of any type of regulated activity;

[2/2009 wef 26/11/2010]

"public company" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"public register of representatives" means the register of that name under section 99C(3);

[2/2009 wef 26/11/2010]

"quote", in relation to securities and a securities market of an approved exchange or of a recognised market operator, means to display or provide, on the securities market of the approved exchange or recognised market operator, information concerning the particular prices or particular consideration at which offers or invitations to sell, purchase or exchange issued or prescribed securities are made on that securities market, being offers or invitations that are intended or may reasonably be expected, to result, directly or indirectly, in the making or acceptance of offers to sell, purchase or exchange issued or prescribed securities;

"real estate investment trust management" has the meaning given to it in the Second Schedule;

[S 376/2008 wef 01/08/2008]

"recognised business trust" means a business trust that is recognised by the Authority under section 282TA(1);

[2/2009 wef 01/10/2012]

"recognised clearing house" mean a corporation that is recognised by the Authority under section 51(1)(*b*) or (2) as a recognised clearing house;

[Act 34 of 2012 wef 01/08/2013]

"recognised market operator" means a corporation that is recognised by the Authority under section 8(2) as a recognised market operator;

"record" means information that is inscribed, stored or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

"registered business trust" has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

"regulated activity" means an activity specified in the Second Schedule;

"related corporation" has the same meaning as in section 4(1) of the Companies Act;

"representative", except for the purposes of Part XIII, means a person, by whatever name called, in the direct employment of, or acting for, or by arrangement with, a person who carries on business in any regulated activity, who carries out for that person any such activity (other than work ordinarily performed by accountants, clerks or cashiers), whether or not he is remunerated, and whether his remuneration, if any, is by way of salary, wages, commission or otherwise; and includes any officer of a corporation who performs for the corporation any such activity whether or not he is remunerated, and whether his remuneration, if any, is by way of salary, wages, commission or otherwise;

[*Deleted by Act 2/2009 wef 26/11/2010*]

"responsible person", in relation to a collective investment scheme, means —

(*a*) in the case of a scheme which is constituted as a corporation, the corporation; or

(*b*) in the case of a scheme which is not constituted as a corporation, the manager for the scheme;

"securities" means —

(*a*) debentures or stocks issued or proposed to be issued by a government;

(*b*) debentures, stocks or shares issued or proposed to be issued by a corporation or body unincorporate;

(*c*) any right, option or derivative in respect of any such debentures, stocks or shares;

(*d*) any right under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

(i) the value or price of any such debentures, stocks or shares;

(ii) the value or price of any group of any such debentures, stocks or shares; or

(iii) an index of any such debentures, stocks or shares;

(*e*) any unit in a collective investment scheme;

(*f*) any unit in a business trust;

(*g*) any derivative of a unit in a business trust; or

(*h*) such other product or class of products as the Authority may prescribe,

[2/2009 wef 20/04/2009]

but does not include —

(i) futures contracts which are traded on a futures market;

(ii) bills of exchange;

(iii) promissory notes;

(iv) certificates of deposit issued by a bank or finance company whether situated in Singapore or elsewhere; or

(v) such other product or class of products as the Authority may prescribe as not being securities;

[2/2009 wef 20/04/2009]

"securities exchange" means an approved exchange in respect of the operation of its securities market;

"securities financing" has the meaning given to it in the Second Schedule;

"Securities Industry Council" means the Securities Industry Council referred to in section 138;

"securities market" has the meaning given to it in Part I of the First Schedule;

"share" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"subsidiary" has the same meaning as in section 5 of the Companies Act;

"substantial unitholder" —

(*a*) in relation to a collective investment scheme, means a participant who has an interest or interests in one or more voting units in the scheme, the total votes attached to that unit, or those units, being not less than 5% of the total votes attached to all the voting units in the scheme; or

(*b*) in relation to a business trust, means a person who has an interest or interests in one or more voting units in the business trust, the total votes attached to that unit, or those units, being not less than 5% of the total votes attached to all the voting units in the business trust;

[2/2009 wef 19/11/2012]

"swap contract" —

(*a*) means a contract for differences, or a contract the purpose or purported purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

(i) the value or price of one or more underlying things;

(ii) the value or price of any group of underlying things; or

(iii) an index of one or more underlying things; but

(*b*) does not include any securities;

[Act 34 of 2012 wef 01/08/2013]

"Take-over Code" means the Singapore Code on Take-overs and Mergers referred to in section 139 which is issued by the Authority under section 321(1);

"take-over offer" means —

(*a*) an offer for the acquisition by or on behalf of a person of —

(i) in the case of a public company, or of a corporation all or any of the shares of which are listed for quotation on a securities exchange —

(A) some or all of the shares, or some or all of the shares of a particular class, in the company or corporation made to all members of the company or corporation, or where the person already holds shares in the company or corporation, made to all other members of the company or corporation; or

(B) all of the remaining shares in the company or corporation made to all other members of the company or corporation as a result of the person acquiring or consolidating effective control of that company or corporation within the meaning of the Take-over Code;

(ii) in the case of a registered business trust, or of a business trust all or any of the units of which are listed for quotation on a securities exchange —

(A) some or all of the units, or some or all of the units of a particular class, in the business trust made to all unitholders of the business trust, or where the person already holds units in the business trust, made to all other unitholders of the business trust; or

(B) all of the remaining units in the business trust made to all other unitholders of the business trust as a result of the person acquiring or consolidating effective control of that business trust within the meaning of the Take-over Code; or

(iii)

in the case of a collective investment scheme constituted as a unit trust and authorised under section 286, that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes, and all or any of the units in which are listed for quotation on a securities exchange —

(A) some or all of the units, or some or all of the units of a particular class, in the scheme made to all unitholders of the scheme, or where the person already holds units in the scheme, made to all other unitholders of the scheme; or

(B) all of the remaining units in the scheme made to all other unitholders of the scheme as a result of the person acquiring or consolidating effective control of that scheme within the meaning of the Take-over Code; or

[2/2009 wef 29/07/2009]

(*b*) a proposed compromise or arrangement which —

(i) in the case of a public company, is referred to in section 210 of the Companies Act (Cap. 50); or

(ii) in the case of a corporation all or any of the shares of which are listed for quotation on a securities exchange, complies with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs, compromises and arrangements of the country or territory in which that corporation was incorporated,

and which, if executed, would result in a change in effective control of the public company or corporation within the meaning of the Take-over Code;

"temporary representative", in respect of a type of regulated activity, has the meaning given to that expression in section 99F, and "temporary representative" means a temporary representative in respect of any type of regulated activity;

[2/2009 wef 26/11/2010]

"trading in futures contracts" has the meaning given to it in the Second Schedule;

"transaction information" means information relating to —

(*a*) offers or invitations to enter into, purchase, sell, or exchange securities, futures contracts or derivatives contracts;

(*b*) executed transactions in securities, futures contracts or derivatives contracts;

(*c*) transactions cleared or settled by an approved clearing house or a recognised clearing house; or

(*d*) transactions reported to a licensed trade repository or licensed foreign trade repository;

[Act 34 of 2012 wef 01/08/2013]

"treasury share" —

(*a*) in relation to a company, has the same meaning as in section 4(1) of the Companies Act (Cap. 50); and

(*b*) in relation to a corporation (other than a company), means any share equivalent to a treasury share in a company;

[2/2009 wef 19/11/2012]

"trustee-manager" —

(*a*) in relation to a registered business trust, has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

(*b*) in relation to a business trust for which an application for registration has been made under section 4(1) of the Business Trusts Act, means the company proposed to be named as the trustee-manager in the application made under that section;

(*c*) in relation to a recognised business trust, means the entity which manages and operates the recognised business trust, by whatever name called and whether incorporated or not; and

(*d*) in relation to a business trust for which an application for recognition has been made under section 282TA(1), means the entity proposed to be managing and operating the trust, by whatever name called and whether incorporated or not;

[2/2009 wef 19/11/2012]

"underlying thing", in relation to a forward contract, an option contract or a swap contract —

(*a*) means —

(i) a commodity;

(ii) the credit of any person; or

(iii) any arrangement, event, index, intangible property, tangible property or transaction that is, or that belongs to a class of arrangements, events, indices, intangible properties, tangible properties or transactions that is, prescribed by the Authority by regulations made under section 341 for the purposes of this sub-paragraph; but

(*b*) does not include any arrangement, event, index, intangible property, tangible property or transaction that is, or that belongs to a class of arrangements, events, indices, intangible properties, tangible properties or transactions that is, prescribed by the Authority by regulations made under section 341 for the purposes of this paragraph;

[Act 34 of 2012 wef 01/08/2013]

"unit" —

(*a*) in relation to a collective investment scheme, means a right or interest (however described) in a collective investment scheme (whether or not constituted as an entity), and includes an option to acquire any such right or interest in the collective investment scheme; and

(*b*) in relation to a business trust, has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

"unitholder" —

(*a*) in relation to a collective investment scheme, means a participant of the scheme; and

(*b*) in relation to a business trust, means a person who holds a unit in the business trust;

[2/2009 wef 19/11/2012]

"user" means —

(*a*) in relation to an approved exchange, an approved clearing house or a recognised clearing house, a person who is —

(i) a member of the approved exchange, approved clearing house or recognised clearing house; or

(ii) a customer of a member of the approved exchange, approved clearing house or recognised clearing house; or

(*b*) in relation to a licensed trade repository or a licensed foreign trade repository, a person who is —

(i) a participant of the licensed trade repository or licensed foreign trade repository; or

(ii) a client of a participant of the licensed trade repository or licensed foreign trade repository;

[Act 34 of 2012 wef 01/08/2013]

"user information" means transaction information that is referable to —

(*a*) a named user; or

(*b*) a group of users, from which the name of a user can be directly inferred;

"voting share" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"voting unit" —

(*a*) in relation to a business trust, means an issued unit in the business trust, other than —

(i) a unit to which in no circumstances is there attached a right to vote; or

(ii) a unit to which there is attached a right to vote only in one or more of the following circumstances:

(A) during a period in which a distribution (or part of a distribution) in respect of the unit is in arrears;
(B) upon a proposal to reduce the unitholders' equity of the business trust;
(C) upon a proposal that affects rights attached to the unit;
(D) upon a proposal to wind up the business trust;
(E) upon a proposal for the disposal of the whole of the property, business and undertakings of the business trust;
(F) during the winding up of the business trust; and

(*b*) in relation to a collective investment scheme, means an issued unit in the scheme, other than —

(i) a unit to which in no circumstances is there attached a right to vote; or

(ii) a unit to which there is attached a right to vote only in one or more of the following circumstances:

(A) during a period in which a distribution (or part of a distribution) in respect of the unit is in arrears;
(B) upon a proposal to reduce the participants' funds of the scheme;
(C) upon a proposal that affects rights attached to the unit;
(D) upon a proposal to wind up the scheme;
(E) upon a proposal for the disposal of the whole of the property, business and undertakings of the scheme;
(F) during the winding up of the scheme.

[2/2009 wef 19/11/2012]
[16/2003; 5/2004; 31/2004; 1/2005; 5/2005]

(2) Any reference in this Act to the affairs of a corporation shall, unless the contrary intention appears, be construed as including a reference to —

(*a*) the promotion, formation, membership, control, business, trading, transactions and dealings (whether alone or jointly with another person or other persons and including transactions and dealings as agent, bailee or trustee), property (whether held alone or jointly with another person or other persons and including property held as agent, bailee or trustee), liabilities (including liabilities owned jointly with another person or other persons and liabilities as trustee), profits and other income, receipts, losses, outgoings and expenditure of the corporation;

(*b*) in the case of a corporation (not being a trustee corporation) that is a trustee (but without limiting the generality of paragraph (*a*)), matters concerned with the ascertainment of the identity of the persons who are beneficiaries under the trust,

their rights under the trust and any payments that they have received, or are entitled to receive, under the terms of the trust;

(*c*) the internal management and proceeding of the corporation;

(*d*) any act or thing done (including any contract made and any transaction entered into) by or on behalf of the corporation, or to or in relation to the corporation or its business or property, at a time when —

(i) a receiver, or a receiver and manager, is in possession of, or has control over, property of the corporation;

(ii) the corporation is under judicial management;

(iii) a compromise or arrangement referred to in section 210 of the Companies Act made between the corporation and another person or other persons is being administered; or

(iv) the corporation is being wound up,

and without limiting the generality of sub-paragraphs (i) to (iv), any conduct of such a receiver or such a receiver and manager, or such a judicial manager, or any person administering such a compromise or arrangement or of any liquidator or provisional liquidator of the corporation;

(*e*) the ownership of shares in, debentures of, units of shares in, units of debentures of, and units in a collective investment scheme issued by the corporation;

(*f*) the power of persons to exercise, or to control the exercise of, the rights to vote attached to shares in the corporation or to dispose of, or to exercise control over the disposal of, such shares;

(*g*) matters concerned with the ascertainment of the persons who are or have been financially interested in the success or failure, or apparent success or failure, of the corporation or are or have been able to control or materially to influence the policy of the corporation;

(*h*) the circumstances under which a person acquired or disposed of, or became entitled to acquire or dispose of, shares in, debentures of, units of shares in, units of debentures of, or units in a collective investment scheme issued by, the corporation;

(*i*) where the corporation has issued units in a collective investment scheme, any matters concerning the financial or business undertaking, scheme, common enterprise or investment contract to which the units in a collective investment scheme relate; or

(*j*) matters relating to or arising out of the audit of, or working papers or reports of an auditor concerning, any matters referred to in paragraphs (*a*) to (*i*).

(3) Where the name of a corporation referred to in this Act is changed pursuant to the Companies Act (Cap. 50), the change of name shall not affect the identity of that corporation or the application of the relevant provisions of this Act or any other written law to that corporation.

(4) For the purposes of this Act, a person has a substantial shareholding in a corporation if —

(*a*) he has an interest or interests in one or more voting shares (excluding treasury shares) in the corporation; and

(*b*) the total votes attached to that share, or those shares, is not less than 5% of the total votes attached to all the voting shares (excluding treasury shares) in the corporation.

[2/2009 wef 19/11/2012]

(5) For the purposes of this Act, a person has a substantial shareholding in a corporation, being a corporation the share capital of which is divided into 2 or more classes of shares, if —

(*a*) he has an interest or interests in one or more voting shares (excluding treasury shares) in one of those classes; and

(*b*) the total votes attached to that share, or those shares, is not less than 5% of the total votes attached to all the voting shares (excluding treasury shares) in that class.

[2/2009 wef 19/11/2012]

(6) For the purposes of this Act, a person who has a substantial shareholding in a corporation is a substantial shareholder in that corporation.

[2/2009 wef 19/11/2012]

[SIA, s. 2; FTA, s. 2; Companies, s. 4 & s. 107; UK FSMA 2000, s. 235; Aust. Corporations 2001, s. 9]

Associated person

3.—(1) Unless the context otherwise requires, any reference in this Act to a person associated with another person shall be construed as a reference to —

(*a*) where the other person is a corporation —

(i) a director or secretary of the corporation;

(ii) a related corporation; or

(iii) a director or secretary of such a related corporation;

(*b*) where the matter to which the reference relates is the extent of a power to exercise, or to control the exercise of, the voting power attached to voting shares in a corporation, a person with whom the other person has, or proposes to enter into, an agreement, arrangement, understanding or undertaking, whether formal or informal, or express or implied —

(i) by reason of which either of those persons may exercise, directly or indirectly, control the exercise of, or substantially influence the exercise of, any voting power attached to a share in the corporation;

(ii) with a view to controlling or influencing the composition of the board of directors, or the conduct of affairs, of the corporation; or

(iii)

under which either of those persons may acquire from the other of them shares in the corporation or may be required to dispose of such shares in accordance with the directions of the other of them,

except that, in relation to a matter relating to shares in a corporation, a person may be an associate of the corporation and the corporation may be an associate of a person;

(*c*) a person with whom the other person is acting, or proposes to act, in concert in relation to the matter to which the reference relates;

(*d*) where the matter to which the reference relates is a matter, other than the extent of a power to exercise, or to control the exercise of, the voting power attached to voting shares in a corporation —

(i) subject to subsection (2), a person who is a director of a corporation of which the other person is a director; or

(ii) a trustee of a trust in relation to which the other person benefits or is capable of benefiting otherwise than by reason of transactions entered into in the ordinary course of business in connection with the lending of money;

(*e*) a person with whom the other person is, according to any subsidiary legislation made under this Act, to be regarded as associated in respect of the matter to which the reference relates;

(*f*) a person with whom the other person is, or proposes to become, associated, whether formally or informally, in any other way in respect of the matter to which the reference relates; or

(*g*) where the other person has entered into, or proposes to enter into, a transaction, or has done, or proposes to do, any other act or thing, with a view to becoming associated with a person as referred to in paragraph (*a*), (*b*), (*c*), (*d*), (*e*) or (*f*), that last-mentioned person.

(2) Where, in any proceedings under this Act, it is alleged that a person referred to in subsection (1)(*d*)(i) was associated with another person at a particular time, that the first-mentioned person shall not be considered to be so associated in relation to a matter to which the proceedings relate unless the person alleging the association proves that the first-mentioned person at that time knew or ought reasonably to have known the material particulars of that matter.

(3) A person shall not be taken to be associated with another person by virtue of subsection (1)(*b*), (*c*), (*e*) or (*f*) by reason only of one or more of the following:

(*a*) that one of those persons furnishes advice to, or acts on behalf of, the other person in the proper performance of the functions attaching to his professional capacity or to his business relationship with the other person;

(*b*)

that one of those persons, a customer, gives specific instructions to the other, whose ordinary business includes dealing in securities, trading in futures contracts or leveraged foreign exchange trading, to acquire shares on the customer's behalf in the ordinary course of that business;

(*c*) that one of those persons has sent, or proposes to send, to the other a take-over offer, or has made, or proposes to make, offers under a take-over announcement, within the meaning of the Take-over Code, in relation to shares held by the other;

(*d*) that one of those persons has appointed the other, otherwise than for valuable consideration given by the other or by an associate of the other, to vote as a proxy or representative at a meeting of members, or of a class of members, of a corporation.

[SIA, s. 3; Aust. Corporations, s. 12 (2) and s. 16 (1)]

Interest in securities

4.—(1) Subject to this section, a person has an interest in securities if he has authority (whether formal or informal, or express or implied) to dispose of, or to exercise control over the disposal of, those securities.

(2) For the purposes of subsection (1), it is immaterial that the authority of a person to dispose of, or to exercise control over the disposal of, particular securities is, or is capable of being made, subject to restraint or restriction.

(3) Where any property held in trust consists of or includes securities and a person knows, or has reasonable grounds for believing, that he has an interest under the trust, he shall be deemed to have an interest in those securities.

(4) Where a corporation has, or is by the provisions of this section deemed to have, an interest in a security and —

(*a*) the corporation is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of a person; or

(*b*) a person has a controlling interest in the corporation,

that person shall be deemed to have an interest in that security.

(5) Where a corporation has, or is by the provisions of this section (apart from this subsection) deemed to have, an interest in a security and —

(*a*) a person is;

(*b*) the associates of a person are; or

(*c*) a person and his associates are,

entitled to exercise or control the exercise of not less than 20% of the votes attached to the voting shares in the corporation, that person shall be deemed to have an interest in that security.

(6) For the purposes of subsection (5), a person is an associate of another person if the first-mentioned person is —

(*a*) a related corporation of the second-mentioned person;

(*b*) a person in accordance with whose directions, instructions or wishes that the second-mentioned person is accustomed or is under an obligation, whether formal or informal, to act in relation to the security referred to in subsection (4);

(*c*) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to that security;

(*d*) a corporation which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to that security; or

(*e*) a corporation in accordance with the directions, instructions or wishes of which, or of the directors of which, the second-mentioned person is accustomed or under an obligation, whether formal or informal, to act in relation to that security.

(7) A person shall be deemed to have an interest in a security in any one or more of the following circumstances:

(*a*) where he has entered into a contract to purchase a security;

(*b*) where he has a right, otherwise than by reason of having an interest under a trust, to have a security transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;

(*c*) where he has the right to acquire a security or an interest in a security, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not; or

(*d*) where he is entitled, otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a corporation or of a class of its members, to exercise or control the exercise of a right attached to a security, not being a security of which he is the registered holder.

(8) A person shall be deemed to have an interest in a security if that security is held jointly with another person.

(9) For the purpose of determining whether a person has an interest in a security, it is immaterial that the interest cannot be related to a particular security.

(10) There shall be disregarded —

(*a*) an interest in a security if the interest is that of a person who holds the security as bare trustee;

(*b*) an interest in a security if the interest is that of a person whose ordinary business includes the lending of money if he holds the interest only by way of security for

the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;

(*c*) an interest of a person in a security if that interest is an interest held by him by reason of his holding a prescribed office;

(*d*) an interest of a company in its own securities if that interest is purchased or otherwise acquired in accordance with sections 76B to 76G of the Companies Act (Cap. 50); and

(*e*) a prescribed interest in a security being an interest of such person, or of the persons included in such class of persons, as may be prescribed.

(11) An interest in a security shall not be disregarded by reason only of —

(*a*) its remoteness;

(*b*) the manner in which it arose; or

(*c*) the fact that the exercise of a right conferred by the interest is, or is capable of being made subject to restraint or restriction.

[SIA, s. 4; Companies, s. 7 (4A); HK Securities Ordinance, s. 5]

Specific classes of investors

4A.—(1) Subject to subsection (2), unless the context otherwise requires —

(*a*) "accredited investor" means —

(i) an individual —

(A) whose net personal assets exceed in value $2 million (or its equivalent in a foreign currency) or such other amount as the Authority may prescribe in place of the first amount; or

(B) whose income in the preceding 12 months is not less than $300,000 (or its equivalent in a foreign currency) or such other amount as the Authority may prescribe in place of the first amount;

(ii) a corporation with net assets exceeding $10 million in value (or its equivalent in a foreign currency) or such other amount as the Authority may prescribe, in place of the first amount, as determined by —

(A) the most recent audited balance-sheet of the corporation; or

(B) where the corporation is not required to prepare audited accounts regularly, a balance-sheet of the corporation certified by the corporation as giving a true and fair view of the state of affairs of the corporation as of the date of the balance-sheet, which date shall be within the preceding 12 months;

(iii) the trustee of such trust as the Authority may prescribe, when acting in that capacity; or

(iv) such other person as the Authority may prescribe;

(*b*) "expert investor" means —

(i) a person whose business involves the acquisition and disposal, or the holding, of capital markets products, whether as principal or agent;

(ii) the trustee of such trust as the Authority may prescribe, when acting in that capacity; or

(iii) such other person as the Authority may prescribe;

(*c*) "institutional investor" means —

(i) a bank that is licensed under the Banking Act (Cap. 19);

(ii) a merchant bank that is approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186);

(iii) a finance company that is licensed under the Finance Companies Act (Cap. 108);

(iv) a company or co-operative society that is licensed under the Insurance Act (Cap. 142) to carry on insurance business in Singapore;

[Act 11 of 2013 wef 18/04/2013]

(v) a company licensed under the Trust Companies Act 2005 (Act 11 of 2005);

(vi) the Government;

(vii) a statutory body established under any Act;

(viii) a pension fund or collective investment scheme;

(ix) the holder of a capital markets services licence for —

(A) dealing in securities;
(B) fund management;
(C) providing custodial services for securities;
(CA) real estate investment trust management;

[S 396/2008 wef 01/08/2008]

(D) securities financing; or
(E) trading in futures contracts;

(x) a person (other than an individual) who carries on the business of dealing in bonds with accredited investors or expert investors;

(xi) the trustee of such trust as the Authority may prescribe, when acting in that capacity; or

(xii) such other person as the Authority may prescribe.

[1/2005; 11/2005]

(2) The definitions in subsection (1) may be subject to such modifications as the Authority may prescribe for any specified provision of this Act.

[1/2005]

Application

4B. This Act does not apply to —

(*a*) a body corporate approved as a commodity market under section 5 of the Commodity Trading Act (Cap. 48A);

(*b*) a body corporate approved as a clearing house under section 9 of that Act; or

(*c*) the holder of a licence issued under that Act when acting lawfully under that Act,

but only to the extent that the activities carried out by such person are regulated under that Act.

[35/2007 wef 27/02/2008]

PART II

MARKETS

Objectives of this Part

5. The objectives of this Part are —

(*a*) to promote fair, orderly and transparent markets;

(*b*) to facilitate efficient markets for the allocation of capital and the transfer of risks; and

(*c*) to reduce systemic risk.

[1/2005]

Division 1 — Establishment of Markets

Requirement for approval or recognition

6.—(1) No person shall establish or operate a market, or hold himself out as operating a market, unless the person is —

(*a*) an approved exchange; or

(*b*) a recognised market operator.

[1/2005]

(2) No person shall hold himself out —

(*a*) as an approved exchange unless he is an approved exchange; or

(*b*) as a recognised market operator unless he is a recognised market operator.

[1/2005]

(3) Except with the written approval of the Authority, no person other than an approved exchange shall take or use, or have attached to or exhibited at any place —

(*a*) the title or description "securities exchange", "stock exchange", "futures exchange" or "derivatives exchange" in any language; or

(*b*) any title or description which resembles a title or description referred to in paragraph (*a*).

[1/2005]

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(5) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $20,000 and, in the case of a continuing offence, to a further fine not exceeding $2,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Subdivision (1) — Approved exchange and recognised market operator

Application for approval or recognition

7.—(1) A corporation may apply to the Authority to be —

(*a*) approved as an approved exchange; or

(*b*) recognised as a recognised market operator.

[1/2005]

(2) An application made under subsection (1) shall be —

(*a*) made in such form and manner as the Authority may prescribe; and

(*b*) accompanied by a non-refundable prescribed application fee, which shall be paid in the manner specified by the Authority.

[1/2005]

(3) The Authority may require an applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

[1/2005]

Power of Authority to approve exchanges and recognise market operators

8.—(1) Where —

(*a*) a corporation has made an application under section 7(1)(*a*);

(*b*) a corporation which is a recognised market operator has made an application under section 11(1) to change its status to that of an approved exchange; or

(*c*)

the Authority has conducted a review under section 11(5) and has determined that a corporation would be more appropriately regulated as an approved exchange,

the Authority may approve the corporation as an approved exchange.

[1/2005]

(2) Where —

(*a*) a corporation has made an application under section 7(1)(*b*);

(*b*) a corporation which is an approved exchange has made an application under section 11(1) to change its status to that of a recognised market operator; or

(*c*) the Authority has conducted a review under section 11(5) and has determined that a corporation would be more appropriately regulated as a recognised market operator,

the Authority may recognise the corporation as a recognised market operator.

[1/2005]

(3) Notwithstanding subsections (1) and (2), the Authority may, with the consent of the applicant —

(*a*) treat an application under section 7(1)(*a*) as an application under section 7(1)(*b*) if it is of the opinion that the applicant would be more appropriately regulated as a recognised market operator; or

(*b*) treat an application under section 7(1)(*b*) as an application under section 7(1)(*a*) if it is of the opinion that the applicant would be more appropriately regulated as an approved exchange.

[1/2005]

(4) The Authority may approve a corporation as an approved exchange under subsection (1) or recognise a corporation as a recognised market operator under subsection (2) subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing, including conditions or restrictions relating to —

(*a*) the activities that the corporation may undertake;

(*b*) the securities or futures contracts that may be traded on any market established or operated by the corporation; and

(*c*) the nature of the investors or participants who may use, invest in or participate in the securities or futures contracts traded on any market established or operated by the corporation.

[1/2005]

(5) The Authority may, at any time, by notice in writing to the corporation, vary any condition or restriction or impose such further condition or restriction as it may think fit.

[1/2005]

(6) An approved exchange or a recognised market operator shall, for the duration of the approval or recognition, satisfy all conditions and restrictions that may be imposed on it under subsections (4) and (5).

[1/2005]

(7) The Authority may refuse to approve a corporation as an approved exchange or recognise a corporation as a recognised market operator if —

(*a*) the corporation has not provided the Authority with such information relating to —

(i) the corporation or any person employed by or associated with the corporation for the purposes of the corporation's business; or

(ii) any circumstances likely to affect the corporation's manner of conducting business,

as the Authority may require;

(*b*) any information or document provided by the corporation to the Authority is false or misleading;

(*c*) the corporation or a substantial shareholder of the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*d*) execution against the corporation or a substantial shareholder of the corporation in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*e*) a receiver, a receiver and manager, a judicial manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation or a substantial shareholder of the corporation;

(*f*) the corporation or a substantial shareholder of the corporation has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with the creditors of the corporation or shareholder, as the case may be, being a compromise or scheme of arrangement that is still in operation;

(*g*) the corporation, a substantial shareholder of the corporation or any officer of the corporation —

(i) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that the corporation, shareholder or officer, as the case may be, had acted fraudulently or dishonestly; or

(ii) has been convicted of an offence under this Act;

(*h*) the Authority is not satisfied as to the educational or other qualifications or experience of the officers or employees of the corporation, having regard to the nature of the duties they are to perform in connection with the establishment or operation of any market;

(*i*) the corporation fails to satisfy the Authority that the corporation is a fit and proper person or that all of its officers, employees and substantial shareholders are fit and proper persons;

(*j*) the Authority has reason to believe that the corporation may not be able to act in the best interests of investors or its members, participants or customers, having regard

to the reputation, character, financial integrity and reliability of the corporation or its officers, employees or substantial shareholders;

(*k*) the Authority is not satisfied as to —

(i) the financial standing of the corporation or any of its substantial shareholders; or

(ii) the manner in which the business of the corporation is to be conducted;

(*l*) the Authority is not satisfied as to the record of past performance or expertise of the corporation, having regard to the nature of the business which the corporation may carry on in connection with the establishment or operation of any market;

(*m*) there are other circumstances which are likely to —

(i) lead to the improper conduct of business by the corporation or any of its officers, employees or substantial shareholders; or

(ii) reflect discredit on the manner of conducting the business of the corporation or any of its substantial shareholders;

(*n*) in the case of any market that the corporation operates, the Authority has reason to believe that the corporation, or any of its officers or employees, will not operate a fair, orderly and transparent market;

(*o*) the corporation does not satisfy the criteria prescribed under section 9 to be approved as an approved exchange or recognised as a recognised market operator, as the case may be; or

(*p*) the Authority is of the opinion that it would be contrary to the interests of the public to approve or recognise the corporation.

[1/2005]

(8) Subject to subsection (9), the Authority shall not refuse to approve a corporation as an approved exchange or recognise a corporation as a recognised market operator under subsection (7) without giving the corporation an opportunity to be heard.

[1/2005]

(9) The Authority may refuse to approve a corporation as an approved exchange or recognise a corporation as a recognised market operator on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

[1/2005]

(10) The Authority shall give notice in the *Gazette* of any corporation approved as an approved exchange under subsection (1) or recognised as a recognised market operator under subsection (2), and such notice may include the conditions or restrictions imposed by the Authority on the corporation under subsection (4)(*b*) in relation to the securities or futures contracts that may be traded on any market established or operated by the corporation.

[1/2005]

(11) Any applicant who is aggrieved by a refusal of the Authority to grant an approval under subsection (1) or a recognition under subsection (2) may, within 30 days after the applicant is notified of the decision, appeal to the Minister whose decision shall be final.

[1/2005]

(12) Any approved exchange or recognised market operator which contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SIA, s. 16; FTA, s. 4; UK FSMA 2000, s. 289 (1) & (2)]

General criteria to be taken into account by Authority

9.—(1) The Authority may prescribe the criteria which it may take into account for the purposes of deciding —

(*a*) whether an applicant referred to in section 7(1) or 11(1) should be approved as an approved exchange or recognised as a recognised market operator;

(*b*) whether an approved exchange or a recognised market operator that is subject to a review by the Authority under section 11(5) should be approved as an approved exchange or recognised as a recognised market operator; and

(*c*) the conditions or restrictions that the Authority may impose under section 8(4) or (5).

[1/2005]

(2) Without prejudice to section 8 and subsection (1), the Authority may, for the purposes of recognising an operator of an overseas market as a recognised market operator under section 8 (2), have regard, in addition to any criteria prescribed under subsection (1), to —

(*a*) whether adequate arrangements exist for co-operation between the Authority and the financial services regulatory authority responsible for the supervision of the operator in the country or territory in which the head office or principal place of business of the operator is situated; and

(*b*) whether the operator is, in the country or territory in which the head office or principal place of business of the operator is situated, subject to requirements and supervision comparable, in the degree to which the objectives specified in section 5 are achieved, to the requirements and supervision to which approved exchanges and recognised market operators are subject under this Act.

[1/2005]

(3) In considering whether it is satisfied that the operator of an overseas market has met the requirements mentioned in subsection (2), the Authority may have regard to —

(*a*) the relevant laws and practices of the country or territory in which the head office or principal place of business of the operator is situated; and

(*b*) the rules and practices of the operator.

[1/2005]

(4) In this section, "operator of an overseas market" means a person whose head office is situated in a country or territory outside Singapore, and who is authorised to operate a market by a financial services regulatory authority of —

(*a*) that country or territory; or

(*b*) the country or territory in which the principal place of business of that person is situated.

[1/2005]

Annual fees payable by approved exchange and recognised market operator

10.—(1) Every approved exchange and recognised market operator shall pay to the Authority such annual fees as may be prescribed in such manner as may be specified by the Authority.

[1/2005]

(2) The Authority may, where it considers appropriate, refund or remit the whole or any part of any annual fee paid or payable to it.

[1/2005]

Change in status

11.—(1) A corporation which is an approved exchange or a recognised market operator may apply to the Authority to change its status in the manner referred to in subsection (6).

[1/2005]

(2) An application under subsection (1) shall be made in such form and manner as the Authority may prescribe.

[1/2005]

(3) An application made under subsection (1) shall be accompanied by a non-refundable prescribed application fee, which shall be paid in the manner specified by the Authority.

[1/2005]

(4) The Authority may require an applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

[1/2005]

(5) The Authority may, from time to time, on its own initiative, review the status of a corporation that is an approved exchange or a recognised market operator under this Part in accordance with the criteria prescribed under section 9.

[1/2005]

(6) Where an application is made by a corporation under subsection (1) or where a review of the status of a corporation is conducted by the Authority under subsection (5), the Authority may —

(*a*) where the corporation is an approved exchange, withdraw the approval as such and recognise the corporation as a recognised market operator under section 8(2);

(*b*) where the corporation is a recognised market operator, withdraw the recognition as such and approve the corporation as an approved exchange under section 8(1); or

(*c*) make no change to the status of the corporation as an approved exchange or a recognised market operator.

[1/2005]

(7) Where an application is made under subsection (1), the Authority shall not exercise its power under subsection (6)(*c*) without giving the corporation an opportunity to be heard.

[1/2005]

(8) Where a review of the status of a corporation is conducted by the Authority on its own initiative under subsection (5), the Authority shall not exercise its powers under subsection (6)(*a*) or (*b*) without giving the corporation an opportunity to be heard.

[1/2005]

(9) Any corporation which is aggrieved by a decision of the Authority made in relation to the corporation after a review under subsection (5) may, within 30 days after the corporation is notified of the decision, appeal to the Minister whose decision shall be final.

[1/2005]

Cancellation of approval or recognition

12.—(1) An approved exchange or a recognised market operator which intends to cease operating its market or, where it operates more than one market, all of its markets, may apply to the Authority to cancel its approval as an approved exchange or recognition as a recognised market operator, as the case may be.

[1/2005]

(2) The Authority may cancel the approval or recognition if it is satisfied that the approved exchange or recognised market operator referred to in subsection (1) has ceased operating its market or all of its markets, as the case may be.

[1/2005]

[FTA, s. 7]

Power of Authority to revoke approval and recognition

13.—(1) The Authority may revoke any approval of a corporation as an approved exchange under section 8(1) or any recognition of a corporation as a recognised market operator under section 8(2) if —

(*a*) there exists a ground under section 8(7) on which the Authority may refuse an application;

(*b*) the corporation does not commence operating its market or, where it operates more than one market, all of its markets, within 12 months from the date on which it was

granted the approval under section 8(1) or recognition under section 8(2), as the case may be;

(*c*) the corporation ceases to operate its market or, where it operates more than one market, all of its markets;

(*d*) the corporation contravenes —

(i) any condition or restriction applicable in respect of its approval or recognition, as the case may be;

(ii) any direction issued to it by the Authority under this Act; or

(iii) any provision in this Act;

(*da*) upon the Authority exercising any power under section 44B(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval or recognition, as the case may be;

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(*e*) the corporation operates in a manner that is, in the opinion of the Authority, contrary to the interests of the public; or

(*f*) any information or document provided by the corporation to the Authority is false or misleading.

[1/2005]

(2) Subject to subsection (3), the Authority shall not revoke under subsection (1) any approval under section 8(1) or recognition under section 8(2) that was granted to a corporation without giving the corporation an opportunity to be heard.

[1/2005]

(3) The Authority may revoke an approval under section 8(1) or a recognition under section 8(2) that was granted to a corporation on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

[1/2005]

(4) For the purposes of subsection (1)(*c*), a corporation shall be deemed to have ceased to operate its market if —

(*a*)

it has ceased to operate the market for more than 30 days, unless it has obtained the prior approval of the Authority to do so; or

(*b*) it has ceased to operate the market under a direction issued by the Authority under section 46.

[1/2005]

(5) Any corporation which is aggrieved by a decision of the Authority made in relation to the corporation under subsection (1) may, within 30 days after the corporation is notified of the decision, appeal to the Minister whose decision shall be final.

[1/2005]

(6) Notwithstanding the lodging of an appeal under subsection (5), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

[1/2005]

(7) The Minister may, when deciding an appeal under subsection (5), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

[1/2005]

(8) Any revocation of approval or recognition of a corporation referred to in subsection (1) shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement entered into on a market operated by the corporation, whether the agreement, transaction or arrangement was entered into before or after the revocation of the approval or recognition; or

(*b*) affect any right, obligation or liability arising under such agreement, transaction or arrangement.

[1/2005]

(9) The Authority shall give notice in the *Gazette* of any revocation of approval or recognition referred to in subsection (1).

[1/2005]

[UK FSMA, s. 297; FTA, s. 7]

Subdivision (2) — Exempt market operator

Power of Authority to exempt corporations from approval or recognition

14.—(1) A corporation that wishes to establish or operate a market may apply to the Authority, in such form and manner as the Authority may prescribe, to be exempted from the requirement under section 6(1) to be an approved exchange or a recognised market operator.

[1/2005]

(2) The Authority may exempt a corporation referred to in subsection (1) from the requirement under section 6(1) if, in the opinion of the Authority, the objectives specified in section 5 can be achieved without regulating the corporation as an approved exchange or a recognised market operator.

[1/2005]

(3) An application made under subsection (1) shall be accompanied by a non-refundable prescribed application fee, which shall be paid in the manner specified by the Authority.

[1/2005]

(4) The Authority may require an applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

[1/2005]

(5) The Authority may, by notice in writing, impose on a corporation exempted under subsection (2) such conditions or restrictions relating to the exemption as the Authority may think fit, including conditions or restrictions relating to —

(*a*) the activities that the corporation may undertake;

(*b*) the securities or futures contracts that may be traded on any market established or operated by the corporation; and

(*c*) the nature of the investors or participants who may use, participate or invest in the securities or futures contracts traded on any market established or operated by the corporation.

[1/2005]

(6) The Authority may, at any time, by notice in writing to a corporation exempted under subsection (2), vary any condition or restriction referred to in subsection (5) or impose such further condition or restriction relating to the exemption as the Authority may think fit.

[1/2005]

(7) The Authority shall give notice in the *Gazette* of any corporation exempted under subsection (2), and such notice may include the conditions or restrictions imposed by the Authority on the corporation under subsection (5)(*b*) in relation to the securities or futures contracts that may be traded on any market established or operated by the corporation.

[1/2005]

(8) The Authority may —

(*a*) exempt any corporation operating any market from the requirement under section 6 (1) to be an approved exchange or a recognised market operator;

(*b*) by order published in the *Gazette*, declare that corporation to be an exempt market operator; and

(*c*) by notice in writing to that corporation, impose such conditions or restrictions relating to the exemption as the Authority may think fit.

[1/2005]

(9) The Authority may —

(*a*) exempt corporations operating any class of markets from the requirement under section 6(1) to be approved exchanges or recognised market operators, subject to such conditions or restrictions as the Authority may think fit to impose by regulations; and

(*b*) by order published in the *Gazette*, declare such corporations to be exempt market operators.

[1/2005]

(10) An exempt market operator shall comply with all conditions or restrictions imposed on it under subsection (5), (6) or (8), as the case may be.

[1/2005]

(11) Any corporation which contravenes subsection (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Power of Authority to revoke exemption

15.—(1) The Authority may revoke any exemption granted to a corporation under section 14(2), (8) or (9) if —

(*a*) the corporation does not commence operating its market or, where it operates more than one market, all of its markets, within 12 months from the date on which it was granted the exemption;

(*b*) the corporation ceases to operate its market or, where it operates more than one market, all of its markets;

(*c*) the corporation contravenes —

(i) any condition or restriction relating to the exemption;

(ii) any direction issued to it by the Authority under this Act; or

(iii) any provision in this Act;

(*d*) the Authority is of the opinion that the corporation has operated in a manner that is contrary to the interests of the public;

(*e*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*f*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation;

(*g*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly;

(*h*) the Authority is of the opinion that the corporation would be more appropriately regulated as an approved exchange or a recognised market operator; or

(*i*) any information or document provided by the corporation to the Authority is false or misleading.

[1/2005]

(2) Subject to subsection (3), the Authority shall not revoke under subsection (1) any exemption granted to a corporation without giving the corporation an opportunity to be heard.

[1/2005]

(3) The Authority may revoke an exemption granted to a corporation on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to, or in respect, of any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

[1/2005]

(4) For the purposes of subsection (1)(*b*), a corporation shall be deemed to have ceased to operate its market if —

(*a*) it has ceased to operate the market for more than 30 days, unless it has obtained the prior approval of the Authority to do so; or

(*b*) it has ceased to operate the market under a direction issued by the Authority under section 46.

[1/2005]

(5) A corporation which is aggrieved by a decision of the Authority made in relation to the corporation under subsection (1) may, within 30 days after the corporation is notified of the decision, appeal to the Minister whose decision shall be final.

[1/2005]

(6) Notwithstanding the lodging of an appeal under subsection (5), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

[1/2005]

(7) The Minister may, when deciding an appeal under subsection (5), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

[1/2005]

(8) Any revocation under subsection (1) of an exemption granted to a corporation shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement entered into on a market operated by the corporation, whether the agreement, transaction or arrangement was entered into before or after the revocation of the exemption; or

(*b*) affect any right, obligation or liability arising under such agreement, transaction or arrangement.

[1/2005]

(9) The Authority shall give notice in the *Gazette* of any revocation of an exemption referred to in subsection (1).

[1/2005]

Division 2 — Regulation of Approved Exchanges

Subdivision (1) — Obligations of approved exchanges

General obligations

16.—(1) An approved exchange shall, in respect of every market it operates —

(*a*) as far as is reasonably practicable, ensure that the market is fair, orderly and transparent;

(*b*) manage any risks associated with its business and operations prudently;

(*c*) in discharging its obligations under this Act, not act contrary to the interests of the public, having particular regard to the interests of the investing public;

(*d*) ensure that access for participation in its facilities is subject to criteria that are fair and objective, and that are designed to ensure the orderly functioning of the market and to protect the interests of the investing public;

(*e*) maintain business rules and, where appropriate, listing rules that make satisfactory provision for —

(i) a fair, orderly and transparent market in securities or futures contracts that are traded through its facilities; and

(ii) the proper regulation and supervision of its members;

(*f*) enforce compliance with its business rules and, where appropriate, its listing rules;

(*g*) have sufficient financial, human and system resources —

(i) to operate a fair, orderly and transparent market;

(ii) to meet contingencies or disasters; and

(iii) to provide adequate security arrangements; and

(*h*) ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers.

[1/2005]

(2) In subsection (1)(*g*), "contingencies or disasters" includes technical disruptions occurring within automated systems.

[1/2005]

Obligation to manage risks prudently

16A.—(1) Without prejudice to the generality of section 16(1)(*b*), an approved exchange shall —

(*a*) ensure that the systems and controls concerning the assessment and management of risks to every market that it operates are adequate and appropriate for the scale and nature of its operations;

(*b*) obtain the Authority's approval to the limits which it intends to establish on the number of open positions which may be held by any person under any futures contract traded on a futures market that it operates, and vary those limits only in a manner approved by the Authority; and

(*c*) obtain the Authority's approval if it does not intend to establish limits on the number of open positions which may be held by any person under any futures contract traded on a futures market that it operates.

(2) Nothing in subsection (1) shall preclude an approved exchange from —

(*a*) establishing, in respect of open positions which may be held by any person under any futures contract traded on a futures market that it operates, different position limits for different futures contracts, or for different months or days in the period the positions may be held; or

(*b*) establishing limits whether on long or short positions, and whether on a net or gross basis.

(3) An approved exchange which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

(4) Any person who wilfully exceeds any position limit established or varied by an approved exchange shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000.

[2/2009 wef 29/03/2010]

Obligation to notify Authority of certain matters

17.—(1) An approved exchange shall, as soon as practicable after the occurrence of any of the following circumstances, notify the Authority of the circumstance:

(*a*) any material change to the information provided by the approved exchange in its application under section 7(1) or 11(1);

(*b*) the carrying on of any business by the approved exchange other than —

(i) the business of operating a market;

(ii) a business incidental to operating a market; or

(iii) such business or class of businesses as the Authority may prescribe;

(*c*) the acquisition by the approved exchange of a substantial shareholding in a corporation which does not carry on —

(i) the business of operating a market;

(ii) a business incidental to operating a market; or

(iii) such business or class of businesses as the Authority may prescribe;

(*d*) the approved exchange becoming aware of a financial irregularity or other matter which in its opinion —

(i) may affect its ability to discharge its financial obligations; or

(ii) may affect the ability of a member of the approved exchange to meet its financial obligations to the approved exchange;

(*e*) the approved exchange reprimanding, fining, suspending, expelling or otherwise taking disciplinary action against a member of the approved exchange;

(*f*) any other matter that the Authority may prescribe by regulations or specify by notice in writing to the approved exchange.

[1/2005]

(2) Without prejudice to the generality of section 46(1), the Authority may, at any time after receiving a notification referred to in subsection (1), issue directions to the approved exchange —

(*a*) where the notification relates to a matter referred to in subsection (1)(*b*) —

(i) to cease carrying on the first-mentioned business referred to in subsection (1)(*b*); or

(ii) to carry on the first-mentioned business referred to in subsection (1)(*b*) subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 46(1); or

(*b*) where the notification relates to a matter referred to in subsection (1)(*c*) —

(i) to dispose of the shareholding referred to in subsection (1)(*c*); or

(ii) to exercise its rights relating to such shareholding subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 46(1),

and the approved exchange shall comply with such directions.

[1/2005]

Obligation to maintain proper records

18. An approved exchange shall maintain a record of all transactions effected through its facilities in such form and manner as the Authority may prescribe, including —

(*a*) the extent to which the record includes details of each transaction; and

(*b*) the period of time that the record is to be maintained.

[1/2005]

Obligation to submit periodic reports

19. An approved exchange shall submit to the Authority such reports in such form, manner and frequency as the Authority may prescribe.

[1/2005]

Obligation to assist Authority

20. An approved exchange shall provide such assistance to the Authority as the Authority may require for the performance of the functions and duties of the Authority, including the furnishing of such returns and the provision of —

(*a*) such books and other information —

(i) relating to the business of the approved exchange; or

(ii) in respect of such dealings in securities or trading in futures contracts; and

(*b*) such other information,

as the Authority may require for the proper administration of this Act.

[1/2005]

Obligation to maintain confidentiality

21.—(1) Subject to subsection (2), an approved exchange and its officers and employees shall maintain, and aid in maintaining, the confidentiality of all user information that —

(*a*) comes to the knowledge of the approved exchange or any of its officers or employees; or

(*b*) is in the possession of the approved exchange or any of its officers or employees.

[1/2005]

(2) Subsection (1) shall not apply to —

(*a*) the disclosure of user information for such purposes, or in such circumstances, as the Authority may prescribe;

(*b*) any disclosure of user information which is authorised by the Authority to be disclosed or furnished; or

(*c*) the disclosure of user information pursuant to any requirement imposed under any written law or order of court in Singapore.

[1/2005]

(3) For the avoidance of doubt, nothing in this section shall be construed as preventing an approved exchange from entering into a written agreement with a user which obliges the approved exchange to maintain a higher degree of confidentiality than that specified in this section.

[1/2005]

Penalties under this Subdivision

22. Any approved exchange which contravenes section 16(1), 17, 18, 19, 20 or 21(1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Subdivision (2) — Rules of approved exchanges

Business rules and listing rules of approved exchanges

23.—(1) Without limiting the generality of sections 16 and 45 —

(*a*) the Authority may prescribe the matters that an approved exchange shall make provision for in the business rules or listing rules of the approved exchange; and

(*b*) the approved exchange shall make provision for those matters in its business rules or listing rules, as the case may be.

[1/2005]

(2) An approved exchange shall not make any amendment to its business rules or listing rules unless it complies with such requirements as the Authority may prescribe.

[1/2005]

(3) In this Subdivision, any reference to an amendment to a business rule or listing rule shall be construed as a reference to a change to the scope of, or to any requirement, obligation or restriction under, the business rule or listing rule, as the case may be, whether the change is made by an alteration to the text of the rule or by any other notice issued by or on behalf of the approved exchange.

[1/2005]

(4) Any approved exchange which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Business rules of approved exchanges have effect as contract

24.—(1) The business rules of an approved exchange shall be deemed to be, and shall operate as, a binding contract —

(*a*) between the approved exchange and each member; and

(*b*) between each member and every other member.

[1/2005]

(2) The approved exchange and each member shall be deemed to have agreed to observe and perform the provisions of the business rules that are in force for the time being, so far as those provisions are applicable to the approved exchange or that member, as the case may be.

[1/2005]

[Aust. Corporations 2001, s. 772A]

Power of court to order observance or enforcement of business rules or listing rules

25.—(1) Where any person who is under an obligation to comply with, observe, enforce or give effect to the business rules or listing rules of an approved exchange fails to do so, the High Court may, on the application of the Authority, an approved exchange or a person aggrieved by the failure, and after giving the first-mentioned person an opportunity to be heard, make an order directing the first-mentioned person to comply with, observe, enforce or give effect to those business rules or listing rules.

[1/2005]

(2) A person against whom an order under subsection (1) may be made shall be —

(*a*) a corporation which —

(i) has been admitted to the official list of an approved exchange; and

(ii) has not been removed from that official list;

(*b*) a person associated with a corporation which —

(i) has been admitted to the official list of an approved exchange; and

(ii) has not been removed from that official list,

to the extent to which the business rules or listing rules purport to apply to him; or

(*c*) an approved exchange.

[1/2005]

(3) This section is in addition to, and not in derogation of, any other remedy available to an aggrieved person referred to in subsection (1).

[1/2005]

[SIA, s. 20; FTA, s. 10]

Non-compliance with business rules or listing rules not to substantially affect rights of person

26. Any failure by an approved exchange to comply with —

(*a*) this Act;

(*b*) its business rules; or

(*c*) where applicable, its listing rules,

in relation to a matter shall not prevent the matter from being treated, for the purposes of this Act, as done in accordance with the business rules or listing rules so long as the failure does not substantially affect the rights of any person entitled to require compliance with the business rules or listing rules.

[1/2005]

Subdivision (3) — Matters requiring approval of Authority

Control of substantial shareholding in approved exchanges

27.—(1) No person shall enter into any agreement to acquire shares in an approved exchange by virtue of which he would, if the agreement had been carried out, become a substantial shareholder of the approved exchange without first obtaining the approval of the Authority to enter into the agreement.

[1/2005]

(2) No person shall become —

(*a*) a 12% controller; or

(*b*) a 20% controller,

of an approved exchange without first obtaining the approval of the Authority.

[1/2005]

(3) In subsection (2) —

"12% controller" means a person, not being a 20% controller, who alone or together with his associates —

(*a*) holds not less than 12% of the shares in the approved exchange; or

(*b*) is in a position to control not less than 12% of the votes in the approved exchange;

"20% controller" means a person who, alone or together with his associates —

(*a*) holds not less than 20% of the shares in the approved exchange; or

(*b*) is in a position to control not less than 20% of the votes in the approved exchange.

[1/2005]

(4) In this section —

(*a*) a person holds a share if —

(i) he is deemed to have an interest in that share under section 7(6) to (10) of the Companies Act (Cap. 50); or

(ii) he otherwise has a legal or an equitable interest in that share, except such interest as is to be disregarded under section 7(6) to (10) of the Companies Act;

(*b*) a reference to the control of a percentage of the votes in an approved exchange shall be construed as a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the approved exchange; and

(*c*) a person, *A*, is an associate of another person, *B*, if —

(i) *A* is the spouse, a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, step-son or step-daughter or a brother or sister of *B*;

(ii)

A is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;

(iii) *B* is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;

(iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;

(v) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*;

(vi) *A* is a related corporation of *B*;

(vii) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *A*;

(viii) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *B*; or

(ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their votes in relation to, the approved exchange.

[1/2005]

(5) The Authority may grant its approval referred to in subsection (1) or (2) subject to such conditions or restrictions as the Authority may think fit.

[1/2005]

(6) Without prejudice to subsection (11), the Authority may, for the purposes of securing compliance with subsection (1) or (2), or any condition or restriction imposed under subsection (5), by notice in writing, direct the transfer or disposal of all or any of the shares of an approved exchange in which a substantial shareholder, 12% controller or 20% controller of the approved exchange has an interest.

[1/2005]

(7) Until a person to whom a direction has been issued under subsection (6) transfers or disposes of the shares which are the subject of the direction, and notwithstanding anything to the contrary in the Companies Act (Cap. 50) or the memorandum or articles of association or other constituent document or documents of the approved exchange —

(*a*) no voting rights shall be exercisable in respect of the shares which are the subject of the direction;

(*b*) the approved exchange shall not offer or issue any shares (whether by way of rights, bonus, share dividend or otherwise) in respect of the shares which are the subject of the direction; and

(*c*) except in a liquidation of the approved exchange, the approved exchange shall not make any payment (whether by way of cash dividend, dividend in kind or otherwise) in respect of the shares which are the subject of the direction.

[1/2005]

(8) Any issue of shares by an approved exchange in contravention of subsection (7)(*b*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return those shares to the approved exchange, upon which the approved exchange shall return to the person any payment received from him in respect of those shares.

[1/2005]

(9) Any payment made by an approved exchange in contravention of subsection (7)(*c*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return the payment he has received to the approved exchange.

[1/2005]

(10) The Authority may exempt —

(*a*) any person or class of persons; or

(*b*) any class or description of shares or interests in shares,

from the requirement under subsection (1) or (2), subject to such conditions or restrictions as may be imposed by the Authority.

[1/2005]

(11) Any person who contravenes subsection (1) or (2), or any condition or restriction imposed by the Authority under subsection (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(12) Any person who contravenes subsection (7)(*b*) or (*c*), (8) or (9) or any direction issued by the Authority under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[E (DM) A, s. 15]

Approval of chairman, chief executive officer, director and key persons

28.—(1) No approved exchange shall appoint a person as its chairman, chief executive officer or director unless the approved exchange has obtained the approval of the Authority.

[1/2005]

(2) The Authority may, by notice in writing, require an approved exchange to obtain the approval of the Authority for the appointment of any person to any key management position or committee of the approved exchange and the approved exchange shall comply with the notice.

[1/2005]

(3) An application for approval under subsection (1) or (2) shall be made in such form and manner as the Authority may prescribe.

[1/2005]

(4) Without prejudice to the generality of section 45 and to any other matter that the Authority may consider relevant, the Authority may, in determining whether to grant its approval under subsection (1) or (2), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

[1/2005]

(5) Subject to subsection (6), the Authority shall not refuse an application for approval under this section without giving the approved exchange an opportunity to be heard.

[1/2005]

(6) The Authority may refuse an application for approval on any of the following grounds without giving the approved exchange an opportunity to be heard:

(*a*) the person is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) the person has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

[1/2005]

(7) Where the Authority refuses an application for approval under this section, the Authority need not give the person who was proposed to be appointed an opportunity to be heard.

[1/2005]

(8) An approved exchange shall, as soon as practicable, give written notice to the Authority of the resignation or removal of its chairman, chief executive officer, director or person referred to in the notice issued by the Authority under subsection (2).

[1/2005]

(9) Without prejudice to the generality of section 45, the Authority may make regulations relating to the composition and duties of the board of directors or any committee of an approved exchange.

[1/2005]

(10) In this section, "committee" includes any committee of directors, disciplinary committee, appeals committee or any body responsible for disciplinary action against a member of an approved exchange.

[1/2005]

(11) The Authority may exempt any approved exchange or class of approved exchanges from the requirement under subsection (1) or (8), subject to such conditions or restrictions as may be imposed by the Authority.

[1/2005]

(12) Any approved exchange which contravenes subsection (1), (2) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Power of Authority to approve instruments, contracts and transactions

29.—(1) No approved exchange shall, without the approval of the Authority, list, de-list or permit the trading of —

(*a*) any futures contract;

(*b*) any right, option or derivative in respect of any debentures, stocks or shares;

(*c*) any right under a contract for differences or under any other contract the purpose or purported purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

(i) the value or price of any debentures, stocks or shares;

(ii) the value or price of any group of debentures, stocks or shares; or

(iii) an index of any debentures, stocks or shares; or

(*d*) such other instrument, contract or transaction, or class of instruments, contracts or transactions as the Authority may prescribe,

on any market operated by the approved exchange.

[1/2005]

(2) The Authority may grant approval for an approved exchange to list, de-list or permit the trading of any instrument, contract or transaction, or any class of instruments, contracts or transactions, referred to in subsection (1), subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing to the approved exchange.

[1/2005]

(3) Any approved exchange which contravenes subsection (1) or any of the conditions or restrictions imposed under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Listing of approved exchanges on securities market

30.—(1) The securities of an approved exchange shall not be listed for quotation on a securities market that is operated by the approved exchange or any of its related corporations

unless the approved exchange and the operator of the securities market have entered into such arrangements as the Authority may require —

(*a*) for dealing with possible conflicts of interest that may arise from such listing; and

(*b*) for the purpose of ensuring the integrity of the trading of the securities of the approved exchange on the securities market.

[1/2005]

(2) Where the securities of an approved exchange are listed for quotation on a securities market operated by the approved exchange or any of its related corporations, the listing rules of the securities market shall be deemed to allow the Authority to act in place of the operator of the securities market in making decisions and taking action, or to require the operator of the securities market to make decisions and to take action on behalf of the Authority, on —

(*a*) the admission or removal of the approved exchange to or from the official list of the securities market; and

(*b*) granting approval for the securities of the approved exchange to be, or stopping or suspending the securities of the approved exchange from being, listed for quotation or quoted on the securities market.

[1/2005]

(3) The Authority may, by notice in writing to the operator of the securities market —

(*a*) modify the listing rules of the securities market for the purpose of their application to the listing for quotation or trading of the securities of the approved exchange; or

(*b*) waive the application of any listing rule of the securities market to the approved exchange.

[1/2005]

(4) Any approved exchange which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Subdivision (4) — Powers of Authority

31. [*Repealed by Act 10 of 2013 wef 18/04/2013*]

Power of Authority in securities market

32.—(1) Without prejudice to the generality of section 46, where the Authority is of the opinion that it is necessary to prohibit trading in —

(*a*) particular securities of, or made available by, an entity;

(*b*) particular units or derivatives of units in a business trust; or

(*c*) particular units of a collective investment scheme,

on a securities market of an approved exchange —

(i) in order to protect persons buying or selling the securities, units or derivatives of units in a business trust or units in a collective investment scheme; or

(ii) in the interests of the public,

the Authority may give notice in writing to the approved exchange stating that it is of that opinion and setting out the reasons for its opinion.

[1/2005]

(2) If, after the receipt of the notice given under subsection (1), the approved exchange fails to take any action in relation to those securities, units or derivatives of units in a business trust or units in a collective investment scheme on that securities market and the Authority continues to be of the opinion that it is necessary to prohibit trading in those securities, units or derivatives of units in a business trust or units in a collective investment scheme on that securities market, the Authority may, by notice in writing to the approved exchange, prohibit trading in those securities, units or derivatives of units in a business trust or units in a collective investment scheme on that securities market for such period, not exceeding 14 days, as is specified in the notice.

[1/2005]

(3) Where the Authority gives a notice to an approved exchange under subsection (2), the Authority shall —

(*a*) at the same time send a copy of the notice to —

(i) in the case of securities, the entity;

(ii) in the case of units or derivatives of units in a business trust, the trustee of the business trust; or

(iii) in the case of units in a collective investment scheme, the responsible person of the collective investment scheme,

together with a statement setting out the reasons for the giving of the notice; and

(*b*) as soon as practicable, furnish to the Minister a written report setting out the reasons for the giving of the notice and send a copy of the report to the approved exchange.

[1/2005]

(4) Any person who is aggrieved by any action taken by the Authority or an approved exchange under this section may, within 30 days after the person is notified of the action, appeal to the Minister whose decision shall be final.

[1/2005]

(5) Notwithstanding the lodging of an appeal under subsection (4), any action taken by the Authority or an approved exchange under this section shall continue to have effect pending the decision of the Minister.

[1/2005]

(6) The Minister may, when deciding an appeal under subsection (4), make such modification as he considers necessary to any action taken by the Authority or an approved

exchange under this section, and such modified action shall have effect from the date of the decision of the Minister.

[1/2005]

(7) Any approved exchange which permits trading in securities on the securities market of the approved exchange in contravention of a notice given under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SIA, s. 22]

Additional powers of Authority in respect of auditors

33.—(1) If an auditor of an approved exchange, in the course of the performance of his duties, becomes aware of —

(*a*) any matter which, in his opinion, adversely affects or may adversely affect the financial position of the approved exchange to a material extent;

(*b*) any matter which, in his opinion, constitutes or may constitute a breach of any provision of this Act or an offence involving fraud or dishonesty; or

(*c*) any irregularity that has or may have a material effect upon the accounts of the approved exchange, including any irregularity that affects or jeopardises, or may affect or jeopardise, the funds or property of investors in securities or futures contracts,

the auditor shall immediately send to the Authority a written report of the matter or the irregularity.

[1/2005]

(2) An auditor of an approved exchange shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of any statement made in his report under subsection (1).

[1/2005]

(3) Subsection (2) shall not restrict or affect any right, privilege or immunity that the auditor of an approved exchange may have, apart from this section, as a defendant in an action for defamation.

[1/2005]

(4) The Authority may impose all or any of the following duties on an auditor of an approved exchange:

(*a*) a duty to submit such additional information and reports in relation to his audit as the Authority considers necessary;

(*b*) a duty to enlarge, extend or alter the scope of his audit of the business and affairs of the approved exchange;

(*c*) a duty to carry out any other examination or establish any procedure in any particular case;

(*d*) a duty to submit a report on any matter arising out of his audit, examination or establishment of procedure referred to in paragraph (*b*) or (*c*),

and the auditor shall carry out such duties.

[1/2005]

(5) The approved exchange shall remunerate the auditor in respect of the discharge by him of all or any of the duties referred to in subsection (4).

[1/2005]

[E (DM) A, s. 16]

Emergency powers of Authority

34.—(1) Where the Authority has reason to believe that an emergency exists, or thinks that it is necessary or expedient in the interests of the public or a section of the public or for the protection of investors, the Authority may direct by notice in writing an approved exchange to take such action as it considers necessary to maintain or restore orderly trading in securities or futures contracts or any class of securities or futures contracts.

[1/2005]

(2) Without prejudice to subsection (1), the actions which the Authority may direct an approved exchange to take shall include —

(*a*) terminating or suspending trading on the approved exchange;

(*b*) confining trading to liquidation of securities or futures contracts positions;

(*c*) ordering the liquidation of all positions or any part thereof or the reduction in such positions;

(*d*) limiting trading to a specific price range;

(*e*) modifying trading days or hours;

(*f*) altering conditions of delivery;

(*g*) fixing the settlement price at which positions are to be liquidated;

(*h*) requiring any person to act in a specified manner in relation to trading in securities or futures contracts or any class of securities or futures contracts;

(*i*) requiring margins or additional margins for any securities or futures contracts; and

(*j*) modifying or suspending any of the business rules of the approved exchange.

[1/2005]

(3) Where the approved exchange fails to comply with any direction of the Authority under subsection (1) within such time as is specified by the Authority, the Authority may —

(*a*) set margin levels in any securities or futures contract or class of securities or futures contracts to cater for the emergency;

(*b*) set limits that may apply to market positions acquired in good faith prior to the date of the notice issued by the Authority; or

(*c*)

take such other action as the Authority may think fit to maintain or restore orderly trading in any securities or futures contracts or class of securities or futures contracts, or liquidation of any position in respect of any securities or futures contract or class of securities or futures contracts.

[1/2005]

(4) In this section, "emergency" means any threatened or actual market manipulation or cornering, and includes —

(*a*) any act of any government affecting a commodity or securities;

(*b*) any major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity or securities; or

(*c*) any undesirable situation or practice which, in the opinion of the Authority, constitutes an emergency.

[1/2005]

(5) The Authority may modify any action taken by an approved exchange under subsection (1), including the setting aside of that action.

[1/2005]

(6) Any person who is aggrieved by any action taken by the Authority or an approved exchange under this section may, within 30 days after the person is notified of the action, appeal to the Minister whose decision shall be final.

[1/2005]

(7) Notwithstanding the lodging of an appeal under subsection (6), any action taken by the Authority or an approved exchange under this section shall continue to have effect pending the decision of the Minister.

[1/2005]

(8) The Minister may, when deciding an appeal under subsection (6), make such modification as he considers necessary to any action taken by the Authority or an approved exchange under this section, and such modified action shall have effect from the date of the decision of the Minister.

[1/2005]

(9) Any approved exchange which fails to comply with a direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[FTA, s. 41]

Power of Authority to exempt approved exchanges from provisions of this Part

35. The Authority may exempt an approved exchange or a class of approved exchanges from any of the provisions of this Part if it is satisfied that the non-compliance by such approved exchange or class of approved exchanges with such provision would not detract from the objectives specified in section 5, subject to such conditions or restrictions as may be imposed by the Authority.

[1/2005]

Subdivision (5) — Immunity

Immunity from criminal or civil liability

36. No criminal or civil liability shall be incurred by —

(*a*) an approved exchange; or

(*b*) any person acting on behalf of an approved exchange, including —

(i) any director of the approved exchange; or

(ii) any member of any committee established by the approved exchange,

for any thing done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of, or in connection with, the discharge or purported discharge of its obligations under this Act or the business rules or, where appropriate, listing rules of the approved exchange.

[1/2005]

Division 3 — Regulation of Recognised Market Operators

General obligations

37.—(1) A recognised market operator shall, in respect of every market which it operates —

(*a*) as far as is reasonably practicable, ensure that the market is fair, orderly and transparent;

(*b*) manage any risks associated with its business and operations prudently;

(*c*) in discharging its obligations under this Act, not act contrary to the interests of the public, having particular regard to the interests of the investing public; and

(*d*) have sufficient financial, human and system resources —

(i) to operate a fair, orderly and transparent market;

(ii) to meet contingencies or disasters; and

(iii) to provide adequate security arrangements.

[1/2005]

(2) In subsection (1)(*d*), "contingencies or disasters" includes technical disruptions occurring within automated systems.

[1/2005]

Obligation to notify Authority of certain matters

38. A recognised market operator shall, as soon as practicable after the occurrence of any of the following circumstances, notify the Authority of the circumstance:

(*a*)

any material change to the information provided by the recognised market operator in its application under section 7(1) or 11(1);

(*b*) [*Deleted by Act 34 of 2012 wef 18/03/2013*]

(*c*) the recognised market operator becoming aware of a financial irregularity or other matter which in its opinion —

(i) may affect its ability to discharge its financial obligations; or

(ii) may affect the ability of a participant of the recognised market operator to meet its financial obligations to the recognised market operator;

(*d*) any other matter that the Authority may prescribe by regulations or specify by notice in writing to the recognised market operator.

[1/2005]

Obligation to maintain proper records

39. A recognised market operator shall maintain a record of all transactions effected through its facilities in such form and manner as the Authority may prescribe, including —

(*a*) the extent to which the record includes details of each transaction; and

(*b*) the period of time that the record is to be maintained.

[1/2005]

Obligation to submit periodic reports

40. A recognised market operator shall submit to the Authority such reports in such form, manner and frequency as the Authority may prescribe.

[1/2005]

Obligation to assist Authority

41. A recognised market operator shall provide such assistance to the Authority as the Authority may require for the performance of the functions and duties of the Authority, including the furnishing of such returns and the provision of —

(*a*) such books and other information —

(i) relating to the business of the recognised market operator; or

(ii) in respect of such dealings in securities or trading in futures contracts; and

(*b*) such other information,

as the Authority may require for the proper administration of this Act.

[1/2005]

Power of Authority to approve instruments, contracts and transactions

42.—(1) No recognised market operator shall, without the approval of the Authority, list, de-list or permit the trading of —

(*a*) any futures contract;

(*b*) any right, option or derivative in respect of any debentures, stock or shares;

(*c*) any right under a contract for differences or under any other contract the purpose or purported purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

(i) the value or price of any debentures, stock or shares;

(ii) the value or price of any group of debentures, stock or shares; or

(iii) an index of any debentures, stock or shares; and

(*d*) such other instrument, contract or transaction, or class of instruments, contracts or transactions, as the Authority may prescribe,

on any market operated by the recognised market operator.

[1/2005]

(2) The Authority may grant approval for any instrument, contract or transaction, or any class of instruments, contracts or transactions, referred to in subsection (1), subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing to the recognised market operator.

[1/2005]

(3) The recognised market operator shall comply with the conditions and restrictions imposed under subsection (2).

[1/2005]

[FTA, s. 5]

Penalties under this Division

43. Any recognised market operator which contravenes section 37(1), 38, 39, 40, 41 or 42(1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Power of Authority to exempt recognised market operators from provisions of this Part

43A.—(1) The Authority may exempt a recognised market operator or a class of recognised market operators from any of the provisions in this Part if it is satisfied that the non-compliance by such recognised market operator or class of recognised market operators with such provision would not detract from the objectives specified in section 5.

(2) Such exemption shall be subject to such conditions or restrictions as may be imposed by the Authority.

[2/2009 wef 29/07/2009]

Division 4 — General Powers of Authority

Power of Authority to remove officers

44.—(1) Where the Authority is satisfied that an officer of an approved exchange or a recognised market operator —

(*a*) has wilfully contravened or wilfully caused that approved exchange or recognised market operator to contravene —

(i) this Act;

(ii) where applicable, its business rules; or

(iii) where applicable, its listing rules;

(*b*) has, without reasonable excuse, failed to ensure compliance by that approved exchange or recognised market operator, a member of that approved exchange or recognised market operator, or a person associated with that member with —

(i) this Act;

(ii) where applicable, the business rules of that approved exchange or recognised market operator; or

(iii) where applicable, the listing rules of that approved exchange or recognised market operator;

(*c*) has failed to discharge the duties or functions of his office or employment;

(*d*) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*e*) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

(*f*) has, whether in Singapore or elsewhere, made a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation; or

(*g*) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly,

the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing direct that approved exchange or recognised market operator to remove the officer from his office or employment, and that approved exchange or recognised market operator shall comply with such notice, notwithstanding the provisions of section 152 of the Companies Act (Cap. 50).

[1/2005]

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority may, in determining whether an officer of an approved exchange or a recognised market operator has failed to discharge the duties or functions of his office or employment for

the purposes of subsection (1)(*c*), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

[1/2005]

(3) Subject to subsection (4), the Authority shall not direct an approved exchange or a recognised market operator to remove an officer from his office or employment without giving the approved exchange or recognised market operator an opportunity to be heard.

[1/2005]

(4) The Authority may direct an approved exchange or a recognised market operator to remove an officer from his office or employment under subsection (1) on any of the following grounds without giving the approved exchange or recognised market operator an opportunity to be heard:

(*a*) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) the officer has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

[1/2005]

(5) Where the Authority directs an approved exchange or a recognised market operator to remove an officer from his office or employment under subsection (1), the Authority need not give that officer an opportunity to be heard.

[1/2005]

(6) Any approved exchange or a recognised market operator that is aggrieved by a direction of the Authority made in relation to the approved exchange or recognised market operator, as the case may be, under subsection (1) may, within 30 days after the approved exchange or recognised market operator, as the case may be, is notified of the direction, appeal to the Minister whose decision shall be final.

[1/2005]

(7) Notwithstanding the lodging of an appeal under subsection (6), any action taken by the Authority under this section, shall continue to have effect pending the decision of the Minister.

[1/2005]

(8) The Minister may, when deciding an appeal under subsection (6), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

[1/2005]

(9) Subject to subsection (10), no criminal or civil liability shall be incurred by an approved exchange or a recognised market operator in respect of any thing done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.

[1/2005]

(10) Any approved exchange or a recognised market operator which, without reasonable excuse, contravenes a written notice issued under subsection (1) shall be guilty of an offence

and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Interpretation of sections 44A to 44F

44A. In this section and sections 44B to 44F, unless the context otherwise requires —

"business" includes affairs and property;

"office holder", in relation to an approved exchange or a recognised market operator, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved exchange or recognised market operator (as the case may be), or acting in an equivalent capacity in relation to the approved exchange or recognised market operator (as the case may be);

"relevant business" means any business of an approved exchange or a recognised market operator —

(*a*) which the Authority has assumed control of under section 44B; or

(*b*) in relation to which a statutory adviser or a statutory manager has been appointed under section 44B;

"statutory adviser" means a statutory adviser appointed under section 44B;

"statutory manager" means a statutory manager appointed under section 44B.

[Act 10 of 2013 wef 18/04/2013]

Action by Authority if approved exchange or recognised market operator unable to meet obligations, etc.

44B.—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

(*a*) an approved exchange or a recognised market operator informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

(*b*) an approved exchange or a recognised market operator becomes unable to meet its obligations, or is insolvent, or suspends payments;

(*c*) the Authority is of the opinion that an approved exchange or a recognised market operator —

(i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 5;

(ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction imposed on it under section 8(4) or (5); or

(*d*) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

(*a*) require the approved exchange or recognised market operator (as the case may be) immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

(*b*) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the approved exchange or recognised market operator (as the case may be) on the proper management of such of the business of the approved exchange or recognised market operator (as the case may be) as the Authority may determine; or

(*c*) assume control of and manage such of the business of the approved exchange or recognised market operator (as the case may be) as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

(3) In the case of an approved exchange, or a recognised market operator, which is incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the approved exchange or recognised market operator (as the case may be) under subsection (2) shall only be in relation to —

(*a*) the business or affairs of the approved exchange or recognised market operator (as the case may be) carried on in, or managed in or from, Singapore; or

(*b*) the property of the approved exchange or recognised market operator (as the case may be) located in Singapore, or reflected in the books of the approved exchange or recognised market operator (as the case may be) in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of an approved exchange or a recognised market operator, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

(*a*) may be discharged or exercised by such persons jointly and severally;

(*b*) shall be discharged or exercised by such persons jointly; and

(*c*) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 13(1)(*da*), do one or more of the following:

(*a*)

vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(*b*) further exercise any of the powers under subsection (2);

(*c*) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(*a*) the exercise or purported exercise of any power under this Act;

(*b*) the performance or purported performance of any function or duty under this Act; or

(*c*) the compliance or purported compliance with this Act.

(7) Any approved exchange or recognised market operator that fails to comply with a requirement imposed by the Authority under subsection (2)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Effect of assumption of control under section 44B

44C.—(1) Upon assuming control of the relevant business of an approved exchange or a recognised market operator, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of an approved exchange or a recognised market operator, the Authority or statutory manager —

(*a*) shall manage the relevant business of the approved exchange or recognised market operator (as the case may be) in the name of and on behalf of the approved exchange or recognised market operator (as the case may be); and

(*b*) shall be deemed to be an agent of the approved exchange or recognised market operator (as the case may be).

(3) In managing the relevant business of an approved exchange or a recognised market operator, the Authority or statutory manager —

(*a*) shall take into consideration the interests of the public or the section of the public referred to in section 44B(1)(*c*)(i), and the need to protect investors; and

(*b*) shall have all the duties, powers and functions of the members of the board of directors of the approved exchange or recognised market operator (as the case may be) (collectively and individually) under this Act, the Companies Act (Cap. 50) and

the constitution of the approved exchange or recognised market operator (as the case may be), including powers of delegation, in relation to the relevant business of the approved exchange or recognised market operator (as the case may be); but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the approved exchange or recognised market operator (as the case may be) under the Companies Act or the constitution of the approved exchange or recognised market operator (as the case may be).

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of an approved exchange or a recognised market operator by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the approved exchange or recognised market operator (as the case may be), which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the approved exchange or recognised market operator (as the case may be), for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of an approved exchange or a recognised market operator, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the approved exchange or recognised market operator (as the case may be).

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of an approved exchange or a recognised market operator, the Authority may at any time, by notice in writing to the person and the approved exchange or recognised market operator (as the case may be), revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of an approved exchange or a recognised market operator is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the approved exchange or recognised market operator (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved exchange or recognised market operator (as the case may be) —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved exchange or a recognised market operator in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the approved exchange or recognised market operator (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved exchange or recognised market operator (as the case may be) —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of an approved exchange or a recognised market operator —

(*a*) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the approved exchange or recognised market operator (as the case may be),

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(*b*) no person shall exercise any voting or other right attached to any share in the approved exchange or recognised market operator (as the case may be) in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, "constitution", in relation to an approved exchange or a recognised market operator, means the memorandum of association and articles of association of the approved exchange or recognised market operator (as the case may be).

[Act 10 of 2013 wef 18/04/2013]

Duration of control

44D.—(1) The Authority shall cease to be in control of the relevant business of an approved exchange or a recognised market operator when the Authority is satisfied that —

(*a*) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

(*b*) it is no longer necessary in the interests of the public or the section of the public referred to in section 44B(1)(*c*)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved exchange or a recognised market operator on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved exchange or a recognised market operator may be revoked by the Authority at any time —

(*a*) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 44B(1)(*c*)(i) or for the protection of investors; or

(*b*) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved exchange or recognised market operator (as the case may be).

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(*a*) the Authority's assumption of control of the relevant business of an approved exchange or a recognised market operator;

(*b*) the cessation of the Authority's control of the relevant business of an approved exchange or a recognised market operator;

(*c*) the appointment of a statutory manager in relation to the relevant business of an approved exchange or a recognised market operator; and

(*d*) the revocation of a statutory manager's appointment in relation to the relevant business of an approved exchange or a recognised market operator.

[Act 10 of 2013 wef 18/04/2013]

Responsibilities of officers, member, etc., of approved exchange or recognised market operator

44E.—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved exchange or a recognised market operator —

(*a*) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved exchange or recognised market operator (as the case may be) to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the approved exchange or recognised market operator (as the case may be) which is comprised in, forms part of or relates to the relevant business of the approved exchange or recognised market operator (as the case may be), and which is in the person's possession or control; and

(*b*) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or

trustee for, the approved exchange or recognised market operator (as the case may be) shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the approved exchange or recognised market operator (as the case may be), within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

(*a*) without reasonable excuse, fails to comply with subsection (1)(*b*); or

(*b*) in purported compliance with subsection (1)(*b*), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Remuneration and expenses of Authority and others in certain cases

44F.—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved exchange or a recognised market operator —

(*a*) to a statutory manager or statutory adviser appointed in relation to the approved exchange or recognised market operator (as the case may be), whether or not the appointment has been revoked; and

(*b*) where the Authority has assumed control of the relevant business of the approved exchange or recognised market operator (as the case may be), to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

(2) The approved exchange or recognised market operator (as the case may be) shall reimburse the Authority any remuneration and expenses payable by the approved exchange or recognised market operator (as the case may be) to a statutory manager or statutory adviser.

[Act 10 of 2013 wef 18/04/2013]

Power of Authority to make regulations

45.—(1) Without prejudice to section 341, the Authority may make regulations relating to the exemption, recognition or approval of, and the requirements applicable to, persons who establish, operate or assist in establishing or operating markets.

[1/2005]

(1A) The Authority may also make regulations for the purpose of carrying out section 16A, including —

(*a*)

requiring an approved exchange to reckon specified positions for the purpose of determining if limits established or varied under section 16A(1) have been exceeded;

(*b*) requiring an approved exchange to take specified steps to ensure compliance with those limits; and

(*c*) specifying measures to manage any risks assumed by an approved exchange.

[2/2009 wef 29/03/2010]

(2) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for a penalty not exceeding a fine of $150,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

[1/2005]

Power of Authority to issue directions

46.—(1) The Authority may, if it thinks it necessary or expedient —

(*a*) for ensuring fair, orderly and transparent markets;

(*b*) for ensuring the integrity and stability of the capital markets or the financial system;

(*c*) in the interests of the public or a section of the public or for the protection of investors;

(*d*) for the effective administration of this Act; or

(*e*) for ensuring compliance with any condition or restriction as may be imposed by the Authority under section 8(4) or (5), 14(5), (6), (8) or (9), 17(2), 27(5) or (10), 28(11), 29(2), 35, 42(2) or 43A(2), or such other obligations or requirements under this Act or as may be prescribed by the Authority,

[2/2009 wef 29/07/2009]

issue directions, whether of a general or specific nature, by notice in writing, to an approved exchange, a recognised market operator or an exempt market operator, and the approved exchange, recognised market operator or exempt market operator shall comply with such directions.

[1/2005]

(2) Any approved exchange, a recognised market operator or an exempt market operator which, without reasonable excuse, contravenes a direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(3) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.

[SIA, s. 21; E (DM) A, s. 14]

[Act 34 of 2012 wef 18/03/2013]

Division 5 — Voluntary Transfer of Business of Approved Exchange or Recognised Market Operator

Interpretation of this Division

46AA. In this Division, unless the context otherwise requires —

"business" includes affairs, property, right, obligation and liability;

"Court" means the High Court or a Judge thereof;

"debenture" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"property" includes property, right and power of every description;

"Registrar of Companies" means the Registrar of Companies appointed under the Companies Act and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

"transferee" means an approved exchange or a recognised market operator, or a corporation which has applied or will be applying for approval or recognition to carry on in Singapore the usual business of an approved exchange or a recognised market operator, to which the whole or any part of a transferor's business is, is to be or is proposed to be transferred under this Division;

"transferor" means an approved exchange or a recognised market operator the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

[Act 10 of 2013 wef 18/04/2013]

Voluntary transfer of business

46AAA.—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of an approved exchange or a recognised market operator) to a transferee, if —

(*a*) the Authority has consented to the transfer;

(*b*) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved exchange or a recognised market operator; and

(*c*) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an approved exchange or a recognised market operator to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(*a*) if the Authority is satisfied that —

(*a*) the transferee is a fit and proper person; and

(*b*) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

(5) The remuneration and expenses of any person appointed under subsection (4) shall be paid by the transferor and the transferee jointly and severally.

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

(*a*) without reasonable excuse, fails to comply with any requirement under subsection (7); or

(*b*) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

[Act 10 of 2013 wef 18/04/2013]

Approval of transfer

46AAB.—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

(2) Before making an application under subsection (1) —

(*a*) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(*b*) the transferor shall obtain the consent of the Authority under section 46AAA(1)(*a*);

(*c*)

the transferor and the transferee shall, if they intend to serve on their respective participants a summary of the transfer, obtain the Authority's approval of the summary;

(*d*) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (*a*) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(*e*) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (*a*) for a period of 15 days after the publication of the notice referred to in paragraph (*d*) in the *Gazette*; and

(*f*) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective participants affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (*a*) or a summary of the transfer approved by the Authority under paragraph (*c*).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(*a*) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(*b*) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 46AAA(1)(*a*) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(*a*) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(*b*) refuse to approve the transfer.

(6) If the transferee is not approved as an approved exchange or recognised as a recognised market operator by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being approved as an approved exchange or recognised as a recognised market operator by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(*a*) the transfer to the transferee of the whole or any part of the business of the transferor;

(*b*) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(*c*) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(*d*) the dissolution, without winding up, of the transferor;

(*e*) the provisions to be made for persons who are affected by the transfer;

(*f*) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

(*a*) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(*b*) make provision in relation to any property which is held by the transferor as trustee; and

(*c*) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

(12) Where an order is made under this section, the transferor and the transferee shall each lodge within 7 days after the order is made —

(*a*) a copy of the order with the Registrar of Companies and with the Authority; and

(*b*) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

(13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

PART IIA

TRADE REPOSITORIES

[Act 34 of 2012 wef 01/08/2013]

Objectives of this Part

46A. The objectives of this Part are —

(*a*) to promote safe and efficient trade repositories;

(*b*) to promote transparent markets through timely and reliable access to information on transactions; and

(*c*) to reduce systemic risks.

[Act 34 of 2012 wef 01/08/2013]

Interpretation of this Part

46B. In this Part, unless the context otherwise requires —

"foreign trade repository" means a trade repository which is incorporated or formed outside Singapore;

"foreign trade repository licence" means a licence that is granted by the Authority to a foreign trade repository under section 46E(2);

"Singapore trade repository" means a trade repository which is incorporated in Singapore;

"trade repository" means a corporation that collects and maintains information on any transactions relating to any securities, futures contracts or derivatives contracts, or any other transactions or class of transactions that the Authority may prescribe by regulations made under section 341 for the purposes of this definition;

"trade repository licence" means a licence that is granted by the Authority to a Singapore trade repository under section 46E(1).

[Act 34 of 2012 wef 01/08/2013]

Division 1 — Licensing of Trade Repositories

Holding out as licensed trade repository or licensed foreign trade repository

46C.—(1) No person shall hold himself out —

(*a*) as a licensed trade repository, unless he has in force a trade repository licence granted by the Authority under section 46E(1); or

(*b*) as a licensed foreign trade repository, unless he has in force a foreign trade repository licence granted by the Authority under section 46E(2).

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $20,000 and, in the case of a continuing offence, to a further fine not exceeding $2,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Application for licence

46D.—(1) A corporation that is, or intends to be, a Singapore trade repository may apply to the Authority for the grant of a trade repository licence.

(2) A corporation that is, or intends to be, a foreign trade repository may apply to the Authority for the grant of a foreign trade repository licence.

(3) An application under subsection (1) or (2) shall be —

(*a*) made in such form and manner as the Authority may prescribe; and

(*b*) accompanied by a non-refundable prescribed application fee, which shall be paid in the manner specified by the Authority.

(4) The Authority may require an applicant to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to grant trade repository licence or foreign trade repository licence

46E.—(1) Where a corporation referred to in section 46D(1) has made an application under that provision, the Authority may grant the corporation a trade repository licence.

(2) Where a corporation referred to in section 46D(2) has made an application under that provision, the Authority may grant the corporation a foreign trade repository licence.

(3) The Authority may grant a corporation a trade repository licence under subsection (1) or a foreign trade repository licence under subsection (2) subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing, including conditions or restrictions, either of a general or specific nature, relating to —

(*a*) the activities that the corporation may undertake;

(*b*) the transactions that may be reported to the corporation in its capacity as a trade repository; and

(*c*) the nature of the investors or participants who may use or have an interest in the corporation as a trade repository.

(4) The Authority may, at any time, by notice in writing to the corporation, vary any condition or restriction or impose such further condition or restriction as the Authority may think fit.

(5) A licensed trade repository or licensed foreign trade repository shall, for the duration of the licence, satisfy every condition or restriction that may be imposed on it under subsection (3) or (4).

(6) The Authority shall not grant an applicant a trade repository licence or foreign trade repository licence, unless the applicant meets such requirements, including minimum financial requirements, as the Authority may prescribe, either generally or specifically.

(7) Without prejudice to subsections (3), (4) and (6), the Authority may, for the purposes of granting a foreign trade repository licence under subsection (2), have regard, in addition to any requirements prescribed under subsection (6), to —

(*a*) whether adequate arrangements exist for co-operation between the Authority and the primary financial services regulatory authority responsible for the supervision of the foreign trade repository in the country or territory in which the head office or principal place of business of the foreign trade repository is situated; and

(*b*) whether the foreign trade repository is, in the country or territory in which the head office or principal place of business is situated, subject to requirements and supervision comparable, in the degree to which the objectives specified in section 46A are achieved, to the requirements and supervision to which licensed trade repositories are subject under this Act.

(8) In considering whether a foreign trade repository has satisfied the requirements specified in subsection (7)(*b*), the Authority may have regard to —

(*a*) the relevant laws and practices of the country or territory in which the head office or principal place of business of the foreign trade repository is situated; and

(*b*) the rules and practices of the foreign trade repository acting in its capacity as a trade repository.

(9) The Authority may refuse to grant a corporation a trade repository licence or foreign trade repository licence, if —

(*a*) the corporation has not provided the Authority with such information as the Authority may require, relating to —

(i) the corporation or any person employed by or associated with the corporation for the purposes of the corporation's business or operations; or

(ii) any circumstances likely to affect the corporation's manner of conducting business or operations;

(*b*) any information or document provided by the corporation to the Authority is false or misleading;

(*c*) the corporation or a substantial shareholder of the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*d*) execution against the corporation or a substantial shareholder of the corporation in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*e*) a receiver, a receiver and manager, a judicial manager or a person in an equivalent capacity has been appointed, whether in Singapore or elsewhere, in relation to, or in

respect of, any property of the corporation or a substantial shareholder of the corporation;

(*f*) the corporation or a substantial shareholder of the corporation has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with the creditors of the corporation or shareholder, as the case may be, being a compromise or scheme of arrangement that is still in operation;

(*g*) the corporation, a substantial shareholder of the corporation or any officer of the corporation —

(i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 6 of the Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that the corporation, shareholder or officer, as the case may be, had acted fraudulently or dishonestly; or

(ii) has been convicted of an offence under this Act committed before, on or after the date of commencement of section 6 of the Securities and Futures (Amendment) Act 2012;

(*h*) the Authority is not satisfied as to the educational or other qualifications or experience of the officers or employees of the corporation, having regard to the nature of the duties they are to perform in connection with the establishment or operation of any licensed trade repository or licensed foreign trade repository;

(*i*) the corporation fails to satisfy the Authority that the corporation is a fit and proper person or that all of its officers, employees and substantial shareholders are fit and proper persons;

(*j*) the Authority has reason to believe that the corporation may not be able to act in the best interests of its participants, having regard to the reputation, character, financial integrity and reliability of the corporation or its officers, employees or substantial shareholders;

(*k*) the Authority is not satisfied as to —

(i) the financial standing of the corporation or any of its substantial shareholders; or

(ii) the manner in which the business of the corporation is to be conducted, or the operations of the corporation are to be conducted;

(*l*) the Authority is not satisfied as to the record of past performance or expertise of the corporation, having regard to the nature of the business or operations which the corporation may carry on or conduct in connection with the establishment or operation of any licensed trade repository or licensed foreign trade repository;

(*m*) there are other circumstances which are likely to —

(i) lead to the improper conduct of business or operations by the corporation or any of its officers, employees or substantial shareholders; or

(ii) reflect discredit on the manner of conducting the business or operations of the corporation or any of its substantial shareholders;

(*n*) the Authority has reason to believe that the corporation, or any of its officers or employees, will not operate a safe and efficient trade repository; or

(*o*) the Authority is of the opinion that it would be contrary to the interests of the public to grant the corporation a trade repository licence or foreign trade repository licence.

(10) Subject to subsection (11), the Authority shall not refuse to grant a corporation a trade repository licence or foreign trade repository licence under subsection (9) without giving the corporation an opportunity to be heard.

(11) The Authority may refuse to grant a corporation a trade repository licence or foreign trade repository licence on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or a person in an equivalent capacity has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 6 of the Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

(12) The Authority shall give notice in the *Gazette* of any corporation granted a trade repository licence under subsection (1) or a foreign trade repository licence under subsection (2), and such notice may include all or any of the conditions or restrictions imposed by the Authority on the corporation under subsections (3) and (4).

(13) Any applicant which is aggrieved by a refusal of the Authority under subsection (6), (9) or (11) to grant to the applicant a trade repository licence or foreign trade repository licence may, within 30 days after the applicant is notified of the refusal, appeal to the Minister, whose decision shall be final.

(14) Any licensed trade repository or licensed foreign trade repository which contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Annual fees payable by licensed trade repository or licensed foreign trade repository

46F.—(1) Every licensed trade repository and every licensed foreign trade repository shall pay to the Authority such annual fees as may be prescribed in such manner as may be specified by the Authority.

(2) The Authority may, where it considers appropriate, refund or remit the whole or any part of any annual fee paid or payable to it.

[Act 34 of 2012 wef 01/08/2013]

Cancellation of trade repository licence or foreign trade repository licence

46G.—(1) A corporation which intends to cease operating as a licensed trade repository or licensed foreign trade repository may apply to the Authority to cancel its trade repository licence or foreign trade repository licence, as the case may be.

(2) An application under subsection (1) shall be made in such form and manner, and not later than such time, as the Authority may prescribe.

(3) The Authority may cancel the trade repository licence or foreign trade repository licence on such application if the Authority is satisfied that the cancellation of the trade repository licence or foreign trade repository licence, as the case may be, will not detract from the objectives specified in section 46A.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to revoke trade repository licence or foreign trade repository licence

46H.—(1) The Authority may revoke a trade repository licence or foreign trade repository licence granted to a corporation, if —

(*a*) there exists at any time a ground under section 46E(6) or (9) on which the Authority may refuse an application;

(*b*) the corporation does not commence operating as a licensed trade repository or licensed foreign trade repository, as the case may be, within 12 months after the date on which it was granted the trade repository licence or foreign trade repository licence, as the case may be;

(*c*) the corporation ceases to operate as a trade repository;

(*d*) the corporation contravenes —

(i) any condition or restriction applicable in respect of its trade repository licence or foreign trade repository licence, as the case may be;

(ii) any direction issued to it by the Authority under this Act; or

(iii) any provision in this Act;

(*da*) upon the Authority exercising any power under section 46ZIB(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the corporation, the Authority

considers that it is in the public interest to revoke the trade repository licence or foreign trade repository licence, as the case may be;

[Act 10 of 2013 wef 02/08/2013]

(*e*) the corporation operates in a manner that is, in the opinion of the Authority, contrary to the interests of the public; or

(*f*) any information or document provided by the corporation to the Authority is false or misleading.

(2) Subject to subsection (3), the Authority shall not revoke under subsection (1) a trade repository licence or foreign trade repository licence that was granted to a corporation without giving the corporation an opportunity to be heard.

(3) The Authority may revoke a trade repository licence or foreign trade repository licence that was granted to a corporation on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or a person in an equivalent capacity has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 6 of the Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

(4) For the purposes of subsection (1)(*c*), a corporation shall be deemed to have ceased to operate as a trade repository if —

(*a*) it has ceased to operate as a trade repository for more than 30 days, unless it has obtained the prior approval of the Authority to do so; or

(*b*) it has ceased to operate as a trade repository under a direction issued by the Authority under section 46ZK.

(5) Any corporation which is aggrieved by a decision of the Authority made in relation to the corporation under subsection (1) may, within 30 days after the corporation is notified of the decision, appeal to the Minister, whose decision shall be final.

(6) Notwithstanding the lodging of an appeal under subsection (5), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

(7) The Minister may, when deciding an appeal under subsection (5), make such modifications as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

(8) Any revocation under subsection (1) or (3) of a trade repository licence or foreign trade repository licence granted to a corporation shall not operate as to affect any report to the

corporation made under Part VIA, or any obligation under Part VIA that was satisfied by making a report to the corporation, while the corporation was a licensed trade repository or licensed foreign trade repository, as the case may be.

(9) The Authority shall give notice in the *Gazette* of any revocation under subsection (1) or (3) of a trade repository licence or foreign trade repository licence.

[Act 34 of 2012 wef 01/08/2013]

Division 2 — Regulation of Licensed Trade Repositories

Subdivision (1) — Obligations of licensed trade repositories

General obligations

46I.—(1) A licensed trade repository —

(*a*) shall operate in a safe and efficient manner in its capacity as a trade repository;

(*b*) shall manage any risks associated with its business and operations prudently;

(*c*) in discharging its obligations under this Act, shall not act contrary to the interests of the public, having particular regard to the interests of the investing public;

(*d*) shall ensure that access for participation in the licensed trade repository is subject to criteria that are fair and objective, and that are designed to ensure the safe and efficient functioning of the licensed trade repository and to protect the interests of the investing public;

(*e*) shall maintain business rules that make satisfactory provision for the licensed trade repository to be operated in a safe and efficient manner;

(*f*) shall enforce compliance by its participants with its business rules;

(*g*) shall have sufficient financial, human and system resources —

(i) to operate in a safe and efficient manner in its capacity as a trade repository;

(ii) to meet contingencies or disasters; and

(iii) to provide adequate security arrangements;

(*h*) shall ensure that the Authority is provided with access to all information on transactions reported to the licensed trade repository;

(*i*) shall maintain governance arrangements that are adequate for the licensed trade repository to be operated in a safe and efficient manner; and

(*j*) shall ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers.

(2) In subsection (1)(*g*), "contingencies or disasters" includes technical disruptions occurring within automated systems.

[Act 34 of 2012 wef 01/08/2013]

Obligation to manage risks prudently

46J. Without prejudice to the generality of section 46I(1)(*b*), a licensed trade repository shall —

(*a*) ensure that the systems and controls concerning the assessment and management of risks to the licensed trade repository are adequate and appropriate for the scale and nature of its operations; and

(*b*) have adequate arrangements, processes, mechanisms or services to collect and maintain information on transactions reported to the licensed trade repository.

[Act 34 of 2012 wef 01/08/2013]

Obligation to notify Authority of certain matters

46K.—(1) A licensed trade repository shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of the circumstance:

(*a*) any material change to the information provided by the licensed trade repository in its application under section 46D(1);

(*b*) the carrying on of any business (referred to in this section as a proscribed business) by the licensed trade repository that is —

(i) not the business of operating as a trade repository;

(ii) not incidental to operating as a trade repository; or

(iii) not such business, or within such class of businesses, as the Authority may prescribe;

(*c*) the acquisition by the licensed trade repository of a substantial shareholding in a corporation (referred to in this section as a proscribed corporation) which carries on any business that is —

(i) not the business of operating as a trade repository;

(ii) not incidental to operating as a trade repository; or

(iii) not such business, or within such class of businesses, as the Authority may prescribe;

(*d*) the licensed trade repository becoming aware of any financial irregularity or other matter which in its opinion may affect its ability to discharge its financial obligations;

(*e*) the licensed trade repository reprimanding, fining, suspending, expelling or otherwise taking disciplinary action against a participant of the licensed trade repository;

(*f*) any other matter that the Authority may —

(i) prescribe by regulations made under section 46ZJ for the purposes of this paragraph; or

(ii) specify by notice in writing to the licensed trade repository in any particular case.

(2) Without prejudice to the generality of section 46ZK(1), the Authority may, at any time after receiving a notice referred to in subsection (1), issue directions to the licensed trade repository —

(*a*) where the notice relates to a matter referred to in subsection (1)(*b*) —

(i) to cease carrying on the proscribed business; or

(ii) to carry on the proscribed business subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 46ZK(1); or

(*b*) where the notice relates to a matter referred to in subsection (1)(*c*) —

(i) to dispose of all or any part of its shareholding in the proscribed corporation within such time and subject to such conditions as the Authority considers appropriate; or

(ii) to exercise its rights relating to such shareholding, or to not exercise such rights, subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 46ZK(1).

(3) A licensed trade repository shall comply with every direction issued to it under subsection (2), notwithstanding anything to the contrary in the Companies Act (Cap. 50) or any other law.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain proper records

46L.—(1) A licensed trade repository shall maintain a record of all transactions reported to the licensed trade repository.

(2) The Authority may prescribe by regulations made under section 46ZJ —

(*a*) the form and manner in which the record referred to in subsection (1) shall be maintained;

(*b*) the information and details relating to each transaction that are to be maintained in the record; and

(*c*) the period of time that the record is to be maintained.

[Act 34 of 2012 wef 01/08/2013]

Obligation to submit periodic reports

46M. A licensed trade repository shall submit to the Authority such reports in such form and manner, and at such frequency, as the Authority may prescribe.

[Act 34 of 2012 wef 01/08/2013]

Obligation to assist Authority

46N. A licensed trade repository shall provide such assistance to the Authority as the Authority may require for the performance of the functions and duties of the Authority, including —

(*a*) the furnishing of such returns as the Authority may require for the proper administration of this Act; and

(*b*) the provision of —

(i) such books and information as the Authority may require for the proper administration of this Act, being books and information —

(A) relating to the business or operations of the licensed trade repository; or

(B) in respect of any transaction or class of transactions reported to the licensed trade repository; and

(ii) such other information as the Authority may require for the proper administration of this Act.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain confidentiality

46O.—(1) Subject to subsection (2), a licensed trade repository and its officers and employees shall maintain, and aid in maintaining, the confidentiality of all user information and transaction information that —

(*a*) comes to the knowledge of the licensed trade repository or any of its officers or employees; or

(*b*) is in the possession of the licensed trade repository or any of its officers or employees.

(2) Subsection (1) shall not apply to —

(*a*) the disclosure of user information or transaction information for such purposes, or in such circumstances, as the Authority may prescribe;

(*b*) any disclosure of user information or transaction information which is authorised by the Authority to be disclosed or furnished; or

(*c*) the disclosure of user information or transaction information pursuant to any requirement imposed under any written law or order of court in Singapore.

(3) For the avoidance of doubt, nothing in this section shall be construed as preventing a licensed trade repository from entering into a written agreement with a participant which

obliges the licensed trade repository to maintain a higher degree of confidentiality than that specified in this section.

(4) A licensed trade repository shall comply with such other requirements relating to confidentiality as the Authority may prescribe.

[Act 34 of 2012 wef 01/08/2013]

Penalties under this Subdivision

46P. Any licensed trade repository which contravenes section 46I(1), 46J, 46K(1) or (3), 46L(1), 46M, 46N or 46O(1) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Subdivision (2) — Rules of licensed trade repositories

Business rules of licensed trade repositories

46Q.—(1) Without limiting the generality of sections 46I and 46ZJ —

(*a*) the Authority may prescribe the matters that a licensed trade repository shall make provision for in the business rules of the licensed trade repository; and

(*b*) the licensed trade repository shall make provision for those matters in its business rules.

(2) A licensed trade repository shall not make any amendments to its business rules unless it complies with such requirements as the Authority may prescribe.

(3) In this Subdivision, any reference to an amendment to a business rule shall be construed as a reference to a change to the scope of, or to any requirement, obligation or restriction under, the business rule, whether the change is made by an alteration to the text of the business rule or by any other notice issued by or on behalf of the licensed trade repository.

(4) Any licensed trade repository which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Business rules of licensed trade repositories have effect as contract

46R.—(1) The business rules of a licensed trade repository shall be deemed to be, and shall operate as, a binding contract between the licensed trade repository and each participant.

(2) The licensed trade repository and each participant shall be deemed to have agreed to observe, and perform the obligations under, the provisions of the business rules that are in force for the time being, so far as those provisions are applicable to the licensed trade repository or participant, as the case may be.

[Act 34 of 2012 wef 01/08/2013]

Power of court to order observance or enforcement of business rules

46S.—(1) Where any person who is under an obligation to comply with, observe, enforce or give effect to the business rules of a licensed trade repository fails to do so, the High Court may, on the application of the Authority, the licensed trade repository or a person aggrieved by the failure, and after giving the first-mentioned person an opportunity to be heard, make an order directing the first-mentioned person to comply with, observe, enforce or give effect to those business rules.

(2) In this section, "person" includes a licensed trade repository.

(3) This section is in addition to, and not in derogation of, any other remedy available to an aggrieved person referred to in subsection (1).

[Act 34 of 2012 wef 01/08/2013]

Non-compliance with business rules not to substantially affect rights of person

46T. Any failure by a licensed trade repository to comply with this Act or its business rules in relation to a matter shall not prevent the matter from being treated, for the purposes of this Act, as done in accordance with the business rules, so long as the failure does not substantially affect the rights of any person entitled to require compliance with the business rules.

[Act 34 of 2012 wef 01/08/2013]

Subdivision (3) — Matters requiring approval of Authority

Control of substantial shareholding in licensed trade repository

46U.—(1) No person shall enter into any agreement to acquire shares in a licensed trade repository, being an agreement by virtue of which he would, if the agreement had been carried out, become a substantial shareholder of the licensed trade repository, without first obtaining the approval of the Authority to enter into the agreement.

(2) No person shall become either of the following without first obtaining the approval of the Authority:

(*a*) a 12% controller of a licensed trade repository;

(*b*) a 20% controller of a licensed trade repository.

(3) In subsection (2) —

"12% controller", in relation to a licensed trade repository, means a person, not being a 20% controller, who alone or together with his associates —

(*a*) holds not less than 12% of the shares in the licensed trade repository; or

(*b*) is in a position to control not less than 12% of the votes in the licensed trade repository;

"20% controller", in relation to a licensed trade repository, means a person who, alone or together with his associates —

(*a*) holds not less than 20% of the shares in the licensed trade repository; or

(*b*) is in a position to control not less than 20% of the votes in the licensed trade repository.

(4) In this section —

(*a*) a person holds a share if —

(i) he is deemed to have an interest in that share under section 7(6) to (10) of the Companies Act (Cap. 50); or

(ii) he otherwise has a legal or an equitable interest in that share, except such interest as is to be disregarded under section 7(6) to (10) of the Companies Act;

(*b*) a reference to the control of a percentage of the votes in a licensed trade repository shall be construed as a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the licensed trade repository; and

(*c*) a person, *A*, is an associate of another person, *B*, if —

(i) *A* is the spouse, a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, step-son or step-daughter or a brother or sister of *B*;

(ii) *A* is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;

(iii) *B* is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;

(iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;

(v) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*;

(vi) *A* is a related corporation of *B*;

(vii) *A* is a corporation in which *B*, whether alone or together with other associates of *B* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *A*;

(viii)

B is a corporation in which *A*, whether alone or together with other associates of *A* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *B*; or

(ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their votes in relation to, the licensed trade repository.

(5) The Authority may grant its approval referred to in subsection (1) or (2) subject to such conditions or restrictions as the Authority may think fit.

(6) Without prejudice to subsection (13), the Authority may, for the purposes of securing compliance with subsection (1) or (2) or any condition or restriction imposed under subsection (5), by notice in writing, direct the transfer or disposal of all or any of the shares of a licensed trade repository in which a substantial shareholder, 12% controller or 20% controller of the licensed trade repository has an interest.

(7) Until a person to whom a direction has been issued under subsection (6) transfers or disposes of the shares which are the subject of the direction, and notwithstanding anything to the contrary in the Companies Act or the memorandum or articles of association or other constituent document or documents of the licensed trade repository —

(*a*) no voting rights shall be exercisable in respect of the shares which are the subject of the direction;

(*b*) the licensed trade repository shall not offer or issue any shares (whether by way of rights, bonus, share dividend or otherwise) in respect of the shares which are the subject of the direction; and

(*c*) except in a liquidation of the licensed trade repository, the licensed trade repository shall not make any payment (whether by way of cash dividend, dividend in kind or otherwise) in respect of the shares which are the subject of the direction.

(8) Any issue of shares by a licensed trade repository in contravention of subsection (7)(*b*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return those shares to the licensed trade repository, upon which the licensed trade repository shall return to the person any payment received from the person in respect of those shares.

(9) Any payment made by a licensed trade repository in contravention of subsection (7)(*c*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return the payment he has received to the licensed trade repository.

(10) Without prejudice to sections 46ZL(1) and 337(1), the Authority may, by regulations made under section 46ZJ, exempt all or any of the following from subsection (1) or (2), subject to such conditions or restrictions as the Authority may prescribe in those regulations:

(*a*) any person or class of persons;

(*b*) any class or description of shares or interests in shares.

(11) Without prejudice to sections 46ZL(2) and 337(3) and (4), the Authority may, by notice in writing, exempt any person, shares or interests in shares from subsection (1) or (2), subject to such conditions or restrictions as the Authority may specify by notice in writing.

(12) It shall not be necessary to publish any exemption granted under subsection (11) in the *Gazette*.

(13) Any person who contravenes subsection (1) or (2), or any condition or restriction imposed by the Authority under subsection (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

(14) Any person who contravenes subsection (7)(*b*) or (*c*), (8) or (9) or any direction issued by the Authority under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Approval of chairman, chief executive officer, director and key persons

46V.—(1) No licensed trade repository shall appoint a person as its chairman, chief executive officer or director unless the licensed trade repository has obtained the approval of the Authority.

(2) The Authority may, by notice in writing, require a licensed trade repository to obtain the approval of the Authority for the appointment of any person to any key management position or committee of the licensed trade repository, and the licensed trade repository shall comply with the notice.

(3) An application for approval under subsection (1) or (2) shall be made in such form and manner as the Authority may prescribe.

(4) Without prejudice to the generality of section 46ZJ and to any other matter that the Authority may consider relevant, the Authority may, in determining whether to grant its approval under subsection (1) or (2), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

(5) Subject to subsection (6), the Authority shall not refuse an application for approval under this section without giving the licensed trade repository an opportunity to be heard.

(6) The Authority may refuse an application for approval on any of the following grounds without giving the licensed trade repository an opportunity to be heard:

(*a*) the person is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*)

the person has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 6 of the Securities and Futures (Amendment) Act 2012 —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

(7) Where the Authority refuses an application for approval under this section, the Authority need not give the person who was proposed to be appointed an opportunity to be heard.

(8) A licensed trade repository shall, as soon as practicable, give written notice to the Authority of the resignation or removal of its chairman, chief executive officer or director or of any person referred to in the notice issued by the Authority under subsection (2).

(9) The Authority may make regulations under section 46ZJ relating to the composition and duties of the board of directors or any committee of a licensed trade repository.

(10) In this section, "committee" includes any committee of directors, disciplinary committee or appeals committee of a licensed trade repository, and any body responsible for disciplinary action against a participant of a licensed trade repository.

(11) Without prejudice to sections 46ZL(1) and 337(1), the Authority may, by regulations made under section 46ZJ, exempt any licensed trade repository or class of licensed trade repositories from complying with subsection (1) or (8), subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(12) Without prejudice to sections 46ZL(2) and 337(3) and (4), the Authority may, by notice in writing, exempt any licensed trade repository from complying with subsection (1) or (8), subject to such conditions or restrictions as the Authority may specify by notice in writing.

(13) It shall not be necessary to publish any exemption granted under subsection (12) in the *Gazette*.

(14) Subject to subsections (11) and (12), any licensed trade repository which contravenes subsection (1), (2) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Subdivision (4) — Powers of Authority

46W. [*Repealed by Act 10 of 2013 wef 02/08/2013*]

Additional powers of Authority in respect of auditors

46X.—(1) If an auditor of a licensed trade repository, in the course of the performance of his duties, becomes aware of any matter or irregularity referred to in the following paragraphs, he shall immediately send to the Authority a written report of that matter or irregularity:

(*a*) any matter which, in his opinion, adversely affects or may adversely affect the financial position of the licensed trade repository to a material extent;

(*b*) any matter which, in his opinion, constitutes or may constitute a breach of any provision of this Act or an offence involving fraud or dishonesty;

(*c*) any irregularity that has or may have a material effect upon the accounts of the licensed trade repository, including any irregularity that affects or jeopardises, or may affect or jeopardise, the funds or property of investors.

(2) An auditor of a licensed trade repository shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of any statement made in his report under subsection (1).

(3) Subsection (2) shall not restrict or affect any right, privilege or immunity that the auditor of a licensed trade repository may have, apart from this section, as a defendant in an action for defamation.

(4) The Authority may impose all or any of the following duties on an auditor of a licensed trade repository, and the auditor shall carry out the duties so imposed:

(*a*) a duty to submit such additional information and reports in relation to his audit as the Authority considers necessary;

(*b*) a duty to enlarge, extend or alter the scope of his audit of the business and affairs of the licensed trade repository;

(*c*) a duty to carry out any other examination or establish any procedure in any particular case;

(*d*) a duty to submit a report on any matter arising out of his audit, examination or establishment of procedure referred to in paragraph (*b*) or (*c*).

(5) The licensed trade repository shall remunerate the auditor in respect of the discharge by him of all or any of the duties referred to in subsection (4).

[Act 34 of 2012 wef 01/08/2013]

Emergency powers of Authority

46Y.—(1) Where the Authority has reason to believe that an emergency exists, or thinks that it is necessary or expedient in the interests of the public or a section of the public or for the protection of investors, the Authority may direct by notice in writing a licensed trade repository to take such action as the Authority considers necessary to maintain or restore the safe and efficient operation of the licensed trade repository.

(2) Where a licensed trade repository fails to comply with any direction of the Authority under subsection (1) within such time as is specified by the Authority, the Authority may take such action as the Authority thinks fit to maintain or restore the safe and efficient operation of the licensed trade repository.

(3) In this section, "emergency" includes —

(*a*) any threatened or actual market manipulation;

(*b*) any act of any government affecting any commodity or securities;

(*c*) any major market disturbance which prevents a market from accurately reflecting the forces of supply and demand for such commodity or securities; or

(*d*) any undesirable situation or practice which, in the opinion of the Authority, constitutes an emergency.

(4) The Authority may modify any action taken by a licensed trade repository under subsection (1), including the setting aside of that action.

(5) Any person who is aggrieved by any action taken by the Authority, or by a licensed trade repository, under this section may, within 30 days after the person is notified of the action, appeal to the Minister, whose decision shall be final.

(6) Notwithstanding the lodging of an appeal under subsection (5), any action taken by the Authority, or by a licensed trade repository, under this section shall continue to have effect pending the decision of the Minister.

(7) The Minister may, when deciding an appeal under subsection (5), make such modification as he considers necessary to any action taken by the Authority, or by a licensed trade repository, under this section, and any such modified action shall have effect from the date of the decision of the Minister.

(8) Any licensed trade repository which fails to comply with a direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to remove officers of licensed trade repository

46Z.—(1) Where the Authority is satisfied that any of the following applies to an officer of a licensed trade repository, the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing direct the licensed trade repository to remove the officer from his office or employment, and the licensed trade repository shall comply with such notice, notwithstanding the provisions of section 152 of the Companies Act (Cap. 50) or anything in any other law or in the memorandum or articles of association or other constituent document or documents of the licensed trade repository:

(*a*) the officer has wilfully contravened, or wilfully caused the licensed trade repository to contravene, this Act or the business rules of the licensed trade repository;

(*b*) the officer has, without reasonable excuse, failed to ensure compliance with this Act, or with the business rules of the licensed trade repository, by the licensed trade repository, by a participant of the licensed trade repository or by a person associated with that participant;

(*c*) the officer has failed to discharge the duties or functions of his office or employment;

(*d*) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;

(*e*) the officer has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

(*f*) the officer has, whether in Singapore or elsewhere, made a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

(*g*) the officer has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 6 of the Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly.

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority may, in determining whether an officer of a licensed trade repository has failed to discharge the duties or functions of his office or employment for the purposes of subsection (1)(*c*), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

(3) Subject to subsection (4), the Authority shall not direct a licensed trade repository to remove an officer from his office or employment without giving the licensed trade repository an opportunity to be heard.

(4) The Authority may direct a licensed trade repository to remove an officer from his office or employment under subsection (1) on any of the following grounds without giving the licensed trade repository an opportunity to be heard:

(*a*) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) the officer has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 6 of the Securities and Futures (Amendment) Act 2012 —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

(5) Where the Authority directs a licensed trade repository to remove an officer from his office or employment under subsection (1), the Authority need not give that officer an opportunity to be heard.

(6) Any licensed trade repository that is aggrieved by a direction of the Authority made in relation to the licensed trade repository under subsection (1) may, within 30 days after the licensed trade repository is notified of the direction, appeal to the Minister, whose decision shall be final.

(7) Notwithstanding the lodging of an appeal under subsection (6), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

(8) The Minister may, when deciding an appeal under subsection (6), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

(9) Subject to subsection (10), no criminal or civil liability shall be incurred by a licensed trade repository in respect of any thing done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.

(10) Any licensed trade repository which, without reasonable excuse, contravenes a written notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Subdivision (5) — Immunity

Immunity from criminal or civil liability

46ZA.—(1) No criminal or civil liability shall be incurred by a licensed trade repository, or by any person specified in subsection (2), for any thing done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of, or in connection with, the discharge or purported discharge of the obligations of the licensed trade repository under this Act or under the business rules of the licensed trade repository.

(2) For the purposes of subsection (1), the specified person is any person acting on behalf of the licensed trade repository, including —

(*a*) any director of the licensed trade repository; or

(*b*) any member of any committee established by the licensed trade repository.

[Act 34 of 2012 wef 01/08/2013]

Division 3 — Regulation of Licensed Foreign Trade Repositories

General obligations

46ZB.—(1) A licensed foreign trade repository —

(*a*) shall operate in a safe and efficient manner in its capacity as a trade repository;

(*b*) shall manage any risks associated with its business and operations prudently;

(*c*) in discharging its obligations under this Act, shall not act contrary to the interests of the public, having particular regard to the interests of the investing public;

(*d*) shall ensure that access for participation in the licensed foreign trade repository is subject to criteria that are fair and objective, and that are designed to ensure the safe and efficient functioning of the licensed foreign trade repository and to protect the interests of the investing public;

(*e*)

shall maintain business rules that make satisfactory provision for the licensed foreign trade repository to be operated in a safe and efficient manner;

(*f*) shall enforce compliance by its participants with its business rules;

(*g*) shall have sufficient financial, human and system resources —

(i) to operate in a safe and efficient manner in its capacity as a trade repository;

(ii) to meet contingencies or disasters; and

(iii) to provide adequate security arrangements;

(*h*) shall ensure that the Authority is provided with access to all information on transactions reported to the licensed foreign trade repository;

(*i*) shall maintain governance arrangements that are adequate for the licensed foreign trade repository to be operated in a safe and efficient manner; and

(*j*) shall ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers.

(2) In subsection (1)(*g*), "contingencies or disasters" includes technical disruptions occurring within automated systems.

[Act 34 of 2012 wef 01/08/2013]

Obligation to manage risks prudently

46ZC. Without prejudice to the generality of section 46ZB(1)(*b*), a licensed foreign trade repository shall —

(*a*) ensure that the systems and controls concerning the assessment and management of risks to the licensed foreign trade repository are adequate and appropriate for the scale and nature of its operations; and

(*b*) have adequate arrangements, processes, mechanisms or services to collect and maintain information on transactions reported to the licensed foreign trade repository.

[Act 34 of 2012 wef 01/08/2013]

Obligation to notify Authority of certain matters

46ZD. A licensed foreign trade repository shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of the circumstance:

(*a*) any material change to the information provided by the licensed foreign trade repository in its application under section 46D(2);

(*b*) the licensed foreign trade repository becoming aware of any financial irregularity or other matter which in its opinion may affect its ability to discharge its financial obligations;

(*c*) any other matter that the Authority may —

(i) prescribe by regulations made under section 46ZJ for the purposes of this paragraph; or

(ii) specify by notice in writing to the licensed foreign trade repository in any particular case.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain proper records

46ZE.—(1) A licensed foreign trade repository shall maintain a record of all transactions reported to the licensed foreign trade repository.

(2) The Authority may prescribe by regulations made under section 46ZJ —

(*a*) the form and manner in which the record referred to in subsection (1) shall be maintained;

(*b*) the information and details relating to each transaction that are to be maintained in the record; and

(*c*) the period of time that the record is to be maintained.

[Act 34 of 2012 wef 01/08/2013]

Obligation to submit periodic reports

46ZF. A licensed foreign trade repository shall submit to the Authority such reports in such form and manner, and at such frequency, as the Authority may prescribe.

[Act 34 of 2012 wef 01/08/2013]

Obligation to assist Authority

46ZG. A licensed foreign trade repository shall provide such assistance to the Authority as the Authority may require for the performance of the functions and duties of the Authority, including —

(*a*) the furnishing of such returns as the Authority may require for the proper administration of this Act; and

(*b*) the provision of —

(i) such books and information as the Authority may require for the proper administration of this Act, being books and information —

(A) relating to the business or operations of the licensed foreign trade repository; or

(B) in respect of any transaction or class of transactions reported to the licensed foreign trade repository; and

(ii) such other information as the Authority may require for the proper administration of this Act.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain confidentiality

46ZH.—(1) Subject to subsection (2), a licensed foreign trade repository and its officers and employees shall maintain, and aid in maintaining, the confidentiality of all user information or transaction information that —

(*a*) comes to the knowledge of the licensed foreign trade repository or any of its officers or employees; or

(*b*) is in the possession of the licensed foreign trade repository or any of its officers or employees.

(2) Subsection (1) shall not apply to —

(*a*) the disclosure of user information or transaction information for such purposes, or in such circumstances, as the Authority may prescribe;

(*b*) any disclosure of user information or transaction information which is authorised by the Authority to be disclosed or furnished; or

(*c*) the disclosure of user information or transaction information pursuant to any requirement imposed under any written law or order of court in Singapore.

(3) For the avoidance of doubt, nothing in this section shall be construed as preventing a licensed foreign trade repository from entering into a written agreement with a participant which obliges the licensed foreign trade repository to maintain a higher degree of confidentiality than that specified in this section.

(4) A licensed foreign trade repository shall comply with such other requirements relating to confidentiality as the Authority may prescribe.

[Act 34 of 2012 wef 01/08/2013]

Penalties under this Division

46ZI. Any licensed foreign trade repository which contravenes section 46ZB(1), 46ZC, 46ZD, 46ZE(1), 46ZF, 46ZG or 46ZH(1) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Division 4 — General Powers of Authority

Interpretation of sections 46ZIA to 46ZIF

46ZIA. In this section and sections 46ZIB to 46ZIF, unless the context otherwise requires —

"business" includes affairs and property;

"office holder", in relation to a licensed trade repository or licensed foreign trade repository, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the licensed trade repository or licensed

foreign trade repository (as the case may be), or acting in an equivalent capacity in relation to the licensed trade repository or licensed foreign trade repository (as the case may be);

"relevant business" means any business of a licensed trade repository or licensed foreign trade repository —

(*a*) which the Authority has assumed control of under section 46ZIB; or

(*b*) in relation to which a statutory adviser or a statutory manager has been appointed under section 46ZIB;

"statutory adviser" means a statutory adviser appointed under section 46ZIB;

"statutory manager" means a statutory manager appointed under section 46ZIB.

[Act 10 of 2013 wef 02/08/2013]

Action by Authority if licensed trade repository unable to meet obligations, etc.

46ZIB.—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

(*a*) a licensed trade repository or licensed foreign trade repository informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

(*b*) a licensed trade repository or licensed foreign trade repository becomes unable to meet its obligations, or is insolvent, or suspends payments;

(*c*) the Authority is of the opinion that a licensed trade repository or licensed foreign trade repository —

(i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 46A;

(ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction imposed on it under section 46E(3) or (4); or

(*d*) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

(*a*) require the licensed trade repository or licensed foreign trade repository (as the case may be) immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

(*b*)

appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the licensed trade repository or licensed foreign trade repository (as the case may be) on the proper management of such of the business of the licensed trade repository or licensed foreign trade repository (as the case may be) as the Authority may determine; or

(*c*) assume control of and manage such of the business of the licensed trade repository or licensed foreign trade repository (as the case may be) as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

(3) In the case of a licensed foreign trade repository, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the licensed foreign trade repository under subsection (2) shall only be in relation to —

(*a*) the business or affairs of the licensed foreign trade repository carried on in, or managed in or from, Singapore; or

(*b*) the property of the licensed foreign trade repository located in Singapore, or reflected in the books of the licensed foreign trade repository in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of a licensed trade repository or licensed foreign trade repository, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

(*a*) may be discharged or exercised by such persons jointly and severally;

(*b*) shall be discharged or exercised by such persons jointly; and

(*c*) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 46H(1)(*da*), do one or more of the following:

(*a*) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(*b*) further exercise any of the powers under subsection (2);

(*c*) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(*a*) the exercise or purported exercise of any power under this Act;

(*b*) the performance or purported performance of any function or duty under this Act; or

(*c*) the compliance or purported compliance with this Act.

(7) Any licensed trade repository or licensed foreign trade repository that fails to comply with a requirement imposed by the Authority under subsection (2)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 02/08/2013]

Effect of assumption of control under section 46ZIB

46ZIC.—(1) Upon assuming control of the relevant business of a licensed trade repository or licensed foreign trade repository, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository, the Authority or statutory manager —

(*a*) shall manage the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be) in the name of and on behalf of the licensed trade repository or licensed foreign trade repository (as the case may be); and

(*b*) shall be deemed to be an agent of the licensed trade repository or licensed foreign trade repository (as the case may be).

(3) In managing the relevant business of a licensed trade repository or licensed foreign trade repository, the Authority or statutory manager —

(*a*) shall take into consideration the interests of the public or the section of the public referred to in section 46ZIB(1)(*c*)(i), and the need to protect investors; and

(*b*) shall have all the duties, powers and functions of the members of the board of directors of the licensed trade repository or licensed foreign trade repository (as the case may be) (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the licensed trade repository or licensed foreign trade repository (as the case may be), including powers of delegation, in relation to the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be); but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the licensed trade repository or licensed foreign trade repository (as the case may be) under the Companies Act or the constitution of the licensed trade repository or licensed foreign trade repository (as the case may be).

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a licensed trade repository or licensed foreign trade repository by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository (as the case may be), which was in force immediately before the assumption of control, shall be deemed to be

revoked, unless the Authority gives its approval, by notice in writing to the person and the licensed trade repository or licensed foreign trade repository (as the case may be), for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository (as the case may be).

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of a licensed trade repository or licensed foreign trade repository, the Authority may at any time, by notice in writing to the person and the licensed trade repository or licensed foreign trade repository (as the case may be), revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of a licensed trade repository or licensed foreign trade repository is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be) —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of a licensed trade repository or licensed foreign trade repository in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be) —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository —

(*a*) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii)

a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the licensed trade repository or licensed foreign trade repository (as the case may be),

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(*b*) no person shall exercise any voting or other right attached to any share in the licensed trade repository or licensed foreign trade repository (as the case may be) in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, "constitution", in relation to a licensed trade repository or licensed foreign trade repository, means the memorandum of association and articles of association of the licensed trade repository or licensed foreign trade repository (as the case may be).

[Act 10 of 2013 wef 02/08/2013]

Duration of control

46ZID.—(1) The Authority shall cease to be in control of the relevant business of a licensed trade repository or licensed foreign trade repository when the Authority is satisfied that —

(*a*) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

(*b*) it is no longer necessary in the interests of the public or the section of the public referred to in section 46ZIB(1)(*c*)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a licensed trade repository or licensed foreign trade repository on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a licensed trade repository or licensed foreign trade repository may be revoked by the Authority at any time —

(*a*) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 46ZIB(1)(*c*)(i) or for the protection of investors; or

(*b*) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be).

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(*a*) the Authority's assumption of control of the relevant business of a licensed trade repository or licensed foreign trade repository;

(*b*) the cessation of the Authority's control of the relevant business of a licensed trade repository or licensed foreign trade repository;

(*c*) the appointment of a statutory manager in relation to the relevant business of a licensed trade repository or licensed foreign trade repository; and

(*d*) the revocation of a statutory manager's appointment in relation to the relevant business of a licensed trade repository or licensed foreign trade repository.

[Act 10 of 2013 wef 02/08/2013]

Responsibilities of officers, member, etc., of licensed trade repository

46ZIE.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository —

(*a*) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the licensed trade repository or licensed foreign trade repository (as the case may be) to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the licensed trade repository or licensed foreign trade repository (as the case may be) which is comprised in, forms part of or relates to the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be), and which is in the person's possession or control; and

(*b*) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the licensed trade repository or licensed foreign trade repository (as the case may be) shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the licensed trade repository or licensed foreign trade repository (as the case may be), within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

(*a*) without reasonable excuse, fails to comply with subsection (1)(*b*); or

(*b*) in purported compliance with subsection (1)(*b*), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 02/08/2013]

Remuneration and expenses of Authority and others in certain cases

46ZIF.—(1) The Authority may at any time fix the remuneration and expenses to be paid by a licensed trade repository or licensed foreign trade repository —

(*a*) to a statutory manager or statutory adviser appointed in relation to the licensed trade repository or licensed foreign trade repository (as the case may be), whether or not the appointment has been revoked; and

(*b*) where the Authority has assumed control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be), to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

(2) The licensed trade repository or licensed foreign trade repository (as the case may be) shall reimburse the Authority any remuneration and expenses payable by the licensed trade repository or licensed foreign trade repository (as the case may be) to a statutory manager or statutory adviser.

[Act 10 of 2013 wef 02/08/2013]

Power of Authority to make regulations

46ZJ.—(1) Without prejudice to section 341, the Authority may make regulations for the purposes of this Part, including regulations relating to —

(*a*) the grant of a trade repository licence or foreign trade repository licence;

(*b*) the requirements applicable to a licensed trade repository or licensed foreign trade repository;

(*c*) the measures that a licensed trade repository or licensed foreign trade repository shall adopt for the purposes of managing or mitigating risks;

(*d*) the maintenance of records of transactions reported to a licensed trade repository or licensed foreign trade repository; and

(*e*) the submission of reports by a licensed trade repository or licensed foreign trade repository.

(2) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for a penalty not exceeding a fine of $150,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, for a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to issue directions

46ZK.—(1) The Authority may issue directions, whether of a general or specific nature, by notice in writing, to a licensed trade repository or licensed foreign trade repository, if the Authority thinks it necessary or expedient —

(*a*) for ensuring the safe and efficient operation of the licensed trade repository or licensed foreign trade repository, or of licensed trade repositories or licensed foreign trade repositories in general;

(*b*) for ensuring the integrity and stability of the capital markets or the financial system;

(*c*) in the interests of the public or a section of the public or for the protection of investors;

(*d*) for the effective administration of this Act; or

(*e*) for ensuring compliance with any condition or restriction as may be imposed by the Authority under section 46E(3) or (4), 46K(2), 46U(5) or (10), 46V(11) or (12) or 46ZL(1) or (2), or such other obligations or requirements under this Act or as may be prescribed by the Authority.

(2) Without prejudice to the generality of subsection (1), the Authority may issue directions, by notice in writing, to a licensed trade repository or licensed foreign trade repository —

(*a*) with respect to the publication of any information relating to any transaction reported to the licensed trade repository or licensed foreign trade repository, as the case may be; or

(*b*) for ensuring that the Authority and such other entities as the Authority may specify are provided with access to any information on any transaction reported to the licensed trade repository or licensed foreign trade repository.

(3) A licensed trade repository or licensed foreign trade repository shall comply with every direction issued to it under subsection (1) or (2).

(4) Any licensed trade repository or licensed foreign trade repository which, without reasonable excuse, contravenes a direction issued to it under subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(5) It shall not be necessary to publish any direction issued under subsection (1) or (2) in the *Gazette*.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to exempt licensed trade repository or licensed foreign trade repository from provisions of this Part

46ZL.—(1) Without prejudice to section 337(1), the Authority may, by regulations made under section 46ZJ, exempt any licensed trade repository, licensed foreign trade repository, or class of licensed trade repositories or licensed foreign trade repositories from any provision of this Part, subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(2) Without prejudice to section 337(3) and (4), the Authority may, by notice in writing, exempt any licensed trade repository or licensed foreign trade repository from any provision of this Part, subject to such conditions or restrictions as the Authority may specify by notice in writing, if the Authority is satisfied that the non-compliance by that licensed trade repository or licensed foreign trade repository with that provision will not detract from the objectives specified in section 46A.

(3) It shall not be necessary to publish any exemption granted under subsection (2) in the *Gazette*.

[Act 34 of 2012 wef 01/08/2013]

Division 5 — Voluntary Transfer of Business of Licensed Trade Repository or Licensed Foreign Trade Repository

Interpretation of this Division

46ZM. In this Division, unless the context otherwise requires —

"business" includes affairs, property, right, obligation and liability;

"Court" means the High Court or a Judge thereof;

"debenture" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"property" includes property, right and power of every description;

"Registrar of Companies" means the Registrar of Companies appointed under the Companies Act and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

"transferee" means a licensed trade repository or licensed foreign trade repository, or a corporation which has applied or will be applying for a trade repository licence or foreign trade repository licence, to which the whole or any part of a transferor's business is, is to be or is proposed to be transferred under this Division;

"transferor" means a licensed trade repository or licensed foreign trade repository the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

[Act 10 of 2013 wef 02/08/2013]

Voluntary transfer of business

46ZN.—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of a licensed trade repository or licensed foreign trade repository) to a transferee, if —

(*a*) the Authority has consented to the transfer;

(*b*) the transfer involves the whole or any part of the business of the transferor that is the usual business of a licensed trade repository or licensed foreign trade repository; and

(*c*) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of a licensed trade repository or licensed foreign trade repository to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(*a*) if the Authority is satisfied that —

(*a*) the transferee is a fit and proper person; and

(*b*) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

(5) The remuneration and expenses of any person appointed under subsection (4) shall be paid by the transferor and the transferee jointly and severally.

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

(*a*) without reasonable excuse, fails to comply with any requirement under subsection (7); or

(*b*) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

[Act 10 of 2013 wef 02/08/2013]

Approval of transfer

46ZO.—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

(2) Before making an application under subsection (1) —

(*a*) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(*b*) the transferor shall obtain the consent of the Authority under section 46ZN(1)(*a*);

(*c*) the transferor and the transferee shall, if they intend to serve on their respective participants a summary of the transfer, obtain the Authority's approval of the summary;

(*d*) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (*a*) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(*e*) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (*a*) for a period of 15 days after the publication of the notice referred to in paragraph (*d*) in the *Gazette*; and

(*f*) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective participants affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (*a*) or a summary of the transfer approved by the Authority under paragraph (*c*).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(*a*) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(*b*) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 46ZN(1)(*a*) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(*a*)

approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(*b*) refuse to approve the transfer.

(6) If the transferee is not granted a trade repository licence or foreign trade repository licence by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being granted a trade repository licence or foreign trade repository licence by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(*a*) the transfer to the transferee of the whole or any part of the business of the transferor;

(*b*) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(*c*) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(*d*) the dissolution, without winding up, of the transferor;

(*e*) the provisions to be made for persons who are affected by the transfer;

(*f*) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

(*a*) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(*b*) make provision in relation to any property which is held by the transferor as trustee; and

(*c*) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for

securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

(12) Where an order is made under this section, the transferor and the transferee shall each lodge within 7 days after the order is made —

(*a*) a copy of the order with the Registrar of Companies and with the Authority; and

(*b*) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

(13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 02/08/2013]

PART III

CLEARING FACILITIES

[Act 34 of 2012 wef 01/08/2013]

Objectives of this Part

47. The objectives of this Part are —

(*a*) to promote safe and efficient clearing facilities; and

(*b*) to reduce systemic risk.

[Act 34 of 2012 wef 01/08/2013]

Interpretation of this Part

48.—(1) In this Part, unless the context otherwise requires —

"default proceedings" means any proceedings or other action taken by an approved clearing house or a recognised clearing house under its default rules;

"default rules", in relation to an approved clearing house or a recognised clearing house, means the business rules of the approved clearing house or recognised clearing house which provide for the taking of proceedings or other action if a participant has failed, or appears to be unable or to be likely to become unable, to meet his obligations for any unsettled or open market contract to which he is a party;

"defaulter" means a participant who is the subject of any default proceedings;

"foreign corporation" means a corporation which is incorporated or formed outside Singapore;

"market charge" means a security interest, whether fixed or floating, granted in favour of an approved clearing house, or a recognised clearing house, over market collateral;

"market collateral" means any property held by or deposited with an approved clearing house or a recognised clearing house, for the purpose of securing any liability arising directly in connection with the ensuring of the performance of market contracts by the approved clearing house or recognised clearing house;

"market contract" means —

(*a*) a contract subject to the business rules of an approved clearing house or a recognised clearing house, that is entered into between the approved clearing house or recognised clearing house and a participant pursuant to a novation (however described), whether before or after default proceedings have commenced, which is in accordance with those business rules and for the purposes of the clearing or settlement of transactions using the clearing facility of the approved clearing house or recognised clearing house; or

(*b*) a transaction which is being cleared or settled using the clearing facility of an approved clearing house or a recognised clearing house, and in accordance with the business rules of the approved clearing house or recognised clearing house, whether or not a novation referred to in paragraph (*a*) is to take place;

"property", in relation to a market charge or market collateral, means —

(*a*) any money, letter of credit, banker's draft, certified cheque, guarantee or other similar instrument;

(*b*) any securities;

(*c*) any futures contract, derivatives contract or other similar financial contract, arrangement or transaction; or

(*d*) any other asset of value acceptable to an approved clearing house or a recognised clearing house;

"relevant office holder" means —

(*a*) the Official Assignee exercising his powers under the Bankruptcy Act (Cap. 20);

(*b*) a person acting in relation to a corporation as the liquidator, the provisional liquidator, the receiver, the receiver and manager or the judicial manager of the corporation, or acting in an equivalent capacity in relation to a corporation; or

(*c*) a person acting in relation to an individual as the trustee in bankruptcy, or the interim receiver of the property, of the individual, or acting in an equivalent capacity in relation to an individual;

"settlement", in relation to a market contract, includes partial settlement;

"Singapore corporation" means a corporation which is incorporated in Singapore.

(2) Where a charge is granted partly for the purpose specified in the definition of "market charge" in subsection (1) and partly for any other purpose or purposes, the charge shall be treated as a market charge under this Part insofar as it has effect for that specified purpose.

(3) Where any collateral is granted partly for the purpose specified in the definition of "market collateral" in subsection (1) and partly for any other purpose or purposes, the collateral shall be treated as market collateral under this Part insofar as it has been provided for that specified purpose.

(4) Any references in this Part to the law of insolvency is a reference to —

(*a*) the Bankruptcy Act;

(*b*) Parts VIIIA, IX and X of the Companies Act (Cap. 50); and

(*c*) any other written law, whether in Singapore or elsewhere, which is concerned with, or in any way related to, the bankruptcy or insolvency of a person, other than the Banking Act (Cap. 19).

(5) Any reference in this Part to a settlement, in relation to a market contract, is a reference to the discharge of the rights and liabilities of the parties to the market contract, whether by performance, compromise or otherwise.

[Act 34 of 2012 wef 01/08/2013]

Division 1 — Establishment of Clearing Facilities

Requirement for approval or recognition

49.—(1) No person shall establish or operate a clearing facility, or hold himself out as operating a clearing facility, unless the person is —

(*a*) an approved clearing house; or

(*b*) a recognised clearing house.

(2) No person shall hold himself out —

(*a*) as an approved clearing house, unless he is an approved clearing house; or

(*b*) as a recognised clearing house, unless he is a recognised clearing house.

(3) Except with the written approval of the Authority, no person, other than an approved clearing house or a recognised clearing house, shall take or use, or have attached to or exhibited at any place —

(*a*) the title or description "securities clearing house" or "futures clearing house" in any language; or

(*b*) any title or description which resembles a title or description referred to in paragraph (*a*).

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not

exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(5) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $20,000 and, in the case of a continuing offence, to a further fine not exceeding $2,000 for every day or part thereof during which the offence continues after conviction.

(6) Without prejudice to section 337(1), the Authority may, by regulations made under section 81Q, exempt any corporation or class of corporations from subsection (1), subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(7) Without prejudice to section 337(3) and (4), the Authority may, by notice in writing, exempt any corporation from subsection (1), subject to such conditions or restrictions as the Authority may specify by notice in writing, if the Authority is satisfied that the exemption will not detract from the objectives specified in section 47.

(8) It shall not be necessary to publish any exemption granted under subsection (7) in the *Gazette*.

(9) The Authority may, at any time, by notice in writing —

(*a*) add to the conditions and restrictions referred to in subsection (7); or

(*b*) vary or revoke any condition or restriction referred to in that subsection.

(10) Every corporation that is granted an exemption under subsection (6) shall satisfy every condition or restriction imposed on it under that subsection.

(11) Every corporation that is granted an exemption under subsection (7) shall, for the duration of the exemption, satisfy every condition or restriction imposed on it under that subsection or subsection (9).

(12) Any corporation which contravenes subsection (10) or (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Application for approval or recognition

50.—(1) A Singapore corporation may apply to the Authority to be —

(*a*) approved as an approved clearing house; or

(*b*) recognised as a recognised clearing house.

(2) A foreign corporation may apply to the Authority to be recognised as a recognised clearing house.

(3) An application under subsection (1) or (2) shall be —

(*a*) made in such form and manner as the Authority may prescribe; and

(*b*) accompanied by a non-refundable prescribed application fee, which shall be paid in the manner specified by the Authority.

(4) The Authority may require an applicant to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to approve or recognise clearing house

51.—(1) Where a Singapore corporation has made an application under section 50(1), the Authority may —

(*a*) in the case of an application to be approved as an approved clearing house, approve the Singapore corporation as an approved clearing house; or

(*b*) in the case of an application to be recognised as a recognised clearing house, recognise the Singapore corporation as a recognised clearing house.

(2) Where a foreign corporation has made an application under section 50(2), the Authority may recognise the corporation as a recognised clearing house.

(3) Notwithstanding subsection (1), the Authority may, with the consent of the applicant —

(*a*) treat an application under section 50(1)(*a*) as an application under section 50(1)(*b*), if the Authority is of the opinion that the applicant would be more appropriately regulated as a recognised clearing house; or

(*b*) treat an application under section 50(1)(*b*) as an application under section 50(1)(*a*), if the Authority is of the opinion that the applicant would be more appropriately regulated as an approved clearing house.

(4) The Authority may approve a Singapore corporation as an approved clearing house under subsection (1)(*a*), recognise a Singapore corporation as a recognised clearing house under subsection (1)(*b*) or recognise a foreign corporation as a recognised clearing house under subsection (2), subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing, including conditions or restrictions, either of a general or specific nature, relating to —

(*a*) the activities that the corporation may undertake;

(*b*) the products that may be cleared or settled by any clearing facility established or operated by the corporation; and

(*c*) the nature of the investors or participants who may use or have an interest in any clearing facility established or operated by the corporation.

(5) The Authority may, at any time, by notice in writing to the corporation, vary any condition or restriction or impose such further condition or restriction as the Authority may think fit.

(6) An approved clearing house or a recognised clearing house shall, for the duration of the approval or recognition, satisfy every condition or restriction that may be imposed on it under subsection (4) or (5).

(7) The Authority shall not approve an applicant as an approved clearing house, or recognise an applicant as a recognised clearing house, unless the applicant meets such requirements, including minimum financial requirements, as the Authority may prescribe, either generally or specifically.

(8) The Authority may refuse to approve a Singapore corporation as an approved clearing house, or recognise a Singapore corporation or foreign corporation as a recognised clearing house, if —

(*a*) the corporation has not provided the Authority with such information as the Authority may require, relating to —

(i) the corporation or any person employed by or associated with the corporation for the purposes of the corporation's business; or

(ii) any circumstances likely to affect the corporation's manner of conducting business;

(*b*) any information or document provided by the corporation to the Authority is false or misleading;

(*c*) the corporation or a substantial shareholder of the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*d*) execution against the corporation or a substantial shareholder of the corporation in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*e*) a receiver, a receiver and manager, a judicial manager or a person in an equivalent capacity has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation or a substantial shareholder of the corporation;

(*f*) the corporation or a substantial shareholder of the corporation has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with the creditors of the corporation or shareholder, as the case may be, being a compromise or scheme of arrangement that is still in operation;

(*g*) the corporation, a substantial shareholder of the corporation or any officer of the corporation —

(i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that the corporation, shareholder or officer, as the case may be, had acted fraudulently or dishonestly; or

(ii) has been convicted of an offence under this Act committed before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012;

(*h*) the Authority is not satisfied as to the educational or other qualifications or experience of the officers or employees of the corporation, having regard to the nature of the duties they are to perform in connection with the establishment or operation of any clearing facility;

(*i*) the corporation fails to satisfy the Authority that the corporation is a fit and proper person or that all of its officers, employees and substantial shareholders are fit and proper persons;

(*j*) the Authority has reason to believe that the corporation may not be able to act in the best interests of investors or its members, participants or customers, having regard to the reputation, character, financial integrity and reliability of the corporation or its officers, employees or substantial shareholders;

(*k*) the Authority is not satisfied as to —

(i) the financial standing of the corporation or any of its substantial shareholders; or

(ii) the manner in which the business of the corporation is to be conducted;

(*l*) the Authority is not satisfied as to the record of past performance or expertise of the corporation, having regard to the nature of the business which the corporation may carry on in connection with the establishment or operation of any clearing facility;

(*m*) there are other circumstances which are likely to —

(i) lead to the improper conduct of business by the corporation or any of its officers, employees or substantial shareholders; or

(ii) reflect discredit on the manner of conducting the business of the corporation or any of its substantial shareholders;

(*n*) in the case of any clearing facility that the corporation operates, the Authority has reason to believe that the corporation, or any of its officers or employees, will not operate a safe and efficient clearing facility;

(*o*) the corporation does not satisfy the criteria prescribed under section 52 to be approved as an approved clearing house or recognised as a recognised clearing house, as the case may be; or

(*p*) the Authority is of the opinion that it would be contrary to the interests of the public to approve or recognise the corporation.

(9) Subject to subsection (10), the Authority shall not refuse to approve a Singapore corporation as an approved clearing house, or recognise a Singapore corporation or foreign corporation as a recognised clearing house, under subsection (8) without giving the corporation an opportunity to be heard.

(10) The Authority may refuse to approve a Singapore corporation as an approved clearing house, or recognise a Singapore corporation or foreign corporation as a recognised clearing

house, on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or a person in an equivalent capacity has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

(11) The Authority shall give notice in the *Gazette* of any corporation approved as an approved clearing house under subsection (1)(*a*) or recognised as a recognised clearing house under subsection (1)(*b*) or (2), and such notice may include all or any of the conditions and restrictions imposed by the Authority on the corporation under subsections (4) and (5).

(12) Any applicant which is aggrieved by a refusal of the Authority to grant to the applicant an approval under subsection (1)(*a*) or a refusal of the Authority to recognise the applicant under subsection (1)(*b*) or (2) may, within 30 days after the applicant is notified of the refusal, appeal to the Minister, whose decision shall be final.

(13) Any approved clearing house or recognised clearing house which contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

General criteria to be taken into account by Authority

52.—(1) The Authority may prescribe the criteria which it may take into account for the purposes of deciding —

(*a*) whether a Singapore corporation referred to in section 50(1) or 54(1) should be approved as an approved clearing house or recognised as a recognised clearing house;

(*b*) whether a foreign corporation referred to in section 50(2) should be recognised as a recognised clearing house; and

(*c*) whether an approved clearing house or a recognised clearing house that is subject to a review by the Authority under section 54(4) should be approved as an approved clearing house or recognised as a recognised clearing house.

(2) Without prejudice to section 51 and subsection (1), the Authority may, for the purposes of deciding whether to recognise a foreign corporation as a recognised clearing house under

section 51(2), have regard, in addition to any requirements prescribed under section 51(7) and any criteria prescribed under subsection (1), to —

(*a*) whether adequate arrangements exist for co-operation between the Authority and the primary financial services regulatory authority responsible for the supervision of the foreign corporation in the country or territory in which the head office or principal place of business of the foreign corporation is situated; and

(*b*) whether the foreign corporation is, in the country or territory in which the head office or principal place of business of the foreign corporation is situated, subject to requirements and supervision comparable, in the degree to which the objectives specified in section 47 are achieved, to the requirements and supervision to which approved clearing houses and recognised clearing houses are subject under this Act.

(3) In considering whether a foreign corporation has met the requirements mentioned in subsection (2)(*b*), the Authority may have regard to —

(*a*) the relevant laws and practices of the country or territory in which the head office or principal place of business of the foreign corporation is situated; and

(*b*) the rules and practices of the foreign corporation.

[Act 34 of 2012 wef 01/08/2013]

Annual fees payable by approved clearing house or recognised clearing house

53.—(1) Every approved clearing house and every recognised clearing house shall pay to the Authority such annual fees as may be prescribed in such manner as may be specified by the Authority.

(2) The Authority may, where it considers appropriate, refund or remit the whole or any part of any annual fee paid or payable to it.

[Act 34 of 2012 wef 01/08/2013]

Change in status

54.—(1) A Singapore corporation which is an approved clearing house or a recognised clearing house may apply to the Authority to change its status in the manner referred to in subsection (5).

(2) An application under subsection (1) shall be —

(*a*) made in such form and manner as the Authority may prescribe; and

(*b*) accompanied by a non-refundable prescribed application fee, which shall be paid in the manner specified by the Authority.

(3) The Authority may require an applicant to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application.

(4) The Authority may, from time to time, on its own initiative, review the status of a Singapore corporation that is an approved clearing house or a recognised clearing house in accordance with the requirements prescribed under section 51(7) and the criteria prescribed under section 52(1).

(5) Where an application is made by a Singapore corporation under subsection (1), or where a review of the status of a Singapore corporation is conducted by the Authority under subsection (4), the Authority may —

(*a*) if the corporation is an approved clearing house, withdraw the approval as such and recognise the corporation as a recognised clearing house under section 51(1)(*b*);

(*b*) if the corporation is a recognised clearing house, withdraw the recognition as such and approve the corporation as an approved clearing house under section 51(1)(*a*); or

(*c*) make no change to the status of the corporation as an approved clearing house or a recognised clearing house.

(6) Where an application is made under subsection (1), the Authority shall not exercise its power under subsection (5)(*c*) without giving the Singapore corporation an opportunity to be heard.

(7) Where a review of the status of a Singapore corporation is conducted by the Authority on its own initiative under subsection (4), the Authority shall not exercise its powers under subsection (5)(*a*) or (*b*) without giving the corporation an opportunity to be heard.

(8) Any Singapore corporation which is aggrieved by a decision of the Authority made in relation to the corporation after a review under subsection (4) may, within 30 days after the corporation is notified of the decision, appeal to the Minister, whose decision shall be final.

[Act 34 of 2012 wef 01/08/2013]

Cancellation of approval or recognition

55.—(1) An approved clearing house or a recognised clearing house which intends to cease operating its clearing facility or, where it operates more than one clearing facility, all of its clearing facilities, may apply to the Authority to cancel its approval as an approved clearing house or recognition as a recognised clearing house, as the case may be.

(2) An application under subsection (1) shall be made in such form and manner, and not later than such time, as the Authority may prescribe.

(3) The Authority may cancel the approval of an approved clearing house, or the recognition of a recognised clearing house, on such application if the Authority is satisfied that —

(*a*) the approved clearing house or recognised clearing house has ceased operating its clearing facility or all of its clearing facilities, as the case may be; and

(*b*) the cancellation of the approval or recognition, as the case may be, will not detract from the objectives specified in section 47.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to revoke approval and recognition

56.—(1) The Authority may revoke any approval of a Singapore corporation as an approved clearing house under section 51(1)(*a*), any recognition of a Singapore corporation as a

recognised clearing house under section 51(1)(*b*) or any recognition of a foreign corporation as a recognised clearing house under section 51(2), if —

(*a*) there exists at any time a ground under section 51(7) or (8) on which the Authority may refuse an application;

(*b*) the corporation does not commence operating its clearing facility, or, where it operates more than one clearing facility, all of its clearing facilities, within 12 months after the date on which it was granted the approval under section 51(1)(*a*) or was recognised under section 51(1)(*b*) or (2), as the case may be;

(*c*) the corporation ceases to operate its clearing facility or, where it operates more than one clearing facility, all of its clearing facilities;

(*d*) the corporation contravenes —

(i) any condition or restriction applicable in respect of its approval or recognition, as the case may be;

(ii) any direction issued to it by the Authority under this Act; or

(iii) any provision in this Act;

(*da*) upon the Authority exercising any power under section 81SAA(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval or recognition, as the case may be;

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(*e*) the corporation operates in a manner that is, in the opinion of the Authority, contrary to the interests of the public; or

(*f*) any information or document provided by the corporation to the Authority is false or misleading.

(2) Subject to subsection (3), the Authority shall not revoke under subsection (1) any approval under section 51(1)(*a*) or recognition under section 51(1)(*b*) or (2) that was granted to a corporation without giving the corporation an opportunity to be heard.

(3) The Authority may revoke an approval under section 51(1)(*a*), or a recognition under section 51(1)(*b*) or (2), that was granted to a corporation on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or a person in an equivalent capacity has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of, any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 7 of the

Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

(4) For the purposes of subsection (1)(*c*), a corporation shall be deemed to have ceased to operate its clearing facility if —

(*a*) it has ceased to operate the clearing facility for more than 30 days, unless it has obtained the prior approval of the Authority to do so; or

(*b*) it has ceased to operate the clearing facility under a direction issued by the Authority under section 81R.

(5) Any corporation which is aggrieved by a decision of the Authority made in relation to the corporation under subsection (1) may, within 30 days after the corporation is notified of the decision, appeal to the Minister, whose decision shall be final.

(6) Notwithstanding the lodging of an appeal under subsection (5), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

(7) The Minister may, when deciding an appeal under subsection (5), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

(8) Any revocation under subsection (1) or (3) of the approval or recognition of a corporation under section 51(1) or (2) shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement entered into in connection with the use of a clearing facility operated by the corporation, whether the agreement, transaction or arrangement was entered into before, on or after the revocation of the approval or recognition; or

(*b*) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

(9) The Authority shall give notice in the *Gazette* of any revocation under subsection (1) or (3) of any approval or recognition of a corporation under section 51(1) or (2).

[Act 34 of 2012 wef 01/08/2013]

Division 2 — Regulation of Approved Clearing Houses

Subdivision (1) — Obligations of approved clearing houses

General obligations

57.—(1) An approved clearing house —

(*a*) shall operate a safe and efficient clearing facility;

(*b*) shall manage any risks associated with its business and operations prudently;

(*c*) in discharging its obligations under this Act, shall not act contrary to the interests of the public, having particular regard to the interests of the investing public;

(*d*) shall ensure that access for participation in its clearing facility is subject to criteria that are fair and objective, and that are designed to ensure the safe and efficient functioning of its facility and to protect the interests of the investing public;

(*e*) shall maintain business rules that make satisfactory provision for —

(i) the clearing facility to be operated in a safe and efficient manner; and

(ii) the proper regulation and supervision of its members;

(*f*) shall enforce compliance by its members with its business rules;

(*g*) shall have sufficient financial, human and system resources —

(i) to operate a safe and efficient clearing facility;

(ii) to meet contingencies or disasters; and

(iii) to provide adequate security arrangements;

(*h*) shall maintain governance arrangements that are adequate for the clearing facility to be operated in a safe and efficient manner; and

(*i*) shall ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers.

(2) The obligations imposed on an approved clearing house under this Act shall apply to all facilities for clearing or settlement operated by the approved clearing house.

(3) Notwithstanding subsection (2), the Authority may by notice in writing exempt any clearing facility operated by an approved clearing house from all or any of the provisions of this Act, if the Authority is satisfied that such exemption would not detract from the objectives specified in section 47.

(4) It shall not be necessary to publish any exemption granted under subsection (3) in the *Gazette*.

(5) In subsection (1)(*g*), "contingencies or disasters" includes technical disruptions occurring within automated systems.

[Act 34 of 2012 wef 01/08/2013]

Obligation to notify Authority of certain matters

58.—(1) An approved clearing house shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of the circumstance:

(*a*) any material change to the information provided by the approved clearing house in its application under section 50(1) or 54(1);

(*b*) the carrying on of any business (referred to in this section as a proscribed business) by the approved clearing house that is —

(i) not the business of operating a clearing facility;

(ii) not incidental to operating a clearing facility; or

(iii) not such business, or within such class of businesses, as the Authority may prescribe;

(*c*) the acquisition by the approved clearing house of a substantial shareholding in a corporation (referred to in this section as a proscribed corporation) which carries on any business that is —

(i) not the business of operating a clearing facility;

(ii) not incidental to operating a clearing facility; or

(iii) not such business, or within such class of businesses, as the Authority may prescribe;

(*d*) the approved clearing house becoming aware of any financial irregularity or other matter which in its opinion —

(i) may affect its ability to discharge its financial obligations; or

(ii) may affect the ability of a member of the approved clearing house to meet its financial obligations to the approved clearing house;

(*e*) the approved clearing house reprimanding, fining, suspending, expelling or otherwise taking disciplinary action against a member of the approved clearing house;

(*f*) any other matter that the Authority may —

(i) prescribe by regulations made under section 81Q for the purposes of this paragraph; or

(ii) specify by notice in writing to the approved clearing house in any particular case.

(2) Without prejudice to the generality of section 81R(1), the Authority may, at any time after receiving a notice referred to in subsection (1), issue directions to the approved clearing house —

(*a*) where the notice relates to a matter referred to in subsection (1)(*b*) —

(i) to cease carrying on the proscribed business; or

(ii) to carry on the proscribed business subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 81R (1); or

(*b*) where the notice relates to a matter referred to in subsection (1)(*c*) —

(i)

to dispose of all or any part of its shareholding in the proscribed corporation within such time and subject to such conditions as the Authority considers appropriate; or

(ii) to exercise its rights relating to such shareholding, or to not exercise such rights, subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 81R(1).

(3) An approved clearing house shall comply with every direction issued to it under subsection (2) notwithstanding anything to the contrary in the Companies Act (Cap. 50) or any other law.

(4) An approved clearing house shall notify the Authority of any matter that the Authority may prescribe by regulations made under section 81Q for the purposes of this subsection, no later than such time as the Authority may prescribe by those regulations.

(5) An approved clearing house shall notify the Authority of any matter that the Authority may specify by notice in writing to the recognised clearing house, no later than such time as the Authority may specify in that notice.

[Act 34 of 2012 wef 01/08/2013]

Obligation to manage risks prudently, etc.

59.—(1) Without prejudice to the generality of section 57(1)(*b*), an approved clearing house shall —

(*a*) ensure that the systems and controls concerning the assessment and management of risks to its clearing facility are adequate and appropriate for the scale and nature of its operations;

(*b*) obtain the Authority's approval to the limits which the approved clearing house intends to establish on the number of open positions which may be held by any person under any futures contract cleared or settled with the approved clearing house, and vary those limits only in a manner approved by the Authority; and

(*c*) obtain the Authority's approval if the approved clearing house does not intend to establish limits on the number of open positions which may be held by any person under any futures contract cleared or settled with the approved clearing house.

(2) Nothing in subsection (1) shall preclude an approved clearing house from —

(*a*) establishing, in respect of open positions which may be held by any person under any futures contract cleared or settled with the approved clearing house, different position limits for different futures contracts, or for different months or days in the period the positions may be held; or

(*b*) establishing limits whether on long or short positions, and whether on a net or gross basis.

(3) Any person who wilfully exceeds any position limit established or varied by an approved clearing house shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000.

[Act 34 of 2012 wef 01/08/2013]

Obligation in relation to customers' money and assets held by approved clearing house

60.—(1) Without prejudice to sections 81Q and 341, the Authority may make regulations —

(*a*) relating to how any money or assets deposited with or paid to an approved clearing house by its members, for or in relation to any contracts of the customers of those members, are to be held by the approved clearing house and, in particular, requiring any such money or assets to be deposited in trust accounts or custody accounts;

(*b*) relating to the circumstances under which, and the purposes for which, the money or assets referred to in paragraph (*a*) may be used by the approved clearing house;

(*c*) relating to how the approved clearing house may invest the money or assets referred to in paragraph (*a*); and

(*d*) for any other purpose relating to the handling of the money and assets referred to in paragraph (*a*).

(2) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for a penalty not exceeding a fine of $200,000 and, in the case of a continuing offence, for a further penalty not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain proper records

61.—(1) An approved clearing house shall maintain a record of all transactions effected through its clearing facility.

(2) The Authority may prescribe by regulations made under section 81Q —

(*a*) the form and manner in which the record referred to in subsection (1) shall be maintained;

(*b*) the extent to which the record includes details of each transaction; and

(*c*) the period of time that the record is to be maintained.

[Act 34 of 2012 wef 01/08/2013]

Obligation to submit periodic reports

62. An approved clearing house shall submit to the Authority such reports in such form and manner, and at such frequency, as the Authority may prescribe.

[Act 34 of 2012 wef 01/08/2013]

Obligation to assist Authority

63. An approved clearing house shall provide such assistance to the Authority as the Authority may require for the performance of the functions and duties of the Authority, including —

(*a*) the furnishing of such returns as the Authority may require for the proper administration of this Act; and

(*b*) the provision of —

(i) such books and information as the Authority may require for the proper administration of this Act, being books and information —

(A) relating to the business of the approved clearing house; or

(B) in respect of any transaction or class of transactions cleared or settled by the approved clearing house; and

(ii) such other information as the Authority may require for the proper administration of this Act.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain confidentiality

64.—(1) Subject to subsection (2), an approved clearing house and its officers and employees shall maintain, and aid in maintaining, confidentiality of all user information that —

(*a*) comes to the knowledge of the approved clearing house or any of its officers or employees; or

(*b*) is in the possession of the approved clearing house or any of its officers or employees.

(2) Subsection (1) shall not apply to —

(*a*) the disclosure of user information for such purposes, or in such circumstances, as the Authority may prescribe;

(*b*) any disclosure of user information which is authorised by the Authority to be disclosed or furnished; or

(*c*) the disclosure of user information pursuant to any requirement imposed under any written law or order of court in Singapore.

(3) For the avoidance of doubt, nothing in this section shall be construed as preventing an approved clearing house from entering into a written agreement with a user which obliges the approved clearing house to maintain a higher degree of confidentiality than that specified in this section.

[Act 34 of 2012 wef 01/08/2013]

Penalties under this Subdivision

65. Any approved clearing house which contravenes section 57(1), 58(1) or (3), 59(1), 61(1), 62, 63 or 64(1) shall be guilty of an offence and shall be liable on conviction to a fine not

exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Subdivision (2) — Rules of approved clearing houses

Business rules of approved clearing houses

66.—(1) Without limiting the generality of sections 57 and 81Q —

(*a*) the Authority may prescribe the matters that an approved clearing house shall make provision for in the business rules of the approved clearing house; and

(*b*) the approved clearing house shall make provision for those matters in its business rules.

(2) An approved clearing house shall not make any amendment to its business rules unless it complies with such requirements as the Authority may prescribe.

(3) In this Subdivision, any reference to an amendment to a business rule shall be construed as a reference to a change to the scope of, or to any requirement, obligation or restriction under, the business rule, whether the change is made by an alteration to the text of the business rule or by any other notice issued by or on behalf of the approved clearing house.

(4) Any approved clearing house which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Business rules of approved clearing houses have effect as contract

67.—(1) The business rules of an approved clearing house shall be deemed to be, and shall operate as, a binding contract —

(*a*) between the approved clearing house and each issuer of securities;

(*b*) between the approved clearing house and each participant;

(*c*) between each issuer of securities and each participant; and

(*d*) between each participant and every other participant.

(2) The approved clearing house, each issuer of securities and each participant shall be deemed to have agreed to observe, and perform the obligations under, the provisions of the business rules that are in force for the time being, so far as those provisions are applicable to the approved clearing house, issuer or participant, as the case may be.

(3) In this section, "issuer", in relation to any securities, means a person who issued or made available, or proposes to issue or make available, the securities, being securities that are cleared or settled by the approved clearing house.

[Act 34 of 2012 wef 01/08/2013]

Power of court to order observance or enforcement of business rules

68.—(1) Where any person who is under an obligation to comply with, observe, enforce or give effect to the business rules of an approved clearing house fails to do so, the High Court may, on the application of the Authority, the approved clearing house or a person aggrieved by the failure, and after giving the first-mentioned person an opportunity to be heard, make an order directing the first-mentioned person to comply with, observe, enforce or give effect to those business rules.

(2) In this section, "person" includes an approved clearing house.

(3) This section is in addition to, and not in derogation of, any other remedy available to the aggrieved person referred to in subsection (1).

[Act 34 of 2012 wef 01/08/2013]

Non-compliance with business rules not to substantially affect rights of person

69. Any failure by an approved clearing house to comply with this Act or its business rules in relation to a matter shall not prevent the matter from being treated, for the purposes of this Act, as done in accordance with the business rules, so long as the failure does not substantially affect the rights of any person entitled to require compliance with the business rules.

[Act 34 of 2012 wef 01/08/2013]

Subdivision (3) — Matters requiring approval of Authority

Control of substantial shareholding in approved clearing house

70.—(1) No person shall enter into any agreement to acquire shares in an approved clearing house, being an agreement by virtue of which he would, if the agreement had been carried out, become a substantial shareholder of the approved clearing house, without first obtaining the approval of the Authority to enter into the agreement.

(2) No person shall become either of the following without first obtaining the approval of the Authority:

(*a*) a 12% controller of an approved clearing house;

(*b*) a 20% controller of an approved clearing house.

(3) In subsection (2) —

"12% controller", in relation to an approved clearing house, means a person, not being a 20% controller, who alone or together with his associates —

(*a*) holds not less than 12% of the shares in the approved clearing house; or

(*b*) is in a position to control not less than 12% of the votes in the approved clearing house;

"20% controller", in relation to an approved clearing house, means a person who, alone or together with his associates —

(*a*) holds not less than 20% of the shares in the approved clearing house; or

(*b*) is in a position to control not less than 20% of the votes in the approved clearing house.

(4) In this section —

(*a*) a person holds a share if —

(i) he is deemed to have an interest in that share under section 7(6) to (10) of the Companies Act (Cap. 50); or

(ii) he otherwise has a legal or an equitable interest in that share, except such interest as is to be disregarded under section 7(6) to (10) of the Companies Act;

(*b*) a reference to the control of a percentage of the votes in an approved clearing house shall be construed as a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the approved clearing house; and

(*c*) a person, *A*, is an associate of another person, *B*, if —

(i) *A* is the spouse, a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, step-son or step-daughter or a brother or sister of *B*;

(ii) *A* is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;

(iii) *B* is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;

(iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;

(v) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*;

(vi) *A* is a related corporation of *B*;

(vii) *A* is a corporation in which *B*, whether alone or together with other associates of *B* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *A*;

(viii) *B* is a corporation in which *A*, whether alone or together with other associates of *A* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *B*; or

(ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their votes in relation to, the approved clearing house.

(5) The Authority may grant its approval referred to in subsection (1) or (2) subject to such conditions or restrictions as the Authority may think fit.

(6) Without prejudice to subsection (13), the Authority may, for the purposes of securing compliance with subsection (1) or (2) or any condition or restriction imposed under subsection (5), by notice in writing, direct the transfer or disposal of all or any of the shares of an approved clearing house in which a substantial shareholder, 12% controller or 20% controller of the approved clearing house has an interest.

(7) Until a person to whom a direction has been issued under subsection (6) transfers or disposes of the shares which are the subject of the direction, and notwithstanding anything to the contrary in the Companies Act or the memorandum or articles of association or other constituent document or documents of the approved clearing house —

(*a*) no voting rights shall be exercisable in respect of the shares which are the subject of the direction;

(*b*) the approved clearing house shall not offer or issue any shares (whether by way of rights, bonus, share dividend or otherwise) in respect of the shares which are the subject of the direction; and

(*c*) except in a liquidation of the approved clearing house, the approved clearing house shall not make any payment (whether by way of cash dividend, dividend in kind or otherwise) in respect of the shares which are the subject of the direction.

(8) Any issue of shares by an approved clearing house in contravention of subsection (7)(*b*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return those shares to the approved clearing house, upon which the approved clearing house shall return to the person any payment received from the person in respect of those shares.

(9) Any payment made by an approved clearing house in contravention of subsection (7)(*c*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return the payment he has received to the approved clearing house.

(10) Without prejudice to sections 81SB(1) and 337(1), the Authority may, by regulations made under section 81Q, exempt all or any of the following from subsection (1) or (2), subject to such conditions or restrictions as the Authority may prescribe in those regulations:

(*a*) any person or class of persons;

(*b*) any class or description of shares or interests in shares.

(11) Without prejudice to sections 81SB(2) and 337(3) and (4), the Authority may, by notice in writing, exempt any person, shares or interests in shares from subsection (1) or (2), subject to such conditions or restrictions as the Authority may specify by notice in writing.

(12) It shall not be necessary to publish any exemption granted under subsection (11) in the *Gazette*.

(13) Any person who contravenes subsection (1) or (2), or any condition or restriction imposed by the Authority under subsection (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

(14) Any person who contravenes subsection (7)(*b*) or (*c*), (8) or (9) or any direction issued by the Authority under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Approval of chairman, chief executive officer, director and key persons

71.—(1) No approved clearing house shall appoint a person as its chairman, chief executive officer or director unless the approved clearing house has obtained the approval of the Authority.

(2) The Authority may, by notice in writing, require an approved clearing house to obtain the approval of the Authority for the appointment of any person to any key management position or committee of the approved clearing house, and the approved clearing house shall comply with the notice.

(3) An application for approval under subsection (1) or (2) shall be made in such form and manner as the Authority may prescribe.

(4) Without prejudice to the generality of section 81Q and to any other matter that the Authority may consider relevant, the Authority may, in determining whether to grant its approval under subsection (1) or (2), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

(5) Subject to subsection (6), the Authority shall not refuse an application for approval under this section without giving the approved clearing house an opportunity to be heard.

(6) The Authority may refuse an application for approval on any of the following grounds without giving the approved clearing house an opportunity to be heard:

(*a*) the person is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) the person has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012 —

(i)

involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

(7) Where the Authority refuses an application for approval under this section, the Authority need not give the person who was proposed to be appointed an opportunity to be heard.

(8) An approved clearing house shall, as soon as practicable, give written notice to the Authority of the resignation or removal of its chairman, chief executive officer or director or of any person referred to in any notice issued by the Authority to the approved clearing house under subsection (2).

(9) The Authority may make regulations under section 81Q relating to the composition and duties of the board of directors or any committee of an approved clearing house.

(10) In this section, "committee" includes any committee of directors, disciplinary committee or appeals committee of an approved clearing house, and any body responsible for disciplinary action against a member of an approved clearing house.

(11) Without prejudice to sections 81SB(1) and 337(1), the Authority may, by regulations made under section 81Q, exempt any approved clearing house or class of approved clearing houses from complying with subsection (1) or (8), subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(12) Without prejudice to sections 81SB(2) and 337(3) and (4), the Authority may, by notice in writing, exempt any approved clearing house from complying with subsection (1) or (8), subject to such conditions or restrictions as the Authority may specify by notice in writing.

(13) It shall not be necessary to publish any exemption granted under subsection (12) in the *Gazette*.

(14) Subject to subsections (11) and (12), any approved clearing house which contravenes subsection (1), (2) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Listing of approved clearing houses on securities market

72.—(1) The securities of an approved clearing house shall not be listed for quotation on a securities market that is operated by any of its related corporations, unless the approved clearing house and the operator of the securities market have entered into such arrangements as the Authority may require —

(*a*) for dealing with possible conflicts of interest that may arise from such listing; and

(*b*) for the purpose of ensuring the integrity of the trading of the securities of the approved clearing house.

(2) Where the securities of an approved clearing house are listed for quotation on a securities market operated by any of its related corporations, the listing rules of the securities

market shall be deemed to allow the Authority to act in place of the operator of the securities market in making decisions and taking action, or to require the operator of the securities market to make decisions and to take action on behalf of the Authority, on —

(*a*) the admission or removal of the approved clearing house to or from the official list of the securities market; and

(*b*) the granting of approval for the securities of the approved clearing house to be, or the stopping or suspending of the securities of the approved clearing house from being, listed for quotation or quoted on the securities market.

(3) The Authority may, by notice in writing to the operator of the securities market —

(*a*) modify the listing rules of the securities market for the purpose of their application to the listing of the securities of the approved clearing house for quotation or trading; or

(*b*) waive the application of any listing rule of the securities market to the approved clearing house.

(4) Any approved clearing house which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Additional powers of Authority in respect of auditors

73.—(1) If an auditor of an approved clearing house, in the course of the performance of his duties, becomes aware of any matter or irregularity referred to in the following paragraphs, he shall immediately send to the Authority a written report of that matter or irregularity:

(*a*) any matter which, in his opinion, adversely affects or may adversely affect the financial position of the approved clearing house to a material extent;

(*b*) any matter which, in his opinion, constitutes or may constitute a breach of any provision of this Act or an offence involving fraud or dishonesty;

(*c*) any irregularity that has or may have a material effect upon the accounts of the approved clearing house, including any irregularity that affects or jeopardises, or may affect or jeopardise, the funds or property of investors.

(2) An auditor of an approved clearing house shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of any statement made in his report under subsection (1).

(3) Subsection (2) shall not restrict or affect any right, privilege or immunity that the auditor of an approved clearing house may have, apart from this section, as a defendant in an action for defamation.

(4) The Authority may impose all or any of the following duties on an auditor of an approved clearing house, and the auditor shall carry out the duties so imposed:

(*a*) a duty to submit such additional information and reports in relation to his audit as the Authority considers necessary;

(*b*) a duty to enlarge, extend or alter the scope of his audit of the business and affairs of the approved clearing house;

(*c*) a duty to carry out any other examination or establish any procedure in any particular case;

(*d*) a duty to submit a report on any matter arising out of his audit, examination or establishment of procedure referred to in paragraph (*b*) or (*c*).

(5) The approved clearing house shall remunerate the auditor in respect of the discharge by him of all or any of the duties referred to in subsection (4).

[Act 34 of 2012 wef 01/08/2013]

Subdivision (4) — Immunity

Immunity from criminal or civil liability

74.—(1) No criminal or civil liability shall be incurred by an approved clearing house, or by any person specified in subsection (2), for any thing done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of, or in connection with, the discharge or purported discharge of the obligations of the approved clearing house under this Act or under the business rules of the approved clearing house (including the default rules of the approved clearing house).

(2) For the purposes of subsection (1), the specified person is any person acting on behalf of the approved clearing house, including —

(*a*) any director of the approved clearing house; or

(*b*) any member of any committee established by the approved clearing house.

[Act 34 of 2012 wef 01/08/2013]

Division 3 — Regulation of Recognised Clearing Houses

General obligations

75.—(1) A recognised clearing house —

(*a*) shall operate a safe and efficient clearing facility;

(*b*) shall manage any risks associated with its business and operations prudently;

(*c*) in discharging its obligations under this Act, shall not act contrary to the interests of the public, having particular regard to the interests of the investing public;

(*d*) shall ensure that access for participation in its clearing facility is subject to criteria that are fair and objective, and that are designed to ensure the safe and efficient functioning of its facility and to protect the interests of the investing public;

(*e*) shall maintain business rules that make satisfactory provision for —

(i) the clearing facility to be operated in a safe and efficient manner; and

(ii) the proper regulation and supervision of its members;

(*f*) shall enforce compliance by its members with its business rules;

(*g*) shall have sufficient financial, human and system resources —

(i) to operate a safe and efficient clearing facility;

(ii) to meet contingencies or disasters; and

(iii) to provide adequate security arrangements;

(*h*) shall maintain governance arrangements that are adequate for the clearing facility to be operated in a safe and efficient manner; and

(*i*) shall ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers.

(2) The obligations imposed on a recognised clearing house under this Act shall apply to all facilities for clearing or settlement operated by the recognised clearing house.

(3) Notwithstanding subsection (2), the Authority may by notice in writing exempt any clearing facility operated by a recognised clearing house from all or any of the provisions of this Act, if the Authority is satisfied that such exemption would not detract from the objectives specified in section 47.

(4) It shall not be necessary to publish any exemption granted under subsection (3) in the *Gazette*.

(5) In subsection (1)(*g*), "contingencies or disasters" includes technical disruptions occurring within automated systems.

[Act 34 of 2012 wef 01/08/2013]

Obligation to notify Authority of certain matters

76.—(1) A recognised clearing house shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of the circumstance:

(*a*) any material change to the information provided by the recognised clearing house in its application under section 50(1) or (2) or 54(1);

(*b*) the recognised clearing house becoming aware of any financial irregularity or other matter which in its opinion —

(i) may affect its ability to discharge its financial obligations; or

(ii) may affect the ability of a member of the recognised clearing house to meet its financial obligations to the recognised clearing house;

(*c*) any other matter that the Authority may —

(i)

prescribe by regulations made under section 81Q for the purposes of this paragraph; or

(ii) specify by notice in writing to the recognised clearing house in any particular case.

(2) A recognised clearing house shall notify the Authority of any matter that the Authority may prescribe by regulations made under section 81Q for the purposes of this subsection, no later than such time as the Authority may prescribe by those regulations.

(3) A recognised clearing house shall notify the Authority of any matter that the Authority may specify by notice in writing to the recognised clearing house, no later than such time as the Authority may specify in that notice.

[Act 34 of 2012 wef 01/08/2013]

Obligation in relation to customers' money and assets held by recognised clearing house

77.—(1) Without prejudice to sections 81Q and 341, the Authority may make regulations —

(*a*) relating to how any money or assets deposited with or paid to a recognised clearing house by its members, for or in relation to any contracts of the customers of those members, are to be held by the recognised clearing house and, in particular, requiring any such money or assets to be deposited in trust accounts or custody accounts;

(*b*) relating to the circumstances under which, and the purposes for which, the money or assets referred to in paragraph (*a*) may be used by the recognised clearing house;

(*c*) relating to how the recognised clearing house may invest the money or assets referred to in paragraph (*a*); and

(*d*) for any other purpose relating to the handling of the money or assets referred to in paragraph (*a*).

(2) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for a penalty not exceeding a fine of $150,000 and, in the case of a continuing offence, for a further penalty not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain proper records

78.—(1) A recognised clearing house shall maintain a record of all transactions effected through its clearing facility.

(2) The Authority may prescribe by regulations made under section 81Q —

(*a*) the form and manner in which the record referred to in subsection (1) shall be maintained;

(*b*) the extent to which the record includes details of each transaction; and

(*c*) the period of time that the record is to be maintained.

[Act 34 of 2012 wef 01/08/2013]

Obligation to submit periodic reports

79. A recognised clearing house shall submit to the Authority such reports in such form and manner, and at such frequency, as the Authority may prescribe.

[Act 34 of 2012 wef 01/08/2013]

Obligation to assist Authority

80. A recognised clearing house shall provide such assistance to the Authority as the Authority may require for the performance of the functions and duties of the Authority, including —

(*a*) the furnishing of such returns as the Authority may require for the proper administration of this Act; and

(*b*) the provision of —

(i) such books and information as the Authority may require for the proper administration of this Act, being books and information —

(A) relating to the business of the recognised clearing house; or

(B) in respect of any transaction or class of transactions cleared or settled by the recognised clearing house; and

(ii) such other information as the Authority may require for the proper administration of this Act.

[Act 34 of 2012 wef 01/08/2013]

Obligation to maintain confidentiality

81.—(1) Subject to subsection (2), a recognised clearing house and its officers and employees shall maintain, and aid in maintaining, confidentiality of all user information that —

(*a*) comes to the knowledge of the recognised clearing house or any of its officers or employees; or

(*b*) is in the possession of the recognised clearing house or any of its officers or employees.

(2) Subsection (1) shall not apply to —

(*a*) the disclosure of user information for such purposes, or in such circumstances, as the Authority may prescribe;

(*b*) any disclosure of user information which is authorised by the Authority to be disclosed or furnished; or

(*c*) the disclosure of user information pursuant to any requirement imposed under any written law or order of court in Singapore.

(3) For the avoidance of doubt, nothing in this section shall be construed as preventing a recognised clearing house from entering into a written agreement with a user which obliges the recognised clearing house to maintain a higher degree of confidentiality than that specified in this section.

[Act 34 of 2012 wef 01/08/2013]

Penalties under this Division

81A. Any recognised clearing house which contravenes section 75(1), 76, 78(1), 79, 80 or 81(1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Division 4 — Insolvency

Application of this Division

81B. This Division shall apply to such transaction or class of transactions cleared or settled by any approved clearing house or recognised clearing house, or by any class of approved clearing houses or recognised clearing houses, and to such extent, as may be prescribed by the Authority.

[Act 34 of 2012 wef 01/08/2013]

Proceedings of approved clearing house or recognised clearing house shall take precedence over law of insolvency

81C.—(1) The following shall not be invalid to any extent at law by reason only of inconsistency with any written law or rule of law relating to the distribution of the assets of a person on insolvency, bankruptcy or winding up, or on the appointment of a receiver, a receiver and manager or a person in an equivalent capacity over any of the assets of a person:

(*a*) a market contract;

(*b*) a disposition of property pursuant to a market contract;

(*c*) the provision of market collateral;

(*d*) a contract effected by an approved clearing house or a recognised clearing house for the purpose of realising property provided as market collateral, or any disposition of property pursuant to such a contract;

(*e*) a disposition of property in accordance with the business rules of an approved clearing house, or a recognised clearing house, relating to the application of property provided as market collateral;

(*f*) a disposition of property as a result of which the property becomes subject to a market charge, or any transaction pursuant to which that disposition is made;

(*g*) a disposition of property for the purpose of enforcing a market charge;

(*h*) a market charge;

(*i*) any default proceedings.

(2) A relevant office holder, or a court applying the law relating to insolvency in Singapore, shall not exercise his or its power to prevent, or interfere with —

(*a*) the settlement of a market contract in accordance with the business rules of an approved clearing house or a recognised clearing house, or any proceedings or other action taken under those business rules; or

(*b*) any default proceedings.

(3) Subsection (2) shall not operate to prevent a relevant office holder from recovering an amount under section 81I after the completion of a specified event referred to in section 81I(3).

(4) Where a participant which is also a bank licensed under the Banking Act (Cap. 19) becomes insolvent, the liabilities of the bank accorded priority under sections 61 and 62 of that Act and the Payment and Settlement Systems (Finality and Netting) Act (Cap. 231) shall have priority over any unsecured liabilities of the bank arising from and after the settlement of market contracts.

(5) For the avoidance of doubt, subsection (4) shall not affect the settlement of market contracts in accordance with the business rules of an approved clearing house or a recognised clearing house.

[Act 34 of 2012 wef 01/08/2013]

Supplementary provisions as to default proceedings

81D.—(1) A court may, on the application of a relevant office holder, make an order to alter, or to release the relevant office holder from complying with, the functions of his office that are affected by default proceedings, if default proceedings have been, could be, or could have been, taken.

(2) The functions of the relevant office holder shall be construed subject to an order made under subsection (1).

(3) Sections 45, 74 and 76 of the Bankruptcy Act (Cap. 20) and sections 210, 258, 260, 262 (3), 299(1) and 309 of the Companies Act (Cap. 50) shall not prevent, or interfere with, any default proceedings.

[Act 34 of 2012 wef 01/08/2013]

Duty to report on completion of default proceedings

81E.—(1) An approved clearing house or a recognised clearing house —

(*a*) shall, upon the conclusion of any default proceedings commenced by it, make a report on those proceedings stating, as the case may be, in respect of each defaulter who is a subject of those proceedings —

(i) the net sum, if any, certified by it to be payable by or to the defaulter; or

(ii) the fact that no sum is so payable; and

(*b*)

may include in that report such other particulars in respect of those proceedings as it thinks fit.

(2) An approved clearing house, or a recognised clearing house, which has made a report under subsection (1) shall supply the report to —

(*a*) the Authority;

(*b*) any relevant office holder acting in relation to —

(i) the defaulter to whom the report relates; or

(ii) the estate of that defaulter; and

(*c*) where there is no relevant office holder referred to in paragraph (*b*), the defaulter to whom the report relates.

(3) The approved clearing house or recognised clearing house shall publish a notice of the fact that a report has been made under subsection (1) in such manner as it thinks appropriate to bring that fact to the attention of the creditors of the defaulter to whom the report relates.

(4) Where a relevant office holder or defaulter receives under subsection (2) a report made under subsection (1), he shall, at the request of a creditor of the defaulter to whom the report relates —

(*a*) make the report available for inspection by the creditor; and

(*b*) on payment of such reasonable fee as the relevant office holder or defaulter, as the case may be, determines, supply to the creditor the whole or any part of that report.

(5) In subsections (2), (3) and (4), "report" includes a copy of a report.

[Act 34 of 2012 wef 01/08/2013]

Net sum payable on completion of default proceedings

81F.—(1) This section shall apply to any net sum certified under section 81E(1)(*a*)(i) by an approved clearing house or a recognised clearing house, upon the completion by it of any default proceedings, to be payable by or to a defaulter.

(2) Notwithstanding sections 87 and 88 of the Bankruptcy Act (Cap. 20) and section 327 of the Companies Act (Cap. 50), where, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012, a receiving order or winding up order has been made, or a resolution for voluntary winding up has been passed, any net sum as certified under section 81E(1)(*a*)(i) shall —

(*a*) be provable in the bankruptcy or winding up or payable to the relevant office holder, as the case may be; and

(*b*) be taken into account, where appropriate, under section 88 of the Bankruptcy Act or section 327 of the Companies Act.

[Act 34 of 2012 wef 01/08/2013]

Disclaimer of onerous property, rescission of contracts, etc.

81G.—(1) Section 110 of the Bankruptcy Act (Cap. 20) and section 332 of the Companies Act (Cap. 50) shall not apply to —

(*a*) a market contract;

(*b*) a contract effected by an approved clearing house, or a recognised clearing house, for the purpose of realising property provided as market collateral;

(*c*) a market charge; or

(*d*) any default proceedings.

(2) Section 77 of the Bankruptcy Act and sections 259 and 299(1) of the Companies Act shall not apply to any act, matter or thing which has been done under —

(*a*) a market contract;

(*b*) a disposition of property pursuant to a market contract;

(*c*) the provision of market collateral;

(*d*) a contract effected by an approved clearing house, or a recognised clearing house, for the purpose of realising property provided as market collateral, or any disposition of property pursuant to such a contract;

(*e*) a disposition of property in accordance with the business rules of an approved clearing house, or a recognised clearing house, relating to the application of property provided as market collateral;

(*f*) a disposition of property as a result of which the property becomes subject to a market charge, or any transaction pursuant to which that disposition is made;

(*g*) a disposition of property for the purpose of enforcing a market charge;

(*h*) a market charge; or

(*i*) any default proceedings.

[Act 34 of 2012 wef 01/08/2013]

Adjustment of prior transactions

81H.—(1) No order shall be made, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012, in relation to any matter to which this section applies, by a court under any of the following provisions in any proceedings, whether instituted before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012:

(*a*) section 98 or 99 of the Bankruptcy Act (Cap. 20);

(*b*) section 227T, 329 or 331 of the Companies Act (Cap. 50);

(*c*) section 73B of the Conveyancing and Law of Property Act (Cap. 61).

(2) The matters to which this section applies are as follows:

(*a*) a market contract;

(*b*) a disposition of property pursuant to a market contract;

(*c*) the provision of market collateral;

(*d*) a contract effected by an approved clearing house, or a recognised clearing house, for the purpose of realising property provided as market collateral;

(*e*) a disposition of property in accordance with the business rules of an approved clearing house, or a recognised clearing house, relating to the application of property provided as market collateral;

(*f*) a disposition of property as a result of which the property becomes subject to a market charge, or any transaction pursuant to which that disposition is made;

(*g*) a disposition of property for the purpose of enforcing a market charge;

(*h*) a market charge;

(*i*) any default proceedings.

[Act 34 of 2012 wef 01/08/2013]

Right of relevant office holder to recover certain amounts arising from certain transactions

81I.—(1) Where a participant (referred to in this section as the first participant) sells securities at an over-value to, or purchases securities at an under-value from, another participant (referred to in this section as the second participant) in the circumstances referred to in subsection (3), and thereafter a relevant office holder acts for —

(*a*) the second participant;

(*b*) the principal of the second participant in the sale or purchase; or

(*c*) the estate of the second participant or person referred to in paragraph (*b*),

then, unless a court otherwise orders, the relevant office holder may recover from the first participant, or the principal of the first participant, an amount equal to the specified gain obtained under the sale or purchase by the first participant, or the principal of the first participant.

(2) The amount equal to the specified gain is recoverable even if the sale or purchase may have been discharged according to the business rules of an approved clearing house, or a recognised clearing house, and replaced by a market contract.

(3) The circumstances referred to in subsection (1) are that —

(*a*) a specified event has occurred in relation to the second participant, or the principal of the second participant, within the period of 6 months immediately following the date on which the sale or purchase was entered into; and

(*b*) at the time the sale or purchase was entered into, the first participant, or the principal of the first participant, knew, or ought reasonably to have known, that a

specified event was likely to occur in relation to the second participant, or the principal of the second participant.

(4) In this section —

"specified event", in relation to the second participant or a person who is or was, in respect of a sale or purchase referred to in subsection (1), the principal of the second participant, means —

(*a*) the making of a bankruptcy order against the second participant or that person, as the case may be;

(*b*) the making of a statutory declaration in respect of the second participant or that person, as the case may be, under section 291(1) of the Companies Act (Cap. 50);

(*c*) the summoning of a meeting of creditors in relation to the second participant or that person, as the case may be, under section 296 of the Companies Act;

(*d*) the making of an application for the winding up of the second participant or that person, as the case may be, before a court; or

(*e*) the making of a judicial management order by a court under Part VIIIA of the Companies Act in respect of the second participant or that person, as the case may be;

"specified gain", in relation to a sale or purchase referred to in subsection (1), means the difference, as at the time the sale or purchase was entered into, between —

(*a*) the market value of the securities which are the subject of the sale or purchase; and

(*b*) the value of the consideration for the sale or purchase.

[Act 34 of 2012 wef 01/08/2013]

Application of market collateral not affected by certain other interest, etc.

81J.—(1) This section shall have effect with respect to the application by an approved clearing house, or a recognised clearing house, of property provided as market collateral (referred to in this section as the property).

(2) The property may be applied in accordance with the business rules or default rules of the approved clearing house or recognised clearing house, so far as it is necessary for it to be so applied, notwithstanding —

(*a*) any prior equitable interest or right, or any right or remedy arising from a breach of fiduciary duty, unless the approved clearing house or recognised clearing house had actual notice of the interest, right or breach of duty (other than any interest or right arising from the situation referred to in paragraph (*b*)), as the case may be, at the time the property was provided as market collateral; or

(*b*) that the property is deposited by the approved clearing house or recognised clearing house in a trust account held for the benefit of a participant.

(3) No right or remedy arising subsequent to the provision of the property as market collateral may be enforced to prevent, or interfere with, the application of the property by the approved clearing house or recognised clearing house in accordance with its business rules or default rules.

(4) Where an approved clearing house, or a recognised clearing house, has power under this section to apply the property notwithstanding an interest, a right or a remedy, a person to whom the approved clearing house or recognised clearing house disposes of the property in accordance with its business rules or default rules shall take free from that interest, right or remedy.

[Act 34 of 2012 wef 01/08/2013]

Enforcement of judgments over property subject to market charge, etc.

81K.—(1) Where, whether before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012, any property is subject to a market charge or has been provided as market collateral, no execution or other legal process for the enforcement of any judgment or order may be commenced or continued, and no distress may be levied, against the property by a person not seeking to enforce any interest in, or security over, the property, except with the consent of the approved clearing house or recognised clearing house in favour of which the market charge was granted.

(2) Where by virtue of this section a person would not be entitled to enforce a judgment or an order against any property, any injunction or other remedy granted by any court with a view to facilitating the enforcement of any such judgment or order shall not extend to that property.

[Act 34 of 2012 wef 01/08/2013]

Law of insolvency in other jurisdictions

81L.—(1) Notwithstanding any other written law or rule of law, a court shall not recognise or give effect to —

(*a*) an order of a court exercising jurisdiction under the law of insolvency in any place outside Singapore; or

(*b*) an act of a person appointed in any place outside Singapore to perform a function under the law of insolvency in that place,

insofar as the making of the order by a court in Singapore, or the doing of the act by a relevant office holder, would be prohibited under this Act.

(2) In this section, "law of insolvency", in relation to a place outside Singapore, means any law of that place which is similar to, or serves the same purposes as, any part of the law of insolvency in Singapore.

[Act 34 of 2012 wef 01/08/2013]

Participant to be party to certain transactions as principal

81M.—(1) Where —

(*a*)

a participant, in his capacity as such, enters into any transaction (including a market contract) with an approved clearing house or a recognised clearing house; and

(*b*) but for this subsection or any provision in the business rules or default rules of the approved clearing house or recognised clearing house, the participant would be a party to that transaction as agent,

then, notwithstanding any other written law or rule of law, as between, and only as between, the approved clearing house or recognised clearing house and the participant or the person who is his principal in respect of that transaction, the participant shall, for all purposes (including any action, claim or demand, whether civil or criminal), be deemed to be a party to that transaction as principal, and not as agent.

(2) Where —

(*a*) 2 or more participants, in their capacities as such, enter into any transaction; and

(*b*) but for this subsection, any of the participants would be a party to that transaction as agent,

then, notwithstanding any other written law or rule of law, except as between, and only as between, a participant to whom paragraph (*b*) applies and the person who is his principal in respect of that transaction, the participant shall, for all purposes (including any action, claim or demand, whether civil or criminal), be deemed to be a party to that transaction as principal, and not as agent.

[Act 34 of 2012 wef 01/08/2013]

Preservation of rights, etc.

81N. Except to the extent that it expressly provides, this Division shall not operate to limit, restrict or otherwise affect —

(*a*) any right, title, interest, privilege, obligation or liability of a person; or

(*b*) any investigation, legal proceedings or remedy in respect of any such right, title, interest, privilege, obligation or liability.

[Act 34 of 2012 wef 01/08/2013]

Immunity from criminal or civil liability

81O.—(1) No criminal or civil liability shall be incurred by —

(*a*) a person discharging, by virtue of a delegation under the default rules of an approved clearing house or a recognised clearing house, an obligation of the approved clearing house or recognised clearing house in connection with any default proceedings; or

(*b*) any person acting on behalf of a person referred to in paragraph (*a*), including —

(i) any member of the board of directors of the person referred to in paragraph (*a*); and

(ii)

any member of any committee established by the person referred to in paragraph (*a*),

for any thing done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of, or in connection with, the discharge or purported discharge of that obligation.

(2) Where a relevant office holder takes action in relation to any property of a defaulter which is liable to be dealt with in accordance with the default rules of an approved clearing house or a recognised clearing house, and the relevant office holder reasonably believes or has reasonable grounds for believing that he is entitled to take that action, the relevant office holder shall not be liable to any person in respect of any loss or damage resulting from any action of the relevant office holder, except insofar as the loss or damage, as the case may be, is caused by the negligence of the relevant office holder.

[Act 34 of 2012 wef 01/08/2013]

Division 5 — General Powers of Authority

Power of Authority to remove officers

81P.—(1) Where the Authority is satisfied that any of the following applies to an officer of an approved clearing house or a recognised clearing house (such approved clearing house or recognised clearing house being a Singapore corporation), the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing direct the approved clearing house or recognised clearing house to remove the officer from his office or employment, and the approved clearing house or recognised clearing house shall comply with such notice, notwithstanding the provisions of section 152 of the Companies Act (Cap. 50) or anything in any other law or in the memorandum or articles of association or other constituent document or documents of the approved clearing house or recognised clearing house:

(*a*) the officer has wilfully contravened, or wilfully caused the approved clearing house or recognised clearing house to contravene, this Act or the business rules of the approved clearing house or recognised clearing house;

(*b*) the officer has, without reasonable excuse, failed to ensure compliance with this Act, or with the business rules of the approved clearing house or recognised clearing house, by the approved clearing house or recognised clearing house, by a member of the approved clearing house or recognised clearing house or by a person associated with that member;

(*c*) the officer has failed to discharge the duties or functions of his office or employment;

(*d*) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;

(*e*) the officer has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

(*f*)

the officer has, whether in Singapore or elsewhere, made a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

(*g*) the officer has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012, involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly.

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority may, in determining whether an officer of an approved clearing house, or a recognised clearing house, has failed to discharge the duties or functions of his office or employment for the purposes of subsection (1)(*c*), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

(3) Subject to subsection (4), the Authority shall not direct an approved clearing house, or a recognised clearing house, to remove an officer from his office or employment without giving the approved clearing house or recognised clearing house an opportunity to be heard.

(4) The Authority may direct an approved clearing house, or a recognised clearing house, to remove an officer from his office or employment under subsection (1) on any of the following grounds without giving the approved clearing house or recognised clearing house an opportunity to be heard:

(*a*) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) the officer has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 7 of the Securities and Futures (Amendment) Act 2012 —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

(5) Where the Authority directs an approved clearing house, or a recognised clearing house, to remove an officer from his office or employment under subsection (1), the Authority need not give that officer an opportunity to be heard.

(6) Any approved clearing house or recognised clearing house that is aggrieved by a direction of the Authority made in relation to the approved clearing house or recognised clearing house under subsection (1) may, within 30 days after the approved clearing house or recognised clearing house is notified of the direction, appeal to the Minister, whose decision shall be final.

(7) Notwithstanding the lodging of an appeal under subsection (6), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

(8) The Minister may, when deciding an appeal under subsection (6), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

(9) Subject to subsection (10), no criminal or civil liability shall be incurred by an approved clearing house, or a recognised clearing house, in respect of any thing done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.

(10) Any approved clearing house or recognised clearing house which, without reasonable excuse, contravenes a written notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to make regulations

81Q.—(1) Without prejudice to section 341, the Authority may make regulations for the purposes of this Part, including regulations —

(*a*) relating to the approval of approved clearing houses and the recognition of recognised clearing houses;

(*b*) relating to the requirements applicable to any person who establishes, operates or assists in establishing or operating a clearing facility, whether or not the person is approved as an approved clearing house under section 51(1)(*a*) or recognised as a recognised clearing house under section 51(1)(*b*) or (2); and

(*c*) for the purposes of section 59 and, in particular —

(i) requiring an approved clearing house to take into account specified positions for the purposes of determining if any limits established or varied under section 59(1) have been exceeded;

(ii) requiring an approved clearing house to take specified steps to ensure compliance with those limits; and

(iii) specifying measures to manage any risks assumed by an approved clearing house.

(2) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for a penalty not exceeding a fine of $150,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, for a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to issue directions

81R.—(1) The Authority may issue directions, whether of a general or specific nature, by notice in writing, to an approved clearing house or a recognised clearing house, if the Authority thinks it necessary or expedient —

(*a*) for ensuring the safe and efficient operation of any clearing facility operated by the approved clearing house or recognised clearing house, or of clearing facilities, operated by approved clearing houses or recognised clearing houses, in general;

(*b*) for ensuring the integrity and stability of the capital markets or the financial system;

(*c*) in the interests of the public or a section of the public or for the protection of investors;

(*d*) for the effective administration of this Act; or

(*e*) for ensuring compliance with any condition or restriction as may be imposed by the Authority under section 58(2), 70(5) or (10), 71(11) or (12) or 81SB(1) or (2), or such other obligations or requirements under this Act or as may be prescribed by the Authority.

(2) An approved clearing house or a recognised clearing house shall comply with every direction issued to it under subsection (1).

(3) Any approved clearing house or recognised clearing house which, without reasonable excuse, contravenes a direction issued to it under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(4) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.

[Act 34 of 2012 wef 01/08/2013]

Emergency powers of Authority

81S.—(1) Where the Authority has reason to believe that an emergency exists, or thinks that it is necessary or expedient in the interests of the public or a section of the public or for the protection of investors, the Authority may direct by notice in writing an approved clearing house or a recognised clearing house to take such action as the Authority considers necessary to maintain or restore the safe and efficient operation of the clearing facilities operated by the approved clearing house or recognised clearing house.

(2) Without prejudice to subsection (1), the actions which the Authority may direct an approved clearing house or a recognised clearing house to take include —

(*a*) ordering the liquidation of all positions or any part thereof, or the reduction of such positions;

(*b*) altering the conditions of delivery of transactions cleared or settled, or to be cleared or settled, through the clearing facility;

(*c*) fixing the settlement price at which transactions are to be liquidated;

(*d*) requiring margins or additional margins for transactions cleared or settled, or to be cleared or settled, through the clearing facility; and

(*e*) modifying or suspending any of the business rules of the approved clearing house or recognised clearing house.

(3) Where an approved clearing house or a recognised clearing house fails to comply with any direction of the Authority under subsection (1) within such time as is specified by the Authority, the Authority may —

(*a*) set margin levels for transactions cleared or settled, or to be cleared or settled, through the clearing facility to cater for the emergency;

(*b*) set limits that may apply to positions acquired in good faith prior to the date of the notice issued by the Authority; or

(*c*) take such other action as the Authority thinks fit to maintain or restore the safe and efficient operation of the clearing facilities operated by the approved clearing house or recognised clearing house.

(4) In this section, "emergency" means any threatened or actual market manipulation or cornering, and includes —

(*a*) any act of any government affecting any commodity or securities;

(*b*) any major market disturbance which prevents a market from accurately reflecting the forces of supply and demand for any commodity or securities; or

(*c*) any undesirable situation or practice which, in the opinion of the Authority, constitutes an emergency.

(5) The Authority may modify any action taken by an approved clearing house or a recognised clearing house under subsection (1), including the setting aside of that action.

(6) Any person who is aggrieved by any action taken by the Authority, or by an approved clearing house or a recognised clearing house, under this section may, within 30 days after the person is notified of the action, appeal to the Minister, whose decision shall be final.

(7) Notwithstanding the lodging of an appeal under subsection (6), any action taken by the Authority, or by an approved clearing house or recognised clearing house, under this section shall continue to have effect pending the decision of the Minister.

(8) The Minister may, when deciding an appeal under subsection (6), make such modification as he considers necessary to any action taken by the Authority, or by an approved clearing house or a recognised clearing house, under this section, and any such modified action shall have effect from the date of the decision of the Minister.

(9) Any approved clearing house or recognised clearing house which fails to comply with a direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a

further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Interpretation of sections 81SA to 81SAE

81SA. In this section and sections 81SAA to 81SAE, unless the context otherwise requires —

"business" includes affairs and property;

"office holder", in relation to an approved clearing house or a recognised clearing house, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved clearing house or recognised clearing house (as the case may be), or acting in an equivalent capacity in relation to the approved clearing house or recognised clearing house (as the case may be);

"relevant business" means any business of an approved clearing house or a recognised clearing house —

(*a*) which the Authority has assumed control of under section 81SAA; or

(*b*) in relation to which a statutory adviser or a statutory manager has been appointed under section 81SAA;

"statutory adviser" means a statutory adviser appointed under section 81SAA;

"statutory manager" means a statutory manager appointed under section 81SAA.

[Act 10 of 2013 wef 02/08/2013]

Action by Authority if approved clearing house or recognised clearing house unable to meet obligations, etc.

81SAA.—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

(*a*) an approved clearing house or a recognised clearing house informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

(*b*) an approved clearing house or a recognised clearing house becomes unable to meet its obligations, or is insolvent, or suspends payments;

(*c*) the Authority is of the opinion that an approved clearing house or a recognised clearing house —

(i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 47;

(ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction imposed on it under section 51(4) or (5); or

(*d*) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

(*a*) require the approved clearing house or recognised clearing house (as the case may be) immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

(*b*) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the approved clearing house or recognised clearing house (as the case may be) on the proper management of such of the business of the approved clearing house or recognised clearing house (as the case may be) as the Authority may determine; or

(*c*) assume control of and manage such of the business of the approved clearing house or recognised clearing house (as the case may be) as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

(3) In the case of a recognised clearing house which is incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the recognised clearing house under subsection (2) shall only be in relation to —

(*a*) the business or affairs of the recognised clearing house carried on in, or managed in or from, Singapore; or

(*b*) the property of the recognised clearing house located in Singapore, or reflected in the books of the recognised clearing house in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of an approved clearing house or a recognised clearing house, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

(*a*) may be discharged or exercised by such persons jointly and severally;

(*b*) shall be discharged or exercised by such persons jointly; and

(*c*) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 56(1)(*da*), do one or more of the following:

(*a*) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(*b*) further exercise any of the powers under subsection (2);

(*c*) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(*a*) the exercise or purported exercise of any power under this Act;

(*b*) the performance or purported performance of any function or duty under this Act; or

(*c*) the compliance or purported compliance with this Act.

(7) Any approved clearing house or recognised clearing house that fails to comply with a requirement imposed by the Authority under subsection (2)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 02/08/2013]

Effect of assumption of control under section 81SAA

81SAB.—(1) Upon assuming control of the relevant business of an approved clearing house or a recognised clearing house, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house, the Authority or statutory manager —

(*a*) shall manage the relevant business of the approved clearing house or recognised clearing house (as the case may be) in the name of and on behalf of the approved clearing house or recognised clearing house (as the case may be); and

(*b*) shall be deemed to be an agent of the approved clearing house or recognised clearing house (as the case may be).

(3) In managing the relevant business of an approved clearing house or a recognised clearing house, the Authority or statutory manager —

(*a*) shall take into consideration the interests of the public or the section of the public referred to in section 81SAA(1)(*c*)(i), and the need to protect investors; and

(*b*) shall have all the duties, powers and functions of the members of the board of directors of the approved clearing house or recognised clearing house (as the case may be) (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the approved clearing house or recognised clearing house (as the case may be), including powers of delegation, in relation to the relevant business of the approved clearing house or recognised clearing house (as

the case may be); but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the approved clearing house or recognised clearing house (as the case may be) under the Companies Act or the constitution of the approved clearing house or recognised clearing house (as the case may be).

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of an approved clearing house or a recognised clearing house by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the approved clearing house or recognised clearing house (as the case may be), which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the approved clearing house or recognised clearing house (as the case may be), for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the approved clearing house or recognised clearing house (as the case may be).

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of an approved clearing house or a recognised clearing house, the Authority may at any time, by notice in writing to the person and the approved clearing house or recognised clearing house (as the case may be), revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of an approved clearing house or a recognised clearing house is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the approved clearing house or recognised clearing house (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved clearing house or recognised clearing house (as the case may be) —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved clearing house or a recognised clearing house in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the approved clearing house or recognised clearing house (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved clearing house or recognised clearing house (as the case may be) —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house —

(*a*) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the approved clearing house or recognised clearing house (as the case may be),

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(*b*) no person shall exercise any voting or other right attached to any share in the approved clearing house or recognised clearing house (as the case may be) in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding $15,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, "constitution", in relation to an approved clearing house or a recognised clearing house, means the memorandum of association and articles of association of the approved clearing house or recognised clearing house (as the case may be).

[Act 10 of 2013 wef 02/08/2013]

Duration of control

81SAC.—(1) The Authority shall cease to be in control of the relevant business of an approved clearing house or a recognised clearing house when the Authority is satisfied that —

(*a*) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

(*b*) it is no longer necessary in the interests of the public or the section of the public referred to in section 81SAA(1)(*c*)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved clearing house or a recognised clearing house on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved clearing house or a recognised clearing house may be revoked by the Authority at any time —

(*a*) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 81SAA(1)(*c*)(i) or for the protection of investors; or

(*b*) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved clearing house or recognised clearing house (as the case may be).

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(*a*) the Authority's assumption of control of the relevant business of an approved clearing house or a recognised clearing house;

(*b*) the cessation of the Authority's control of the relevant business of an approved clearing house or a recognised clearing house;

(*c*) the appointment of a statutory manager in relation to the relevant business of an approved clearing house or a recognised clearing house; and

(*d*) the revocation of a statutory manager's appointment in relation to the relevant business of an approved clearing house or a recognised clearing house.

[Act 10 of 2013 wef 02/08/2013]

Responsibilities of officers, member, etc., of approved clearing house or recognised clearing house

81SAD.—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house —

(*a*) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved clearing house or recognised clearing house (as the case may be) to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the approved clearing house or recognised clearing house (as the case may be) which is comprised in, forms part of or relates to the relevant business of the approved clearing house or recognised clearing house (as the case may be), and which is in the person's possession or control; and

(*b*) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved clearing house or recognised clearing house (as the case may be) shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or

statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the approved clearing house or recognised clearing house (as the case may be), within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

(*a*) without reasonable excuse, fails to comply with subsection (1)(*b*); or

(*b*) in purported compliance with subsection (1)(*b*), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 02/08/2013]

Remuneration and expenses of Authority and others in certain cases

81SAE.—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved clearing house or a recognised clearing house —

(*a*) to a statutory manager or statutory adviser appointed in relation to the approved clearing house or recognised clearing house (as the case may be), whether or not the appointment has been revoked; and

(*b*) where the Authority has assumed control of the relevant business of the approved clearing house or recognised clearing house (as the case may be), to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

(2) The approved clearing house or recognised clearing house (as the case may be) shall reimburse the Authority any remuneration and expenses payable by the approved clearing house or recognised clearing house (as the case may be) to a statutory manager or statutory adviser.

[Act 10 of 2013 wef 02/08/2013]

Power of Authority to exempt approved clearing house or recognised clearing house from provisions of this Part

81SB.—(1) Without prejudice to section 337(1), the Authority may, by regulations made under section 81Q, exempt any approved clearing house, recognised clearing house, or class of approved clearing houses or recognised clearing houses from any provision of this Part, subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(2) Without prejudice to section 337(3) and (4), the Authority may, by notice in writing, exempt any approved clearing house or recognised clearing house from any provision of this Part, subject to such conditions or restrictions as the Authority may specify by notice in writing, if the Authority is satisfied that the non-compliance by that approved clearing house or

recognised clearing house with that provision will not detract from the objectives specified in section 47.

(3) It shall not be necessary to publish any exemption granted under subsection (2) in the *Gazette*.

[Act 34 of 2012 wef 01/08/2013]

Division 6 — Voluntary Transfer of Business of Approved Clearing House or Recognised Clearing House

Interpretation of this Division

81SC. In this Division, unless the context otherwise requires —

"business" includes affairs, property, right, obligation and liability;

"Court" means the High Court or a Judge thereof;

"debenture" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"property" includes property, right and power of every description;

"Registrar of Companies" means the Registrar of Companies appointed under the Companies Act and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

"transferee" means an approved clearing house or a recognised clearing house, or a corporation which has applied or will be applying for approval or recognition to carry on in Singapore the usual business of an approved clearing house or a recognised clearing house, to which the whole or any part of a transferor's business is, is to be or is proposed to be transferred under this Division;

"transferor" means an approved clearing house or a recognised clearing house the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

[Act 10 of 2013 wef 02/08/2013]

Voluntary transfer of business

81SD.—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of an approved clearing house or a recognised clearing house) to a transferee, if —

(*a*) the Authority has consented to the transfer;

(*b*) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved clearing house or a recognised clearing house; and

(*c*) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an approved clearing house or a recognised clearing house to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(*a*) if the Authority is satisfied that —

(*a*) the transferee is a fit and proper person; and

(*b*) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

(5) The remuneration and expenses of any person appointed under subsection (4) shall be paid by the transferor and the transferee jointly and severally.

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

(*a*) without reasonable excuse, fails to comply with any requirement under subsection (7); or

(*b*) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

[Act 10 of 2013 wef 02/08/2013]

Approval of transfer

81SE.—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

(2) Before making an application under subsection (1) —

(*a*) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(*b*) the transferor shall obtain the consent of the Authority under section 81SD(1)(*a*);

(*c*) the transferor and the transferee shall, if they intend to serve on their respective participants a summary of the transfer, obtain the Authority's approval of the summary;

(*d*) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (*a*) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(*e*) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (*a*) for a period of 15 days after the publication of the notice referred to in paragraph (*d*) in the *Gazette*; and

(*f*) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective participants affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (*a*) or a summary of the transfer approved by the Authority under paragraph (*c*).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(*a*) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(*b*) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 81SD(1)(*a*) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(*a*) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(*b*) refuse to approve the transfer.

(6) If the transferee is not approved as an approved clearing house or recognised as a recognised clearing house by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being approved as an approved clearing house or recognised as a recognised clearing house by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(*a*)

the transfer to the transferee of the whole or any part of the business of the transferor;

(*b*) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(*c*) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(*d*) the dissolution, without winding up, of the transferor;

(*e*) the provisions to be made for persons who are affected by the transfer;

(*f*) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

(*a*) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(*b*) make provision in relation to any property which is held by the transferor as trustee; and

(*c*) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

(12) Where an order is made under this section, the transferor and the transferee shall each lodge within 7 days after the order is made —

(*a*) a copy of the order with the Registrar of Companies and with the Authority; and

(*b*) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

(13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 02/08/2013]

PART IIIA

APPROVED HOLDING COMPANIES

Objectives of this Part

81T. The objectives of this Part are —

(*a*) to provide a regulatory framework for the establishment and operation of holding companies of —

(i) approved exchanges;

(i*a*) licensed trade repositories;

[Act 34 of 2012 wef 01/08/2013]

(ii) approved clearing houses; and

[Act 34 of 2012 wef 01/08/2013]

(iii) corporations that are approved holding companies,

and to ensure that such holding companies are fit and proper to perform their functions; and

(*b*) to reduce systemic risk.

[1/2005]

Division 1 — Establishment of Approved Holding Companies

Requirement for approval

81U.—(1) No corporation shall be the holding company of any approved exchange, licensed trade repository, approved clearing house or corporation which is an approved holding company, unless the first-mentioned corporation is an approved holding company.

[1/2005]
[Act 34 of 2012 wef 01/08/2013]

(2) Any corporation which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(3) Without prejudice to section 337(1), the Authority may, by regulations made under section 81ZK, exempt any corporation or class of corporations from subsection (1), subject to such conditions or restrictions as the Authority may prescribe in those regulations.

[Act 34 of 2012 wef 01/08/2013]

(4) Without prejudice to section 337(3) and (4), the Authority may, by notice in writing, exempt any corporation from subsection (1), subject to such conditions or restrictions as the Authority may specify by notice in writing, if the Authority is satisfied that the exemption will not detract from the objectives specified in section 81T.

[Act 34 of 2012 wef 01/08/2013]

(5) It shall not be necessary to publish any exemption granted under subsection (4) in the *Gazette*.

[Act 34 of 2012 wef 01/08/2013]

(6) The Authority may, at any time, by notice in writing —

(*a*) add to the conditions and restrictions referred to in subsection (4); or

(*b*) vary or revoke any condition or restriction referred to in that subsection.

[Act 34 of 2012 wef 01/08/2013]

(7) Every corporation that is granted an exemption under subsection (3) shall satisfy every condition or restriction imposed on it under that subsection.

[Act 34 of 2012 wef 01/08/2013]

(8) Every corporation that is granted an exemption under subsection (4) shall satisfy every condition or restriction imposed on it under that subsection or subsection (6).

[Act 34 of 2012 wef 01/08/2013]

(9) Any corporation which contravenes subsection (7) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 34 of 2012 wef 01/08/2013]

Application for approval

81V.—(1) A corporation may apply to the Authority to be approved as an approved holding company.

[1/2005]

(2) An application made under subsection (1) shall be —

(*a*) made in such form and manner as the Authority may prescribe; and

(*b*) accompanied by a non-refundable prescribed application fee, which shall be paid in the manner specified by the Authority.

[1/2005]

(3) The Authority may require an applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

[1/2005]

Power of Authority to approve holding companies

81W.—(1) Where an application is made under section 81V(1), the Authority may approve the corporation as an approved holding company subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing, if the Authority is satisfied that —

(*a*) it would not be contrary to the interests of the public or contrary to the objectives specified in section 81T to approve the corporation; and

(*b*) the grounds referred to in subsection (5) for refusing such approval do not apply.

[1/2005]

(2) The Authority may, at any time, by notice in writing to the corporation, vary any condition or restriction or impose such further conditions or restrictions as the Authority may think fit.

[1/2005]

(3) An approved holding company shall, for the duration of the approval, satisfy all conditions and restrictions that may be imposed on it under subsections (1) and (2).

[1/2005]

(4) Subject to subsection (5), the Authority shall not refuse to approve a corporation under subsection (1) without giving the corporation an opportunity to be heard.

[1/2005]

(5) The Authority may refuse to approve a corporation on any of the following grounds without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

[1/2005]

(6) The Authority shall give notice in the *Gazette* of any corporation approved under subsection (1).

[1/2005]

(7) Any applicant that is aggrieved by the refusal of the Authority to grant an approval under subsection (1) may, within 30 days after the applicant is notified of the decision, appeal to the Minister whose decision shall be final.

[1/2005]

(8) Any corporation which contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Annual fees payable by approved holding company

81X.—(1) Every approved holding company shall pay to the Authority such annual fees as may be prescribed and in such manner as may be specified by the Authority.

[1/2005]

(2) The Authority may, where it considers appropriate, refund or remit the whole or part of any annual fee paid or payable to it.

[1/2005]

Cancellation of approval

81Y.—(1) An approved holding company which intends to cease its activities as an approved holding company may apply to the Authority to cancel its approval.

[1/2005]

(2) The Authority may cancel the approval if it is satisfied that the approved holding company referred to in subsection (1) has ceased its activities as an approved holding company.

[1/2005]

Power of Authority to revoke approval

81Z.—(1) The Authority may revoke any approval of a corporation as an approved holding company under section 81W(1) if —

(*a*) the corporation ceases to be the holding company of any approved exchange, licensed trade repository, approved clearing house or corporation which is an approved holding company;

[Act 34 of 2012 wef 01/08/2013]

(*b*) the corporation is being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*c*) the corporation contravenes —

(i) any condition or restriction applicable in respect of its approval;

(ii) any direction issued to it by the Authority under this Act; or

(iii) any provision in this Act;

(*d*) the corporation operates in a manner that is, in the opinion of the Authority, contrary to the interests of the public;

(*da*) upon the Authority exercising any power under section 81ZGC(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval;

[Act 10 of 2013 wef 18/04/2013]

(*e*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the corporation;

(*f*)

the corporation has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly; or

(*g*) any information or document provided by the corporation to the Authority is false or misleading.

[1/2005]

(2) Subject to subsection (3), the Authority shall not revoke under subsection (1) any approval under section 81W(1) that was granted to a corporation without giving the corporation an opportunity to be heard.

[1/2005]

(3) The Authority may revoke an approval under section 81W(1) that was granted to a corporation on any of the following circumstances without giving the corporation an opportunity to be heard:

(*a*) the corporation is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the corporation;

(*c*) the corporation has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

[1/2005]

(4) Any corporation which is aggrieved by a decision of the Authority made in relation to the corporation under subsection (1) may, within 30 days after the corporation is notified of the decision, appeal to the Minister whose decision shall be final.

[1/2005]

(5) Notwithstanding the lodging of an appeal under subsection (4), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

[1/2005]

(6) The Minister may, when deciding an appeal under subsection (4), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

[1/2005]

(7) The Authority shall give notice in the *Gazette* of any revocation of approval referred to in subsection (1).

[1/2005]

Division 2 — Regulation of Approved Holding Companies

Obligation to notify Authority of certain matters

81ZA.—(1) An approved holding company shall, as soon as practicable after the occurrence of any of the following circumstances, notify the Authority of the circumstance:

(*a*) any material change to the information provided by the approved holding company in its application under section 81V(1);

(*b*) the carrying on of any activity by the approved holding company other than —

(i) the activities of a holding company of any approved exchange, licensed trade repository, approved clearing house or corporation that is an approved holding company;

[Act 34 of 2012 wef 01/08/2013]

(ii) an activity incidental to being a holding company of any approved exchange, licensed trade repository, approved clearing house or corporation that is an approved holding company; or

[Act 34 of 2012 wef 01/08/2013]

(iii) such activity or class of activities as the Authority may prescribe;

(*c*) the acquisition by the approved holding company of a substantial shareholding in a corporation which does not carry on —

(i) any activity of a holding company of any approved exchange, licensed trade repository, approved clearing house or corporation that is an approved holding company;

[Act 34 of 2012 wef 01/08/2013]

(ii) any activity incidental to being a holding company of any approved exchange, licensed trade repository, approved clearing house or corporation that is an approved holding company; or

[Act 34 of 2012 wef 01/08/2013]

(iii) such activity or class of activities as the Authority may prescribe;

(*d*) any other matter that the Authority may prescribe by regulations made under section 81ZK for the purposes of this paragraph or specify by notice in writing to the approved holding company.

[1/2005]
[Act 34 of 2012 wef 01/08/2013]

(2) Without prejudice to the generality of section 81ZL(1), the Authority may, at any time after receiving a notification referred to in subsection (1), issue directions to the approved holding company —

(*a*) where the notification relates to a matter referred to in subsection (1)(*b*) —

(i) to cease carrying on the first-mentioned activity referred to in subsection (1)(*b*); or

(ii) to carry on the first-mentioned activity referred to in subsection (1)(*b*) subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 81ZL(1); or

(*b*) where the notification relates to a matter referred to in subsection (1)(*c*) —

(i) to dispose of the shareholding referred to in subsection (1)(*c*); or

(ii) to exercise its rights relating to such shareholding subject to such conditions or restrictions as the Authority may impose, if the Authority is of the opinion that this is necessary for any purpose referred to in section 81ZL(1),

and the approved holding company shall comply with such directions.

[1/2005]

(3) Any approved holding company which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Obligation to submit periodic reports

81ZB.—(1) An approved holding company shall submit to the Authority such reports in such form, manner and frequency as the Authority may prescribe.

[1/2005]

(2) Any approved holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Obligation to assist Authority

81ZC.—(1) An approved holding company shall provide such assistance to the Authority as the Authority may require for the performance of the functions and duties of the Authority, including the furnishing of such returns and the provision of —

(*a*) such books and other information relating to the activities of the approved holding company; and

(*b*) such other information,

as the Authority may require for the proper administration of this Act.

[1/2005]

(2) Any approved holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Obligation to maintain confidentiality

81ZD.—(1) Subject to subsection (2), an approved holding company and its officers and employees shall maintain, and aid in maintaining, the confidentiality of all user information that —

(*a*) comes to the knowledge of the approved holding company or any of its officers or employees; or

(*b*) is in the possession of the approved holding company or any of its officers or employees.

[1/2005]

(2) Subsection (1) shall not apply to —

(*a*) the disclosure of user information for such purposes, or in such circumstances, as the Authority may prescribe;

(*b*) any disclosure of user information which is authorised by the Authority to be disclosed or furnished; or

(*c*) the disclosure of user information pursuant to any requirement imposed under any written law or order of court in Singapore.

[1/2005]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(4) For the avoidance of doubt, nothing in this section shall be construed as preventing an approved holding company from entering into a written agreement with a user which obliges the approved holding company to maintain a higher degree of confidentiality than that specified in this section.

[1/2005]

Control of substantial shareholding in approved holding companies

81ZE.—(1) No person shall enter into any agreement to acquire shares in an approved holding company by virtue of which he would, if the agreement had been carried out, become a substantial shareholder of the approved holding company without first obtaining the approval of the Authority to enter into the agreement.

[1/2005]

(2) No person shall become —

(*a*) a 12% controller; or

(*b*) a 20% controller,

of an approved holding company without first obtaining the approval of the Authority.

[1/2005]

(3) In subsection (2) —

"12% controller" means a person, not being a 20% controller, who alone or together with his associates —

(*a*) holds not less than 12% of the shares in the approved holding company; or

(*b*) is in a position to control not less than 12% of the votes in the approved holding company;

"20% controller" means a person who, alone or together with his associates —

(*a*) holds not less than 20% of the shares in the approved holding company; or

(*b*) is in a position to control not less than 20% of the votes in the approved holding company.

[1/2005]

(4) In this section —

(*a*) a person holds a share if —

(i) he is deemed to have an interest in that share under section 7(6) to (10) of the Companies Act (Cap. 50); or

(ii) he otherwise has a legal or an equitable interest in that share, except such interest as is to be disregarded under section 7(6) to (10) of the Companies Act;

(*b*) a reference to the control of a percentage of the votes in an approved holding company shall be construed as a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the approved holding company; and

(*c*) a person, *A*, is an associate of another person, *B*, if —

(i) *A* is the spouse, a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, step-son or step-daughter or a brother or sister of *B*;

(ii) *A* is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*, or where *B* is a corporation, of the directors of *B*;

(iii) *B* is a corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*, or where *A* is a corporation, of the directors of *A*;

(iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;

(v)

B is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*;

(vi) *A* is a related corporation of *B*;

(vii) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *A*;

(viii) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the votes in *B*; or

(ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their votes in relation to, the approved holding company.

[1/2005]

(5) The Authority may grant its approval referred to in subsection (1) or (2) subject to such conditions or restrictions as the Authority may think fit.

[1/2005]

(6) Without prejudice to subsection (11), the Authority may, for the purposes of securing compliance with subsection (1) or (2) or any condition or restriction imposed under subsection (5), by notice in writing, direct the transfer or disposal of all or any of the shares of an approved holding company in which a substantial shareholder, 12% controller or 20% controller of the approved holding company has an interest.

[1/2005]

(7) Until a person to whom a direction has been issued under subsection (6) transfers or disposes of the shares which are the subject of the direction, and notwithstanding any thing to the contrary in the Companies Act (Cap. 50) or the memorandum or articles of association or other constituent document or documents of the approved holding company —

(*a*) no voting rights shall be exercisable in respect of the shares which are the subject of the direction;

(*b*) the approved holding company shall not offer or issue any shares (whether by way of rights, bonus, share dividend or otherwise) in respect of the shares which are the subject of the direction; and

(*c*) except in a liquidation of the approved holding company, the approved holding company shall not make any payment (whether by way of cash dividend, dividend in kind or otherwise) in respect of the shares which are the subject of the direction.

[1/2005]

(8) Any issue of shares by an approved holding company in contravention of subsection (7) (*b*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return those shares to the approved holding company, upon

which the approved holding company shall return to the person any payment received from him in respect of those shares.

[1/2005]

(9) Any payment made by an approved holding company in contravention of subsection (7)(*c*) shall be deemed to be null and void, and a person to whom a direction has been issued under subsection (6) shall immediately return the payment he has received to the approved holding company.

[1/2005]

(10) The Authority may exempt —

(*a*) any person or class or persons; or

(*b*) any class or description of shares or interests in shares,

from the requirement under subsection (1) or (2), subject to such conditions or restrictions as may be imposed by the Authority.

[1/2005]

(11) Any person who contravenes subsection (1) or (2), or any condition or restriction imposed by the Authority under subsection (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(12) Any person who contravenes subsection (7)(*b*) or (*c*), (8) or (9) or any direction issued by the Authority under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[E (DM) A, s. 15]

Approval of chairman, chief executive officer, director and key persons

81ZF.—(1) An approved holding company shall ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers.

[1/2005]

(2) No approved holding company shall appoint a person as its chairman, chief executive officer or director unless the approved holding company has obtained the approval of the Authority.

[1/2005]

(3) The Authority may, by notice in writing, require an approved holding company to obtain the approval of the Authority for the appointment of any person to any key management position or committee of the approved holding company and the approved holding company shall comply with the notice.

[1/2005]

(4) An application for approval under subsection (2) or (3) shall be made in such form and manner as the Authority may prescribe.

[1/2005]

(5) Without prejudice to the generality of section 81ZK and to any other matter that the Authority may consider relevant, the Authority may, in determining whether to grant its approval under subsection (2) or (3), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

[1/2005]

(6) Subject to subsection (7), the Authority shall not refuse an application for approval under this section without giving the approved holding company an opportunity to be heard.

[1/2005]

(7) The Authority may refuse an application for approval on any of the following grounds without giving the approved holding company an opportunity to be heard:

(*a*) the person is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) the person has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

[1/2005]

(8) Where the Authority refuses an application for approval under this section, the Authority need not give the person who was proposed to be appointed an opportunity to be heard.

[1/2005]

(9) An approved holding company shall, as soon as practicable, give written notice to the Authority of the resignation or removal of its chairman, chief executive officer, director or person referred to in the notice issued by the Authority under subsection (3).

[1/2005]

(10) The Authority may make regulations under section 81ZK relating to the composition and duties of the board of directors or any committee of an approved holding company.

[1/2005]
[Act 34 of 2012 wef 01/08/2013]

(11) In this section, "committee" includes any committee of directors, disciplinary committee, appeals committee or any body responsible for disciplinary action against a member of an approved exchange or approved clearing house, or a participant of a licensed trade repository, of which an approved holding company is the holding company.

[1/2005]
[Act 34 of 2012 wef 01/08/2013]

(12) The Authority may exempt an approved holding company or a class of approved holding companies from the requirement under subsection (1), (2) or (9), subject to such conditions or restrictions as may be imposed by the Authority.

[1/2005]

(13) Any approved holding company which contravenes subsection (1), (2), (3) or (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Listing of approved holding companies on securities market

81ZG.—(1) The securities of an approved holding company shall not be listed for quotation on a securities market that is operated by any of its related corporations unless the approved holding company and the operator of the securities market have entered into such arrangements as the Authority may require —

(*a*) for dealing with possible conflicts of interest that may arise from such listing; and

(*b*) for the purpose of ensuring the integrity of trading of the securities of the approved holding company.

[1/2005]

(2) Where the securities of an approved holding company are listed for quotation on a securities market operated by any of its related corporations, the listing rules of the securities market shall be deemed to allow the Authority to act in place of the operator of the securities market in making decisions and taking action, or to require the operator of the securities market to make decisions and to take action on behalf of the Authority, on —

(*a*) the admission to, or removal of, the approved holding company from the official list of the securities market; and

(*b*) granting, stopping or suspending the securities of the approved holding company from being listed for quotation or quoted on the securities market.

[1/2005]

(3) The Authority may, by notice in writing to the operator of the securities market —

(*a*) modify the listing rules of the securities market for the purpose of their application to the listing for quotation or trading of the securities of the approved holding company; or

(*b*) waive the application of any listing rule of the securities market to the approved holding company.

[1/2005]

(4) Any approved holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Information of insolvency, etc.

81ZGA.—(1) Any approved holding company which is or is likely to become insolvent, which is or is likely to become unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

(2) Any approved holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a

continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Interpretation of sections 81ZGB to 81ZGG

81ZGB. In this section and sections 81ZGC to 81ZGG, unless the context otherwise requires —

"business" includes affairs and property;

"office holder", in relation to an approved holding company, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved holding company, or acting in an equivalent capacity in relation to the approved holding company;

"relevant business" means any business of an approved holding company —

(*a*) which the Authority has assumed control of under section 81ZGC; or

(*b*) in relation to which a statutory adviser or a statutory manager has been appointed under section 81ZGC;

"statutory adviser" means a statutory adviser appointed under section 81ZGC;

"statutory manager" means a statutory manager appointed under section 81ZGC.

[Act 10 of 2013 wef 18/04/2013]

Action by Authority if approved holding company unable to meet obligations, etc.

81ZGC.—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

(*a*) an approved holding company informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

(*b*) an approved holding company becomes unable to meet its obligations, or is insolvent, or suspends payments;

(*c*) the Authority is of the opinion that an approved holding company —

(i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 81T;

(ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction imposed on it under section 81W(1) or (2); or

(*d*) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

(*a*) require the approved holding company immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

(*b*) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the approved holding company on the proper management of such of the business of the approved holding company as the Authority may determine; or

(*c*) assume control of and manage such of the business of the approved holding company as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

(3) In the case of an approved holding company incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the approved holding company under subsection (2) shall only be in relation to —

(*a*) the business or affairs of the approved holding company carried on in, or managed in or from, Singapore; or

(*b*) the property of the approved holding company located in Singapore, or reflected in the books of the approved holding company in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of an approved holding company, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

(*a*) may be discharged or exercised by such persons jointly and severally;

(*b*) shall be discharged or exercised by such persons jointly; and

(*c*) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 81Z(1)(*da*), do one or more of the following:

(*a*) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(*b*) further exercise any of the powers under subsection (2);

(*c*) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(*a*) the exercise or purported exercise of any power under this Act;

(*b*) the performance or purported performance of any function or duty under this Act; or

(*c*) the compliance or purported compliance with this Act.

(7) Any approved holding company that fails to comply with a requirement imposed by the Authority under subsection (2)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Effect of assumption of control under section 81ZGC

81ZGD.—(1) Upon assuming control of the relevant business of an approved holding company, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of an approved holding company, the Authority or statutory manager —

(*a*) shall manage the relevant business of the approved holding company in the name of and on behalf of the approved holding company; and

(*b*) shall be deemed to be an agent of the approved holding company.

(3) In managing the relevant business of an approved holding company, the Authority or statutory manager —

(*a*) shall take into consideration the interests of the public or the section of the public referred to in section 81ZGC(1)(*c*)(i), and the need to protect investors; and

(*b*) shall have all the duties, powers and functions of the members of the board of directors of the approved holding company (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the approved holding company, including powers of delegation, in relation to the relevant business of the approved holding company; but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the approved holding company under the Companies Act or the constitution of the approved holding company.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of an approved holding company by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the approved holding company, which was in force immediately before the assumption of control, shall be deemed to

be revoked, unless the Authority gives its approval, by notice in writing to the person and the approved holding company, for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of an approved holding company, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the approved holding company.

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of an approved holding company, the Authority may at any time, by notice in writing to the person and the approved holding company, revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of an approved holding company is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the approved holding company during the period when the Authority or statutory manager is in control of the relevant business of the approved holding company —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved holding company in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the approved holding company during the period when the Authority or statutory manager is in control of the relevant business of the approved holding company —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of an approved holding company —

(*a*) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the approved holding company,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(*b*) no person shall exercise any voting or other right attached to any share in the approved holding company in any manner that may defeat or interfere with any

duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, "constitution", in relation to an approved holding company, means the memorandum of association and articles of association of the approved holding company.

[Act 10 of 2013 wef 18/04/2013]

Duration of control

81ZGE.—(1) The Authority shall cease to be in control of the relevant business of an approved holding company when the Authority is satisfied that —

(*a*) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

(*b*) it is no longer necessary in the interests of the public or the section of the public referred to in section 81ZGC(1)(*c*)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved holding company on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved holding company may be revoked by the Authority at any time —

(*a*) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 81ZGC(1)(*c*)(i) or for the protection of investors; or

(*b*) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved holding company.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(*a*) the Authority's assumption of control of the relevant business of an approved holding company;

(*b*) the cessation of the Authority's control of the relevant business of an approved holding company;

(*c*) the appointment of a statutory manager in relation to the relevant business of an approved holding company; and

(*d*) the revocation of a statutory manager's appointment in relation to the relevant business of an approved holding company.

[Act 10 of 2013 wef 18/04/2013]

Responsibilities of officers, member, etc., of approved holding company

81ZGF.—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved holding company —

(*a*) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved holding company to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the approved holding company which is comprised in, forms part of or relates to the relevant business of the approved holding company, and which is in the person's possession or control; and

(*b*) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved holding company shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the approved holding company, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

(*a*) without reasonable excuse, fails to comply with subsection (1)(*b*); or

(*b*) in purported compliance with subsection (1)(*b*), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Remuneration and expenses of Authority and others in certain cases

81ZGG.—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved holding company —

(*a*) to a statutory manager or statutory adviser appointed in relation to the approved holding company, whether or not the appointment has been revoked; and

(*b*) where the Authority has assumed control of the relevant business of the approved holding company, to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the

relevant business, whether or not the Authority has ceased to be in control of the relevant business.

(2) The approved holding company shall reimburse the Authority any remuneration and expenses payable by the approved holding company to a statutory manager or statutory adviser.

[Act 10 of 2013 wef 18/04/2013]

Additional powers of Authority in respect of auditors

81ZH.—(1) If an auditor of an approved holding company, in the course of the performance of his duties, becomes aware of —

(*a*) any matter which, in his opinion, adversely affects or may adversely affect the financial position of the approved holding company to a material extent;

(*b*) any matter which, in his opinion, constitutes or may constitute a breach of any provision of this Act or an offence involving fraud or dishonesty; or

(*c*) any irregularity that has or may have a material effect upon the accounts of the approved holding company, including any irregularity that affects or jeopardises, or may affect or jeopardise, the funds or property of investors,

the auditor shall immediately send to the Authority a written report of the matter or the irregularity.

[1/2005]

(2) An auditor shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of any statement made in his report under subsection (1).

[1/2005]

(3) Subsection (2) shall not restrict or affect any right, privilege or immunity that the auditor has, apart from this section, as a defendant in an action for defamation.

[1/2005]

(4) The Authority may impose all or any of the following duties on an auditor of an approved holding company:

(*a*) a duty to submit such additional information and reports in relation to his audit as the Authority considers necessary;

(*b*) a duty to enlarge, extend or alter the scope of his audit of the business and affairs of the approved holding company;

(*c*) a duty to carry out any other examination or establish any procedure in any particular case;

(*d*) a duty to submit a report on any matter arising out of his audit, examination or establishment of procedure referred to in paragraph (*b*) or (*c*),

and the auditor shall carry out such duties.

[1/2005]

(5) The approved holding company shall remunerate the auditor in respect of the discharge by him of all or any of the duties referred to in subsection (4).

[1/2005]

[E (DM) A, s. 16]

Power of Authority to exempt approved holding company from provisions of this Part

81ZI.—(1) Without prejudice to section 337(1), the Authority may, by regulations made under section 81ZK, exempt any approved holding company or class of approved holding companies from any provision of this Part, subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(2) Without prejudice to section 337(3) and (4), the Authority may, by notice in writing, exempt any approved holding company from any provision of this Part, subject to such conditions or restrictions as the Authority may specify by notice in writing, if the Authority is satisfied that the non-compliance by that licensed trade repository or licensed foreign trade repository with that provision will not detract from the objectives specified in section 81T.

(3) It shall not be necessary to publish any exemption granted under subsection (2) in the *Gazette*.

[Act 34 of 2012 wef 01/08/2013]

Power of Authority to remove officers

81ZJ.—(1) Where the Authority is satisfied that an officer of an approved holding company —

(*a*) has wilfully contravened or wilfully caused that approved holding company to contravene this Act;

(*b*) has, without reasonable excuse, failed to ensure compliance with this Act by that approved holding company;

(*c*) has failed to discharge the duties or functions of his office or employment;

(*d*) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*e*) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

(*f*) has, whether in Singapore or elsewhere, made a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation; or

(*g*) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he acted fraudulently or dishonestly,

the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing direct that approved holding company to remove the officer from his office or employment and that approved holding company shall comply with such notice, notwithstanding the provisions of section 152 of the Companies Act (Cap. 50).

[1/2005]

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority may, in determining whether an officer of an approved holding company has failed to discharge the duties or functions of his office or employment for the purposes of subsection (1) (*c*), have regard to such criteria as the Authority may prescribe or specify in directions issued by notice in writing.

[1/2005]

(3) Subject to subsection (4), the Authority shall not direct an approved holding company to remove an officer from his office or employment without giving the approved holding company an opportunity to be heard.

[1/2005]

(4) The Authority may direct an approved holding company to remove an officer from his office or employment under subsection (1) on any of the following grounds without giving the approved holding company an opportunity to be heard:

(*a*) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) the officer has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

[1/2005]

(5) Where the Authority directs an approved holding company to remove an officer from his office or employment under subsection (1), the Authority need not give that officer an opportunity to be heard.

[1/2005]

(6) Any approved holding company that is aggrieved by a direction of the Authority made in relation to the approved holding company under subsection (1) may, within 30 days after the approved holding company is notified of the direction, appeal to the Minister whose decision shall be final.

[1/2005]

(7) Notwithstanding the lodging of an appeal under subsection (6), any action taken by the Authority under this section shall continue to have effect pending the decision of the Minister.

[1/2005]

(8) The Minister may, when deciding an appeal under subsection (6), make such modification as he considers necessary to any action taken by the Authority under this section, and such modified action shall have effect from the date of the decision of the Minister.

[1/2005]

(9) Subject to subsection (10), no criminal or civil liability shall be incurred by an approved holding company in respect of any thing done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.

[1/2005]

(10) Any approved holding company which, without reasonable excuse, contravenes a written notice issued under subsection (1) shall be guilty of an offence and shall be liable on

conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

Power of Authority to make regulations

81ZK.—(1) Without prejudice to section 341, the Authority may make regulations for the purposes of this Part, including regulations relating to the approval of, and the requirements applicable to, persons who establish, operate, or assist in establishing or operating approved holding companies.

[1/2005]
[Act 34 of 2012 wef 01/08/2013]

(2) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for penalties not exceeding a fine of $150,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

[1/2005]

Power of Authority to issue directions

81ZL.—(1) The Authority may, if it thinks it necessary or expedient —

(*a*) for ensuring fair, orderly and transparent markets;

(*aa*) for ensuring safe and efficient trade repositories;

[Act 34 of 2012 wef 01/08/2013]

(*b*) for ensuring safe and efficient clearing facilities;

(*c*) for ensuring the integrity and stability of the capital markets or the financial system;

(*d*) in the interests of the public or a section of the public or for the protection of investors;

(*e*) for the effective administration of this Act; or

(*f*) for ensuring compliance with any condition or restriction as may be imposed by the Authority under section 81W(1) or (2), 81ZA(2), 81ZE(5) or (10), 81ZF(12) or 81ZI, or such other obligations or requirements under this Act or as may be prescribed by the Authority,

issue directions by notice in writing either of a general or specific nature to an approved holding company, and the approved holding company shall comply with such directions.

[1/2005]

(2) Any approved holding company which, without reasonable excuse, contravenes a direction issued under subsection (1) shall be guilty of an offence and shall be liable on

conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(3) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.

[SIA, s 21, E (DM) A, s. 14]

[Act 34 of 2012 wef 01/08/2013]

Division 3 — Voluntary Transfer of Business of Approved Holding Company

Interpretation of this Division

81ZM. In this Division, unless the context otherwise requires —

"business" includes affairs, property, right, obligation and liability;

"Court" means the High Court or a Judge thereof;

"debenture" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"property" includes property, right and power of every description;

"Registrar of Companies" means the Registrar of Companies appointed under the Companies Act and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

"transferee" means an approved holding company, or a corporation which has applied or will be applying for approval or recognition to carry on in Singapore the usual business of an approved holding company, to which the whole or any part of a transferor's business is, is to be or is proposed to be transferred under this Division;

"transferor" means an approved holding company the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

[Act 10 of 2013 wef 18/04/2013]

Voluntary transfer of business

81ZN.—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of an approved holding company) to a transferee, if —

(*a*) the Authority has consented to the transfer;

(*b*) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved holding company; and

(*c*) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an approved holding company to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(*a*) if the Authority is satisfied that —

(*a*) the transferee is a fit and proper person; and

(*b*) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

(5) The remuneration and expenses of any person appointed under subsection (4) shall be paid by the transferor and the transferee jointly and severally.

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

(*a*) without reasonable excuse, fails to comply with any requirement under subsection (7); or

(*b*) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $20,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

[Act 10 of 2013 wef 18/04/2013]

Approval of transfer

81ZO.—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

(2) Before making an application under subsection (1) —

(*a*) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(*b*) the transferor shall obtain the consent of the Authority under section 81ZN(1)(*a*);

(*c*) the transferor and the transferee shall, if they intend to serve on their respective shareholders a summary of the transfer, obtain the Authority's approval of the summary;

(*d*) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (*a*) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(*e*) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (*a*) for a period of 15 days after the publication of the notice referred to in paragraph (*d*) in the *Gazette*; and

(*f*) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective shareholders affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (*a*) or a summary of the transfer approved by the Authority under paragraph (*c*).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(*a*) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(*b*) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 81ZN(1)(*a*) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(*a*) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(*b*) refuse to approve the transfer.

(6) If the transferee is not approved as an approved holding company by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being approved as an approved holding company by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(*a*) the transfer to the transferee of the whole or any part of the business of the transferor;

(*b*)

the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(*c*) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(*d*) the dissolution, without winding up, of the transferor;

(*e*) the provisions to be made for persons who are affected by the transfer;

(*f*) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

(*a*) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(*b*) make provision in relation to any property which is held by the transferor as trustee; and

(*c*) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

(12) Where an order is made under this section, the transferor and the transferee shall each lodge within 7 days after the order is made —

(*a*) a copy of the order with the Registrar of Companies and with the Authority; and

(*b*) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

(13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each

be guilty of an offence and shall each be liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

PART IV

HOLDERS OF CAPITAL MARKETS SERVICES LICENCE AND REPRESENTATIVES

Division 1 — Capital Markets Services Licence

[2/2009 wef 26/11/2010]

Need for capital markets services licence

82.—(1) Subject to subsection (2) and section 99, no person shall, whether as principal or agent, carry on business in any regulated activity or hold himself out as carrying on such business unless he is the holder of a capital markets services licence for that regulated activity.

(2) Subsection (1) shall not apply to any person specified in the Third Schedule.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[SIA, s. 24 and s. 26; FTA, s. 11]

83. [*Repealed by Act 2/2009 wef 26/11/2010*]

Application for grant of capital markets services licence

84.—(1) An application for the grant of a capital markets services licence shall be made to the Authority in such form and manner as the Authority may prescribe.

[2/2009 wef 26/11/2010]

(2) The Authority may require an applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

[1/2005]

(3) An application for the grant of a capital markets services licence shall be accompanied by a non-refundable prescribed application fee which shall be paid in the manner specified by the Authority.

[2/2009 wef 26/11/2010]

Licence fee

85.—(1) The holder of a capital markets services licence shall on a yearly basis on such date as the Authority may specify pay such licence fee for each regulated activity to which the licence relates as the Authority may prescribe.

[2/2009 wef 26/11/2010]

(2) Any licence fee paid to the Authority in respect of any regulated activity shall not be refunded if —

(*a*) the licence is revoked or suspended, or lapses during the period to which the licence fee relates;

(*b*) [*Deleted by Act 2/2009 wef 26/11/2010*]

(*c*) the holder of a capital markets services licence ceases to carry on business in that regulated activity during the period to which the licence fee relates; or

[2/2009 wef 26/11/2010]

(*d*) a prohibition order has been made against the holder of a capital markets services licence under section 101A.

[2/2009 wef 26/11/2010]

(3) Subject to subsection (2), the Authority may, where it considers appropriate, refund the whole or part of any licence fee paid to it.

(4) Where the holder of a capital markets services licence fails to pay the licence fee by the date on which such fee is due, the Authority may impose a late payment fee of a prescribed amount for every day or part thereof that the payment is late and both fees shall be recoverable by the Authority as a judgment debt.

[SIA, s. 28; FTA, s. 13]

[2/2009 wef 26/11/2010]

Grant of capital markets services licence

86.—(1) A corporation may make an application for a capital markets services licence to carry on business in one or more regulated activities.

(2) In granting a capital markets services licence, the Authority shall specify the regulated activity or activities to which the licence relates, described in such manner as the Authority considers appropriate.

(3) A capital markets services licence shall only be granted if the applicant meets such minimum financial and other requirements as the Authority may prescribe, either generally or specifically, or as are provided in the business rules of a securities exchange, futures exchange or recognised market operator.

[1/2005]

(4) Subject to regulations made under this Act, where an application is made for the grant of a capital markets services licence, the Authority may refuse the application if —

(*a*) the applicant has not provided the Authority with such information or documents relating to it or any person employed by or associated with it for the purposes of its business, and to any circumstances likely to affect its manner of conducting business, as the Authority may require;

(*aa*) any information or document that is furnished by the applicant to the Authority is false or misleading;

(*b*)

the applicant or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*c*) execution against the applicant or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*d*) a receiver, a receiver and manager, judicial manager or an equivalent person has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the applicant or its substantial shareholder;

(*e*) the applicant or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation;

(*f*) the applicant or its substantial shareholder, or any officer of the applicant —

(i) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it or he had acted fraudulently or dishonestly; or

(ii) has been convicted of an offence under this Act;

(*g*) the Authority is not satisfied as to the educational or other qualification or experience of the officers or employees of the applicant having regard to the nature of the duties they are to perform in connection with the holding of the licence;

(*h*) the applicant fails to satisfy the Authority that it is a fit and proper person to be licensed or that all of its officers, employees and substantial shareholders are fit and proper persons;

(*i*) the Authority has reason to believe that the applicant may not be able to act in the best interests of its subscribers or customers having regard to the reputation, character, financial integrity and reliability of the applicant or its officers, employees or substantial shareholders;

(*j*) the Authority is not satisfied as to the financial standing of the applicant or its substantial shareholders or the manner in which the applicant's business is to be conducted;

(*k*) the Authority is not satisfied as to the record of past performance or expertise of the applicant having regard to the nature of the business which the applicant may carry on in connection with the holding of the licence;

(*l*) there are other circumstances which are likely to —

(i) lead to the improper conduct of business by the applicant, any of its officers, employees or substantial shareholders; or

(ii) reflect discredit on the manner of conducting the business of the applicant or its substantial shareholders;

(*m*)

the Authority has reason to believe that the applicant, or any of its officers or employees, will not perform the functions for which the applicant seeks to be licensed, efficiently, honestly or fairly;

(*n*) the Authority is of the opinion that it would be contrary to the interests of the public to grant the licence; or

[2/2009 wef 26/11/2010]

(*o*) a prohibition order under section 101A has been made by the Authority, and remains in force, against the applicant.

[2/2009 wef 26/11/2010]
[16/2003; 1/2005]

(5) Subject to subsection (6), the Authority shall not refuse an application for a grant of a capital markets services licence without giving the applicant an opportunity to be heard.

[2/2009 wef 26/11/2010]
[1/2005]

(6) The Authority may refuse an application for the grant of a capital markets services licence on any of the following grounds without giving the applicant an opportunity to be heard:

(*a*) the applicant is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the applicant;

(*c*) the applicant has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly;

(*d*) a prohibition order under section 101A has been made by the Authority, and remains in force, against the applicant.

[2/2009 wef 26/11/2010]
[16/2003]

[SIA, s. 29; FTA, s. 14 and s. 24]

87. [*Repealed by Act 2/2009 wef 26/11/2010*]

87A. [*Repealed by Act 2/2009 wef 26/11/2010*]

Power of Authority to impose conditions or restrictions

88.—(1) The Authority may grant a capital markets services licence subject to such conditions or restrictions as it thinks fit.

[2/2009 wef 26/11/2010]

(2) The Authority may, at any time, by notice in writing to a holder of a capital markets services licence, vary any condition or restriction or impose such further condition or restriction as it may think fit.

[2/2009 wef 26/11/2010]

(3) Any person who contravenes any condition or restriction in its licence shall be guilty of an offence.

[2/2009 wef 26/11/2010]

[SIA, s. 33; FTA, s. 15]

89. [*Repealed by Act 2/2009 wef 26/11/2010*]

Variation of capital markets services licence

90.—(1) The Authority may, on the application of the holder of a capital markets services licence, vary its licence by adding a regulated activity to those already specified in the licence.

[2/2009 wef 26/11/2010]

(1A) The Authority may require an applicant to supply the Authority with such information or documents as it considers necessary in relation to the application.

[16/2003]

(2) An application under subsection (1) shall be accompanied by a non-refundable prescribed application fee which shall be paid in the manner specified by the Authority.

[2/2009 wef 26/11/2010]

(3) The Authority may —

(*a*) approve the application subject to such conditions or restrictions as the Authority thinks fit; or

(*b*) refuse the application on any of the grounds set out in section 86(4).

[2/2009 wef 26/11/2010]
[16/2003]

(4) The Authority shall not refuse an application under subsection (1) without giving the applicant an opportunity to be heard.

[16/2003]

Deposit to be lodged in respect of capital markets services licence

91.—(1) The Authority may, in granting or varying a capital markets services licence, require the applicant to lodge with the Authority, at the time of its application and in such manner as the Authority may determine, a deposit of such amount in cash or in such other form as the Authority may prescribe in respect of that licence.

[2/2009 wef 26/11/2010]

(2) The Authority may prescribe the circumstances and purposes for the use of the deposit.

[SIA, s. 34]

False statements in relation to application for grant or variation of capital markets services licence

92. Any person who, in connection with an application for the grant or variation of a capital markets services licence —

(*a*) without reasonable excuse, makes a statement which is false or misleading in a material particular; or

(*b*)

without reasonable excuse, omits to state any matter or thing without which the application is misleading in a material respect,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

[2/2009 wef 26/11/2010]
[1/2005]

[SIA, s. 31; FTA, s. 18]

Notification of change of particulars

93.—(1) Where —

(*a*) the holder of a capital markets services licence ceases to carry on business in any of the regulated activities to which the licence relates; or

(*b*) a change occurs in any matter records of which are required by section 94 to be kept in relation to the holder,

the holder shall, not later than 14 days after the occurrence of the event, furnish particulars of the event to the Authority in the prescribed form and manner.

[2/2009 wef 26/11/2010]

(2) Where a holder of a capital markets services licence ceases to carry on business in all the regulated activities to which the licence relates, it shall return the licence to the Authority within 14 days of the date of the cessation.

[2/2009 wef 26/11/2010]
[16/2003]

[SIA, s. 36; FTA, s. 17]

Records of holders of capital markets services licence

94.—(1) The Authority shall keep in such form as it thinks fit records of holders of a capital markets services licence setting out the following information of each holder:

(*a*) its name;

(*b*) the address of the principal place of business at which it carries on the business in respect of which the licence is held;

(*c*) the regulated activity or activities to which its licence relates;

(*d*) where the business is carried on under a name or style other than the name of the holder of the licence, the name or style under which the business is carried on; and

(*e*) such other information as may be prescribed.

(2) The Authority may publish the information referred to in subsection (1) or any part of it in such manner as it considers appropriate.

[2/2009 wef 26/11/2010]

Lapsing, revocation and suspension of capital markets services licence

95.—(1) A capital markets services licence shall lapse —

(*a*)

if the holder is wound up or otherwise dissolved, whether in Singapore or elsewhere; or

(*b*) in the event of such other occurrence or in such other circumstances as may be prescribed.

(2) The Authority may revoke a capital markets services licence if —

(*a*) there exists a ground on which the Authority may refuse an application under section 86;

(*b*) the holder of the capital markets services licence fails or ceases to carry on business in all the regulated activities for which it was licensed;

(*ba*) the Authority has reason to believe that the holder has not acted in the best interests of the holder's subscribers or customers;

[Act 34 of 2012 wef 18/03/2013]

(*c*) the Authority has reason to believe that the holder, or any of its officers or employees, has not performed its or his duties efficiently, honestly or fairly;

(*d*) the holder has contravened any condition or restriction applicable in respect of its licence, any written direction issued to it by the Authority under this Act, or any provision in this Act;

(*da*) it appears to the Authority that the holder has failed to satisfy any of its obligations under or arising from —

(i) this Act; or

(ii) any written direction issued by the Authority under this Act;

[Act 34 of 2012 wef 18/03/2013]

(*e*) the Authority has reason to believe that the holder is carrying on business in any regulated activity for which it was licensed in a manner that is contrary to the interests of the public;

(*ea*) upon the Authority exercising any power under section 97E(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the holder, the Authority considers that it is in the public interest to revoke the licence;

[Act 10 of 2013 wef 18/04/2013]

(*f*) the holder has furnished any information or document to the Authority that is false or misleading;

(*g*) the holder fails to pay the licence fee referred to in section 85; or

(*h*) a prohibition order under section 101A has been made by the Authority, and remains in force, against the holder.

(3) The Authority may, if it considers it desirable to do so —

(*a*) suspend a capital markets services licence for a specific period instead of revoking it under subsection (2); and

(*b*) at any time extend or revoke the suspension.

(4) Subject to subsection (5), the Authority shall not revoke or suspend a capital markets services licence under subsection (2) or (3) without giving the holder of the licence an opportunity to be heard.

(5) The Authority may revoke or suspend a capital markets services licence without giving the holder of the licence an opportunity to be heard, on any of the following grounds:

(*a*) the holder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, for or in respect of any property of the holder;

(*c*) the holder has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly; or

(*d*) a prohibition order under section 101A has been made by the Authority, and remains in force, against the holder.

(6) Where the Authority has revoked or suspended a capital markets services licence, the holder of that licence shall —

(*a*) in the case of a revocation of its licence, immediately inform all its representatives by notice in writing of such revocation, and the representatives who are so informed shall cease to act as representatives of that holder; or

(*b*) in the case of a suspension of its licence, immediately inform all its representatives by notice in writing of such suspension, and the representatives who are so informed shall cease to act as representatives of that holder during the period of the suspension.

(7) Any holder of a capital markets services licence who —

(*a*) performs a regulated activity while its licence has lapsed or has been revoked or suspended; or

(*b*) contravenes subsection (6),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(8) A lapsing, revocation or suspension of a capital markets services licence shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement relating to the regulated activities entered into by the holder of the licence, whether the agreement, transaction or arrangement was entered into before, on or after the revocation, suspension or lapsing of the licence, as the case may be; or

(*b*) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

[2/2009 wef 26/11/2010]

Approval of chief executive officer and director of holder of capital markets services licence

96.—(1) Subject to subsection (1B), no holder of a capital markets services licence shall —

(*a*) appoint a person as its chief executive officer or director; or

(*b*) change the nature of the appointment of a person as a director from one that is non-executive to one that is executive,

unless it has obtained the approval of the Authority.

[2/2009 wef 26/11/2010]

(1A) Where a holder of a capital markets services licence has obtained the approval of the Authority to appoint a person as its chief executive officer or director under subsection (1)(*a*), the person may be re-appointed as chief executive officer or director, as the case may be, of the holder immediately upon the expiry of the earlier term without the approval of the Authority.

[2/2009 wef 26/11/2010]
[16/2003]

(1B) Subsection (1) shall not apply to the appointment of a person as a director of a foreign company, or the change in the nature of the appointment of a person as a director of a foreign company if, at the time of the appointment or change, the person —

(*a*) does not reside in Singapore; and

(*b*) is not directly responsible for its business in Singapore or any part thereof.

[2/2009 wef 26/11/2010]

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority may, in determining whether to grant its approval under subsection (1), have regard to such criteria as may be prescribed or as may be specified in written directions.

(3) Subject to subsection (4), the Authority shall not refuse an application for approval under subsection (1) without giving the holder of the capital markets services licence an opportunity to be heard.

(4) The Authority may refuse an application for approval under subsection (1) on any of the following grounds without giving the holder of a capital markets services licence an opportunity to be heard:

(*a*) the person is an undischarged bankrupt, whether in Singapore or elsewhere;

(*aa*) a prohibition order under section 101A has been made by the Authority, and remains in force, against the person;

[2/2009 wef 26/11/2010]

(*b*) the person has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

[16/2003]

(5) Where the Authority refuses an application for approval under subsection (1), the Authority need not give the person who was proposed to be appointed an opportunity to be heard.

(6) Without prejudice to the Authority's power to impose conditions or restrictions under section 88, the Authority may, at any time by notice in writing to the holder of a capital markets services licence, impose on it a condition requiring it to notify the Authority of a change to any specified attribute (such as residence and nature of appointment) of its chief executive officer or director, and vary any such condition.

[2/2009 wef 26/11/2010]

(7) Any person who contravenes any condition imposed under subsection (6) shall be guilty of an offence.

[2/2009 wef 26/11/2010]

Removal of officer of holder of capital markets services licence

97.—(1) Notwithstanding the provisions of any other written law —

(*a*) a holder of a capital markets services licence shall not, without the prior written consent of the Authority, permit a person to act as its executive officer; and

(*b*) a holder of a capital markets services licence which is incorporated in Singapore shall not, without the prior written consent of the Authority, permit a person to act as its director,

if the person —

(i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 9(1)(*j*) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —

(A) involving fraud or dishonesty;

(B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(C) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

(ii) is an undischarged bankrupt, whether in Singapore or elsewhere;

(iii) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

(iv) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

(v)

has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A made against him that remains in force; or

(vi) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

(A) which is being or has been wound up by a court; or

(B) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

[Act 10 of 2013 wef 18/04/2013]

(1A) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director of a holder of a capital markets services licence which is incorporated in Singapore, or an executive officer of a holder of a capital markets services licence —

(*a*) has wilfully contravened or wilfully caused the holder to contravene any provision of this Act;

(*b*) has, without reasonable excuse, failed to secure the compliance of the holder with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or

(*c*) has failed to discharge any of the duties of his office,

the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing to the holder, direct the holder to remove the director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the holder shall comply with the notice.

[Act 10 of 2013 wef 18/04/2013]

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, when determining whether a director or an executive officer of a holder of a capital markets services licence has failed to discharge the duties of his office for the purposes of subsection (1A)(*c*), have regard to such criteria as may be prescribed or as may be specified in written directions.

[Act 10 of 2013 wef 18/04/2013]

(3) The Authority shall not direct a holder of a capital markets services licence to remove a person from his office under subsection (1A) without giving the holder an opportunity to be heard.

[Act 10 of 2013 wef 18/04/2013]

(4) [*Deleted by Act 10 of 2013 wef 18/04/2013*]

(5) Where the Authority directs a holder of a capital markets services licence to remove a person from his office or employment under subsection (1A), the Authority need not give that person an opportunity to be heard.

[Act 10 of 2013 wef 18/04/2013]

(6) No criminal or civil liability shall be incurred by —

(*a*) a holder of a capital markets services licence; or

(*b*) any person acting on behalf of the holder of a capital markets services licence,

in respect of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.

[Act 10 of 2013 wef 18/04/2013]

(7) In this section, unless the context otherwise requires —

"regulated financial institution" means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

"regulatory authority", in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.

[Act 10 of 2013 wef 18/04/2013]

Control of take-over of holder of capital markets services licence

97A.—(1) This section applies to all individuals whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated or carrying on business in Singapore or not.

(2) No person shall enter into any arrangement in relation to shares in the holder of a capital markets services licence that is a company by virtue of which he would, if the arrangement is carried out, obtain effective control of the holder, unless he has obtained the prior approval of the Authority to his entering into the arrangement.

(3) An application for the Authority's approval under subsection (2) shall be made in writing, and the Authority may approve the application if the Authority is satisfied that —

(*a*) the applicant is a fit and proper person to have effective control of the holder of the capital markets services licence;

(*b*) having regard to the applicant's likely influence, the holder of a capital markets services licence is likely to continue to conduct its business prudently and comply with the provisions of this Act and directions made thereunder; and

(*c*) the applicant satisfies such other criteria as may be prescribed or as may be specified in written directions by the Authority.

(4) Any approval under subsection (3) may be granted to the applicant subject to such conditions as the Authority may determine, including any condition —

(*a*) restricting his disposal or further acquisition of shares or voting power in the holder of a capital markets services licence; or

(*b*) restricting his exercise of voting power in the holder of a capital markets services licence,

and the applicant shall comply with such conditions.

(5) Any condition imposed under subsection (4) shall have effect notwithstanding any provision of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the holder of a capital markets services licence.

(6) For the purposes of this section and section 97B —

(*a*) a reference to a person entering into an arrangement in relation to shares includes —

(i) entering into an agreement or any formal or informal scheme, arrangement or understanding, to acquire those shares;

(ii) making or publishing a statement, however expressed, that expressly or impliedly invites the holder of those shares to offer to dispose of his shares to the first person;

(iii) the first person obtaining a right to acquire shares under an option, or to have shares transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on fulfilment of a condition or not; and

(iv) becoming a trustee of a trust in respect of those shares;

(*b*) a person shall be regarded as obtaining effective control of the holder of a capital markets services licence by virtue of an arrangement if the person alone or acting together with any connected person would, if the arrangement is carried out —

(i) acquire or hold, directly or indirectly, 20% or more of the issued share capital of the holder; or

(ii) control, directly or indirectly, 20% or more of the voting power in the holder; and

(*c*) a reference to the voting power in the holder of a capital markets services licence is a reference to the total number of votes that may be cast in a general meeting of the holder.

(7) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both.

[2/2009 wef 26/11/2010]

Objection to control of holder of capital markets services licence

97B.—(1) The Authority may serve a written notice of objection on —

(*a*) any person required to obtain the Authority's approval or who has obtained the approval under section 97A; or

(*b*) any person who, whether before, on or after the date of commencement of this section, either alone or together with any connected person, holds, directly or indirectly, 20% or more of the issued share capital of the holder of a capital markets services licence or controls, directly or indirectly, 20% or more of the voting power in the holder,

if the Authority is satisfied that —

(i) any condition of approval imposed on the person under section 97A(4) has not been complied with;

(ii) the person is not or ceases to be a fit and proper person to have effective control of the holder of the capital markets services licence;

(iii) having regard to the likely influence of the person, the holder of a capital markets services licence is not able to or is no longer likely to conduct its business prudently or to comply with the provisions of this Act or any direction made thereunder;

(iv) the person does not or ceases to satisfy such criteria as may be prescribed;

(v) the person has furnished false or misleading information or documents in connection with an application under section 97A; or

(vi) the Authority would not have granted its approval under section 97A had it been aware, at that time, of circumstances relevant to the person's application for such approval.

(2) The Authority shall not serve a notice of objection on any person without giving the person an opportunity to be heard, except in the following circumstances:

(*a*) the person is in the course of being wound up or otherwise dissolved or, in the case of an individual, is an undischarged bankrupt whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager, a judicial manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person;

(*c*) a prohibition order under section 101A has been made by the Authority, and remains in force, against the person;

(*d*) the person has been convicted, whether in Singapore or elsewhere, of any offence involving fraud or dishonesty or the conviction for which involved a finding that the person had acted fraudulently or dishonestly.

(3) The Authority shall, in any written notice of objection, specify a reasonable period within which the person to be served the written notice of objection shall —

(*a*) take such steps as are necessary to ensure that he ceases to be a party to the arrangement described in section 97A(2) or ceases to have control of a holder of a capital markets services licence in the manner described in subsection (1)(*b*); or

(*b*) comply with such other requirements as the Authority may specify in written directions.

(4) Any person served with a notice of objection under this section shall comply with the notice.

(5) Any person who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both.

[2/2009 wef 26/11/2010]

Information of insolvency, etc.

97C.—(1) Any holder of a capital markets services licence which is or is likely to become insolvent, which is or is likely to become unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

(2) Any holder of a capital markets services licence which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Interpretation of sections 97D to 97I

97D. In this section and sections 97E to 97I, unless the context otherwise requires —

"business" includes affairs and property;

"office holder", in relation to a holder of a capital markets services licence, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the holder, or acting in an equivalent capacity in relation to the holder;

"relevant business" means any business of a holder of a capital markets services licence —

(*a*) which the Authority has assumed control of under section 97E; or

(*b*) in relation to which a statutory adviser or a statutory manager has been appointed under section 97E;

"statutory adviser" means a statutory adviser appointed under section 97E;

"statutory manager" means a statutory manager appointed under section 97E.

[Act 10 of 2013 wef 18/04/2013]

Action by Authority if holder of capital markets services licence unable to meet obligations, etc.

97E.—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

(*a*) a holder of a capital markets services licence informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

(*b*) a holder of a capital markets services licence becomes unable to meet its obligations, or is insolvent, or suspends payments;

(*c*) the Authority is of the opinion that a holder of a capital markets services licence —

(i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors;

(ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction in its licence (being a condition or restriction imposed under section 88(1) or (2)); or

(*d*) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

(*a*) require the holder of a capital markets services licence immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

(*b*) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the holder of a capital markets services licence on the proper management of such of the business of the holder as the Authority may determine; or

(*c*) assume control of and manage such of the business of the holder of a capital markets services licence as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

(3) In the case of a holder of a capital markets services licence incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the holder under subsection (2) shall only be in relation to —

(*a*) the business or affairs of the holder carried on in, or managed in or from, Singapore; or

(*b*) the property of the holder located in Singapore, or reflected in the books of the holder in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of a holder of a capital markets services licence, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

(*a*) may be discharged or exercised by such persons jointly and severally;

(*b*) shall be discharged or exercised by such persons jointly; and

(*c*) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 95(2)(*ea*), do one or more of the following:

(*a*) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(*b*) further exercise any of the powers under subsection (2);

(*c*) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(*a*) the exercise or purported exercise of any power under this Act;

(*b*) the performance or purported performance of any function or duty under this Act; or

(*c*) the compliance or purported compliance with this Act.

(7) Any holder of a capital markets services licence that fails to comply with a requirement imposed by the Authority under subsection (2)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Effect of assumption of control under section 97E

97F.—(1) Upon assuming control of the relevant business of a holder of a capital markets services licence, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence, the Authority or statutory manager —

(*a*) shall manage the relevant business of the holder in the name of and on behalf of the holder; and

(*b*) shall be deemed to be an agent of the holder.

(3) In managing the relevant business of a holder of a capital markets services licence, the Authority or statutory manager —

(*a*) shall take into consideration the interests of the public or the section of the public referred to in section 97E(1)(*c*)(i), and the need to protect investors; and

(*b*) shall have all the duties, powers and functions of the members of the board of directors of the holder (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the holder, including powers of delegation, in relation to the relevant business of the holder; but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the holder under the Companies Act or the constitution of the holder.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a holder of a capital markets services licence by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the holder, which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the holder, for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the holder.

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of a holder of a capital markets services licence, the Authority may at any time, by notice in writing to the person and the holder, revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of a holder of a capital markets services licence is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the holder during the period when the Authority or statutory manager is in control of the relevant business of the holder —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of a holder of a capital markets services licence in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the holder during the period when the Authority or statutory manager is in control of the relevant business of the holder —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence —

(*a*) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the holder,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(*b*) no person shall exercise any voting or other right attached to any share in the holder in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, "constitution", in relation to a holder of a capital markets services licence, means the memorandum of association and articles of association of the holder.

[Act 10 of 2013 wef 18/04/2013]

Duration of control

97G.—(1) The Authority shall cease to be in control of the relevant business of a holder of a capital markets services licence when the Authority is satisfied that —

(*a*) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

(*b*) it is no longer necessary in the interests of the public or the section of the public referred to in section 97E(1)(*c*)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a holder of a capital markets services licence on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a holder of a capital markets services licence may be revoked by the Authority at any time —

(*a*) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 97E(1)(*c*)(i) or for the protection of investors; or

(*b*) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the holder.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(*a*) the Authority's assumption of control of the relevant business of a holder of a capital markets services licence;

(*b*) the cessation of the Authority's control of the relevant business of a holder of a capital markets services licence;

(*c*) the appointment of a statutory manager in relation to the relevant business of a holder of a capital markets services licence; and

(*d*) the revocation of a statutory manager's appointment in relation to the relevant business of a holder of a capital markets services licence.

[Act 10 of 2013 wef 18/04/2013]

Responsibilities of officers, member, etc., of holder of capital markets services licence

97H.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence —

(*a*) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the holder to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the holder which is comprised in, forms part of or relates to the relevant business of the holder, and which is in the person's possession or control; and

(*b*) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the holder shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the holder, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

(*a*) without reasonable excuse, fails to comply with subsection (1)(*b*); or

(*b*)

in purported compliance with subsection (1)(*b*), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Remuneration and expenses of Authority and others in certain cases

97I.—(1) The Authority may at any time fix the remuneration and expenses to be paid by a holder of a capital markets services licence —

(*a*) to a statutory manager or statutory adviser appointed in relation to the holder, whether or not the appointment has been revoked; and

(*b*) where the Authority has assumed control of the relevant business of the holder, to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

(2) The holder of a capital markets services licence shall reimburse the Authority any remuneration and expenses payable by the holder to a statutory manager or statutory adviser.

[Act 10 of 2013 wef 18/04/2013]

Appeals

98.—(1) Subject to subsection (2), any person who is aggrieved by —

(*a*) the refusal of the Authority to grant or vary a capital markets services licence;

[2/2009 wef 26/11/2010]

(*b*) the revocation or suspension of a capital markets services licence by the Authority;

[2/2009 wef 26/11/2010]

(*c*) [*Deleted by Act 2/2009 wef 26/11/2010*]

(*d*) the refusal of the Authority to grant an approval to a holder of a capital markets services licence to appoint a person as its chief executive officer or director; or

(*e*) the direction of the Authority to a holder of a capital markets services licence to remove an officer from office or employment,

may within 30 days after it is notified of the decision of the Authority, appeal to the Minister whose decision shall be final.

(2) An appeal under subsection (1)(*d*) or (*e*) may only be made by the holder of a capital markets services licence.

[SIA, s. 39; FTA, s. 23]

Exemptions from requirement to hold capital markets services licence

99.—(1) The following persons shall be exempted in respect of the following regulated activities from the requirement to hold a capital markets services licence to carry on business in such regulated activities:

(*a*) any bank licensed under the Banking Act (Cap. 19) in respect of any regulated activity;

(*b*) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186) in respect of any regulated activity which it is approved to carry out under that Act;

(*c*) any finance company licensed under the Finance Companies Act (Cap. 108) in respect of any regulated activity that is not prohibited by that Act or for which an exemption from section 25(2) of that Act has been granted;

(*d*) any company or co-operative society licensed under the Insurance Act (Cap. 142) in respect of fund management for the purpose of carrying out insurance business;

[Act 11 of 2013 wef 18/04/2013]

(*e*) [*Deleted by Act 1/2005*]

(*f*) any securities exchange, futures exchange, recognised market operator or approved holding company in respect of any regulated activity that is solely incidental to its operation of a securities market or futures market or to its performance as an approved holding company, as the case may be;

(*g*) any approved clearing house or recognised clearing house in respect of any regulated activity that is solely incidental to its operation of a clearing facility; and

[Act 34 of 2012 wef 01/08/2013]

(*h*) such other person or class of persons in respect of any regulated activity as may be exempted by the Authority.

[16/2003; 1/2005]

(2) [*Deleted by Act 1/2005*]

(3) [*Deleted by Act 1/2005*]

(4) The Authority may by regulations or by notice in writing impose such conditions or restrictions on an exempt person or its representative in relation to the conduct of the regulated activity or any related matter as the Authority thinks fit and the exempt person or its representative, as the case may be, shall comply with such conditions or restrictions.

(5) Any exempt person or representative of an exempt person, who contravenes any condition or restriction imposed under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(6) The Authority may withdraw an exemption granted to any person under this section —

(*a*) if it contravenes any provision of this Act which is applicable to it or any condition or restriction imposed on it under subsection (4);

(*aa*) if it fails to pay the annual fee referred to in section 99A;

[2/2009 wef 26/11/2010]

(*b*) if it contravenes any direction issued to it under section 101(1); or

(*c*) if the Authority considers that it is carrying on business in a manner that is, in the opinion of the Authority, contrary to the public interest.

(7) Where the Authority withdraws an exemption granted to any person under this section, the Authority need not give the person an opportunity to be heard.

(8) A withdrawal under subsection (6) of an exemption granted to any person shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement relating to the regulated activities entered into by the person, whether the agreement, transaction or arrangement was entered into before or after, the withdrawal of the exemption; or

(*b*) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

(9) A person that is aggrieved by a decision of the Authority made under subsection (6) may, within 30 days after it is notified of the decision of the Authority, appeal to the Minister whose decision shall be final.

Annual fees payable by exempt person and certain representatives

99A.—(1) Every exempt person and every representative of a person exempted under section 99(1)(*f*), (*g*) or (*h*) shall pay to the Authority such annual fee in respect of each regulated activity as may be prescribed and in such manner and on such date as may be specified by the Authority.

[2/2009 wef 26/11/2010]
[1/2005]

(2) Any annual fee paid by an exempt person or a representative of a person exempted under section 99(1)(*f*), (*g*) or (*h*) to the Authority in respect of any regulated activity shall not be refunded or remitted if —

(*a*) in the case of the exempt person —

(i) its exemption is withdrawn;

(ii) it fails or ceases to carry on business in that regulated activity; or

(iii) a prohibition order has been made against it under section 101A,

during the period to which the annual fee relates; and

[2/2009 wef 26/11/2010]

(*b*) in the case of a representative of a person exempted under section 99(1)(*f*), (*g*) or (*h*) —

(i) the exemption of the exempt person is withdrawn;

[2/2009 wef 26/11/2010]

(i*a*) a prohibition order has been made against him under section 101A; or

[2/2009 wef 26/11/2010]

(ii) he fails or ceases to act as a representative in respect of that regulated activity,

during the period to which the annual fee relates.

[2/2009 wef 26/11/2010]
[1/2005]

(3) Subject to subsection (2), the Authority may, where it considers appropriate, refund or remit the whole or part of any annual fee paid or payable to it.

[1/2005]

(4) Where an exempt person or a representative of a person exempted under section 99(1)(*f*), (*g*) or (*h*) fails to pay the fee by the date on which such fee is due, the Authority may impose a late payment fee of a prescribed amount for every day or part thereof that the payment is late and both fees shall be recoverable by the Authority as a judgment debt.

[2/2009 wef 26/11/2010]

Division 1A — Voluntary Transfer of Business of Holder of Capital Markets Services Licence

Interpretation of this Division

99AA. In this Division, unless the context otherwise requires —

"business" includes affairs, property, right, obligation and liability;

"Court" means the High Court or a Judge thereof;

"debenture" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"property" includes property, right and power of every description;

"Registrar of Companies" means the Registrar of Companies appointed under the Companies Act and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

"transferee" means a holder of a capital markets services licence, or a corporation which has applied or will be applying for approval or recognition to carry on in Singapore the usual business of a holder of a capital markets services licence, to which the whole or any part of a transferor's business is, is to be or is proposed to be transferred under this Division;

"transferor" means a holder of a capital markets services licence the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

[Act 10 of 2013 wef 18/04/2013]

Voluntary transfer of business

99AB.—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of a holder of a capital markets services licence) to a transferee, if —

(*a*) the Authority has consented to the transfer;

(*b*) the transfer involves the whole or any part of the business of the transferor that is the usual business of a holder of a capital markets services licence; and

(*c*) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of a holder of a capital markets services licence to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(*a*) if the Authority is satisfied that —

(*a*) the transferee is a fit and proper person; and

(*b*) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

(5) The remuneration and expenses of any person appointed under subsection (4) shall be paid by the transferor and the transferee jointly and severally.

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

(*a*) without reasonable excuse, fails to comply with any requirement under subsection (7); or

(*b*) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

[Act 10 of 2013 wef 18/04/2013]

Approval of transfer

99AC.—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

(2) Before making an application under subsection (1) —

(*a*) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(*b*) the transferor shall obtain the consent of the Authority under section 99AB(1)(*a*);

(*c*) the transferor and the transferee shall, if they intend to serve on their respective customers a summary of the transfer, obtain the Authority's approval of the summary;

(*d*) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (*a*) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(*e*) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (*a*) for a period of 15 days after the publication of the notice referred to in paragraph (*d*) in the *Gazette*; and

(*f*) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective customers affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (*a*) or a summary of the transfer approved by the Authority under paragraph (*c*).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(*a*) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(*b*) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 99AB(1)(*a*) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(*a*) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(*b*) refuse to approve the transfer.

(6) If the transferee is not granted a capital markets services licence by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being granted a capital markets services licence by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(*a*) the transfer to the transferee of the whole or any part of the business of the transferor;

(*b*) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(*c*) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(*d*) the dissolution, without winding up, of the transferor;

(*e*) the provisions to be made for persons who are affected by the transfer;

(*f*) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

(*a*) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(*b*) make provision in relation to any property which is held by the transferor as trustee; and

(*c*) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

(12) Where an order is made under this section, the transferor and the transferee shall each lodge within 7 days after the order is made —

(*a*) a copy of the order with the Registrar of Companies and with the Authority; and

(*b*)

where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

(13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Division 2 — Representatives

Acting as representative

99B.—(1) No person shall act as a representative in respect of any type of regulated activity or hold himself out as doing so, unless he is —

(*a*) an appointed representative in respect of that type of regulated activity;

(*b*) a provisional representative in respect of that type of regulated activity;

(*c*) a temporary representative in respect of that type of regulated activity; or

(*d*) a representative of an exempt person under section 99(1)(*f*), (*g*) or (*h*), in so far as —

(i) the type and scope of the regulated activity carried out by the first-mentioned person are within the type and scope of, or are the same as, that carried out by the exempt person (in his capacity as an exempt person); and

(ii) the manner in which the first-mentioned person carries out that type of regulated activity is the same as the manner in which the exempt person (in his capacity as an exempt person) carries out that type of regulated activity.

(2) The Authority may exempt any person or class of persons from subsection (1), subject to such conditions or restrictions as may be imposed by the Authority.

(3) A principal shall not permit any individual to carry on business in any type of regulated activity on its behalf unless —

(*a*) the individual is an appointed representative, provisional representative or temporary representative in respect of that type of regulated activity; or

(*b*) the principal is an exempt person under section 99(1)(*f*), (*g*) or (*h*) and —

(i) the type and scope of the regulated activity carried out by the individual are within the type and scope of, or are the same as, that carried out by the exempt person (in his capacity as an exempt person); and

(ii) the manner in which the individual carries out that type of regulated activity is the same as the manner in which the exempt person (in his capacity as an exempt person) carries out that type of regulated activity.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(5) Any person who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 26/11/2010]

Records and public register of representatives

99C.—(1) The Authority shall keep in such form as it thinks fit records of the following information of each appointed representative, provisional representative and temporary representative:

(*a*) his name;

(*b*) the name of his current principal and every past principal (if any);

(*c*) the current and past types of regulated activities performed by him and the date of commencement and cessation (if any) of his performance of such activities;

(*d*) where the business of the principal for which he acts is carried on under a name or style other than the name of the principal, the name or style under which the business is carried on;

(*e*) disciplinary proceedings or other action taken by the Authority against him and published under section 322;

(*f*) such other information as may be prescribed.

(2) The information referred to in subsection (1) need only be kept for such period of time as the Authority considers appropriate.

(3) The Authority may reproduce the records referred to in subsection (1) or any part of them in a public register of representatives which shall be published in such manner as it considers appropriate.

[2/2009 wef 26/11/2010]

Appointed representative

99D.—(1) For the purposes of this Act, an appointed representative in respect of a type of regulated activity is an individual —

(*a*)

who satisfies such entry and examination requirements as may be specified by the Authority for that type of regulated activity, the fact of which has been notified to the Authority either in the document lodged under section 99H(1), or (if applicable) under section 99E(5) within the time prescribed under that provision;

(*b*) whose name is entered in the public register of representatives as an appointed representative;

(*c*) whose status as an appointed representative has not currently been revoked or suspended and who has not currently been prohibited by the Authority from carrying on business in that type of regulated activity;

(*d*) whose entry in the public register of representatives indicates that he is appointed to carry on business in that type of regulated activity and does not indicate that he has ceased to be so; and

(*e*) whose principal —

(i) is licensed to carry on business in that type of regulated activity; or

(ii) carries on business in that type of regulated activity in its capacity as a person exempted from the requirement to hold a capital markets services licence under section 99(1)(*a*), (*b*), (*c*) or (*d*).

(2) For the purpose of subsection (1)(*a*), the Authority shall, by direction published in such manner as may be prescribed, specify the examination requirements for each type of regulated activity.

(3) The Authority may require the principal or individual to furnish it with such information or documents as the Authority considers necessary in relation to the proposed appointment of the individual as an appointed representative, and the principal or individual, as the case may be, shall comply with such a request.

(4) An individual shall cease to be an appointed representative in respect of any type of regulated activity on the date —

(*a*) he ceases to be the principal's representative or to carry out that type of regulated activity for that principal, the fact of which has been notified to the Authority under subsection (8);

(*b*) his principal ceases to carry on business in that type of regulated activity;

(*c*) the licence of his principal is revoked or lapses or a prohibition order under section 101A is made against his principal prohibiting it from carrying out that type of regulated activity;

(*d*) the individual dies; or

(*e*) of the occurrence of such other circumstances as the Authority may prescribe.

(5) An individual shall not be treated as an appointed representative during the period in which the licence of his principal is suspended.

(6) Nothing in subsection (4) or (5) prevents the individual from being treated as an appointed representative in respect of that type of regulated activity if he becomes a representative of a new principal in respect of that type of regulated activity and subsection (1) is complied with.

(7) Subsections (4) and (5) shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement relating to that type of regulated activity entered into by that individual, whether the agreement, transaction or arrangement was entered into before, on or after the cessation or date of suspension; or

(*b*) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

(8) A principal shall, no later than the next business day after the day —

(*a*) an individual ceases to be his representative; or

(*b*) an individual who is his representative ceases to carry on business in any type of regulated activity which he is appointed to carry on business in,

furnish particulars of such cessation to the Authority, in the prescribed form and manner.

[2/2009 wef 26/11/2010]

Provisional representative

99E.—(1) For the purposes of this Act, a provisional representative in respect of a type of regulated activity is an individual —

(*a*) who satisfies such entry requirements as may be specified by the Authority for that type of regulated activity;

(*b*) who intends to undergo an examination in order to satisfy the examination requirements specified by the Authority under section 99D(2) for that type of regulated activity, the fact of which has been notified to the Authority in the document lodged under section 99H(1);

(*c*) whose name is entered in the public register of representatives as a provisional representative;

(*d*) whose status as a provisional representative has not currently been revoked or suspended and who has not currently been prohibited by the Authority from carrying on business in that type of regulated activity;

(*e*) whose entry in the public register of representatives indicates that he is appointed to carry on business in that type of regulated activity and does not indicate that he has ceased to be so;

(*f*) whose principal —

(i) is licensed to carry on business in that type of regulated activity; or

(ii)

carries on business in that type of regulated activity in its capacity as a person exempted from the requirement to hold a capital markets services licence under section 99(1)(*a*), (*b*), (*c*) or (*d*);

(*g*) who has not previously been appointed as a provisional representative by the Authority; and

(*h*) who is not, by virtue of any circumstances prescribed by the Authority, disqualified from acting as a provisional representative.

(2) An individual shall only be a provisional representative in respect of any type of regulated activity for such period of time as the Authority may specify against his name in the public register of representatives.

(3) A provisional representative in respect of any type of regulated activity shall immediately cease to be one —

(*a*) upon the expiry of the period of time specified by the Authority under subsection (2);

(*b*) if he fails to comply with any condition or restriction imposed on him under section 99N;

(*c*) upon his principal informing the Authority of the satisfaction of the examination requirements specified for that or any other type of regulated activity under subsection (5); or

(*d*) on the occurrence of such other circumstances as the Authority may prescribe.

(4) Section 99D(3) to (8) (other than subsection (4)(*e*) thereof) shall apply to a provisional representative —

(*a*) as if the reference in section 99D(6) to section 99D(1) were a reference to subsection (1); and

(*b*) with such other modifications and adaptations as the differences between provisional representatives and appointed representatives require.

(5) Where a provisional representative in respect of a type of regulated activity has satisfied the examination requirements specified for that type of regulated activity, his principal shall inform the Authority of that fact in the prescribed form and manner and within the prescribed time.

[2/2009 wef 26/11/2010]

Temporary representative

99F.—(1) For the purposes of this Act, a temporary representative in respect of a type of regulated activity is an individual —

(*a*) who satisfies such entry requirements as may be specified by the Authority for that type of regulated activity;

(*b*)

whose name is entered in the public register of representatives as a temporary representative;

(*c*) whose status as a temporary representative has not currently been revoked or suspended and who has not currently been prohibited by the Authority from carrying on business in that type of regulated activity;

(*d*) whose entry in the public register of representatives indicates that he is appointed to carry on business in that type of regulated activity and does not indicate that he has ceased to be so;

(*e*) whose principal —

(i) is licensed to carry on business in that type of regulated activity; or

(ii) carries on business in that type of regulated activity in its capacity as a person exempted from the requirement to hold a capital markets services licence under section 99(1)(*a*), (*b*), (*c*) or (*d*); and

(*f*) who is not, by virtue of any circumstances prescribed by the Authority, disqualified from acting as a temporary representative.

(2) An individual shall only be a temporary representative in respect of any type of regulated activity for such period of time as the Authority may specify against his name in the public register of representatives.

(3) A temporary representative in respect of any type of regulated activity shall immediately cease to be one —

(*a*) upon the expiry of the period of time specified by the Authority under subsection (2);

(*b*) if he fails to comply with any condition or restriction imposed on him under section 99N; or

(*c*) on the occurrence of such other circumstances as the Authority may prescribe.

(4) Section 99D(3) to (8) (other than subsection (4)(*e*) thereof) shall apply to a temporary representative —

(*a*) as if the reference in section 99D(6) to section 99D(1) were a reference to subsection (1); and

(*b*) with such other modifications and adaptations as the differences between temporary representatives and appointed representatives require.

[2/2009 wef 26/11/2010]

Offences

99G.—(1) Any person who contravenes section 99D(3), 99E(4) (in relation to the application of section 99D(3) to a provisional representative) or 99F(4) (in relation to the application of section 99D(3) to a temporary representative) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(2) Any person who contravenes section 99D(8), 99E(4) (in relation to the application of section 99D(8) to a provisional representative), 99F(4) (in relation to the application of section 99D(8) to a temporary representative) or 99H(5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 26/11/2010]

Lodgment of documents

99H.—(1) A principal who desires to appoint an individual as an appointed, provisional or temporary representative in respect of any type of regulated activity shall lodge the following documents with the Authority in such form and manner as the Authority may prescribe:

(*a*) a notice of intent by the principal to appoint the individual as an appointed, provisional or temporary representative in respect of that type of regulated activity;

(*b*) a certificate by the principal that the individual is a fit and proper person to be an appointed, provisional or temporary representative in respect of that type of regulated activity; and

(*c*) in the case of a provisional or temporary representative, an undertaking by the principal to undertake such responsibilities in relation to the representative as may be prescribed.

(1A) Subsection (1) shall not apply to a principal who desires to appoint, as an appointed representative in respect of any type of regulated activity, an individual who is a provisional representative in respect of that type of regulated activity, if —

(*a*) that individual has satisfied the examination requirements specified for that type of regulated activity; and

(*b*) the principal has informed the Authority of that fact in the prescribed form and manner under section 99E(5).

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(2) Subject to section 99M, the Authority shall, upon receipt of the documents lodged in accordance with subsection (1), enter in the public register of representatives the name of the representative, whether he is an appointed, provisional or temporary representative, the type of regulated activity which he may carry on business in, and such other particulars as the Authority considers appropriate.

(3) The Authority may refuse to enter in the public register of representatives the particulars referred to in subsection (2) of the representative if the fee referred to in section 99K(1) or (4) (if applicable) is not paid.

(4) A principal who submits a certificate under subsection (1)(*b*) shall keep, in such form and manner and for such period as the Authority may prescribe, copies of all information and documents which the principal relied on in giving the certificate.

(5) Where a change occurs in any particulars of the appointed, provisional or temporary representative in any document required to be furnished to the Authority under subsection (1), the principal shall, no later than 14 days after the occurrence of such change, furnish particulars of such change to the Authority, in the prescribed form and manner.

[2/2009 wef 26/11/2010]

Exemption

99I.—(1) The Authority may exempt any person or class of persons from any of the requirements of sections 99D to 99H.

(2) Such exemption is subject to such conditions or restrictions as may be imposed by the Authority.

[2/2009 wef 26/11/2010]

Representative to act for only one principal

99J.—(1) Unless otherwise approved by the Authority in writing, no appointed representative, temporary representative or provisional representative shall at any one time be a representative of more than one principal.

(2) Notwithstanding subsection (1), an appointed representative may be a representative of more than one principal if the principals are related corporations.

(3) The Authority may require an applicant for approval under subsection (1) to furnish it with such information or documents as the Authority considers necessary in relation to the application.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 26/11/2010]

Lodgment and fees

99K.—(1) An individual shall, by the prescribed time, pay to the Authority such fee as may be prescribed by the Authority for the lodgment of documents under section 99H by his principal in relation to his appointment as an appointed, provisional or temporary representative.

(2) An individual who is an appointed or provisional representative in respect of any type of regulated activity shall, by the prescribed time each year, pay such annual fee as may be prescribed by the Authority in relation to the retention of his name, in the public register of representatives, as an appointed or provisional representative in respect of that type of regulated activity.

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(3) An individual who is a temporary representative shall, by the prescribed time, pay such fee as may be prescribed by the Authority in relation to the retention of his name in the public register of representatives as a temporary representative.

(4) A representative shall pay such fee as may be prescribed by the Authority for any resubmission of a form or change in the particulars of a form lodged with the Authority in relation to his appointment as an appointed, provisional or temporary representative.

(5) Unless otherwise prescribed by the Authority, any fee paid to the Authority under this section shall not be refunded.

(6) Where the representative fails to pay the fee referred to in subsection (1), (2) or (3) by the date on which such fee is due, the Authority may impose a late payment fee of a prescribed amount for every day or part thereof that the payment is late and both fees shall be recoverable by the Authority as a judgment debt.

(7) The fees referred to in this section shall be paid in the manner specified by the Authority.

[2/2009 wef 26/11/2010]

Additional regulated activity

99L.—(1) The principal of an appointed representative may at any time lodge a notice with the Authority of its intention to appoint the representative as an appointed representative in respect of a type of regulated activity in addition to that indicated against the representative's name in the public register of representatives.

(2) The notification shall be lodged in such form and manner as may be prescribed and shall be accompanied by a certificate by the principal that the representative is a fit and proper person to be a representative in respect of the additional type of regulated activity.

(3) Subject to section 99M, the Authority shall, upon receipt of the notification, enter in the public register of representatives the additional type of regulated activity as one which the representative may carry on business in as a representative.

(4) The Authority may, before entering in the public register of representatives the matter set out in subsection (3), require the principal or representative to furnish it with such information or documents as the Authority considers necessary.

(5) A notification under subsection (1) shall be accompanied by a non-refundable prescribed fee which shall be paid in the manner specified by the Authority.

[2/2009 wef 26/11/2010]

Power of Authority to refuse entry or revoke or suspend status of appointed, provisional or temporary representative

99M.—(1) Subject to regulations made under this Act, the Authority may refuse to enter the name and other particulars of an individual in the public register of representatives, refuse to enter an additional type of regulated activity for an appointed representative in that register, or revoke the status of an individual as an appointed, provisional or temporary representative if —

(*a*) being an appointed, provisional or temporary representative, he fails or ceases to act as a representative in respect of all of the types of regulated activities that were

notified to the Authority as activities which he is appointed to carry on business in as a representative;

(*b*) he or his principal has not provided the Authority with such information or documents as the Authority may require;

(*c*) he is an undischarged bankrupt, whether in Singapore or elsewhere;

(*d*) execution against him in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*e*) he has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

(*f*) he —

(i) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(ii) has been convicted of an offence under this Act;

(*g*) in the case of the proposed appointment of an appointed, provisional or temporary representative in respect of a type of regulated activity, or of an application to enter an additional type of regulated activity for an appointed representative in the register —

(i) the Authority is not satisfied as to his educational or other qualification or experience having regard to the nature of the duties he is to perform in relation to that type of regulated activity;

(ii) he or his principal fails to satisfy the Authority that he is a fit and proper person to be an appointed, provisional or temporary representative or to carry on business in that type of regulated activity;

(iii) the Authority is not satisfied as to his record of past performance or expertise having regard to the nature of the duties which he is to perform in relation to that type of regulated activity;

(iv) the Authority has reason to believe that he will not carry on business in that type of regulated activity efficiently, honestly or fairly;

(*h*) in the case of the revocation of the status of an individual as an appointed, provisional or temporary representative —

(i) he or his principal fails to satisfy the Authority, pursuant to a requirement imposed by the Authority as a condition for him to be an appointed, provisional or temporary representative, under section 99N or by regulations (as the case may be), that he remains a fit and proper person to be an appointed, provisional or temporary representative or to

carry on business in the type of regulated activity for which he is appointed;

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(ii) the Authority is not satisfied with —

(A) his educational or other qualification or experience (being qualification or experience not known to the Authority at the time his name and particulars are entered in the public register of representatives); or

(B) his record of past performance or expertise,

having regard to the nature of his duties as an appointed, provisional or temporary representative;

(iii) the Authority has reason to believe that he will not carry, or has not carried, on business in the type of regulated activity for which he is appointed efficiently, honestly or fairly; or

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(iv) the Authority has reason to believe that he has not acted in the best interests of the subscribers or customers of his principal;

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(*i*) the Authority has reason to believe that he may not be able to act in the best interests of the subscribers or customers of his principal, having regard to his reputation, character, financial integrity and reliability;

(*j*) the Authority is not satisfied as to his financial standing;

(*k*) there are other circumstances which are likely to lead to the improper conduct of business by, or reflect discredit on the manner of conducting the business of, the individual or any person employed by or associated with him for the purpose of his business;

(*l*) the individual is in arrears of the payment of such contributions on his own behalf to the Central Provident Fund as are required under the Central Provident Fund Act (Cap. 36);

(*m*) the Authority is of the opinion that it would be contrary to the interests of the public to enter the individual's name in the public register of representatives or allow him to continue carrying on business as an appointed, provisional or temporary representative or to carry on business in that additional type of regulated activity, as the case may be;

(*n*) the Authority has reason to believe that any information or document that is furnished by him or his principal to the Authority is false or misleading;

(*o*) he has contravened any provision of this Act applicable to him, any condition or restriction imposed on him under this Act or any direction issued to him by the Authority under this Act;

(*oa*)

it appears to the Authority that he has failed to satisfy any of his obligations under or arising from —

(i) this Act; or

(ii) any written direction issued by the Authority under this Act;

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(*p*) a prohibition order under section 101A has been made by the Authority, and remains in force, against him;

(*q*) the licence of his principal is revoked;

(*r*) the individual fails to pay any fee referred to in section 99K;

(*s*) in the case of the proposed appointment of a temporary representative in respect of a type of regulated activity —

(i) he is not licensed, authorised or otherwise regulated as a representative in relation to a comparable type of regulated activity in a foreign jurisdiction;

(ii) the Authority is not satisfied that the laws and practices of the jurisdiction under which the individual is so licensed, authorised or regulated provide protection to investors comparable to that applicable to an appointed representative under this Act; or

(iii) the period of his proposed appointment, together with the period of any past appointment (or part thereof) that falls within a prescribed period before the date of expiry of his proposed appointment, exceeds the permitted period prescribed by the Authority; or

(*t*) in the case of the proposed appointment of a provisional representative in respect of a type of regulated activity —

(i) he is not or was not previously licensed, authorised or otherwise regulated as a representative in relation to a comparable type of regulated activity in a foreign jurisdiction for such minimum period as may be prescribed for this sub-paragraph;

(ii) he was previously so licensed, authorised or regulated in a foreign jurisdiction but the period between the date of his ceasing to be so licensed, authorised or regulated and the date of his proposed appointment as a provisional representative exceeds such period as may be prescribed for this sub-paragraph; or

(iii) the Authority is not satisfied that the laws and practices of the jurisdiction under which the individual is or was so licensed, authorised or regulated provide protection to investors comparable to that applicable to an appointed representative under this Act.

(2) The Authority may, if it considers it desirable to do so —

(*a*) instead of revoking the status of an individual as an appointed, provisional or temporary representative, suspend that status for such period as the Authority may determine; and

(*b*) at any time —

(i) extend the period of suspension; or

(ii) revoke the suspension.

(3) An individual whose status as an appointed, provisional or temporary representative has been revoked shall be deemed not to be an appointed, provisional or temporary representative, as the case may be.

(4) Where the status of an individual as an appointed, provisional or temporary representative has been suspended, he shall be deemed not to be an appointed, provisional or temporary representative (as the case may be) during the period of suspension.

(5) Where the Authority has revoked the status of an individual as an appointed, provisional or temporary representative, the Authority shall —

(*a*) indicate against his name in the public register of representatives that fact, which indication shall remain in the register for such period as the Authority considers appropriate; or

(*b*) remove his name from the register.

(6) Where the Authority has suspended the status of an individual as an appointed, provisional or temporary representative, the Authority shall indicate against his name in the public register of representatives that fact and the period of the suspension.

(7) Where the Authority has extended or revoked a suspension of the status of an individual as an appointed, provisional or temporary representative, it shall indicate against his name in the public register of representatives the new expiry date of the suspension, or indicate that he is no longer suspended, as the case may be.

(8) The Authority shall not take any action under subsection (1) or (2)(*a*) on the ground referred to in subsection (1)(*n*), if —

(*a*) in a case where the information or document was furnished by the individual to the Authority, the individual proves that he had —

(i) made all inquiries (if any) that were reasonable in the circumstances; and

(ii) after doing so, believed on reasonable grounds that the information or document was not false or misleading; or

(*b*) in a case where the information or document was furnished by the principal to the Authority and —

(i) such information or document was furnished to the principal by the individual, the individual proves that he had —

(A) made all inquiries (if any) that were reasonable in the circumstances; and

(B) after doing so, believed on reasonable grounds that the information or document was not false or misleading; or

(ii) such information or document was not furnished to the principal by the individual, the principal proves that he had —

(A) made all inquiries (if any) that were reasonable in the circumstances; and

(B) after doing so, believed on reasonable grounds that the information or document was not false or misleading.

(9) Subject to subsection (10), the Authority shall not take any action under subsection (1) or (2)(*a*) or (*b*)(i) without giving the individual an opportunity to be heard.

(10) The Authority may take action under subsection (1) or (2)(*a*) or (*b*)(i) on any of the following grounds without giving the individual an opportunity to be heard:

(*a*) he is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) he has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more;

(*c*) a prohibition order under section 101A has been made by the Authority, and remains in force, against the individual;

(*d*) the ground referred to in subsection (1)(*s*)(i) or (iii) or (*t*)(i) or (ii).

(11) Any revocation or suspension by the Authority shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement relating to any regulated activity entered into by such individual, whether the agreement, transaction or arrangement was entered into before, on or after the revocation or suspension, as the case may be; or

(*b*) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

[2/2009 wef 26/11/2010]

Power of Authority to impose conditions or restrictions

99N.—(1) The Authority may, by notice in writing to an appointed, provisional or temporary representative, impose such conditions or restrictions as it thinks fit on him.

(2) Without prejudice to the generality of subsection (1), the Authority may, in entering the appointed, provisional or temporary representative's name in the public register of

representatives, impose conditions or restrictions with respect to the type of regulated activity which he may or may not carry on business in.

(3) The Authority may, at any time by notice in writing to the appointed, provisional or temporary representative, vary any condition or restriction or impose such further condition or restriction as it may think fit.

(4) Any person who contravenes any condition or restriction imposed by the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 26/11/2010]

False statements in relation to notification of appointed, provisional or temporary representative

99O.—(1) Any principal who, in connection with the lodgment of any document under section 99H —

(*a*) makes a statement which is false or misleading in a material particular; or

(*b*) omits to state any matter or thing without which the document is misleading in a material respect,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(2) Any individual who, in connection with the lodgment by his principal of any document under section 99H —

(*a*) makes a statement to his principal which is false or misleading in a material particular, being a statement subsequently lodged with the Authority; or

(*b*) omits to state any matter or thing to his principal as a result of which the document is misleading in a material respect,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(3) Any person who, when required to furnish any document or information to the Authority under section 99D(3), 99E(4) (in relation to the application of section 99D(3) to a provisional representative) or 99F(4) (in relation to the application of section 99D(3) to a temporary representative) —

(*a*) makes a statement to the Authority which is false or misleading in a material particular; or

(*b*) omits to state any matter or thing to the Authority without which the document or information is misleading in a material respect,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(4) A person referred to in subsection (1), (2) or (3) shall not be guilty of an offence if he proves that he —

(*a*) made all inquiries (if any) that were reasonable in the circumstances; and

(*b*) after doing so, believed on reasonable grounds that the statement made or the omission to state the matter or thing, as the case may be, was not false or misleading.

[2/2009 wef 26/11/2010]

Appeals

99P. Any person who is aggrieved by —

(*a*) the refusal of the Authority under section 99M(1) to enter his name and other particulars in the public register of representatives, or to enter an additional type of regulated activity for him in that register; or

(*b*) the revocation or suspension of his status as an appointed, provisional or temporary representative under section 99M(1) or (2)(*a*),

may, within 30 days after he is notified of the decision of the Authority, appeal to the Minister whose decision shall be final.

[2/2009 wef 26/11/2010]

Division 3 — General

Power of Authority to make regulations

100.—(1) Without prejudice to section 341, the Authority may make regulations relating to the grant of a capital markets services licence, the proposed appointment of an individual as an appointed, provisional or temporary representative, the entering of his name or an additional type of regulated activity in the public register of representatives, and the revocation or suspension of his status as an appointed, provisional or temporary representative, and requirements applicable to the holder of a capital markets services licence, an exempt person, a representative or a class of such persons.

[2/2009 wef 26/11/2010]

(2) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for penalties not exceeding a fine of $100,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

[16/2003]

Power of Authority to issue written directions

101.—(1) The Authority may, if it thinks it necessary or expedient in the interests of the public or a section of the public or for the protection of investors, issue written directions, either of a general or specific nature, to any holder of a capital markets services licence, exempt person, representative, or class of such persons, to comply with such requirements as the Authority may specify in the written directions.

[2/2009 wef 26/11/2010]
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(2) Without prejudice to the generality of subsection (1), any written direction may be issued with respect to —

(*a*) the standards to be maintained by the person concerned in the conduct of his business;

(*b*) the type and frequency of submission of financial returns and other information to be submitted to the Authority; and

(*c*) the qualifications, experience and training of representatives,

and the person to whom such direction is issued shall comply with the direction.

[16/2003]

(3) Any person who contravenes any of the directions issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine of $5,000 for every day or part thereof during which the offence continues after conviction.

(4) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.

[Act 34 of 2012 wef 18/03/2013]

Power of Authority to make prohibition orders

101A.—(1) The Authority may, by notice in writing, make a prohibition order against a relevant person if —

(*a*) the Authority suspends or revokes the capital markets services licence held by the person;

(*b*) where the person is exempt from the requirement to hold a capital markets services licence under section 99(1)(*a*), (*b*), (*c*) or (*d*), the Authority has reason to believe that circumstances exist under which, if the person were a holder of a capital markets services licence, there would exist a ground on which the Authority may suspend or revoke its licence under section 95;

(*c*) the Authority suspends or revokes the status of that person as an appointed, provisional or temporary representative;

(*ca*) where the relevant person is or was a representative of an exempt person but is not exempted under section 99B(2) from section 99B(1), the Authority has reason to believe that circumstances exist under which, if the relevant person were an appointed, provisional or temporary representative, there would exist a ground on which the Authority may revoke under section 99M the relevant person's status as an appointed, provisional or temporary representative;

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(*cb*) where the relevant person is or was a representative of a holder of a capital markets services licence but is not exempted under section 99B(2) from section 99B(1), the Authority has reason to believe that circumstances exist under which there would

exist a ground on which the Authority may revoke under section 99M the relevant person's status as an appointed, provisional or temporary representative;

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(*cc*) where the relevant person is or was a representative of an exempt person, or a representative of a holder of a capital markets services licence, and is exempted under section 99B(2) from section 99B(1), the Authority has reason to believe that circumstances exist under which, if the person were an appointed representative, there would exist a ground on which the Authority may revoke under section 99M the relevant person's status as an appointed representative;

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(*d*) the Authority has reason to believe that the person is contravening, is likely to contravene or has contravened —

(i) any provision in this Act;

(ii) any condition or restriction imposed by the Authority under this Act; or

(iii) any written direction issued by the Authority under this Act;

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(*e*) the person has been convicted of an offence under this Act or has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he acted fraudulently or dishonestly;

(*f*) the person has an order for the payment of a civil penalty made against him by a court under Part XII or has entered into an agreement with the Authority to pay a civil penalty under that Part;

(*g*) the person has been convicted of an offence involving the contravention of any law or requirement of a foreign country or territory relating to any regulated activity carried out by that person; or

(*h*) the person has been removed at the direction of the Authority from office or employment as an officer of the holder of a capital markets services licence under section 97(1)(*h*).

(2) In subsection (1), "relevant person" means —

(*a*) the holder of a capital markets services licence or a person who was previously such a holder;

(*b*) a person that is exempt from the requirement to hold a capital markets services licence under section 99(1) or a person who was previously so exempt;

(*c*) a representative of a person exempt from the requirement to hold a capital markets services licence under section 99(1) or a person who was previously such a representative;

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(*d*)

an appointed, provisional or temporary representative or a person who was previously such a representative;

(*da*) a representative exempted under section 99B(2) from section 99B(1), or a person who was previously such a representative;

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(*e*) an officer of the holder of a capital markets services licence or a person that is exempt from the requirement to hold a capital markets services licence under section 99(1), or a person who was previously such an officer; or

(*f*) a person who has been convicted of an offence under section 82(1) or 99B(1).

(3) A prohibition order made under subsection (1) may do one or both of the following:

(*a*) prohibit the person, whether permanently or for a specified period, from —

(i) performing any regulated activity, or performing such regulated activity in specified circumstances or capacities; or

(ii) taking part, directly or indirectly, in the management of, acting as a director of, or becoming a substantial shareholder of —

(A) a holder of a capital markets services licence; or
(B) an exempt person;

(*b*) include a provision allowing the person, subject to any condition specified in the order —

(i) to do specified acts; or

(ii) to do specified acts in specified circumstances,

that the order would otherwise prohibit him from doing.

(4) The Authority shall not make a prohibition order against a person without giving the person an opportunity to be heard.

(5) Any person who is aggrieved by the decision of the Authority to make a prohibition order against him may, within 30 days of the decision, appeal in writing to the Minister.

(6) Where the Authority makes a prohibition order against any person who is an appointed, provisional or temporary representative, it shall indicate against his name in the public register of representatives that fact, and the indication shall remain in the register for the duration of the order.

(7) The Authority shall keep, in such form as it thinks fit, records on persons against whom prohibition orders are made under this section.

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(8) The Authority may publish the records referred to in subsection (7), or any part of them, in such manner as the Authority considers appropriate.

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[2/2009 wef 26/11/2010]

Effect of prohibition orders

101B.—(1) A person against whom a prohibition order is made shall comply with the prohibition order.

(2) Where a prohibition order is made against a person and notified to the holder of a capital markets services licence or an exempt person, the holder or exempt person shall not employ the first-mentioned person to carry out any regulated activity or use the first-mentioned person's service, to the extent that this is prohibited by the order.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000.

(5) The holder of a capital markets services licence or an exempt person against whom a prohibition order has been issued prohibiting it from carrying on any regulated activity shall immediately inform all its representatives who perform the regulated activity, by notice in writing of such prohibition order, and the representatives who are so informed shall cease to perform such regulated activity during the period specified in the prohibition order.

(6) Any person who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 26/11/2010]

Variation or revocation of prohibition orders

101C.—(1) The Authority may vary or revoke a prohibition order, by giving written notice to the person against whom the order was made, if the Authority is satisfied that it is appropriate to do so because of a change in any of the circumstances based on which the Authority made the order.

(2) The Authority may vary or revoke a prohibition order under subsection (1) —

(*a*) on its own initiative; or

(*b*) if the person against whom the order was made lodges with the Authority an application for the Authority to do so, accompanied by such document and fee as may be prescribed.

(3) The Authority shall not vary a prohibition order made against a person under subsection (2)(*a*) without giving the person an opportunity to be heard.

(4) Any person who is aggrieved by the decision of the Authority to vary a prohibition order made against him under subsection (2)(*a*) may, within 30 days of the decision, appeal in writing to the Minister.

[2/2009 wef 26/11/2010]

Date and effect of prohibition orders

101D.—(1) A prohibition order, or any variation or revocation of a prohibition order, shall take effect on the date specified in the order by the Authority.

(2) A prohibition order shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement entered into by the person against whom the order is made, whether the agreement, transaction or arrangement was entered into before, on or after the issue of the prohibition order; or

(*b*) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

[2/2009 wef 26/11/2010]

PART V

BOOKS, CUSTOMER ASSETS AND AUDIT

Division 1 — Books

Keeping of books and furnishing of returns

102.—(1) A holder of a capital markets services licence shall —

(*a*) keep, or cause to be kept, such books as will sufficiently explain the transactions and financial position of its business and enable true and fair profit and loss accounts and balance-sheets to be prepared from time to time; and

(*b*) keep, or cause to be kept, such books in such a manner as will enable them to be conveniently and properly audited.

(2) An entry in the books of a holder of a capital markets services licence required to be kept in accordance with this section shall be deemed to have been made by, or with the authority of, the holder.

(3) A holder of a capital markets services licence shall retain such books as may be required to be kept under this Act for a period of not less than 5 years.

[2/2007 wef 01/03/2007]

(4) A holder of a capital markets services licence shall —

(*a*) furnish such returns and records in such form and manner as may be prescribed or as may be notified by the Authority in writing; and

(*b*) provide such information relating to its business as the Authority may require.

(5) The Authority may, without prejudice to section 341, make regulations in respect of all or any of the matters in this Division, including the keeping of such books, by a holder of a capital markets services licence, in such form and manner as the Authority may prescribe.

[SIA, s. 63 and s. 67; FTA, s. 34 (1)]

Penalties under this Division

103. A holder of a capital markets services licence which, without reasonable excuse, contravenes section 102(1), (3) or (4) or any regulation made under section 102(5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SIA, s. 57 (7); FTA, s. 25 (6)]

Division 2 — Customer Assets

Interpretation of this Division

103A. In this Division, unless the context otherwise requires, "money or other assets" means money received or retained by, or any other asset deposited with, a holder of a capital markets services licence in the course of its business for which it is liable to account to its customer, and any money or other assets accruing therefrom.

[16/2003]

Handling of customer assets

104.—(1) A holder of a capital markets services licence shall, to the extent that it receives money or other assets from or on account of a customer —

(*a*) do so, except in such circumstances as may be prescribed by the Authority, on the basis that the money or other assets shall be applied solely for such purpose as may be agreed to by the customer, when or before it receives the money or other assets;

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(*b*) pending such application, pay or deposit the money or other assets in such manner as may be prescribed; and

(*c*) record and maintain a separate book entry for each customer in accordance with the provisions of this Act in relation to that customer's money or other assets.

[16/2003]

(2) The Authority may, without prejudice to section 341, make regulations in respect of all or any of the matters in this Division, including the handling of money or other assets by a holder of a capital markets services licence.

[SIA, s. 64; FTA, s. 37]

Non-availability of customer money and other assets for payment of debt

104A. Except as otherwise provided in this Part or the regulations made thereunder, all money or other assets received from or on account of customers or deposited in the manner prescribed under section 104(1)(*b*) —

(*a*) shall not be available for payment of the debts of the holder of a capital markets services licence; and

(*b*)

shall not be liable to be paid or taken in execution under an order or a process of any court.

[16/2003]

Penalties under this Division

105. Any holder of a capital markets services licence which, without reasonable excuse, contravenes section 104(1) or any regulation made under section 104(2), shall be guilty of an offence and shall be liable on conviction —

(*a*) where it is found to have committed the offence with intent to defraud, to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction; or

(*b*) in any other case, to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SIA, s. 59, 65 (6) and (7)]

Division 3 — Audit

Appointment of auditors

106. A holder of a capital markets services licence shall appoint an auditor to audit its accounts and where, for any reason, the auditor ceases to act for such holder, the holder shall, as soon as practicable thereafter, appoint another auditor.
[SIA, s. 69 (1) (a); FTA, s. 26]

Lodgment of annual accounts, etc.

107.—(1) A holder of a capital markets services licence shall, in respect of each financial year —

(*a*) prepare a true and fair profit and loss account and a balance-sheet made up to the last day of the financial year; and

(*b*) lodge that account and balance-sheet with the Authority within 5 months, or such extension thereof permitted by the Authority under subsection (2), after the end of the financial year, together with an auditor's report on the account and balance-sheet.

(2) Where an application for an extension of the period of 5 months specified in subsection (1) has been made by a holder of a capital markets services licence to the Authority and the Authority is satisfied that there is any special reason for requiring the extension, the Authority may extend that period by not more than 4 months, subject to such conditions or restrictions as the Authority may think fit to impose.

(3) Any holder of a capital markets services licence which contravenes subsection (1), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $500 for every day or part thereof that the lodgment is late, subject to a maximum fine of $50,000.

(4) Any holder of a capital markets services licence which contravenes any condition imposed under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(5) Notwithstanding any other provision of this Act or any other written law, the Authority may, if it is not satisfied with the performance of duties by an auditor appointed by a holder of a capital markets services licence —

(*a*) at any time direct the holder to remove the auditor; and

(*b*) direct the holder, as soon as practicable thereafter, to appoint another auditor,

and the holder shall comply with such direction.
[SIA, s. 69 (1) (b); FTA, s. 27]

Reports by auditor to Authority in certain cases

108. Where, in the performance of his duties as an auditor for a holder of a capital markets services licence, an auditor becomes aware of —

(*a*) any matter which, in his opinion, adversely affects or may adversely affect the financial position of the holder to a material extent;

(*b*) any matter which, in his opinion, constitutes or may constitute a contravention of any provision of this Act or an offence involving fraud or dishonesty; or

(*c*) any irregularity that has or may have a material effect upon the accounts, including any irregularity that may affect or jeopardise the moneys or other assets of any customer of the holder,

the auditor shall immediately thereafter send —

(i) a report in writing of the matter or irregularity to the Authority; and

(ii) where the holder is a member of a securities exchange or futures exchange, a copy of the report to the securities exchange or futures exchange, as the case may be.
[SIA, s. 70 (1); FTA, s. 28]

Power of Authority to appoint auditor

109.—(1) Where —

(*a*) a holder of a capital markets services licence fails to lodge an auditor's report under section 107; or

(*b*) the Authority receives a report under section 108,

the Authority may, without prejudice to its powers under section 115, if it is satisfied that it is in the interests of the holder, the customers of the holder or the general public to do so, appoint

in writing an auditor to examine and audit, either generally or in relation to any particular matter, the books of the holder.

(2) Where the Authority is of the opinion that the whole or any part of the costs and expenses of an auditor appointed by the Authority under subsection (1) should be borne by the holder of a capital markets services licence, the Authority may, in writing, direct the holder to pay a specified amount, being the whole or part of such costs and expenses, within such time and in such manner as may be specified in the direction.

(3) Where a holder of a capital markets services licence fails to comply with a direction under subsection (2), the amount specified in the direction may be sued for and recovered by the Authority as a civil debt.

(4) An auditor appointed under subsection (1) shall, on the conclusion of the examination and audit, submit a report to the Authority.
[FTA, s. 29]

Power of auditors appointed by Authority

110.—(1) An auditor appointed by the Authority under section 109 may, for the purpose of carrying out an examination and audit of the books of a holder of a capital markets services licence —

(*a*) examine, on oath or affirmation, any officer, employee or agent of the holder or any other auditor appointed under this Act in relation to those books;

(*b*) require any officer, employee or agent of the holder, or any other auditor appointed under this Act, to produce any of the books held by or on behalf of the holder relating to its business, and to make copies of or take extracts from, or retain possession of, such books for such period as is necessary to enable them to be inspected;

(*c*) require any securities exchange, futures exchange, licensed trade repository, approved clearing house or recognised clearing house to produce any of the books kept by it, or any information in its possession, relating to the business of the holder;

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(*d*) employ such persons as he considers necessary to assist him in carrying out the examination and audit; and

(*e*) authorise in writing any person employed by him to do, in relation to the examination and audit, any act or thing that he could do as an auditor under this subsection, other than the examination of any person on oath or affirmation.

[1/2005]

(2) Any person who, without reasonable excuse, refuses or fails to answer any question put to him, or fails to comply with any request made to him, by an auditor appointed under section 109 or a person authorised under subsection (1)(*e*), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both.
[SIA, s. 70 (4) and (5); FTA, s. 30]

Offence to destroy, conceal, alter, etc., books

111.—(1) Any person who, with intent to prevent, delay or obstruct the carrying out of any examination or audit under this Division —

(*a*) destroys, conceals or alters any book relating to the business of a holder of a capital markets services licence; or

(*b*) sends, or conspires with any other person to send, out of Singapore, any book or asset of any description belonging to, in the possession of or under the control of a holder of a capital markets services licence,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) If, in any proceedings for an offence under subsection (1), it is proved that the person charged with the offence —

(*a*) destroyed, concealed or altered any book referred to in subsection (1)(*a*); or

(*b*) sent, or conspired to send, out of Singapore, any book or asset referred to in subsection (1)(*b*),

the onus of proving that, in so doing, he did not act with intent to prevent, delay or obstruct the carrying out of an examination and audit under this Division shall lie on him.
[SIA, s. 71; FTA, s. 31]

Safeguarding of books

112.—(1) A holder of a capital markets services licence shall take reasonable precautions —

(*a*) to prevent falsification of the books required to be kept by it under this Act; and

(*b*) to facilitate the discovery of any falsification of any such book.

(2) Any holder of a capital markets services licence who contravenes this section shall be guilty of an offence under this Act.
[SIA, s. 72]

Restriction on auditor's and employee's right to communicate certain matters

113. Except as may be necessary for the carrying into effect of the provisions of this Act or so far as may be required for the purposes of any legal proceedings, whether civil or criminal, an auditor appointed under section 109 or carrying out any duty imposed under section 115, and any employee of such an auditor, shall not disclose any information which may come to his knowledge or possession in the course of performing his duties as such auditor or employee, as the case may be, to any person other than —

(*a*) the Authority; and

(*b*) in the case of an employee of such auditor, the auditor.
[FTA, s. 32]

Exchanges, etc., may impose additional obligations on members

114. Nothing in this Division shall prevent any securities exchange, futures exchange, licensed trade repository, approved clearing house or recognised clearing house from imposing on its members any additional obligation or requirement which it thinks is necessary with respect to —

(*a*) the audit of accounts;

(*b*) the information to be given in reports by auditors; or

(*c*) the keeping of books.

[1/2005]

[SIA, s. 73; FTA, s. 33]

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Additional powers of Authority in respect of auditors

115.—(1) The Authority may impose all or any of the following duties on an auditor of a holder of a capital markets services licence:

(*a*) a duty to submit to the Authority such additional information in relation to his audit as the Authority considers necessary;

(*b*) a duty to enlarge or extend the scope of his audit of the business and affairs of the holder;

(*c*) a duty to carry out any other examination or establish any procedure in any particular case;

(*d*) a duty to submit a report to the Authority on any of the matters referred to in paragraphs (*b*) and (*c*),

and the auditor shall carry out such additional duty or duties.

(2) A holder of a capital markets services licence shall remunerate the auditor in respect of the discharge of such additional duty or duties as the Authority may impose under subsection (1).

[SIA, s. 70 (3); FTA, s. 35]

Defamation

116.—(1) No auditor or employee of such auditor shall, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of —

(*a*) any statement made orally or in writing in the discharge of his duties under this Part; or

(*b*) the submission of any report to the Authority under section 108, 109(4) or 115(1)(*d*).

(2) Subsection (1) shall not restrict or otherwise affect any right, privilege or immunity that, apart from this section, the auditor or his employee has as a defendant in an action for defamation.

[FTA, s. 36]

PART VI

CONDUCT OF BUSINESS

Division 1 — General

117. [*Repealed by Act 2/2009 wef 26/11/2010*]

118. [*Repealed by Act 2/2009 wef 26/11/2010*]

119. [*Repealed by Act 1/2005*]

120. [*Repealed by Act 2/2009 wef 26/11/2010*]

121. [*Repealed by Act 1/2005*]

122. [*Repealed by Act 2/2009 wef 26/11/2010*]

Power of Authority to make regulations

123.—(1) The Authority may make regulations in respect of the conduct of business in any regulated activity by the holder of a capital markets services licence or a representative of such a holder.

(2) Without affecting the generality of subsection (1), regulations made under this section may —

(*a*) specify requirements applicable to the holder of a capital markets services licence in relation to securities financing;

(*aa*) specify, in the context of the granting of an unsecured advance, unsecured loan or unsecured credit facility by the holder of a capital markets services licence —

(i) what constitutes any such unsecured advance, unsecured loan or unsecured credit facility; and

(ii) the requirements and restrictions relating to any such grant;

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(*b*) prohibit the making of direct or indirect representations, expressly or by implication, relating to specified matters, or the use of misleading or deceptive advertisements by or on behalf of the holder, and impose conditions or restrictions for the use of advertisements by or on behalf of the holder;

[2/2009 wef 26/11/2010]

(*ba*) require contract notes to be issued by or on behalf of the holder of a capital markets services licence, and specify the information to be provided in the contract notes;

[2/2009 wef 26/11/2010]

(*c*) specify terms and conditions to be included in customer contracts and provide that the terms and conditions are, unless the Authority in relation to any particular term

or condition otherwise directs, to be deemed to be of the essence of the customer contracts in which they are included, whether or not a different intention appears in the provisions of the customer contracts;

(*d*) specify information that the holder of a capital markets services licence is to provide to its customer on entering into a customer contract with the customer, and thereafter from time to time on request by the customer, concerning the business of the holder and the identity and status of any person acting on behalf of the holder with whom the customer may have contact;

(*e*) require the holder of a capital markets services licence, and a representative of such a holder, to ascertain, in relation to each customer of the holder, specified matters relating to his identity and his financial situation, investment experience and investment objectives relevant to the services to be provided by the holder, and specify the steps to be taken for this purpose;

(*f*) require the holder of a capital markets services licence, and a representative of such a holder, when providing information or advice concerning capital markets products to a customer of the holder, to ensure the suitability of the information or advice to be provided to the customer, and specify the steps to be taken for this purpose;

(*g*) require the holder of a capital markets services licence, and a representative of such a holder, to disclose to a customer of the holder the financial risks in relation to capital markets products that the holder or the representative recommends to the customer, and specify the steps to be taken for this purpose;

(*ga*) require the holder of a capital markets services licence, and a representative of such a holder to take specified steps to ensure that a customer or prospective customer of the holder is apprised of the financial risks in relation to trades carried out by means of any trading account, before opening such account for the customer or prospective customer or soliciting or entering into an agreement with him to manage or guide such account;

[2/2009 wef 26/11/2010]

(*h*) require the holder of a capital markets services licence, and a representative of such a holder, to disclose to a customer of the holder any commission or advantage the holder or the representative, as the case may be, receives or is to receive from a third party in connection with any capital markets products which the holder or the representative recommends to the customer, and specify the steps to be taken for this purpose;

(*i*) specify the circumstances in which, and the conditions and restrictions under which, the holder of a capital markets services licence, and a representative of such a holder, may enter into or effect a transaction, and provide for matters relating thereto including the right of the other party to the contract in question to rescind it where a regulation made under this paragraph is contravened;

[2/2009 wef 26/11/2010]

(*ia*) require the holder of a capital markets services licence to comply with prescribed requirements concerning the sale of, or the making of recommendations with

respect to, securities which the holder has subscribed for or purchased, or may be required to subscribe for or purchase, under an underwriting or sub-underwriting agreement;

[2/2009 wef 26/11/2010]

(*j*) specify the circumstances in which, and the conditions under which, the holder of a capital markets services licence, and a representative of such a holder, may use information relating to the affairs of the customer of the holder;

(*k*) require the holder of a capital markets services licence, and a representative of such a holder, to take steps to avoid cases of conflict between any of their interests and those of a customer of the holder, and specify the steps to be taken in the event of a potential or actual case of conflict;

(*l*) specify the circumstances in which the holder of a capital markets services licence may receive any property or service from another holder of a capital markets services licence in consideration of directing business to that other holder;

(*m*) specify the circumstances in which, and the conditions and restrictions under which, a representative of the holder of a capital markets services licence is permitted to deal or trade for his own account in securities or futures contracts;

(*n*) provide for any other matter relating to the practices and standards of conduct of the holder of a capital markets services licence and a representative of such a holder in carrying on business in any regulated activity; and

(*o*) provide that, subject to such conditions or restrictions as may be prescribed, all or specified provisions of this Part shall not apply to a specified class of holders of a capital markets services licences or their representatives, or to a specified class of capital markets products.

[1/2005]

(3) Regulations made under this section may provide that any customer contract entered into by the holder of a capital markets services licence with its customer otherwise than in compliance with any specified regulation is, notwithstanding anything in the contract, unenforceable at the option of the customer.

(4) Regulations made under this section may provide —

(*a*) that a contravention of any specified provision thereof shall be an offence; and

(*b*) for penalties not exceeding a fine of $100,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

[16/2003]

(5) In this section, "customer contract" means any contract or arrangement between the holder of a capital markets services licence and a customer of the holder which contains terms on which the holder is to provide services to, or effect transactions for, the customer.

[HK SF Bill, Clause 163]

PART VIA

REPORTING OF DERIVATIVES CONTRACTS

[Act 34 of 2012 wef 31/10/2013]

Interpretation of this Part

124. In this Part, unless the context otherwise requires —

"bank in Singapore" has the same meaning as in section 2(1) of the Banking Act (Cap. 19);

"market contract" means —

(*a*) a contract subject to the business rules of an approved clearing house, or a recognised clearing house, that is entered into between the approved clearing house or recognised clearing house and a participant pursuant to a novation (however described), whether before or after default proceedings have commenced, which is in accordance with those business rules and for the purposes of the clearing or settlement of transactions using the clearing facility of the approved clearing house or recognised clearing house; or

(*b*) a transaction which is being cleared or settled using the clearing facility of an approved clearing house or a recognised clearing house, and in accordance with the business rules of the approved clearing house or recognised clearing house, whether or not a novation referred to in paragraph (*a*) is to take place;

"specified derivatives contract" means any derivatives contract that is, or that belongs to a class of derivatives contracts that is, prescribed by the Authority by regulations made under section 129 for the purposes of this definition;

"specified person" means —

(*a*) any bank in Singapore licensed under the Banking Act;

(*b*) any subsidiary of a bank incorporated in Singapore;

(*c*) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(*d*) any finance company licensed under the Finance Companies Act (Cap. 108);

(*e*) any insurer licensed under the Insurance Act (Cap. 142);

[Act 10/2013 wef 01/11/2013]

(*f*) any approved trustee referred to in section 289;

(*g*) any holder of a capital markets services licence; or

(*h*) any other person who is, or who belongs to a class of persons which is, prescribed by the Authority by regulations made under section 129 for the purposes of this definition.

[Act 34/2012 wef 31/10/2013]

Reporting of specified derivatives contracts

125.—(1) Every specified person who is a party to a specified derivatives contract shall, at such time or times and in such form or manner as the Authority may prescribe by regulations made under section 129, report to a licensed trade repository or licensed foreign trade repository —

(*a*) such information on the specified derivatives contract as the Authority may prescribe by those regulations; and

(*b*) any amendment, modification, variation or change to the information referred to in paragraph (*a*).

(2) Without prejudice to subsection (1), where the circumstances referred to in subsection (3) apply, a specified person who enters into a specified derivatives contract as an agent of a party to the specified derivatives contract shall, at such time or times and in such form or manner as the Authority may prescribe by regulations made under section 129, report to a licensed trade repository or licensed foreign trade repository —

(*a*) such information on the specified derivatives contract as the Authority may prescribe by those regulations; and

(*b*) any amendment, modification, variation or change to the information referred to in paragraph (*a*).

(3) For the purposes of subsection (2), the circumstances are as follows:

(*a*) the party to the specified derivatives contract —

(i) is not a specified person; or

(ii) is a specified person, but is exempted under section 129A from subsection (1);

(*b*) the specified person referred to in subsection (2) —

(i) is incorporated in Singapore; or

(ii) has an office or a branch in Singapore; and

(*c*) the specified person referred to in subsection (2) enters into the specified derivatives contract through an individual (being an officer or employee of the specified person) who, at the time the specified derivatives contract is entered into, satisfies both of the following requirements:

(i) the individual's place of employment is Singapore; and

(ii) the individual is physically in Singapore.

(4) A specified person who is required to comply with subsection (1) or (2) in relation to any information on a specified derivatives contract (including any amendment, modification,

variation or change to that information) shall be deemed to have reported that information to a licensed trade repository or licensed foreign trade repository, if —

(*a*) the specified person has reported that information to any other person;

(*b*) that other person has reported that information, in such form or manner as the Authority may prescribe by regulations made under section 129, to that licensed trade repository or licensed foreign trade repository; and

(*c*) that information is true and correct and has been received by that licensed trade repository or licensed foreign trade repository.

(5) A specified person who is required to comply with subsection (1) or (2) in relation to any information on a specified derivatives contract (including any amendment, modification, variation or change to that information) shall be deemed to have reported that information to a licensed trade repository or licensed foreign trade repository, if —

(*a*) any other specified person who is required to comply with subsection (1) or (2) in relation to that information, or any other party to the specified derivatives contract, has reported that information to that licensed trade repository or licensed foreign trade repository in accordance with subsection (1) or (2), or is deemed under subsection (3) to have so reported that information; and

(*b*) that information is true and correct and has been received by that licensed trade repository or licensed foreign trade repository.

(6) A specified person who is deemed, under subsection (4) or (5), to have reported any information on a specified derivatives contract (including any amendment, modification, variation or change to that information) to a licensed trade repository or licensed foreign trade repository shall be deemed to have so reported that information at the time that information is received by that licensed trade repository or licensed foreign trade repository.

(7) Any specified person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(8) A specified person who is required under subsection (1) or (2) to report any information to a licensed trade repository or licensed foreign trade repository shall use due care to ensure that the information reported is not false in any material particular.

(9) Any specified person who contravenes subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(10) Except where the parties to a specified derivatives contract have entered into an express agreement to the contrary, the specified derivatives contract shall not, by reason only of a contravention of subsection (1), (2) or (8) in relation to the specified derivatives contract, be voidable or void.

(11) For the purposes of subsections (1)(*a*) and (2)(*a*), the information on a specified derivatives contract that the Authority may prescribe by regulations made under section 129 includes, but is not limited to —

(*a*) the identities of the parties to the specified derivatives contract; and

(*b*) the characteristics of the specified derivatives contract, including, but not limited to, operational data (such as clearing and settlement details), event data (such as execution time), underlying information and information on transaction economics (such as effective date and maturity date).

(12) For the purposes of this section, where any right or obligation under a specified derivatives contract is transferred to any market contract, a reference to the specified derivatives contract shall include a reference to that market contract.

[Act 34/2012 wef 31/10/2013]

Power of Authority to obtain information

126.—(1) The Authority may require any person to furnish the Authority with such information or documents as the Authority considers necessary for determining —

(*a*) whether any derivatives contract or class of derivatives contract should be prescribed for the purposes of the definition of "specified derivatives contract" in section 124;

(*b*) whether the person or any other person or class of persons should be prescribed for the purposes of paragraph (*h*) of the definition of "specified person" in section 124; or

(*c*) whether the purpose or effect of any contract, arrangement, transaction or class of contracts, arrangements or transactions is to avoid, directly or indirectly, any requirement that is, or that would otherwise have been, imposed under section 125 (1) or (2).

(2) Subject to subsections (4) and (5), a person shall comply with every requirement imposed on him under subsection (1).

(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(4) No person shall by virtue of this section be obliged to furnish any information or document as to which he is under any statutory obligation to observe secrecy.

(5) Nothing in this section shall compel an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), to furnish any information on, or any document containing, any privileged communication made by or to him in that capacity.

(6) Where a person claims, before furnishing the Authority with any information or documents that he is required to furnish under subsection (1)(*c*), that the information or documents might tend to incriminate him, the information or documents —

(*a*) shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (3); but

(*b*) shall be admissible in evidence for civil proceedings under Part XII.

[Act 34/2012 wef 31/10/2013]

Directions on alternative reporting arrangements

127.—(1) Where the Authority is of the opinion that any licensed trade repository or licensed foreign trade repository is not available for the reporting of, or is incapable of receiving, any information on any specified derivatives contract (including any amendment, modification, variation or change to that information) under section 125(1) or (2), the Authority may issue directions, whether of a general or specific nature, by notice in writing, to any specified person referred to in section 125(1) or (2) or class of such persons, requiring the specified person or class of such persons to do one or more of the following:

(*a*) to maintain records of that information in such form or manner as the Authority may prescribe by regulations made under section 129;

(*b*) to report that information, or submit records of that information, in such form or manner as the Authority may specify in that notice, at such frequency and over such period as the Authority may specify in that notice, to such person as the Authority may specify in that notice;

(*c*) to give the Authority, or such person as the Authority may specify in that notice, access to that information, or to records of that information, in such manner as the Authority may specify in that notice.

(2) A specified person referred to in subsection (1) shall comply with every direction issued to him under that subsection.

(3) A specified person shall be deemed to have complied with section 125(1) or (2) in relation to any information on a specified derivatives contract (including any amendment, modification, variation or change to that information) if, while a direction issued to him under subsection (1) remains in force, he complies with that direction in relation to that information.

(4) The Authority may cancel a direction issued under subsection (1) in relation to any licensed trade repository or licensed foreign trade repository, if the Authority is of the opinion that the grounds for the issue of the direction have ceased to apply.

(5) Any specified person who, without reasonable excuse, contravenes a direction issued to him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(6) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.

(7) For the purposes of this section, a reference to any information on a specified derivatives contract includes a reference to any such information which has previously been reported to a licensed trade repository or licensed foreign trade repository under section 125.

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Compliance with laws and practices of relevant reporting jurisdiction

128.—(1) Subject to subsection (3), a specified person who is a party to a specified derivatives contract shall be deemed to have complied with section 125(1) in relation to any information on the specified derivatives contract (including any amendment, modification, variation or change to that information), if —

(*a*) any other party to the specified derivatives contract is incorporated, formed or established under the laws of, or has a place of business in, a relevant reporting jurisdiction; and

(*b*) the specified person, or any other party to the specified derivatives contract, is required to comply with, and has complied with, in relation to the specified derivatives contract, the requirements relating to the reporting of specified derivatives contracts under the laws and practices of the relevant reporting jurisdiction.

(2) Subject to subsection (3), a specified person who enters into a specified derivatives contract as an agent of a party to the specified derivatives contract (referred to in this subsection as the principal party) shall be deemed to have complied with section 125(2) in relation to any information on the specified derivatives contract (including any amendment, modification, variation or change to that information), if —

(*a*) the principal party, or any other party to the specified derivatives contract, is incorporated, formed or established under the laws of, or has a place of business in, a relevant reporting jurisdiction; and

(*b*) the principal party, or any other party to the specified derivatives contract, is required to comply with, and has complied with, in relation to the specified derivatives contract, the requirements relating to the reporting of specified derivatives contracts under the laws and practices of the relevant reporting jurisdiction.

(3) Subsections (1) and (2) shall not apply to any specified derivatives contract that is, or that belongs to a class of specified derivatives contracts that is, prescribed by the Authority by regulations made under section 129 for the purposes of this subsection.

(4) In this section —

"place of business", in relation to a party to a specified derivatives contract, means a head or main office, a branch, a representative office or any other office of the party;

"relevant reporting jurisdiction" means any foreign jurisdiction that is prescribed by the Authority by regulations made under section 129 for the purposes of this definition.

[Act 34/2012 wef 31/10/2013]

Power of Authority to make regulations

129.—(1) Without prejudice to section 341, the Authority may make regulations for the purposes of this Part, including regulations to prescribe anything which may be prescribed under this Part.

(2) In deciding whether to prescribe any derivatives contract or class of derivatives contracts for the purposes of the definition of "specified derivatives contract" in section 124, the Authority may have regard to —

(*a*) the significance of that derivatives contract or class of derivatives contracts in Singapore;

(*b*) international developments in the reporting of derivatives contracts; and

(*c*) any other matters that the Authority deems to be relevant.

[Act 34/2012 wef 31/10/2013]

Exemption from section 125

129A.—(1) Without prejudice to section 337(1), the Authority may, by regulations made under section 129, exempt any specified person or class of specified persons from all or any of the provisions of section 125, subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(2) Without prejudice to section 337(3) and (4), the Authority may, by notice in writing, exempt any specified person from all or any of the provisions of section 125, subject to such conditions or restrictions as the Authority may specify by notice in writing.

(3) It shall not be necessary to publish any exemption granted under subsection (2) in the *Gazette*.

(4) Every specified person that is granted an exemption under subsection (1) or (2) shall satisfy every condition or restriction imposed on the specified person under the applicable subsection.

(5) Any specified person who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Act 34/2012 wef 31/10/2013]

PART VIB

CLEARING OF DERIVATIVES CONTRACTS

[Act 34/2012 wef 31/10/2013]

Interpretation of this Part

129B. In this Part, unless the context otherwise requires —

"bank in Singapore" has the same meaning as in section 2(1) of the Banking Act (Cap. 19);

"clearing" means any arrangement, process, mechanism or service provided by a person in respect of transactions, by which parties to those transactions substitute, through novation or otherwise, the credit of such person for the credit of the parties;

"specified derivatives contract" means any derivatives contract that is, or that belongs to a class of derivatives contracts that is, prescribed by the Authority by regulations made under section 129G for the purposes of this definition;

"specified person" means —

(*a*) any bank in Singapore licensed under the Banking Act;

(*b*) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(*c*) any finance company licensed under the Finance Companies Act (Cap. 108);

(*d*) any insurer licensed under the Insurance Act (Cap. 142);

[Act 10/2013 wef 01/11/2013]

(*e*) any approved trustee referred to in section 289;

(*f*) any holder of a capital markets services licence; or

(*g*) any other person who is, or who belongs to a class of persons which is, prescribed by the Authority by regulations made under section 129G for the purposes of this definition.

[Act 34/2012 wef 31/10/2013]

Clearing of specified derivatives contracts

129C.—(1) Every specified person who is a party to a specified derivatives contract shall, within such time as the Authority may prescribe by regulations made under section 129G, cause the specified derivatives contract to undergo clearing, by a clearing facility operated by an approved clearing house or a recognised clearing house, in accordance with the business rules of the approved clearing house or recognised clearing house, as the case may be.

(2) Any specified person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(3) Except where the parties to a specified derivatives contract have entered into an express agreement to the contrary, the specified derivatives contract shall not, by reason only of a contravention of subsection (1) in relation to the specified derivatives contract, be voidable or void.

[Act 34/2012 wef 31/10/2013]

Power of Authority to obtain information

129D.—(1) The Authority may require any person to furnish the Authority with such information or documents as the Authority considers necessary for determining —

(*a*)

whether any derivatives contract or class of derivatives contracts should be prescribed for the purposes of the definition of "specified derivatives contract" in section 129B;

(*b*) whether the person or any other person or class of persons should be prescribed for the purposes of paragraph (*g*) of the definition of "specified person" in section 129B; or

(*c*) whether the purpose or effect of any contract, arrangement, transaction or class of contracts, arrangements or transactions is to avoid, directly or indirectly, any requirement that is, or that would otherwise have been, imposed under section 129C (1).

(2) Subject to subsections (4) and (5), a person shall comply with every requirement imposed on him under subsection (1).

(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(4) No person shall by virtue of this section be obliged to furnish any information or document as to which he is under any statutory obligation to observe secrecy.

(5) Nothing in this section shall compel an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), to furnish any information on, or any document containing, any privileged communication made by or to him in that capacity.

(6) Where a person claims, before furnishing the Authority with any information or documents that he is required to furnish under subsection (1)(*c*), that the information or documents might tend to incriminate him, the information or documents —

(*a*) shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (3); but

(*b*) shall be admissible in evidence for civil proceedings under Part XII.

[Act 34/2012 wef 31/10/2013]

Directions on alternative clearing arrangements

129E.—(1) Where the Authority is of the opinion that any clearing facility operated by any approved clearing house or recognised clearing house is not available for the clearing of, or is incapable of clearing, any type of specified derivatives contract under section 129C(1), the Authority may issue directions, whether of a general or specific nature, by notice in writing, to any specified person who is a party to any specified derivatives contract of that type, or to any class of specified persons who are parties to specified derivatives contracts of that type, requiring the specified person or class of specified persons, as the case may be, to cause that specified derivatives contract or those specified derivatives contracts, as the case may be, to undergo clearing by such other person, in such manner, as the Authority may specify in that notice.

(2) A specified person referred to in subsection (1) shall comply with every direction issued to him under that subsection.

(3) A specified person shall be deemed to have complied with section 129C(1) in relation to a specified derivatives contract if, while a direction issued to him under subsection (1) remains in force, he complies with that direction in relation to that specified derivatives contract.

(4) The Authority may cancel a direction issued under subsection (1) in relation to any clearing facility operated by any approved clearing house or recognised clearing house, if the Authority is of the opinion that the grounds for the issue of the direction have ceased to apply.

(5) Any specified person who, without reasonable excuse, contravenes a direction issued to him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(6) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.

[Act 34/2012 wef 31/10/2013]

Compliance with laws and practices of relevant clearing jurisdiction

129F.—(1) Subject to subsection (2), a specified person who is a party to a specified derivatives contract shall be deemed to have complied with section 129C(1) in relation to the specified derivatives contract, if —

(*a*) any other party to the specified derivatives contract is incorporated, formed or established under the laws of, or has a place of business in, a relevant clearing jurisdiction; and

(*b*) every party to the specified derivatives contract is required to comply with, and has complied with, in relation to the specified derivatives contract, the requirements relating to the clearing of specified derivatives contracts under the laws and practices of the relevant clearing jurisdiction.

(2) Subsection (1) shall not apply to any specified derivatives contract that is, or that belongs to a class of specified derivatives contracts that is, prescribed by the Authority by regulations made under section 129G for the purposes of this subsection.

(3) In this section —

"place of business", in relation to a party to a specified derivatives contract, means a head or main office, a branch, a representative office or any other office of the party;

"relevant clearing jurisdiction" means a foreign jurisdiction that is prescribed by the Authority by regulations made under section 129G for the purposes of this definition.

[Act 34/2012 wef 31/10/2013]

Power of Authority to make regulations

129G.—(1) Without prejudice to section 341, the Authority may make regulations for the purposes of this Part, including regulations to prescribe anything which may be prescribed under this Part.

(2) In deciding whether to prescribe any derivatives contract or class of derivatives contracts for the purposes of the definition of "specified derivatives contract" in section 129B, the Authority may have regard to —

(*a*) the level of systemic risk posed by that derivatives contract or class of derivatives contracts;

(*b*) the characteristics and level of standardisation of the contractual terms and operational processes relating to that derivatives contract or class of derivatives contracts;

(*c*) the depth and liquidity of the market for that derivatives contract or class of derivatives contracts;

(*d*) the availability of fair, reliable and generally accepted pricing sources for that derivatives contract or class of derivatives contracts;

(*e*) the international regulatory approach towards that derivatives contract or class of derivatives contracts;

(*f*) whether there is any anti-competitive effect associated with that derivatives contract or class of derivatives contracts;

(*g*) the availability of approved clearing houses or recognised clearing houses that operate clearing facilities for the clearing of that derivatives contract or class of derivatives contracts; and

(*h*) any other matters that the Authority deems to be relevant.

[Act 34/2012 wef 31/10/2013]

Exemption from section 129C

129H.—(1) Without prejudice to section 337(1), the Authority may, by regulations made under section 129G, exempt any specified person or class of specified persons from all or any of the provisions of section 129C, subject to such conditions or restrictions as the Authority may prescribe in those regulations.

(2) Without prejudice to section 337(3) and (4), the Authority may, by notice in writing, exempt any specified person from all or any of the provisions of section 129C, subject to such conditions or restrictions as the Authority may specify by notice in writing.

(3) It shall not be necessary to publish any exemption granted under subsection (2) in the *Gazette*.

(4) Every specified person that is granted an exemption under subsection (1) or (2) shall satisfy every condition or restriction imposed on the specified person under the applicable subsection.

(5) Any specified person who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[Act 34/2012 wef 31/10/2013]

PART VII

DISCLOSURE OF INTERESTS

Division 1 — Disclosure of Interest in Corporation

Application and interpretation of this Division

130.—(1) This section shall have effect for the purposes of this Division but shall not prejudice the operation of any other provision of this Act.

(2) A reference to a corporation is a reference —

(*a*) to a company any or all of the shares in which are listed for quotation on the official list of a securities exchange; or

(*b*) to a corporation (not being a company, or a collective investment scheme constituted as a corporation) any or all of the shares in which are listed for quotation on the official list of a securities exchange, such listing being a primary listing.

(3) In relation to a corporation the whole or a portion of the share capital of which consists of stock, an interest of a person in any such stock shall be deemed to be an interest in an issued share in the corporation having attached to it the same rights as are attached to that stock.

(4) A reference to a member —

(*a*) in relation to a company, means a person who is a member of the company under section 19(6) of the Companies Act (Cap. 50); and

(*b*) in relation to a corporation (other than a company), means any person equivalent to a member of a company.

(5) Section 4 (other than subsection (6)) shall apply for the purpose of determining whether a person has an interest in securities under this Division; and in determining whether a person is deemed to have an interest in securities under section 4(5) for such purpose, a person shall be treated as an associate of another person if the first-mentioned person is —

(*a*) a subsidiary of the second-mentioned person;

(*b*) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to those securities; or

(*c*) a corporation which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions,

instructions or wishes of the second-mentioned person in relation to those securities.

(6) For the purposes of sections 133(3)(*b*)(i), 135(2)(*b*), 136(1), 137(1) and 137E(6), a person shall conclusively be presumed to have been aware of a fact or occurrence at a particular time —

(*a*) of which he would, if he had acted with reasonable diligence in the conduct of his affairs, have been aware at that time;

(*b*) where the person is a body corporate or unincorporated association (other than a partnership), of which its officer would, if he had acted with reasonable diligence in the conduct of its affairs, have been aware at that time;

(*c*) where the person is a limited liability partnership, of which its partner or manager would, if he had acted with reasonable diligence in the conduct of its affairs, have been aware at that time; or

(*d*) where the person is a partnership, of which its partner would, if he had acted with reasonable diligence in the conduct of its affairs, have been aware at that time.

(7) In this section —

"officer" —

(*a*) in relation to a body corporate, means a director, member of the committee of management, chief executive officer, manager, secretary or other similar officer of the body, and includes a person purporting to act in any such capacity; or

(*b*) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or a member of the committee of the association, or a person holding a position analogous to that of president, secretary or member of the committee, and includes a person purporting to act in such capacity;

"partner" includes a person purporting to act as a partner.

[2/2009 wef 19/11/2012]

Persons obliged to comply with this Division and power of Authority to grant exemption or extension

131.—(1) The obligation to comply with this Division extends to all natural persons, whether resident in Singapore or not and whether citizens of Singapore or not, and to all entities, whether formed, constituted or carrying on business in Singapore or not.

(2) This Division extends to acts done or omitted to be done outside Singapore.

(3) The Authority may exempt any person or class of persons from any or all of the provisions of this Division.

(4) The Authority may by notice in writing impose on a person exempted under subsection (3), or by regulations impose on a class of persons exempted under that subsection, such

conditions or restrictions as the Authority thinks fit and the person or persons shall comply with such conditions or restrictions.

(5) Any person who contravenes any condition or restriction imposed under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(6) The Authority may, on the application of a person required to give a notice under this Division, in its discretion, extend, or further extend, the time for giving the notice.

[2/2009 wef 19/11/2012]

Authority may extend scope of Division in certain circumstances

132. The Authority may, if it thinks it is necessary in the interests of the public or a section of the public, to protect investors, or to enhance market transparency, by regulations extend, with or without modifications or adaptations, the provisions of this Division —

(*a*) to any person, class of persons, securities, interests in securities, or class of securities or interests in securities, other than the persons, securities or interests in securities to which this Division applies;

(*b*) to require the disclosure of interests in any entity, arrangement or trust other than a corporation,

and the provisions of this Division shall apply accordingly.

[2/2009 wef 19/11/2012]

Subdivision (1) — Disclosure by directors and chief executive officer of corporation

Duty of director or chief executive officer to notify corporation of his interests

133.—(1) Every director and chief executive officer of a corporation shall give notice in writing to the corporation of particulars of —

(*a*) shares in —

(i) the corporation; or

(ii) a related corporation of the corporation,

which he holds, or in which he has an interest and the nature and extent of that interest;

(*b*) debentures of —

(i) the corporation; or

(ii) a related corporation of the corporation,

which he holds, or in which he has an interest and the nature and extent of that interest;

(*c*) his rights or options, or rights or options of his and another person or other persons, in respect of the acquisition or disposal of shares in or debentures of —

(i) the corporation; or

(ii) a related corporation of the corporation;

(*d*) contracts to which he is a party, or under which he is entitled to a benefit, being contracts under which a person has a right to call for or to make delivery of shares in —

(i) the corporation; or

(ii) a related corporation of the corporation;

(*e*) participatory interests made available by —

(i) the corporation; or

(ii) a related corporation of the corporation,

which he holds, or in which he has an interest and the nature and extent of that interest;

(*f*) such other securities as the Authority may prescribe, which are held, whether directly or indirectly, by him, or in which he has an interest and the nature and extent of that interest; and

(*g*) any change in respect of the particulars of any matter referred to in paragraphs (*a*) to (*f*).

(2) Paragraphs (*a*)(ii), (*b*)(ii), (*c*)(ii), (*d*)(ii), (*e*) and (*g*) (in respect of a change in the particulars of any matter referred to in paragraphs (*a*)(ii), (*b*)(ii), (*c*)(ii), (*d*)(ii) and (*e*)) of subsection (1) shall only apply to a director of a corporation which is a company.

(3) A notice under subsection (1) —

(*a*) shall be in such form and shall contain such information as the Authority may prescribe; and

(*b*) shall be given —

(i) in the case of a notice under subsection (1)(*g*), within 2 business days after the director or chief executive officer becomes aware of the change; or

(ii) in any other case, within 2 business days after —

(A) the date on which the director or chief executive officer becomes such a director or chief executive officer; or

(B) the date on which the director or chief executive officer becomes a holder of, or acquires an interest in, the shares, debentures, rights, options, contracts, participatory interests or other securities referred to in subsection (1),

whichever last occurs.

(4) For the purposes of this section —

(*a*) a director or chief executive officer of a corporation shall be deemed to have an interest in securities referred to in subsection (1) if a family member of the director or chief executive officer (not being himself a director or chief executive officer of the corporation), as the case may be, holds or has an interest in those securities; and

(*b*) any contract entered into by, any assignment or right of subscription made or exercised by, or any grant made to, a family member of a director or chief executive officer of a corporation (not being himself a director or chief executive officer of the corporation) shall be deemed to have been entered into by, made or exercised by or made to the director or chief executive officer.

(5) In this section —

(*a*) a reference to a participatory interest is a reference to a unit in a collective investment scheme; and

(*b*) a reference to a person who holds or acquires participatory interests or other securities referred to in subsection (1), or an interest in shares, debentures, participatory interests or other securities referred to in that subsection, includes a reference to a person who under an option holds or acquires a right to acquire or dispose of the participatory interests or securities, or the interest in shares, debentures, participatory interests or securities.

(6) In this section, "family member" means a spouse, or a son, adopted son, step-son, daughter, adopted daughter or step-daughter below the age of 21 years.

[2/2009 wef 19/11/2012]

Penalties under this Subdivision

134.—(1) Any director or chief executive officer of a corporation who —

(*a*) intentionally or recklessly contravenes section 133(1)(*a*)(i), (*b*)(i), (*c*)(i), (*d*)(i) or (*f*), or section 133(1)(*g*) in respect of a change in the particulars of any matter referred to in section 133(1)(*a*)(i), (*b*)(i), (*c*)(i), (*d*)(i) and (*f*);

(*b*) intentionally or recklessly contravenes section 133(3) in respect of a notice of the particulars of any matter referred to in section 133(1)(*a*)(i), (*b*)(i), (*c*)(i), (*d*)(i) and (*f*) or of a change in any of those particulars; or

(*c*) in purported compliance with section 133(1)(*a*)(i), (*b*)(i), (*c*)(i), (*d*)(i) or (*f*), or section 133(1)(*g*) in respect of a change in the particulars of any matter referred to in section 133(1)(*a*)(i), (*b*)(i), (*c*)(i), (*d*)(i) and (*f*), furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing

offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any director or chief executive officer of a corporation who —

(*a*) contravenes section 133(1) or (3); or

(*b*) in purported compliance with section 133, furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(3) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (2) — Disclosure by substantial shareholders in corporation

Duty of substantial shareholder to notify corporation of his interests

135.—(1) A person who is or (if he has ceased to be one) had been a substantial shareholder in a corporation shall give notice in writing to the corporation of particulars of the voting shares in the corporation in which he has or had an interest or interests and the nature and extent of that interest or those interests.

(2) A notice under subsection (1) —

(*a*) shall be in such form and shall contain such information as the Authority may prescribe;

(*b*) shall be given within 2 business days after the person becomes aware that he is or (if he has ceased to be one) had been a substantial shareholder; and

(*c*) shall be given notwithstanding that the person has ceased to be a substantial shareholder before the expiration of the period referred to in paragraph (*b*).

[2/2009 wef 19/11/2012]

Duty of substantial shareholder to notify corporation of change in interests

136.—(1) Where there is a change in the percentage level of the interest or interests of a substantial shareholder in a corporation in voting shares in the corporation, the substantial

shareholder shall give notice in writing to the corporation within 2 business days after he becomes aware of the change.

(2) A notice under subsection (1) shall be in such form and shall contain such information as the Authority may prescribe.

(3) In subsection (1), "percentage level", in relation to a substantial shareholder in a corporation, means the percentage figure ascertained by expressing the total votes attached to all the voting shares in which the substantial shareholder has an interest or interests immediately before or (as the case may be) immediately after the relevant time, as a percentage of the total votes attached to —

(*a*) all the voting shares (excluding treasury shares) in the corporation; or

(*b*) where the share capital of the corporation is divided into 2 or more classes of shares, all the voting shares (excluding treasury shares) in the class concerned,

and, if it is not a whole number, rounding that figure down to the next whole number.

[2/2009 wef 19/11/2012]

Duty of person who ceases to be substantial shareholder to notify corporation

137.—(1) A person who ceases to be a substantial shareholder in a corporation shall give notice in writing to the corporation within 2 business days after he becomes aware that he has ceased to be a substantial shareholder.

(2) A notice under subsection (1) shall be in such form and shall contain such information as the Authority may prescribe.

[2/2009 wef 19/11/2012]

Beneficial owner to ensure notification by person who holds, acquires or disposes of interests on his behalf

137A. Where a person authorises another person to hold, acquire or dispose of, on his behalf, voting shares or an interest or interests in voting shares in a corporation, he shall take reasonable steps to ensure that the second-mentioned person notifies him as soon as practicable and, in any case, no later than 2 business days after any acquisition or disposal of any of those voting shares or interest or interests in voting shares effected by the second-mentioned person on his behalf which will or may give rise to any duty on the part of the first-mentioned person to give notice under this Subdivision.

[2/2009 wef 19/11/2012]

Notification by person who holds, acquires or disposes of interests for benefit of another person

137B. Where a person holds voting shares in a corporation, being voting shares in which another person has an interest, he shall give to the second-mentioned person a notice of any acquisition or disposal of any of those shares effected by him, in such form as the Authority may prescribe, as soon as practicable and, in any case, no later than 2 business days after acquiring or disposing of the shares.

[2/2009 wef 19/11/2012]

Corporation to keep register of substantial shareholders

137C.—(1) A corporation shall keep a register in which it shall immediately enter —

(*a*) the names of persons from whom it has received a notice under section 135; and

(*b*) against each name so entered, the information given in the notice and, where it receives a notice under section 136 or 137, the information given in that notice.

(2) The corporation shall keep the register at its registered office or, if the corporation does not have a registered office, at its principal place of business in Singapore and the register shall be open for inspection by a member of the corporation without charge, and by any other person on payment for each inspection of a sum of $2 or such lesser sum as the corporation requires.

(3) A person may request the corporation to furnish him with a copy of the register or any part of the register on payment in advance of a sum of $1 or such lesser sum as the corporation requires for every page or part thereof required to be copied, and the corporation shall send the copy to that person within 14 days, or such longer period as the Authority may allow in any particular case, after the day on which the corporation received the request.

(4) The Authority may at any time in writing require the corporation to furnish it with a copy of the register or any part of the register and the corporation shall send the copy to the Authority within 7 days after the day on which the corporation received the requirement.

(5) Any corporation which fails to comply with subsection (1), (2), (3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(6) A corporation is not, by reason of anything done under this Subdivision —

(*a*) to be taken for any purpose of the Companies Act (Cap. 50) to have notice of; or

(*b*) to be put upon inquiry as to,

a right of a person to or in relation to a share in the corporation.

[2/2009 wef 19/11/2012]

Penalties under this Subdivision

137D.—(1) Any person who —

(*a*) intentionally or recklessly contravenes section 135, 136(1) or (2), 137, 137A or 137B; or

(*b*) in purported compliance with section 135, 136, 137 or 137B, furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the

case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any person who —

(*a*) contravenes section 135, 136(1) or (2), 137, 137A or 137B; or

(*b*) in purported compliance with section 135, 136, 137 or 137B, furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(3) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Powers of court with respect to non-compliance by substantial shareholders

137E.—(1) Where a person is or has been a substantial shareholder in a corporation and has failed to comply with section 135, 136 or 137, a court may, on the application of the Authority, whether or not that failure still continues, make one or more of the following orders:

(*a*) an order restraining the substantial shareholder from disposing of any interest in shares in the corporation in which he is or has been a substantial shareholder;

(*b*) an order restraining a person who is, or is entitled to be the holder of the shares referred to in paragraph (*a*) from disposing of any interest in those shares;

(*c*) an order restraining the exercise by any person of any voting or other rights attached to any share in the corporation in which the substantial shareholder has or has had an interest;

(*d*) an order directing the corporation not to make payment, or to defer making payment, of any sum due from the corporation in respect of any share in which the substantial shareholder has or has had an interest;

(*e*) an order directing the sale of any or all of the shares in the corporation in which the substantial shareholder has or has had an interest;

(*f*) an order directing the corporation not to register or cause to be registered in the register of members the transfer or transmission of shares specified by the court;

(*g*) an order directing the Depository (within the meaning of section 130A of the Companies Act (Cap. 50)) or any depository corporation not to register or cause to be registered the transfer or transmission of any shares or interest in shares in the corporation specified by the court;

(*h*) an order that any exercise by any person of the voting or other rights attached to shares in the corporation specified by the court in which the substantial shareholder has or has had an interest be disregarded;

(*i*) for the purposes of securing compliance with any other order made under this section, an order directing the corporation or any other person to do or refrain from doing an act specified by the court.

(2) Any order made under this section may include such ancillary or consequential provisions as the court thinks just.

(3) An order made under this section directing the sale of any share may provide that the sale shall be made within such time and subject to such conditions, if any, as the court thinks fit, including, if the court thinks fit, a condition that the sale shall not be made to a person who is, or, as a result of the sale, would become a substantial shareholder in the corporation.

(4) Where a share is not sold in accordance with an order of the court under this section, the Authority may apply to the court for directions, including directions as to who the unsold share is to vest in.

(5) The court shall, before making an order under this section and in determining the terms of such an order, satisfy itself, so far as it can reasonably do so, that the order would not unfairly prejudice any person.

(6) The court shall not make an order under this section, other than an order restraining the exercise of voting rights, if it is satisfied —

(*a*) that the failure of the substantial shareholder to comply as mentioned in subsection (1) was due to his inadvertence or mistake or to his not being aware of a relevant fact or occurrence; and

(*b*) that in all the circumstances, the failure ought to be excused.

(7) The court may, before making an order under this section, direct that notice of the application be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit, or both.

(8) The court may rescind, vary or discharge an order made by it under this section or suspend the operation of such an order.

(9) Any person who contravenes an order made under this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(10) Subsection (9) does not affect the powers of the court in relation to the punishment of contempt of the court.

[2/2009 wef 19/11/2012]

Power of corporation to require disclosure of beneficial interest in its voting shares

137F.—(1) Any corporation may by notice in writing require any member of the corporation within such reasonable time as is specified in the notice —

(*a*) to inform it whether he holds any voting shares in the corporation as beneficial owner or as trustee; and

(*b*) if he holds them as trustee, to indicate so far as he can the persons for whom he holds them (either by name or by other particulars sufficient to enable those persons to be identified) and the nature of their interest.

(2) Where a corporation is informed pursuant to a notice given to any person under subsection (1) or under this subsection that any other person has an interest in any of the voting shares in the corporation, the corporation may by notice in writing require that other person within such reasonable time as is specified in the notice —

(*a*) to inform it whether he holds that interest as beneficial owner or as trustee; and

(*b*) if he holds it as trustee, to indicate so far as he can the persons for whom he holds it (either by name or by other particulars sufficient to enable them to be identified) and the nature of their interest.

(3) Any corporation may by notice in writing require any member of the corporation to inform it, within such reasonable time as is specified in the notice, whether any of the voting rights carried by any voting shares in the corporation held by him are the subject of an agreement or arrangement under which another person is entitled to control his exercise of those rights and, if so, to give particulars of the agreement or arrangement and the parties to it.

(4) The notice referred to in subsection (1), (2) or (3) shall contain such other information as may be prescribed by the Authority, and the delivery of such notice shall comply with such requirements as may be prescribed by the Authority.

(5) Any person to whom a notice is issued under subsection (1), (2) or (3) shall comply with that notice.

(6) Whenever a corporation receives information from a person pursuant to a requirement imposed on him under this section with respect to shares held by a member of the corporation, it shall be under an obligation to inscribe against the name of that member in a separate part of the register kept by it under section 137C —

(*a*) the fact that the requirement was imposed and the date on which it was imposed; and

(*b*) the information received pursuant to the requirement.

(7) Section 137C shall apply in relation to the part of the register referred to in subsection (6) as it applies in relation to the remainder of the register and as if references to subsection (1) of that section included references to subsection (6).

(8) Any person who —

(*a*) intentionally or recklessly contravenes subsection (5); or

(*b*) in purported compliance with subsection (5), furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(9) Any person who —

(*a*) contravenes subsection (5); or

(*b*) in purported compliance with subsection (5), furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(10) A person shall not be guilty of an offence under subsection (8)(*a*) or (9)(*a*) if he proves that the information in question was already in the possession of the corporation or that the requirement to give it was for any other reason frivolous or vexatious.

(11) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (3) — Disclosure by corporation

Duty of corporation to make disclosure

137G.—(1) Where a corporation has been notified in writing by —

(*a*) a director or chief executive officer of the corporation pursuant to a requirement imposed on him under section 133(1)(*a*)(i), (*b*)(i), (*c*)(i), (*d*)(i) or (*f*), or under section 133(1)(*g*) in respect of a change in the particulars of any matter referred to in section 133(1)(*a*)(i), (*b*)(i), (*c*)(i), (*d*)(i) and (*f*); or

(*b*) a substantial shareholder in the corporation pursuant to a requirement imposed on him under section 135, 136 or 137,

the corporation shall announce or otherwise disseminate the information stated in the notice to the securities market operated by the securities exchange on whose official list any or all of the shares of the corporation are listed, as soon as practicable and in any case, no later than the end of the business day following the day on which the corporation received the notice.

(2) The corporation shall announce or otherwise disseminate the information in such form and manner as the Authority may prescribe.

(3) Any corporation that —

(*a*) intentionally or recklessly contravenes subsection (1) or (2); or

(*b*) in purported compliance with this section, announces or disseminates any information knowing that it is false or misleading in a material particular or reckless as to whether it is,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(4) Any corporation that —

(*a*) contravenes subsection (1) or (2); or

(*b*) in purported compliance with this section, announces or disseminates any information that is false or misleading in a material particular,

in circumstances other than as set out in subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(5) Where an offence has been committed by a corporation under subsection (3) or (4), any officer of the corporation who —

(*a*) causes the corporation to contravene subsection (1);

(*b*) announces or disseminates, or permits or authorises the announcement or dissemination of, the information that is false or misleading in a material particular; or

(*c*)

announces or disseminates, or permits or authorises the announcement or dissemination of the information in contravention of subsection (2),

shall —

(i) if he had acted intentionally or recklessly, or with knowledge that the information so announced or disseminated is false or misleading in a material particular or is reckless as to whether it is, be guilty of an offence and be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both; or

(ii) if he had acted negligently, be guilty of an offence and be liable on conviction to a fine not exceeding $25,000.

(6) In this section, "officer" means a director, member of the committee of management, chief executive officer, manager, secretary or other similar officer of the corporation, and includes a person purporting to act in any such capacity.

(7) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Division 2 — Disclosure of Interest in Business Trust and Interest in Trustee-Manager of Business Trust

Application and interpretation of this Division

137H.—(1) This section shall have effect for the purposes of this Division but shall not prejudice the operation of any other provision of this Act.

(2) A reference to a registered business trust is a reference to a registered business trust any or all of the units in which are listed for quotation on the official list of a securities exchange.

(3) A reference to a recognised business trust is a reference to a recognised business trust any or all of the units in which are listed for quotation on the official list of a securities exchange, such listing being a primary listing.

(4) Section 4 (other than subsection (6)) shall apply for the purpose of determining whether a person has an interest in securities under this Division; and in determining whether a person is deemed to have an interest in securities under section 4(5) for such purpose, a person shall be treated as an associate of another person if the first-mentioned person is —

(*a*) a subsidiary of the second-mentioned person;

(*b*)

a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to those securities; or

(*c*) a corporation which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to those securities.

(5) Section 130(6) and (7) shall apply for the purposes of —

(*a*) sections 135(2)(*b*), 136(1) and 137(1) as applied by section 137J(1); and

(*b*) sections 137L(6), 137N(2)(*b*)(i), 137P(1) and 137R(1),

as they apply for the purposes of sections 133(3)(*b*)(i), 135(2)(*b*), 136(1), 137(1) and 137E(6).

[2/2009 wef 19/11/2012]

Persons obliged to comply with this Division and power of Authority to grant exemption or extension

137I.—(1) The obligation to comply with this Division extends to all natural persons, whether resident in Singapore or not and whether citizens of Singapore or not, and to all entities, whether formed, constituted or carrying on business in Singapore or not.

(2) This Division extends to acts done or omitted to be done outside Singapore.

(3) The Authority may exempt any person or class of persons from any or all of the provisions of this Division.

(4) The Authority may by notice in writing impose on a person exempted under subsection (3), or by regulations impose on a class of persons exempted under that subsection, such conditions or restrictions as the Authority thinks fit and the person or persons shall comply with such conditions or restrictions.

(5) Any person who contravenes any condition or restriction imposed under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(6) The Authority may, on the application of a person required to give a notice under this Division, in its discretion, extend, or further extend, the time for giving the notice.

[2/2009 wef 19/11/2012]

Subdivision (1) — Disclosure by substantial unitholders of business trust

Duty of substantial unitholder to notify trustee-manager of his interests

137J.—(1) Sections 135 to 137B shall apply, with such modifications and qualifications as may be necessary, to a person who is a substantial unitholder of a registered business trust or recognised business trust as though —

(*a*) references to the corporation to which notification should be given were references to the trustee-manager of the business trust;

(*b*) references to shares or voting shares in the corporation were references to units or voting units in the business trust; and

(*c*) references to a substantial shareholder in the corporation were references to a substantial unitholder of the business trust,

and such person shall comply with those provisions accordingly.

(2) Any person to whom subsection (1) applies who —

(*a*) intentionally or recklessly contravenes section 135, 136(1) or (2), 137, 137A or 137B as applied by subsection (1); or

(*b*) in purported compliance with section 135, 136, 137 or 137B as applied by subsection (1), furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(3) Any person to whom subsection (1) applies who —

(*a*) contravenes section 135, 136(1) or (2), 137, 137A or 137B as applied by subsection (1); or

(*b*) in purported compliance with section 135, 136, 137 or 137B as applied by subsection (1), furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(4) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*)

he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Trustee-manager to keep register of substantial unitholders

137K.—(1) The trustee-manager of a registered business trust or recognised business trust shall keep a register in which it shall immediately enter —

(*a*) the names of persons from whom it has received a notice under section 135 as applied by section 137J(1); and

(*b*) against each name so entered, the information given in the notice and, where it receives a notice under section 136 or 137 as applied by section 137J(1), the information given in that notice.

(2) The trustee-manager shall keep the register at its registered office or, if the trustee-manager does not have a registered office, at its principal place of business in Singapore, and the register shall be open for inspection by a unitholder of the business trust without charge and by any other person on payment for each inspection of a sum of $2 or such lesser sum as the trustee-manager requires.

(3) A person may request the trustee-manager to furnish him with a copy of the register or any part of the register on payment in advance of a sum of $1 or such lesser sum as the trustee-manager requires for every page or part thereof required to be copied, and the trustee-manager shall send the copy to that person within 14 days, or such longer period as the Authority may allow in any particular case, after the day on which the trustee-manager received the request.

(4) The Authority may at any time in writing require the trustee-manager to furnish it with a copy of the register or any part of the register and the trustee-manager shall send the copy to the Authority within 7 days after the day on which the trustee-manager received the requirement.

(5) Any trustee-manager which fails to comply with subsection (1), (2), (3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 19/11/2012]

Powers of court with respect to non-compliance by substantial unitholders

137L.—(1) Where a person is or has been a substantial unitholder of a registered business trust or recognised business trust and has failed to comply with section 135, 136 or 137 as applied by section 137J(1), a court may, on the application of the Authority, whether or not that failure still continues, make one or more of the following orders:

(*a*) an order restraining the substantial unitholder from disposing of any interest in units in the business trust of which he is or has been a substantial unitholder;

(*b*) an order restraining a person who is, or is entitled to be, the holder of the units referred to in paragraph (*a*) from disposing of any interest in those units;

(*c*) an order restraining the exercise by any person of any voting or other rights attached to any unit in the business trust in which the substantial unitholder has or has had an interest;

(*d*) an order directing the trustee-manager of the business trust not to make payment, or to defer making payment, out of the property of the business trust of any sum due in respect of any unit in which the substantial unitholder has or has had an interest;

(*e*) an order directing the sale of any or all of the units in the business trust in which the substantial unitholder has or has had an interest;

(*f*) an order directing the trustee-manager of the business trust not to register or cause to be registered in the register of unitholders the transfer or transmission of units specified by the court;

(*g*) an order directing the Depository (within the meaning of section 130A of the Companies Act (Cap. 50)) or any depository corporation not to register or cause to be registered the transfer or transmission of any units or interest in units in the business trust specified by the court;

(*h*) an order that any exercise by any person of the voting or other rights attached to units in the business trust specified by the court in which the substantial unitholder has or has had an interest be disregarded;

(*i*) for the purposes of securing compliance with any other order made under this section, an order directing the trustee-manager of the business trust or any other person to do or refrain from doing an act specified by the court.

(2) Any order made under this section may include such ancillary or consequential provisions as the court thinks just.

(3) An order made under this section directing the sale of any unit may provide that the sale shall be made within such time and subject to such conditions, if any, as the court thinks fit, including, if the court thinks fit, a condition that the sale shall not be made to a person who is, or, as a result of the sale, would become a substantial unitholder of the business trust.

(4) Where a unit is not sold in accordance with an order of the court under this section, the Authority may apply to the court for directions, including directions as to who the unsold unit is to vest in.

(5) The court shall, before making an order under this section and in determining the terms of such an order, satisfy itself, so far as it can reasonably do so, that the order would not unfairly prejudice any person.

(6) The court shall not make an order under this section, other than an order restraining the exercise of voting rights, if it is satisfied —

(*a*) that the failure of the substantial unitholder to comply as mentioned in subsection (1) was due to his inadvertence or mistake or to his not being aware of a relevant fact or occurrence; and

(*b*) that in all the circumstances, the failure ought to be excused.

(7) The court may, before making an order under this section, direct that notice of the application be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit, or both.

(8) The court may rescind, vary or discharge an order made by it under this section or suspend the operation of such an order.

(9) Any person who contravenes an order made under this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(10) Subsection (9) does not affect the powers of the court in relation to the punishment of contempt of the court.

[2/2009 wef 19/11/2012]

Power of trustee-manager to require disclosure of beneficial interest in voting units

137M.—(1) The trustee-manager of a registered business trust or recognised business trust may by notice in writing require any unitholder of the business trust within such reasonable time as is specified in the notice —

(*a*) to inform it whether he holds any voting units in the business trust as beneficial owner or as trustee; and

(*b*) if he holds them as trustee, to indicate so far as he can the persons for whom he holds them (either by name or by other particulars sufficient to enable those persons to be identified) and the nature of their interest.

(2) Where the trustee-manager of a registered business trust or recognised business trust is informed pursuant to a notice given to any person under subsection (1) or under this subsection that any other person has an interest in any of the voting units in the business trust, the trustee-manager may by notice in writing require that other person within such reasonable time as is specified in the notice —

(*a*) to inform it whether he holds that interest as beneficial owner or as trustee; and

(*b*) if he holds it as trustee, to indicate so far as he can the persons for whom he holds it (either by name or by other particulars sufficient to enable them to be identified) and the nature of their interest.

(3) The trustee-manager of a registered business trust or recognised business trust may by notice in writing require any unitholder of the business trust to inform it, within such reasonable time as is specified in the notice, whether any of the voting rights carried by any voting units in the business trust held by him are the subject of an agreement or arrangement under which another person is entitled to control his exercise of those rights and, if so, to give particulars of the agreement or arrangement and the parties to it.

(4) The notice referred to in subsection (1), (2) or (3) shall contain such other information as may be prescribed by the Authority, and the delivery of such notice shall comply with such requirements as may be prescribed by the Authority.

(5) Any person to whom a notice is issued under subsection (1), (2) or (3) shall comply with that notice.

(6) Whenever the trustee-manager of a registered business trust or recognised business trust receives information from a person pursuant to a requirement imposed on him under this section with respect to units held by a unitholder of the business trust, it shall be under an obligation to inscribe against the name of that unitholder in a separate part of the register kept by it under section 137K —

(*a*) the fact that the requirement was imposed and the date on which it was imposed; and

(*b*) the information received pursuant to the requirement.

(7) Section 137K shall apply in relation to the part of the register referred to in subsection (6) as it applies in relation to the remainder of the register and as if references to subsection (1) of that section included references to subsection (6).

(8) Any person who —

(*a*) intentionally or recklessly contravenes subsection (5); or

(*b*) in purported compliance with subsection (5), furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(9) Any person who —

(*a*) contravenes subsection (5); or

(*b*) in purported compliance with subsection (5), furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(10) A person shall not be guilty of an offence under subsection (8)(*a*) or (9)(*a*) if he proves that the information in question was already in the possession of the trustee-manager of the

registered business trust or recognised business trust, or that the requirement to give it was for any other reason frivolous or vexatious.

(11) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (2) — Disclosure by directors and chief executive officer of trustee-manager of business trust

Duty of director and chief executive officer of trustee-manager to notify his interests

137N.—(1) Every director and chief executive officer of the trustee-manager of a registered business trust or recognised business trust shall give notice in writing to the trustee-manager of particulars of —

(*a*) units or derivatives of units in the business trust, being units or derivatives of units held by him, or in which he has an interest and the nature and extent of that interest;

(*b*) debentures or units of debentures of the business trust which are held by him, or in which he has an interest and the nature and extent of that interest;

(*c*) such other securities as the Authority may prescribe which are held, whether directly or indirectly, by him, or in which he has an interest and the nature and extent of that interest; and

(*d*) any change in respect of the particulars of any matter referred to in paragraphs (*a*), (*b*) and (*c*).

(2) A notice under subsection (1) —

(*a*) shall be in such form and shall contain such information as the Authority may prescribe; and

(*b*) shall be given —

(i) in the case of a notice under subsection (1)(*d*), within 2 business days after the director or chief executive officer becomes aware of the change; or

(ii) in any other case, within 2 business days after —

(A) the date on which the director or chief executive officer becomes such a director or chief executive officer; or

(B) the date on which the director or chief executive officer becomes a holder of, or acquires an interest in, the units,

derivatives of units, debentures, units of debentures or other securities referred to in subsection (1),

whichever last occurs.

(3) For the purposes of this section, a director or chief executive officer of a trustee-manager shall be deemed to have an interest in securities referred to in subsection (1) if a family member of the director or chief executive officer (not being himself a director or chief executive officer of the trustee-manager), as the case may be, has an interest in those securities.

(4) In this section —

"family member" means a spouse, or a son, adopted son, step-son, daughter, adopted daughter or step-daughter below the age of 21 years;

"unit", in relation to a debenture, means any right or interest, whether legal or equitable, in the debenture, by whatever name called, and includes any option to acquire any such right or interest in the debenture.

[2/2009 wef 19/11/2012]

Penalties under this Subdivision

137O.—(1) Any director or chief executive officer of the trustee-manager of a registered business trust or recognised business trust who —

(*a*) intentionally or recklessly contravenes section 137N(1) or (2); or

(*b*) in purported compliance with section 137N, furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any director or chief executive officer of the trustee-manager of a registered business trust or recognised business trust who —

(*a*) contravenes section 137N(1) or (2); or

(*b*) in purported compliance with section 137N, furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(3) No proceedings shall be instituted against a person for an offence under this section after —

(*a*)

a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (3) — Disclosure by holders of voting shares in trustee-manager

Duty of holders of voting shares in trustee-manager to notify trustee-manager

137P.—(1) Where the percentage of interest of a person in the voting shares in a trustee-manager of a registered business trust or recognised business trust reaches, crosses or falls below 15%, 30%, 50% or 75%, he shall give notice in writing to the trustee-manager within 2 business days after he becomes aware of this.

(2) A notice under subsection (1) shall be in such form and shall contain such information as the Authority may prescribe.

(3) In subsection (1), the percentage of interest of a person in the voting shares in a trustee-manager of a registered business trust or recognised business trust is ascertained by expressing the total votes attached to all the voting shares in which he has an interest or interests immediately before or (as the case may be) immediately after the relevant time, as a percentage of the total votes attached to —

(*a*) all the voting shares (excluding treasury shares) in the trustee-manager; or

(*b*) where the share capital of the trustee-manager is divided into 2 or more classes of shares, all the voting shares (excluding treasury shares) in the class concerned,

and, if it is not a whole number, rounding that figure down to the next whole number.

[2/2009 wef 19/11/2012]

Penalties under this Subdivision

137Q.—(1) Any person who —

(*a*) intentionally or recklessly contravenes section 137P(1) or (2); or

(*b*) in purported compliance with section 137P, furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii)

in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any person who —

(*a*) contravenes section 137P(1) or (2); or

(*b*) in purported compliance with section 137P, furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(3) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (4) — Disclosure by trustee-manager

Duty of trustee-manager of business trust to make disclosure

137R.—(1) Where the trustee-manager of a registered business trust or recognised business trust —

(*a*) acquires or disposes of interests in units or derivatives of units in, or debentures or units of debentures of, the business trust; or

(*b*) has been notified in writing by —

(i) a substantial unitholder of the business trust pursuant to a requirement imposed on him under section 135, 136 or 137 as applied by section 137J(1);

(ii) a director or chief executive officer of the trustee-manager pursuant to a requirement imposed on him under section 137N; or

(iii) a person who holds an interest or interests in voting shares in the trustee-manager pursuant to a requirement imposed on him under section 137P,

the trustee-manager shall announce or otherwise disseminate the particulars of the acquisition or disposal, or the information stated in the notice it received, as the case may be, to the

securities market operated by the securities exchange on whose official list any or all of the units in the business trust are listed, as soon as practicable and in any case no later than the end of the business day following the day on which the trustee-manager became aware of the acquisition or disposal, or received the notice.

(2) The trustee-manager shall announce or otherwise disseminate the information in such form and manner as the Authority may prescribe.

(3) Any trustee-manager of a registered business trust or recognised business trust that —

(*a*) intentionally or recklessly contravenes subsection (1) or (2); or

(*b*) in purported compliance with this section, announces or disseminates any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(4) Any trustee-manager of a registered business trust or recognised business trust that —

(*a*) contravenes subsection (1) or (2); or

(*b*) in purported compliance with this section, announces or disseminates any information that is false or misleading in a material particular,

in circumstances other than as set out in subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(5) Where an offence has been committed by a trustee-manager under subsection (3) or (4), any officer of the trustee-manager who —

(*a*) causes the trustee-manager to contravene subsection (1);

(*b*) announces or disseminates, or permits or authorises the announcement or dissemination of, the information that is false or misleading in a material particular; or

(*c*) announces or disseminates, or permits or authorises the announcement or dissemination of the information in contravention of subsection (2),

shall —

(i) if he had acted intentionally or recklessly, or with knowledge that the information so announced or disseminated is false or misleading in a material particular or is reckless as to whether it is, be guilty of an offence and be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both; or

(ii) if he had acted negligently, be guilty of an offence and be liable on conviction to a fine not exceeding $25,000.

(6) In this section, "officer" means a director, member of the committee of management, chief executive officer, manager, secretary or other similar officer of the trustee-manager, and includes a person purporting to act in any such capacity.

(7) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Division 3 — Disclosure of Interests in Real Estate Investment Trust and Interests in Shares of Responsible Person

Application and interpretation of this Division

137S.—(1) This section shall have effect for the purposes of this Division but shall not prejudice the operation of any other provision of this Act.

(2) In this Division —

"real estate investment trust" means a collective investment scheme that is a trust, that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes, and any or all the units in which are listed, by way of a primary listing, for quotation on the official list of a securities exchange;

"trustee" means —

(*a*) in relation to a real estate investment trust authorised under section 286, the trustee approved under section 289 for the trust; and

(*b*) in relation to any other real estate investment trust, an entity equivalent to a trustee referred to in paragraph (*a*).

(3) Section 4 (other than subsection (6)) shall apply for the purpose of determining whether a person has an interest in securities under this Division; and in determining whether a person is deemed to have an interest in securities under section 4(5) for such purpose, a person shall be treated as an associate of another person if the first-mentioned person is —

(*a*) a subsidiary of the second-mentioned person;

(*b*) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to those securities; or

(*c*) a corporation which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions,

instructions or wishes of the second-mentioned person in relation to those securities.

(4) Section 130(6) and (7) shall apply for the purposes of —

(*a*) sections 135(2)(*b*), 136(1) and 137(1) as applied by section 137U(1); and

(*b*) sections 137W(6), 137Y(2)(*b*)(i), 137ZA(1) and 137ZC(1),

as they apply for the purposes of sections 133(3)(*b*)(i), 135(2)(*b*), 136(1), 137(1) and 137E(6).

[2/2009 wef 19/11/2012]

Persons obliged to comply with Division and power of Authority to grant exemption or extension

137T.—(1) The obligation to comply with this Division extends to all natural persons, whether resident in Singapore or not and whether citizens of Singapore or not, and to all entities, whether formed, constituted or carrying on business in Singapore or not.

(2) This Division extends to acts done or omitted to be done outside Singapore.

(3) The Authority may exempt any person or class of persons from any or all of the provisions of this Division.

(4) The Authority may by notice in writing impose on a person exempted under subsection (3), or by regulations impose on a class of persons exempted under that subsection, such conditions or restrictions as the Authority thinks fit and the person or persons shall comply with such conditions or restrictions.

(5) Any person who contravenes any condition or restriction imposed under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(6) The Authority may, on the application of a person required to give a notice under this Division, in its discretion, extend, or further extend, the time for giving the notice.

[2/2009 wef 19/11/2012]

Subdivision (1) — Disclosure by substantial unitholders of real estate investment trust

Duty of substantial unitholder to notify trustee and responsible person of his interests

137U.—(1) Sections 135 to 137B shall apply, with such modifications and qualifications as may be necessary, to a person who is a substantial unitholder of a real estate investment trust as though —

(*a*) references to the corporation to which notification should be given were references to —

(i) the trustee of the real estate investment trust; and

(ii) the responsible person for the real estate investment trust;

(*b*) references to shares or voting shares in the corporation were references to units or voting units in the real estate investment trust; and

(*c*) references to a substantial shareholder in the corporation were references to a substantial unitholder of the real estate investment trust,

and such person shall comply with those provisions accordingly.

(2) Any person to whom subsection (1) applies who —

(*a*) intentionally or recklessly contravenes section 135, 136(1) or (2), 137, 137A or 137B as applied by subsection (1); or

(*b*) in purported compliance with section 135, 136, 137 or 137B as applied by subsection (1), furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(3) Any person to whom subsection (1) applies who —

(*a*) contravenes section 135, 136(1) or (2), 137, 137A or 137B as applied by subsection (1); or

(*b*) in purported compliance with section 135, 136, 137 or 137B as applied by subsection (1), furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(4) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Trustee to keep register of substantial unitholders

137V.—(1) The trustee of a real estate investment trust shall keep a register in which it shall immediately enter —

(*a*) the names of persons from whom it has received a notice under section 135 as applied by section 137U(1); and

(*b*) against each name so entered, the information given in the notice and, where it receives a notice under section 136 or 137 as applied by section 137U(1), the information given in that notice.

(2) The trustee shall keep the register at its registered office or, if the trustee does not have a registered office, at its principal place of business in Singapore, and the register shall be open for inspection by a unitholder of the real estate investment trust without charge and by any other person on payment for each inspection of a sum of $2 or such lesser sum as the trustee requires.

(3) A person may request the trustee to furnish him with a copy of the register or any part of the register on payment in advance of a sum of $1 or such lesser sum as the trustee requires for every page or part thereof required to be copied, and the trustee shall send the copy to that person within 14 days, or such longer period as the Authority may allow in any particular case, after the day on which the trustee received the request.

(4) The Authority may at any time in writing require the trustee to furnish it with a copy of the register or any part of the register and the trustee shall send the copy to the Authority within 7 days after the day on which the trustee received the requirement.

(5) Any trustee which fails to comply with subsection (1), (2), (3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 19/11/2012]

Powers of court with respect to non-compliance by substantial unitholders

137W.—(1) Where a person is or has been a substantial unitholder of a real estate investment trust and has failed to comply with section 135, 136 or 137 as applied by section 137U(1), a court may, on the application of the Authority, whether or not that failure still continues, make one or more of the following orders:

(*a*) an order restraining the substantial unitholder from disposing of any interest in units in the real estate investment trust of which he is or has been a substantial unitholder;

(*b*) an order restraining a person who is, or is entitled to be, the holder of units referred to in paragraph (*a*) from disposing of any interest in those units;

(*c*)

an order restraining the exercise by any person of any voting or other rights attached to any unit in the real estate investment trust in which the substantial unitholder has or has had an interest;

(*d*) an order directing the trustee of the real estate investment trust not to make payment, or to defer making payment, out of the property of the trust of any sum due in respect of any unit in which the substantial unitholder has or has had an interest;

(*e*) an order directing the sale of any or all of the units in the real estate investment trust in which the substantial unitholder has or has had an interest;

(*f*) an order directing the trustee of the real estate investment trust not to register or cause to be registered in the register of unitholders the transfer or transmission of units specified by the court;

(*g*) an order directing the Depository (within the meaning of section 130A of the Companies Act (Cap. 50)) or any depository corporation not to register or cause to be registered the transfer or transmission of any units or interest in units in the real estate investment trust specified by the court;

(*h*) an order that any exercise by any person of the voting or other rights attached to units in the real estate investment trust specified by the court in which the substantial unitholder has or has had an interest be disregarded;

(*i*) for the purposes of securing compliance with any other order made under this section, an order directing the responsible person for or the trustee of the real estate investment trust, or any other person, to do or refrain from doing an act specified by the court.

(2) Any order made under this section may include such ancillary or consequential provisions as the court thinks just.

(3) An order made under this section directing the sale of any unit may provide that the sale shall be made within such time and subject to such conditions, if any, as the court thinks fit, including, if the court thinks fit, a condition that the sale shall not be made to a person who is, or, as a result of the sale, would become a substantial unitholder of the real estate investment trust.

(4) Where a unit is not sold in accordance with an order of the court under this section, the Authority may apply to the court for directions, including directions as to who the unsold unit is to vest in.

(5) The court shall, before making an order under this section and in determining the terms of such an order, satisfy itself, so far as it can reasonably do so, that the order would not unfairly prejudice any person.

(6) The court shall not make an order under this section, other than an order restraining the exercise of voting rights, if it is satisfied —

(*a*)

that the failure of the substantial unitholder to comply as mentioned in subsection (1) was due to his inadvertence or mistake or to his not being aware of a relevant fact or occurrence; and

(*b*) that in all the circumstances, the failure ought to be excused.

(7) The court may, before making an order under this section, direct that notice of the application be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit, or both.

(8) The court may rescind, vary or discharge an order made by it under this section or suspend the operation of such an order.

(9) Any person who contravenes an order made under this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(10) Subsection (9) does not affect the powers of the court in relation to the punishment of contempt of the court.

[2/2009 wef 19/11/2012]

Power of trustee to require disclosure of beneficial interest in voting units

137X.—(1) The trustee of a real estate investment trust may by notice in writing require any unitholder of the trust within such reasonable time as is specified in the notice —

(*a*) to inform it whether he holds any voting units in the trust as beneficial owner or as trustee; and

(*b*) if he holds them as trustee, to indicate so far as he can the persons for whom he holds them (either by name or by other particulars sufficient to enable those persons to be identified) and the nature of their interest.

(2) Where the trustee of a real estate investment trust is informed pursuant to a notice given to any person under subsection (1) or under this subsection that any other person has an interest in any of the voting units in the trust, the trustee may by notice in writing require that other person within such reasonable time as is specified in the notice —

(*a*) to inform it whether he holds that interest as beneficial owner or as trustee; and

(*b*) if he holds it as trustee, to indicate so far as he can the persons for whom he holds it (either by name or by other particulars sufficient to enable them to be identified) and the nature of their interest.

(3) The trustee of a real estate investment trust may by notice in writing require any unitholder of the trust to inform it, within such reasonable time as is specified in the notice, whether any of the voting rights carried by any voting units in the trust held by him are the subject of an agreement or arrangement under which another person is entitled to control his exercise of those rights and, if so, to give particulars of the agreement or arrangement and the parties to it.

(4) The notice referred to in subsection (1), (2) or (3) shall contain such other information as may be prescribed by the Authority, and the delivery of such notice shall comply with such requirements as may be prescribed by the Authority.

(5) Any person to whom a notice is issued under subsection (1), (2) or (3) shall comply with that notice.

(6) Whenever the trustee of a real estate investment trust receives information from a person pursuant to a requirement imposed on him under this section with respect to units held by a unitholder of the trust, it shall be under an obligation to inscribe against the name of that unitholder in a separate part of the register kept by it under section 137V —

(*a*) the fact that the requirement was imposed and the date on which it was imposed; and

(*b*) the information received pursuant to the requirement.

(7) Section 137V shall apply in relation to the part of the register referred to in subsection (6) as it applies in relation to the remainder of the register and as if references to subsection (1) of that section included references to subsection (6).

(8) Any person who —

(*a*) intentionally or recklessly contravenes subsection (5); or

(*b*) in purported compliance with subsection (5), furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(9) Any person who —

(*a*) contravenes subsection (5); or

(*b*) in purported compliance with subsection (5), furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(10) A person shall not be guilty of an offence under subsection (8)(*a*) or (9)(*a*) if he proves that the information in question was already in the possession of the trustee of the real estate investment trust, or that the requirement to give it was for any other reason frivolous or vexatious.

(11) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (2) — Disclosure by directors and chief executive officer of responsible person

Duty of director and chief executive officer of responsible person to notify his interests

137Y.—(1) Every director and chief executive officer of the responsible person for a real estate investment trust shall give notice in writing to the responsible person of particulars of —

(*a*) units in the trust, being units held by him, or in which he has an interest and the nature and extent of that interest;

(*b*) debentures or units of debentures of the trust which are held by him, or in which he has an interest and the nature and extent of that interest;

(*c*) such other securities, as the Authority may prescribe, which are held, whether directly or indirectly, by him, or in which he has an interest and the nature and extent of that interest; and

(*d*) any change in respect of the particulars of any matter referred to in paragraphs (*a*), (*b*) and (*c*).

(2) A notice under subsection (1) —

(*a*) shall be in such form and shall contain such information as the Authority may prescribe; and

(*b*) shall be given —

(i) in the case of a notice under subsection (1)(*d*), within 2 business days after the director or chief executive officer becomes aware of the change; or

(ii) in any other case, within 2 business days after —

(A) the date on which the director or chief executive officer becomes such a director or chief executive officer; or

(B)

the date on which the director or chief executive officer becomes a holder of, or acquires an interest in, the units, debentures, units of debentures or other securities referred to in subsection (1),

whichever last occurs.

(3) For the purposes of this section, a director or chief executive officer of a responsible person shall be deemed to have an interest in securities referred to in subsection (1) if a family member of the director or chief executive officer (not being himself a director or chief executive officer of the responsible person), as the case may be, has an interest in those securities.

(4) In this section —

"family member" means a spouse, or a son, adopted son, step-son, daughter, adopted daughter or step-daughter below the age of 21 years;

"unit", in relation to a debenture, means any right or interest, whether legal or equitable, in the debenture, by whatever name called, and includes any option to acquire any such right or interest in the debenture.

[2/2009 wef 19/11/2012]

Penalties under this Subdivision

137Z.—(1) Any director or chief executive officer of the responsible person for a real estate investment trust who —

(*a*) intentionally or recklessly contravenes section 137Y(1) or (2); or

(*b*) in purported compliance with section 137Y, furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any director or chief executive officer of the responsible person for a real estate investment trust who —

(*a*) contravenes section 137Y(1) or (2); or

(*b*) in purported compliance with section 137Y, furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(3) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (3) — Disclosure by holders of voting shares in responsible person

Duty of holders of voting shares in responsible person to notify responsible person

137ZA.—(1) Where the percentage of interest of a person in the voting shares in a responsible person for a real estate investment trust reaches, crosses or falls below 15%, 30%, 50% or 75%, he shall give notice in writing to the responsible person within 2 business days after he becomes aware of this.

(2) A notice under subsection (1) shall be in such form and shall contain such information as the Authority may prescribe.

(3) In subsection (1), the percentage of interest of a person in the voting shares in a responsible person for a real estate investment trust is ascertained by expressing the total votes attached to all the voting shares in which he has an interest or interests immediately before or (as the case may be) immediately after the relevant time, as a percentage of the total votes attached to —

(*a*) all the voting shares (excluding treasury shares) in the responsible person; or

(*b*) where the share capital of the responsible person is divided into 2 or more classes of shares, all the voting shares (excluding treasury shares) in the class concerned,

and, if it is not a whole number, rounding that figure down to the next whole number.

[2/2009 wef 19/11/2012]

Penalties under this Subdivision

137ZB.—(1) Any person who —

(*a*) intentionally or recklessly contravenes section 137ZA(1) or (2); or

(*b*) in purported compliance with section 137ZA, furnishes any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall —

(i) in the case of an individual, be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both and, in the

case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a corporation, be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any person who —

(*a*) contravenes section 137ZA(1) or (2); or

(*b*) in purported compliance with section 137ZA, furnishes any information which is false or misleading in a material particular,

in circumstances other than as set out in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(3) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Subdivision (4) — Disclosure by responsible person

Duty of responsible person for real estate investment trust to make disclosure

137ZC.—(1) Where the responsible person for a real estate investment trust —

(*a*) acquires or disposes of interests in units in, or debentures or units of debentures of, the real estate investment trust; or

(*b*) has been notified in writing by —

(i) a substantial unitholder of the real estate investment trust pursuant to a requirement imposed on him under section 135, 136 or 137 as applied by section 137U(1);

(ii) a director or chief executive officer of the responsible person pursuant to a requirement imposed on him under section 137Y; or

(iii) a person who holds an interest or interests in voting shares in the responsible person pursuant to a requirement imposed on him under section 137ZA,

the responsible person shall announce or otherwise disseminate the particulars of the acquisition or disposal, or the information stated in the notice it received, as the case may be, to the securities market operated by the securities exchange on whose official list any or all of the units in the trust are listed, as soon as practicable and in any case no later than the end of the business day following the day on which the responsible person became aware of the acquisition or disposal, or received the notice.

(2) The responsible person shall announce or otherwise disseminate the information in such form and manner as the Authority may prescribe.

(3) Any responsible person for a real estate investment trust that —

(*a*) intentionally or recklessly contravenes subsection (1) or (2); or

(*b*) in purported compliance with this section, announces or disseminates any information which he knows is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(4) Any responsible person for a real estate investment trust that —

(*a*) contravenes subsection (1) or (2); or

(*b*) in purported compliance with this section, announces or disseminates any information that is false or misleading in a material particular,

in circumstances other than as set out in subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

(5) Where an offence has been committed by a responsible person under subsection (3) or (4), any officer of the responsible person who —

(*a*) causes the responsible person to contravene subsection (1);

(*b*) announces or disseminates, or permits or authorises the announcement or dissemination of, the information that is false or misleading in a material particular; or

(*c*) announces or disseminates, or permits or authorises the announcement or dissemination of the information in contravention of subsection (2),

shall —

(i) if he had acted intentionally or recklessly, or with knowledge that the information so announced or disseminated is false or misleading in a material particular or is reckless as to whether it is, be guilty of an offence and be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 2 years or to both; or

(ii) if he had acted negligently, be guilty of an offence and be liable on conviction to a fine not exceeding $25,000.

(6) In this section, "officer" means a director, member of the committee of management, chief executive officer, manager, secretary or other similar officer of the responsible person, and includes a person purporting to act in any such capacity.

(7) No proceedings shall be instituted against a person for an offence under this section after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 137ZD in respect of the same contravention; or

(*b*) he has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 137ZD(4), in respect of the same contravention.

[2/2009 wef 19/11/2012]

Division 4 — Civil Penalty

Civil penalty

137ZD.—(1) Whenever it appears to the Authority that any person has —

(*a*) intentionally or recklessly, contravened any of the following provisions:

(i) section 133(1) or (3), 135, 136(1) or (2), 137, 137A, 137B, 137F(5), 137G(1) or (2), 137M(5), 137N(1) or (2), 137P(1) or (2), 137R(1) or (2), 137X(5), 137Y(1) or (2), 137ZA(1) or (2) or 137ZC(1) or (2);

(ii) section 135, 136, 137, 137A or 137B as applied by section 137J(1);

(iii) section 135, 136, 137, 137A or 137B as applied by section 137U(1);

(*b*) in purported compliance with any of the following provisions, furnished, announced or disseminated any information which he knows is false or misleading in a material particular or is reckless as to whether it is:

(i) section 133, 135, 136, 137, 137B, 137F(5), 137G, 137M(5), 137N, 137P, 137R, 137X(5), 137Y, 137ZA or 137ZC;

(ii) section 135, 136, 137 or 137B as applied by section 137J(1);

(iii) section 135, 136, 137 or 137B as applied by section 137U(1); or

(*c*) being an officer of a corporation to which Division 1 applies, an officer of a trustee-manager of a registered or recognised business trust to which Division 2 applies, or an officer of a responsible person for a real estate investment trust to which Division 3 applies, intentionally or recklessly committed an act referred to in subsection (5)(*a*), (*b*) or (*c*) of section 137G, 137R or 137ZC (as the case may be),

the Authority may, with the consent of the Public Prosecutor, bring an action in a court against the person to seek an order for a civil penalty in respect of that act.

(2) If the court is satisfied on a balance of probabilities that subsection (1)(*a*), (*b*) or (*c*) (as the case may be) has been proved, the court may make an order against the person for the payment of a civil penalty of a sum not less than $50,000 and not more than $2 million.

(3) Notwithstanding subsection (2), the court may make an order against a person against whom an action has been brought under this section if the Authority, with the consent of the Public Prosecutor, has agreed to allow the person to consent to the order with or without admission of having committed an act referred to in subsection (1)(*a*), (*b*) or (*c*) (whichever is applicable), and the order may be made on such terms as may be agreed between the Authority and the person.

(4) Nothing in this section shall be construed to prevent the Authority from entering into an agreement with the person to pay, with or without admission of liability, a civil penalty within the limits referred to in subsection (2) for an act referred to in subsection (1)(*a*), (*b*) or (*c*).

(5) A civil penalty imposed under this section shall be payable to the Authority.

(6) If the person fails to pay the civil penalty imposed on him within the time specified in the court order referred to in subsection (3) or specified under the agreement referred to in subsection (4), the Authority may recover the civil penalty as though the civil penalty were a judgment debt due to the Authority.

(7) Any defence that is available to a person who is prosecuted for an act under subsection (1)(*a*), (*b*) or (*c*), shall also be available to a person against whom an action is brought under this section for the same act.

[2/2009 wef 19/11/2012]

Action under section 137ZD not to commence, etc., in certain situations

137ZE.—(1) An action under section 137ZD for an act referred to in subsection (1)(*a*), (*b*) or (*c*) of that section shall not be commenced against any person —

(*a*) after the expiration of 6 years from the date of the act; or

(*b*) if the person has been convicted or acquitted in criminal proceedings instituted against him for that act, except where he has been acquitted because of the withdrawal of the charge against him.

(2) An action under section 137ZD against any person for an act referred to in subsection (1)(*a*), (*b*) or (*c*) of that section shall be stayed after criminal proceedings have been commenced against him for that act, and may thereafter be continued only if —

(*a*) that person has been discharged in respect of that act and the discharge does not amount to an acquittal; or

(*b*) the charge against him in respect of that act has been withdrawn.

[2/2009 wef 19/11/2012]

Jurisdiction of District Court

137ZF. A District Court shall have jurisdiction to hear and determine any action under section 137ZD regardless of the monetary amount.

[2/2009 wef 19/11/2012]

Rules of Court

137ZG. Rules of Court (Cap. 322, R 5) may be made —

(*a*) to regulate and prescribe the procedure and practice to be followed in respect of proceedings under section 137ZD; and

(*b*) to provide for costs and fees of such proceedings, and for regulating any matter relating to the costs of such proceedings.

[2/2009 wef 19/11/2012]

PART VIII

SECURITIES INDUSTRY COUNCIL AND TAKE-OVER OFFERS

Securities Industry Council

138.—(1) The advisory body known as the Securities Industry Council referred to in section 14 of the repealed Securities Industry Act (Cap. 289, 1985 Ed.) shall continue in existence as if it had been established under this Act.

(2) The function of the Securities Industry Council shall, in addition to the functions conferred upon it under this Part, be to advise the Minister on all matters relating to the securities industry.

(3) The Securities Industry Council shall consist of such representatives of business, the Government and the Authority as the Minister may appoint and those representatives shall serve for such period or periods as the Minister may determine.

(4) The Securities Industry Council shall have the power, in the exercise of its functions, to enquire into any matter or thing related to the securities industry and may, for this purpose, summon any person to give evidence on oath or affirmation or produce any document or material necessary for the purpose of the enquiry.

(5) Nothing in subsection (4) shall compel the production by an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), of a document containing a privileged communication made by or to him in that capacity or authorise the taking of possession of any such document which is in his possession.

[Act 34 of 2012 wef 18/03/2013]

(6) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act, who refuses to produce the document referred to in subsection (5) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom or by or on behalf of whom the communication was made.

[Act 34 of 2012 wef 18/03/2013]

(7) The Authority may consult the Securities Industry Council for the proper and effective implementation of this Act.

(8) For the purposes of this Act, every member of the Securities Industry Council —

(*a*) shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224); and

(*b*) shall have, in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under the provisions of this Act, the like protection and privileges as are by law given to a Judge in the execution of his office.

(9) The Securities Industry Council shall in the exercise of its functions have regard to the interest of the public, the protection of investors and the safeguarding of sources of information.

(10) Subject to the provisions of this Act, the Securities Industry Council may regulate its own procedure and shall not be bound by the rules of evidence.
[SIA, s. 14]

Take-over Code

139.—(1) This section and section 140 shall apply to and in relation to all natural persons, whether resident in Singapore or not and whether citizens of Singapore or not, and to all corporations or bodies unincorporate, whether incorporated or carrying on business in Singapore or not, and shall extend to acts done outside Singapore.

(2) For the more effective administration, supervision and control of take-over offers and matters connected therewith, the Authority shall, on the advice of the Securities Industry Council and under section 321, issue a code known as the Singapore Code on Take-overs and Mergers (referred to in this Act as the Take-over Code).

(3) For the avoidance of doubt, the Take-over Code shall be deemed not to be subsidiary legislation.

(4) The Take-over Code shall apply to a take-over offer and to matters connected therewith, and all parties concerned in a take-over offer or a matter connected therewith shall comply with its provisions.

(5) The Take-over Code shall be administered and enforced by the Securities Industry Council.

(6) The Authority may, on the advice of the Securities Industry Council, revise the Take-over Code by deleting, amending or adding to the provisions thereof.

(7) The Securities Industry Council may issue rulings on the interpretation of the general principles and rules in the Take-over Code and lay down the practice to be followed by parties concerned in a take-over offer or a matter connected therewith, and such rulings or practice shall be final.

(8) A failure of any party concerned in a take-over offer or a matter connected therewith to observe any of the provisions of the Take-over Code shall not of itself render that party liable to

criminal proceedings but any such failure may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

(9) Nothing in subsection (8) shall be construed as preventing the Securities Industry Council from invoking such sanctions (including public censure) as it may decide in relation to breaches of the Take-over Code by any party concerned in a take-over offer or a matter connected therewith.

(10) Where the Securities Industry Council has reason to believe that any party concerned in a take-over offer or a matter connected therewith, or any person advising on a take-over offer or a matter connected therewith, is in breach of the provisions of the Take-over Code or is otherwise believed to have committed acts of misconduct in relation to such take-over offer or matter, the Securities Industry Council shall have power to enquire into the suspected breach or misconduct.

(11) For the purpose of subsection (10), the Securities Industry Council may summon any person to give evidence on oath or affirmation, which it is hereby authorised to administer, or produce any document or material necessary for the purpose of the enquiry.
[Companies, s. 213]

Offences relating to take-over offers

140.—(1) A person who has no intention to make an offer in the nature of a take-over offer shall not give notice or publicly announce that he intends to make a take-over offer.

(2) A person shall not make a take-over offer or give notice or publicly announce that he intends to make a take-over offer if he has no reasonable or probable grounds for believing that he will be able to perform his obligations if the take-over offer is accepted or approved, as the case may be.

(3) Where a person contravenes subsection (1) or (2), the person and, where the person is a corporation, every officer of the corporation who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 7 years or to both.
[Companies, s. 213 (9)]

PART IX

SUPERVISION AND INVESTIGATION

Division 1 — Supervisory Powers

[2/2009 wef 01/10/2012]

Subdivision (1) — Powers of Authority to require disclosure of information about securities and futures contracts

Interpretation of this Subdivision

141. In this Subdivision, a reference to disclosing information includes, in relation to information that is contained in a document, a reference to producing the document.
[SIA, s. 10 (11)]

Acquisition and disposal of securities or futures contracts, etc.

142.—(1) The Authority may, where it considers it necessary for the protection of investors, require the holder of a capital markets services licence to deal in securities or trade in futures contracts, or an exempt person carrying on business in any of those activities, to disclose to the Authority, in relation to any acquisition or disposal of securities or futures contracts —

(*a*) the name of the person from or through whom or on whose behalf the securities or futures contracts were acquired; or

(*b*) the name of the person to or through whom or on whose behalf the securities or futures contracts were disposed of,

and the nature of the instructions given to the holder or exempt person in respect of the acquisition or disposal.

(2) The Authority may require a person who has acquired, held or disposed of securities or futures contracts to disclose to the Authority whether he acquired, held or disposed of those securities or futures contracts, as the case may be, as trustee for, or on behalf of, another person (whether or not as a nominee), and if so —

(*a*) the name of that other person; and

(*b*) the nature of any instructions given to the first-mentioned person in respect of the acquisition, holding or disposal.

(3) The Authority may require a securities exchange or futures exchange to disclose to the Authority, in relation to an acquisition or disposal of securities on the securities market of that securities exchange or futures contracts on the futures market of that futures exchange, the names of the members of that securities exchange or futures exchange who acted in the acquisition or disposal.

(4) The Authority may require an approved clearing house or a recognised clearing house for a securities market or futures market to disclose to the Authority, in relation to any dealing in securities on that securities market or trading in futures contracts on that futures market, the names of the members of the approved clearing house or recognised clearing house who were concerned in any act or omission in relation to the dealing or trading.

[1/2005]

[SIA, s. 10 (1)-(3) modified]

[Act 34 of 2012 wef 01/08/2013]

Exercise of certain powers in relation to securities

143.—(1) This section shall apply where the Authority considers that —

(*a*) it may be necessary to prohibit dealing in securities of, or made available by, a corporation under section 32;

(*aa*)

it may be necessary to give a direction or take any action under section 34 or 81 in relation to securities of, or made available by, a corporation;

[2/2009 wef 29/07/2009]

(*b*) a person may have contravened any of the provisions of Part XII in relation to securities of, or made available by, a corporation; or

(*c*) a person may have contravened any of the provisions of Division 4 of Part IV of the Companies Act (Cap. 50) or Division 2 of Part VII in relation to securities in a corporation.

[42/2005]

(2) The Authority may require an officer of a corporation referred to in subsection (1) to disclose to the Authority any information of which he is aware and which may have affected any dealing that has taken place, or which may affect any dealing that may take place, in securities of, or made available by, the corporation.

(3) Where the Authority believes on reasonable grounds that a person is capable of giving information concerning any of the following matters:

(*a*) any dealing in securities of, or made available by, a corporation referred to in subsection (1);

(*b*) any advice given, or any report or analysis issued or published concerning such securities, by the holder of a capital markets services licence to deal in securities, or a representative of such a holder;

(*c*) the financial position of any business carried on by a person who is or has been (either alone or together with another person or other persons) the holder of a capital markets services licence to deal in securities and who has dealt in or given advice or issued or published a report or an analysis concerning such securities;

(*d*) the financial position of any business carried on by a nominee controlled by a person referred to in paragraph (*c*) or jointly controlled by 2 or more persons at least one of whom is a person referred to in that paragraph; or

(*e*) an audit of, or any report of an auditor concerning, any book of the holder of a capital markets services licence to deal in securities, being a book relating to dealings in such securities,

the Authority may require the person to disclose to the Authority the information that the person has about that matter.

[SIA, s. 10 (4)]

Exercise of certain powers in relation to futures contracts

144.—(1) This section shall apply where the Authority considers that —

(*a*) it may be necessary to give a direction or take any action in relation to any trading in futures contracts under section 34;

(*aa*) it may be necessary to give a direction or take any action in relation to futures contracts under section 81; or

[2/2009 wef 29/07/2009]

(*b*) a person may have contravened any of the provisions of Part XII in relation to futures contracts.

[42/2005]

(2) Where the Authority believes on reasonable grounds that a person is capable of giving information concerning any of the following matters:

(*a*) any trading in futures contracts;

(*b*) any advice given, or any report or analysis issued or published concerning such futures contracts, by the holder of a capital markets services licence to trade in futures contracts, or a representative of such a holder;

(*c*) the financial position of any business carried on by a person who is or has been (either alone or together with another person or other persons) the holder of a capital markets services licence to trade in futures contracts and has traded in or given advice or issued or published a report or an analysis concerning such futures contracts;

(*d*) the financial position of any business carried on by a nominee controlled by a person referred to in paragraph (*c*) or jointly controlled by 2 or more persons, at least one of whom is a person referred to in that paragraph; or

(*e*) an audit of, or any report of an auditor concerning, any book of the holder of a capital markets services licence to trade in futures contracts, being a book relating to trading in such futures contracts,

the Authority may require the person to disclose to the Authority the information that the person has about that matter.

[SIA, s. 10 (4) modified]

Self-incrimination

145.—(1) A person is not excused from disclosing information to the Authority, under a requirement made of him under section 142, 143 or 144, on the ground that the disclosure of the information might tend to incriminate him.

(2) Where a person claims, before making a statement disclosing information that he is required to disclose by a requirement made of him under section 142, 143 or 144, that the statement might tend to incriminate him, that statement —

(*a*) shall not be admissible in evidence against him in criminal proceedings other than proceedings under section 148; but

(*b*) shall be admissible in evidence for civil proceedings under Part XII.

[SIA, s. 5 (12) modified; HK SF Bill, Clause 180]

Savings for advocates and solicitors

146.—(1) Nothing in this Subdivision shall compel the disclosure by an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), of information containing a privileged communication made by or to him in that capacity.

[16/2003]
[Act 34 of 2012 wef 18/03/2013]

(2) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act, who refuses to disclose the information referred to in subsection (1) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, that privileged communication was made.

[SIA, s. 8]

[Act 34 of 2012 wef 18/03/2013]

Immunities

147.—(1) No civil or criminal proceedings, other than proceedings for an offence under section 148, shall lie against any person for disclosing any information to the Authority if he had done so in good faith in compliance with a requirement of the Authority under section 142, 143 or 144.

(2) Any person who complies with a requirement of the Authority under section 142, 143 or 144 shall not be treated as being in breach of any restriction upon the disclosure of information or thing imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

[SIA, s. 96F (modified)]

Offences

148.—(1) A person who, without reasonable excuse, refuses or fails to comply with a requirement of the Authority under section 142, 143 or 144 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(2) A person who, in purported compliance with a requirement of the Authority under section 142, 143 or 144, discloses information, or makes a statement, that is false or misleading in a material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) It is a defence to a prosecution for an offence under subsection (2) if the defendant proves that he believed on reasonable grounds that the information or statement was true and was not misleading.

[SIA, s. 10 (8), (9) and (10)]

Copies of or extracts from documents to be admitted in evidence

149.—(1) Subject to this section, a copy of or extract from a document produced under this Subdivision that is proved to be a true copy of the document or of the relevant part of the document is admissible in evidence as if it were the original document or the relevant part of the original document.

(2) For the purposes of subsection (1), evidence that a copy of or extract from a document is a true copy of the document or of a part of the document may be given by a person who has compared the copy or extract with the document or the relevant part of the document and may be given orally or by an affidavit sworn, or by a declaration made, before a person authorised to take affidavits or statutory declarations.
[SIA, s. 7]

Subdivision (2) — Inspection powers of Authority

Inspection by Authority

150.—(1) The Authority may inspect under conditions of secrecy, the books of an approved exchange, a recognised market operator, an exempt market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house, an approved holding company, the holder of a capital markets services licence, an exempt person or a representative.

[2/2009 wef 26/11/2010]
[1/2005]
[Act 34 of 2012 wef 01/08/2013]

(2) For the purpose of an inspection under this section —

(*a*) a person referred to in subsection (1) or any person in possession of the books, shall produce such books to the Authority and give such information and facilities as may be required by the Authority; and

(*b*) a person referred to in subsection (1) shall procure that any person who is in possession of such books produce the books to the Authority and give such information and facilities as may be required by the Authority.

(3) The Authority may —

(*a*) make copies of, or take possession of, any of the books;

(*b*) use, or permit the use of, any of the books for the purposes of any proceedings under this Act; and

(*c*) retain possession of any of the books for so long as is necessary —

(i) for the purposes of exercising a power conferred by this section (other than subsection (5));

(ii) for a decision to be made about whether or not any proceedings under this Act to which the books concerned would be relevant should be instituted; or

(iii) for such proceedings to be instituted and carried on.

(4) No person shall be entitled, as against the Authority, to claim a lien on any of the books, but such a lien is not otherwise prejudiced.

(5) While the books are in the possession of the Authority, the Authority —

(*a*) shall permit another person to inspect at all reasonable times such of the books (if any) as the other person would be entitled to inspect if they were not in the Authority's possession; and

(*b*) may permit another person to inspect any of the books.

(6) The Authority may require a person who produced any of the books to the Authority to explain to the best of his knowledge and belief any matter about the compilation of the books or to which the books relate.

(7) Any person who fails, without reasonable excuse, to comply with subsection (2) or a requirement of the Authority under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(8) Sections 146 and 147 shall, with the necessary modifications, apply in relation to the production of any book or disclosure of any information to the Authority under this section.

(9) Section 149 shall, with the necessary modifications, apply in relation to a copy of, or extract from, a book inspected under this section.

[SIA, s. 12 modified; FTA, s. 48 modified; ASIC 1989, s. 37]

Confidentiality of inspection reports

150A.—(1) Where a written report or any part thereof (referred to in this section as the report) has been produced by the Authority upon an inspection under section 150 in respect of any approved exchange, recognised market operator, exempt market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, approved holding company, holder of a capital markets services licence, exempt person or representative (referred to in this section as the inspected person) and is provided by the Authority to the inspected person, the report shall not be disclosed by the inspected person or, if the inspected person is a corporation, by any of its officers or auditors, to any other person except in the circumstances provided under subsection (2).

[Act 34 of 2012 wef 01/08/2013]

(2) Disclosure of the report referred to in subsection (1) may be made —

(*a*) by the inspected person to any officer or auditor of that inspected person solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that inspected person;

(*b*) by any officer or auditor of the inspected person to any other officer or auditor of that inspected person, solely in connection with the performance of their duties in that inspected person; or

(*c*) to such other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2)(*c*), the Authority may impose such conditions or restrictions as it thinks fit on the inspected person, any of its officers or auditors or the person to whom disclosure is approved, and that person shall comply with such conditions or restrictions.

(4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment by the inspected person.

(5) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both, unless he proves that —

(*a*) the disclosure was made contrary to his desire;

(*b*) where the disclosure was made in any written form, he had as soon as practicable after receiving the report surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and

(*c*) where the disclosure was made in an electronic form, he had as soon as practicable after receiving the report taken all reasonable steps to ensure that all electronic copies of the report had been deleted and that the report and all copies thereof in other forms had been surrendered to the Authority.

[2/2009 wef 26/11/2010]

Subdivision (3) — Inspection powers of foreign regulatory authority

Inspection by foreign regulatory authority

150B.—(1) No authority of a country or territory other than Singapore may conduct an inspection in Singapore of the books of —

(*a*) the holder of a capital markets services licence; or

(*b*) a person exempted under section 99(1)(*a*), (*b*), (*c*), (*d*) or (*h*) from the requirement to hold a capital markets services licence,

except a foreign regulatory authority with the prior written approval of the Authority and under conditions of secrecy.

(2) In deciding whether to grant approval to a foreign regulatory authority under subsection (1), the Authority may have regard to the following considerations:

(*a*) whether the inspection, and the information obtained in the course of the inspection, is required by the foreign regulatory authority for the sole purpose of enabling the foreign regulatory authority to carry out its regulatory functions;

(*b*) whether the foreign regulatory authority has regulatory oversight in its jurisdiction over the holder of the capital markets services licence or the person exempted under section 99(1)(*a*), (*b*), (*c*), (*d*) or (*h*), as the case may be;

(*c*)

whether the foreign regulatory authority is prohibited by the laws applicable to it from disclosing information obtained by it in the course of the inspection to any other person;

(*d*) whether the foreign regulatory authority has provided or is willing to provide similar assistance to the Authority; and

(*e*) such other matters as the Authority may consider relevant.

(3) The Authority may at any time, whether before, on or after giving written approval for an inspection under this section, impose conditions or restrictions on the foreign regulatory authority relating to —

(*a*) the classes of information to which the foreign regulatory authority shall or shall not have access in the course of the inspection;

(*b*) the conduct of the inspection;

(*c*) the use or disclosure of any information obtained in the course of the inspection; and

(*d*) such other matters as the Authority may determine.

(4) The Authority may, in relation to an inspection by a foreign regulatory authority conducted or to be conducted under this section on the holder of a capital markets services licence or a person exempted under section 99(1)(*a*), (*b*), (*c*), (*d*) or (*h*), at any time, by notice in writing to the holder or person exempted, impose such conditions or restrictions on the holder or person exempted as it may think fit, and the holder or person exempted shall comply with such conditions or restrictions.

(5) For the purposes of this section and section 150C, a reference to a foreign regulatory authority is a reference to an authority of a country or territory other than Singapore, exercising any function that corresponds to a regulatory function of the Authority under the Monetary Authority of Singapore Act (Cap. 186).

[2/2009 wef 26/11/2010]

Confidentiality of inspection report by foreign regulatory authority

150C.—(1) Where a written report or any part thereof (referred to in this section as the report) has been produced by a foreign regulatory authority upon an inspection under section 150B in respect of any holder of a capital markets services licence or person exempted under section 99(1)(*a*), (*b*), (*c*), (*d*) or (*h*) (referred to in this section as the inspected person) and is provided by the foreign regulatory authority to the inspected person, the report shall not be disclosed by the inspected person or, if the inspected person is a corporation, by any of its officers or auditors, to any other person except in the circumstances provided under subsection (2).

(2) Disclosure of the report referred to in subsection (1) may be made —

(*a*) by the inspected person to any officer or auditor of that inspected person solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that inspected person;

(*b*) by any officer or auditor of the inspected person to any other officer or auditor of that inspected person, solely in connection with the performance of their duties in that inspected person;

(*c*) to the Authority, if requested by the Authority; or

(*d*) to such other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2)(*d*), the Authority may impose such conditions or restrictions as it thinks fit on the inspected person, any of its officers or auditors or the person to whom disclosure is approved, and that person shall comply with such conditions or restrictions.

(4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment by the inspected person.

(5) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both, unless he proves that —

(*a*) the disclosure was made contrary to his desire;

(*b*) where the disclosure was made in any written form, he had as soon as practicable after receiving the report surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and

(*c*) where the disclosure was made in an electronic form, he had as soon as practicable after receiving the report taken all reasonable steps to ensure that all electronic copies of the report had been deleted and that the report and all copies thereof in other forms had been surrendered to the Authority.

[2/2009 wef 26/11/2010]

Division 2 — Power of Minister to Appoint Inspector for Investigating Dealings in Securities, etc.

Power of Minister to appoint inspectors

151.—(1) Notwithstanding anything in this Act, the Minister may, if he thinks it in the public interest to do so, appoint any person as an inspector to investigate any matter concerning dealing in securities, trading in futures contracts or leveraged foreign exchange trading.

(2) An inspector appointed under subsection (1) shall have all the powers conferred upon an inspector under Part IX of the Companies Act (Cap. 50) and that Part shall, with the necessary modifications, apply to such investigation.

(3) Any inspector appointed under subsection (1) shall report the results of his investigation to the Minister and the Minister may, if he thinks it in the public interest to do so, cause the report to be printed and published.
[SIA, s. 112]

Division 3 — Investigative Powers of Authority

Subdivision (1) — General

Investigation by Authority

152.—(1) The Authority may conduct such investigation as it considers necessary or expedient for any of the following purposes:

(*a*) to exercise any of its powers or to perform any of its functions and duties under this Act;

(*b*) to ensure compliance with this Act or any written direction issued under this Act; or

(*c*) to investigate an alleged or suspected contravention of any provision of this Act or any written direction issued under this Act.

(2) The Authority may exercise any of its powers under this Division for the purposes of conducting an investigation under subsection (1) notwithstanding the provisions of any prescribed written law or any requirement imposed thereunder or any rule of law.

(3) A requirement imposed by the Authority in the exercise of its powers under this Division shall have effect notwithstanding any obligations as to secrecy or other restrictions upon the disclosure of information imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

(4) Any person who complies with a requirement imposed by the Authority in the exercise of its powers under this Division shall not be treated as being in breach of any restriction upon the disclosure of information or thing imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

(5) No civil or criminal action, other than proceedings for an offence under section 162 or 168, shall lie against any person —

(*a*) for giving assistance to the Authority, including answering questions, if he had given the assistance or answered the questions in good faith in compliance with a requirement imposed under this Division;

(*b*) for providing information or producing books to the Authority if he had provided the information or produced the books in good faith in compliance with a requirement imposed by the Authority under this Division; or

(*c*) for doing or omitting to do any act, if he had done or omitted to do the act in good faith and as a result of complying with a requirement imposed by the Authority under this Division.

(6) In this section, "requirement imposed by the Authority" includes a requirement imposed by an investigator under Subdivision (2) or (3).

[Act 34 of 2012 wef 01/05/2014]

Confidentiality of investigation reports

152A.—(1) Where a written report or any part thereof (referred to in this section as the report) has been produced by the Authority in respect of any investigation under section 152 and is provided by the Authority to the person under investigation (referred to in this section as the investigated person), the report shall not be disclosed by the investigated person or, if the investigated person is a corporation, by any of its officers or auditors, to any other person except in the circumstances provided under subsection (2).

(2) Disclosure of the report referred to in subsection (1) may be made —

(*a*) by the investigated person to any officer or auditor of that investigated person solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that investigated person;

(*b*) by any officer or auditor of the investigated person to any other officer or auditor of that investigated person, solely in connection with the performance of their duties in that investigated person; or

(*c*) to such other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2)(*c*), the Authority may impose such conditions or restrictions as it thinks fit on the investigated person, any of its officers or auditors or the person to whom disclosure is approved, and that person shall comply with such conditions or restrictions.

(4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment by the investigated person.

(5) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both, unless he proves that —

(*a*) the disclosure was made contrary to his desire;

(*b*) where the disclosure was made in any written form, he had as soon as practicable after receiving the report surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and

(*c*) where the disclosure was made in an electronic form, he had as soon as practicable after receiving the report taken all reasonable steps to ensure that all electronic

copies of the report had been deleted and that the report and all copies thereof in other forms had been surrendered to the Authority.

[2/2009 wef 26/11/2010]

Self-incrimination and savings for advocates and solicitors

153.—(1) A person is not excused from disclosing information to the Authority or, as the case may be, an investigator under Subdivision (2) or (3), under a requirement made of him under any provision of this Division on the ground that the disclosure of the information might tend to incriminate him.

[Act 34 of 2012 wef 01/05/2014]

(2) Where a person claims, before making a statement disclosing information that he is required to under any provision of this Division to the Authority or, as the case may be, an investigator under Subdivision (2) or (3), that the statement might tend to incriminate him, that statement —

(*a*) shall not be admissible in evidence against him in criminal proceedings other than proceedings for an offence under section 162(3); but

[2/2009 wef 29/07/2009]

(*b*) shall, for the avoidance of doubt, be admissible in evidence in civil proceedings under Part XII.

[Act 34 of 2012 wef 01/05/2014]

(3) Nothing in this Division shall —

(*a*) compel an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), to disclose or produce a privileged communication, or a document or other material containing a privileged communication, made by or to him in that capacity; or

[Act 34 of 2012 wef 18/03/2013]

(*b*) authorise the taking of any such document or other material which is in his possession.

[16/2003]

(4) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act, who refuses to disclose the information or produce the document or other material referred to in subsection (3) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, that privileged communication was made.

[SIA, s. 96D (6) modified; HK SF Bill, Clause 180]

[Act 34 of 2012 wef 18/03/2013]

Subdivision (2) — Examination of persons

Requirement to appear for examination

154.—(1) For the purpose of an investigation under this Division, the Authority may, in writing, require a person —

(*a*)

to give to the Authority all reasonable assistance in connection with the investigation; and

(*b*) to appear before an officer of the Authority duly authorised by the Authority for examination on oath and to answer questions.

(2) A requirement in writing imposed under subsection (1) shall state the general nature of the matter referred to in subsection (1).

[ASIC 1989, s. 19 modified]

Proceedings at examination

155. The provisions of this Subdivision shall apply where, pursuant to a requirement made under section 154 for the purposes of an investigation under this Division, a person (referred to in this Subdivision as the examinee) appears before another person (referred to in this Subdivision as the investigator) for examination.

[ASIC 1989, s. 20]

Requirements made of examinee

156.—(1) The investigator may examine the examinee on oath or affirmation and may, for that purpose, administer an oath or affirmation to the examinee.

(2) The oath or affirmation to be taken or made by the examinee for the purposes of the examination is an oath or affirmation that the statements that the examinee will make are true.

(3) The investigator may require the examinee to answer a question that is put to the examinee at the examination and is relevant to a matter that the Authority is investigating, or is to investigate, under this Division.

[ASIC 1989, s. 21]

Examination to take place in private

157.—(1) The examination shall take place in private and the investigator may give directions as to who may be present during the examination or part thereof.

(2) A person shall not be present at the examination unless he is —

(*a*) the investigator or the examinee;

(*b*) a person approved by the Authority; or

(*c*) entitled to be present by virtue of a direction under subsection (1).

[ASIC 1989, s. 22]

Record of examination

158.—(1) The investigator may, and shall if the examinee so requests, cause a record to be made of statements made at the examination.

(2) If a record made under subsection (1) is in writing or is reduced to writing —

(*a*) the investigator may require the examinee to read the record, or to have it read to him, and may require him to sign it; and

(*b*) the investigator shall, if requested in writing by the examinee to give to the examinee a copy of the written record, comply with the request without charge but subject to such conditions as the investigator may impose.

[ASIC 1989, s. 24]

Giving copies of record to other persons

159.—(1) The Authority may give a copy of a written record of the examination, or such a copy together with a copy of any related book, to an advocate and solicitor acting on behalf of a person who is carrying on, or is contemplating in good faith, a proceeding in respect of a matter to which the examination relates.

(2) If the Authority gives a copy to a person under subsection (1), the person, or any other person who has possession, custody or control of the copy or a copy of it, shall not, except in connection with preparing, beginning or carrying on, or in the course of, any proceedings —

(*a*) use the copy or a copy of it; or

(*b*) publish, or communicate to a person, the copy, a copy of it, or any part of the copy's contents.

(3) The Authority may, subject to such conditions or restrictions as it may impose, give to a person a copy of a written record of the examination, or such a copy together with a copy of any related book.

[ASIC 1989, s. 25]

Copies given subject to conditions

160. If a copy of a written record or a book is given to a person under section 158(2) or 159 (3) subject to conditions or restrictions imposed by the Authority, the person, and any other person who has possession, custody or control of the copy or a copy of it, shall comply with the conditions.

[ASIC 1989, s. 26]

Record to accompany report

161. If —

(*a*) in the Authority's opinion, a statement made at an examination is relevant to any other investigation conducted under this Division;

(*b*) a record of the statement was made under section 158; and

(*c*) a report about the other investigation is prepared under section 151(3),

a copy of the record shall accompany the report to be submitted to the Minister under section 151(3).

Offences under this Subdivision

162.—(1) A person who, without reasonable excuse, refuses or fails to comply with a requirement under section 154 or 156(3) shall be guilty of an offence and shall be liable on

conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

[1/2005]
[Act 34 of 2012 wef 18/03/2013]

(2) A person who, without reasonable excuse —

(*a*) refuses or fails to take an oath or make an affirmation when required to do so by an investigator examining him under this Subdivision;

(*b*) refuses or fails to comply with a requirement of an investigator under section 158 (2)(*a*); or

(*c*) refuses or fails to comply with section 159(2) or 160,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) A person who, in purported compliance with the provisions of this Subdivision, or in the course of examination of the person, furnishes information or makes a statement that is false or misleading in a material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) It shall be a defence to a prosecution for an offence under subsection (3) if the defendant proves that he believed on reasonable grounds that the information or statement was true and was not misleading.

(5) A person who, without reasonable excuse, obstructs or hinders the Authority or another person in the exercise of any power under this Subdivision shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

[1/2005]

[SIA, s. 6; ASIC 1989, s. 63-67]

Subdivision (3) — Powers to obtain information

Power of Authority to order production of books

163. For the purpose of an investigation under this Division, the Authority may, in writing, require any person at a specified time and place to provide information or produce books relating to any matter under investigation, and such person shall comply with that requirement.

Power to enter premises without warrant

163A.—(1) In connection with an investigation under this Division, any officer of the Authority who is authorised by the Authority to do so (referred to in this section as an investigator) and such other officers or persons as the Authority has authorised in writing to accompany the investigator (each referred to in this section as an authorised person) may enter any premises.

(2) No investigator and no authorised person accompanying the investigator shall enter any premises in the exercise of the powers under this section unless the investigator has given the occupier of the premises a written notice which —

(*a*) gives at least 2 working days' notice of the intended entry;

(*b*) indicates the subject-matter and purpose of the investigation; and

(*c*) indicates the nature of the offences created by section 168.

(3) Subsection (2) shall not apply —

(*a*) if the investigation relates to an alleged or a suspected contravention of any provision of Part XII, and the investigator has reasonable grounds for suspecting that the premises are, or have been, occupied by a person who is being investigated in relation to the contravention; or

(*b*) if the investigator has taken all such steps as are reasonably practicable to give notice under subsection (2)(*a*) but has not been able to do so.

(4) Where subsection (3) applies, the power of entry conferred by subsection (1) shall only be exercised upon production of —

(*a*) evidence of the investigator's authorisation and the authorisation of every authorised person accompanying him; and

(*b*) a document containing the information referred to in subsection (2)(*b*) and (*c*).

(5) An investigator or authorised person entering any premises under this section may —

(*a*) take with him such equipment as appears to him to be necessary;

(*b*) require any person on the premises to produce any book which the investigator or authorised person considers relates to any matter relevant to the investigation;

(*c*) require any person on the premises to state, to the best of the person's knowledge and belief, where any such book is to be found; and

(*d*) take any step, or issue to any person on the premises any requirement, which appears to be necessary for the purpose of preserving or preventing interference with any book which the investigator or authorised person considers relates to any matter relevant to the investigation.

[Act 34 of 2012 wef 01/05/2014]

Warrant to seize books, etc.

164.—(1) A Magistrate may, on the application of the Authority —

(*a*) issue a warrant, if the Magistrate is satisfied that there are reasonable grounds to suspect that there is, on any particular premises, any book —

(i) the production of which has been required by the Authority under section 163 or by an investigator or authorised person under

section 163A, but which has not been produced in compliance with that requirement; or

(ii) which, if required by the Authority under section 163 to be produced, will be concealed, removed, tampered with or destroyed; and

(*b*) if the Magistrate is also satisfied that there are reasonable grounds to suspect that there is, on those premises, any other book which relates to any matter relevant to the investigation concerned, direct that the powers exercisable under the warrant shall extend to that other book.

(2) A warrant issued under subsection (1) shall authorise the Authority or any person named in the warrant, with or without assistance —

(*a*) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(*b*) to search the premises and to break open and search anything, whether a fixture or not, in the premises;

(*c*) to take possession of, or secure against interference, any book that appears to be a book referred to in subsection (1)(*a*) or, where applicable, subsection (1)(*b*);

(*d*) to require any person to provide an explanation of any book that appears to be a book referred to in subsection (1)(*a*) or, where applicable, subsection (1)(*b*), or to state, to the best of that person's knowledge and belief, where any such book may be found;

(*e*) to search any person on those premises, if there are reasonable grounds to suspect that the person has in his possession any book referred to in subsection (1)(*a*) or, where applicable, subsection (1)(*b*), or any equipment or article which relates to any matter relevant to the investigation concerned; and

(*f*) to remove from those premises for examination any book that appears to be a book referred to in subsection (1)(*a*) or, where applicable, subsection (1)(*b*), or any equipment or article which relates to any matter relevant to the investigation concerned.

(3) The Authority or any person named in the warrant to execute it may allow any equipment or article referred to in subsection (2)(*f*) to be retained on the premises specified in the warrant to be searched, subject to such conditions as the Authority or that person may require.

(4) Any person entering any premises by virtue of a warrant issued under subsection (1) may take with him such equipment as appears to him to be necessary.

(5) Where a warrant is issued under subsection (1), and there is no one present at the premises specified in the warrant to be searched when the Authority or any person named in the warrant proposes to execute the warrant, the Authority or that person shall, before executing the warrant —

(*a*)

take such steps as are reasonable in all the circumstances to inform the occupier of the premises of the intended entry into the premises; and

(*b*) subject to subsection (6), give the occupier or the occupier's legal or other representative a reasonable opportunity to be present when the warrant is executed.

(6) If the Authority or any person named in the warrant to execute it is unable to inform the occupier of the premises of the intended entry into the premises, the Authority or that person shall, when executing the warrant, leave a copy of the warrant in a prominent place on the premises.

(7) On leaving any premises specified in a warrant issued under subsection (1), the Authority or any person named in the warrant to execute it shall, if the premises are unoccupied or if the occupier of the premises is temporarily absent, leave the premises as effectively secured as the Authority or that person found the premises.

(8) The powers conferred by this section are in addition to, and not in derogation of, any other powers conferred by any other written law or rule of law.

(9) In this section —

"occupier", in relation to any premises specified in a warrant issued under subsection (1), includes any person whom the Authority or any person named in the warrant to execute it reasonably believes to be the occupier of those premises;

"premises" includes any structure, building, aircraft, vehicle or vessel.

[Act 34 of 2012 wef 01/05/2014]

Powers where books are produced or seized

165.—(1) This section shall apply where —

(*a*) books are produced to the Authority —

(i) pursuant to a requirement of the Authority under section 163 or of an investigator or authorised person under section 163A(5); or

(ii) during an entry into any premises by an investigator or authorised person under section 163A;

[Act 34 of 2012 wef 01/05/2014]

(*b*) under a warrant issued under section 164, the Authority or a person named therein —

(i) takes possession of books; or

(ii) secures books against interference; or

(*c*) under a previous application of subsection (6), books are delivered into the possession of the Authority or a person authorised by it.

(2) If subsection (1)(*a*) applies, the Authority may take possession of any of the books.

(3) The Authority or, where applicable, a person referred to in subsection (1)(*b*) may —

(*a*) inspect, and may make copies of, or take extracts from, any of the books;

(*b*) use, or permit the use of, any of the books for the purposes of any proceedings;

(*c*) retain possession of any of the books for so long as is necessary —

(i) for the purposes of exercising a power conferred by this section (other than subsection (5));

(ii) for a decision to be made about whether or not any proceedings to which the books concerned would be relevant should be instituted; or

(iii) for such proceedings to be instituted and carried on; and

(*d*) require any book which the Authority or person referred to in subsection (1)(*b*) is satisfied relates to any matter relevant to an investigation under this Division, and which is stored in any electronic form, to be produced in a form which can be taken away and which is visible and legible.

[Act 34 of 2012 wef 01/05/2014]

(4) No person shall be entitled, as against the Authority or, where applicable, a person referred to in subsection (1)(*b*) to claim a lien on any of the books, but such a lien is not otherwise prejudiced.

(5) While the books are in the possession of the Authority or, where applicable, the person referred to in subsection (1)(*b*), the Authority or person —

(*a*) shall permit another person to inspect at all reasonable times such of the books (if any) as the second-mentioned person would be entitled to inspect if they were not in possession of the Authority or the first-mentioned person; and

(*b*) may permit any other person to inspect any of the books.

(6) Unless subsection (1)(*b*)(ii) applies, an investigator or authorised person referred to in subsection (1)(*a*) or a person referred to in subsection (1)(*b*) may deliver any of the books into the possession of the Authority or of a person authorised by the Authority to receive them.

[Act 34 of 2012 wef 01/05/2014]

(7) Without prejudice to sections 163A(5) and 164(2)(*d*), where subsection (1)(*a*) or (*b*) applies, the Authority, an investigator or authorised person referred to in subsection (1)(*a*), a person referred to in subsection (1)(*b*) or a person into whose possession the books are delivered under subsection (6), may require —

(*a*) if subsection (1)(*a*) applies, a person who so produced any of the books; or

(*b*) in any other case, a person who was a party to the compilation of any of the books,

to explain to the best of his knowledge and belief any matter about the compilation of any of the books or to which any of the books relate.

[Act 34 of 2012 wef 01/05/2014]

[SIA, s. 5 (6) (a); ASIC 1989, s. 37 modified]

Powers where books not produced

166. Where a person fails to comply with a requirement imposed by the Authority under section 163 to produce any book, the Authority may require the person to state, to the best of his knowledge and belief —

(*a*) the place where such book may be found; and

(*b*) the person who last had possession, custody or control of such book and the place where that person may be found.

[SIA, s. 5 (6) (b); ASIC 1989, s. 38]

Copies of or extracts from books to be admitted in evidence

167.—(1) Subject to this section, a copy of or extract from a book referred to in this Subdivision that is proved to be a true copy of the book or of the relevant part of the book is admissible in evidence as if it were the original book or the relevant part of the original book.

(2) For the purposes of subsection (1), evidence that a copy of or extract from a book is a true copy of the book or of a part of the book may be given by a person who has compared the copy or extract with the book or the relevant part of the book and may be given orally or by an affidavit sworn, or by a declaration made, before a person authorised to take affidavits or statutory declarations.

[1/2005]

[SIA, s. 7]

Offences under this Division

168.—(1) A person who, without reasonable excuse, refuses or fails to comply with any requirement imposed under section 163, 163A(5), 165(3)(*d*) or (7) or 166, or pursuant to an authorisation referred to in section 164(2)(*d*), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

[1/2005]
[Act 34 of 2012 wef 01/05/2014]

(2) A person who, in purported compliance with a requirement under this Subdivision, furnishes information or makes a statement that is false or misleading in a material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) It shall be a defence to a prosecution for an offence under subsection (2) if the defendant proves that he believed on reasonable grounds that the information or statement was true and not misleading.

(4) Any person, who conceals, destroys, mutilates or alters any book, equipment or article relating to a matter that the Authority is investigating or about to investigate under this Division or who, where any such book, equipment or article is within the territory of Singapore, takes or sends the book, equipment or article out of Singapore, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 2 years or to both.

[Act 34 of 2012 wef 01/05/2014]

(5) A person who, without reasonable excuse, obstructs or hinders the Authority in the exercise of any power under this Subdivision, or obstructs or hinders a person who is exercising any power under section 163A(1) or (5) or executing a warrant issued under section 164, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

[1/2005]
[Act 34 of 2012 wef 01/05/2014]

(6) Any occupier or person in charge of any premises who fails to provide, to any person who enters those premises under section 163A(1) or under a warrant issued under section 164 (1), all reasonable facilities and assistance for the effective exercise of that person's powers under section 163A(1) or (5) or under the warrant, as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months or to both.

[Act 34 of 2012 wef 01/05/2014]

[SIA, s. 6 modified; ASIC 1989, s. 63-67]

Division 4 — Transfer of Evidence

Interpretation of this Division

168A. In this Division —

"Commercial Affairs Officer" means a Commercial Affairs Officer appointed under section 64 of the Police Force Act (Cap. 235);

"police officer" means a member of the Singapore Police Force who is deployed in the Commercial Affairs Department of that Force.

[2/2009 wef 29/07/2009]

Evidence obtained by Authority may be used in criminal investigations and proceedings

168B.—(1) Notwithstanding the provisions of any written law or any rule of law, the Authority may furnish any book, document, written record of any examination or other information obtained by the Authority in the exercise of its powers under this Part to —

(*a*) a police officer;

(*b*) a Commercial Affairs Officer; or

(*c*) the Public Prosecutor,

for the purposes of any investigation into or criminal proceedings against a person for an alleged contravention of any provision under Part XII.

(2) For the avoidance of doubt, any book, document, written record of examination or other information furnished by the Authority under subsection (1) shall not be inadmissible in any criminal proceedings by reason only that it was first obtained by the Authority in the exercise of its powers under this Act, and the admissibility thereof shall be determined in accordance with the rules of evidence under written law and any relevant rules of law.

[2/2009 wef 29/07/2009]

Evidence obtained in police investigations may be used in civil proceedings

168C.—(1) Notwithstanding the provisions of any written law or any rule of law, any book, document, statement or other information obtained by a police officer or a Commercial Affairs Officer in the exercise of his powers under Divisions 1 and 2 of Part IV and sections 111, 258, 260, 261 and 280 of the Criminal Procedure Code 2010 may be furnished to the Authority, if the Public Prosecutor is satisfied that such information is necessary to enable the Authority to investigate or bring an action for a civil penalty order against a person in respect of a contravention of any provision in Part XII.

[15/2010 wef 02/01/2011]

(2) For the avoidance of doubt, any book, document, statement or other information furnished to the Authority under subsection (1) shall not be inadmissible in any civil proceedings under this Act to which the Authority is a party by reason only that it was first obtained by a police officer or a Commercial Affairs Officer in the exercise of his powers under the Criminal Procedure Code, and the admissibility thereof shall be determined in accordance with the rules of evidence under written law and any relevant rules of law.

[2/2009 wef 29/07/2009]

PART X

ASSISTANCE TO FOREIGN REGULATORY AUTHORITIES

Interpretation of this Part

169. In this Part, unless the context otherwise requires —

"enforce" means enforce through criminal, civil or administrative proceedings;

"enforcement" means the taking of any action to enforce a law or regulatory requirement against a specified person, being a law or regulatory requirement that relates to the securities, futures or derivatives industry of the foreign country of the regulatory authority concerned;

[Act 34 of 2012 wef 01/08/2013]

"foreign country" means a country or territory other than Singapore;

"investigation" means an investigation to determine if a specified person has contravened or is contravening a law or regulatory requirement, being a law or regulatory requirement that relates to the securities, futures or derivatives industry of the foreign country of the regulatory authority concerned;

[Act 34 of 2012 wef 01/08/2013]

"material" includes any information, book, document or other record in any form whatsoever, and any container or article relating thereto;

"regulatory authority", in relation to a foreign country, means an authority of the foreign country exercising any function that corresponds to a regulatory function of the Authority under this Act;

"supervision", in relation to a regulatory authority, means the taking of any action for or in connection with the supervision of —

(*a*) a person operating a securities market or futures market, an intermediary or any other person regulated by the regulatory authority; or

(*b*) the issuance of or trading in securities, or the trading in futures contracts in the foreign country of the regulatory authority.

[SIA, s. 96A; FTA, s. 49Q]

Conditions for provision of assistance

170.—(1) The Authority may provide the assistance referred to in section 172 to a regulatory authority of a foreign country if the Authority is satisfied that all of the following conditions are fulfilled:

(*a*) the request by the regulatory authority for assistance is received by the Authority on or after 6th March 2000;

(*b*) the assistance is intended to enable the regulatory authority, or any other authority of the foreign country, to carry out the supervision, investigation or enforcement;

(*c*) the contravention of the law or regulatory requirement to which the request relates took place on or after 6th March 2000;

(*d*) the regulatory authority has given a written undertaking that any material or copy thereof obtained pursuant to its request shall not be used for any purpose other than a purpose that is specified in the request and approved by the Authority;

(*e*) the regulatory authority has given a written undertaking not to disclose to a third party (other than a designated third party of the foreign country in accordance with paragraph (*f*)) any material received pursuant to the request unless the regulatory authority is compelled to do so by the law or a court of the foreign country;

(*f*) the regulatory authority has given a written undertaking to obtain the prior consent of the Authority before disclosing any material received pursuant to the request to a designated third party, and to make such disclosure only in accordance with such conditions as may be imposed by the Authority;

(*g*) the material requested for is of sufficient importance to the carrying out of the supervision, investigation or enforcement to which the request relates and cannot reasonably be obtained by any other means;

(*h*) the matter to which the request relates is of sufficient gravity; and

(*i*) the rendering of assistance will not be contrary to the public interest or the interest of the investing public.

(2) For the purposes of subsection (1)(*e*) and (*f*), "designated third party", in relation to a foreign country, means —

(*a*) any person or body responsible for supervising the regulatory authority in question;

(*b*) any authority of the foreign country responsible for carrying out the supervision, investigation or enforcement in question; or

(*c*) any authority of the foreign country exercising a function that corresponds to a regulatory function of the Authority under this Act.

[SIA, s. 96B; FTA, s. 49R]

Other factors to consider for provision of assistance

171. In deciding whether to grant a request for assistance referred to in section 172 from a regulatory authority of a foreign country, the Authority may also have regard to the following:

(*a*) whether the act or omission that is alleged to constitute the contravention of the law or regulatory requirement to which the request relates would, if it had occurred in Singapore, have constituted an offence under this Act;

(*b*) whether the regulatory authority has given or is willing to give an undertaking to the Authority to comply with a future request by the Authority to the regulatory authority for similar assistance; and

(*c*) whether the regulatory authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the assistance that the regulatory authority has requested for.

[SIA, s. 96C; FTA, s. 49S]

Assistance that may be rendered

172.—(1) Notwithstanding the provisions of any prescribed written law or any requirement imposed thereunder or any rule of law, the Authority or any person authorised by the Authority may, in relation to a request by a regulatory authority of a foreign country for assistance —

(*a*) transmit to the regulatory authority any material in the possession of the Authority that is requested by the regulatory authority or a copy thereof;

(*b*) order any person to furnish to the Authority any material that is requested by the regulatory authority or a copy thereof, and transmit the material or copy to the regulatory authority;

(*c*) order any person to transmit directly to the regulatory authority any material that is requested by the regulatory authority or a copy thereof;

(*d*) order any person to make an oral statement to the Authority on any information requested by the regulatory authority, record such statement, and transmit the recorded statement to the regulatory authority; or

(*e*) request any Ministry, Government department or statutory authority to furnish to the Authority any material that is requested by the regulatory authority or a copy thereof, and transmit the material or copy to the regulatory authority.

(2) The assistance referred to in subsection (1)(*c*) may only be rendered if the material sought is to enable the regulatory authority to carry out investigation or enforcement.

(3) An order under subsection (1)(*b*), (*c*) or (*d*) shall have effect notwithstanding any obligations as to secrecy or other restrictions upon the disclosure of information imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

(4) Nothing in this section shall compel an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97) —

(*a*) to furnish or transmit any material or copy thereof that contains; or

(*b*) to disclose,

a privileged communication made by or to him in that capacity.

[Act 34 of 2012 wef 18/03/2013]

(5) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act, who refuses to furnish or transmit any material or copy thereof that contains, or to disclose, any privileged communication shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made.

[Act 34 of 2012 wef 18/03/2013]

(6) A person is not excused from making an oral statement pursuant to an order made under subsection (1)(*d*) on the ground that the statement might tend to incriminate him but, where the person claims before making the statement that the statement might tend to incriminate him, that statement —

(*a*) shall not be admissible in evidence against him in criminal proceedings other than proceedings for an offence under section 173; but

(*b*) shall be admissible in evidence in civil proceedings under Part XII.

[SIA, s. 96D; FTA, s. 49T]

Offences under this Part

173. Any person who —

(*a*) without reasonable excuse refuses or fails to comply with an order under section 172(1)(*b*), (*c*) or (*d*);

(*b*) in purported compliance with an order under section 172(1)(*b*) or (*c*), furnishes to the Authority or transmits to a regulatory authority any material or copy thereof known to the person to be false or misleading in a material particular; or

(*c*) in purported compliance with an order made under section 172(1)(*d*), makes a statement to the Authority that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both.

[SIA, s. 96E; FTA, s. 49U]

Immunities

174.—(1) No civil or criminal proceedings, other than proceedings for an offence under section 173, shall lie against any person for —

(*a*) furnishing to the Authority or transmitting any material or copy thereof to the Authority or a regulatory authority of a foreign country if he had furnished or transmitted that material or copy in good faith in compliance with an order made under section 172(1)(*b*) or (*c*);

(*b*) making a statement to the Authority in good faith and in compliance with an order made under section 172(1)(*d*); or

(*c*) doing or omitting to do any act, if he had done or omitted to do the act in good faith and as a result of complying with such an order.

(2) Any person who complies with an order referred to in subsection (1)(*a*) or (*b*) shall not be treated as being in breach of any restriction upon the disclosure of information or thing imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

[SIA, s. 96F; FTA, s. 49V]

PART XI

INVESTOR COMPENSATION SCHEME

Interpretation of this Part

175. In this Part, "member", in relation to an approved exchange, means a person who —

(*a*) holds membership of any class or description of the approved exchange, whether or not he holds any share in the share capital of such exchange; and

[2/2009 wef 29/07/2009]

(*b*) is licensed by the Authority to carry on the business of dealing in securities or trading in futures contracts, as the case may be.

[2/2009 wef 29/07/2009]

[SIA, s. 74; FTA, s. 49A]

Establishment of fidelity fund

176.—(1) Each approved exchange shall establish, keep and administer a fidelity fund (referred to in this Part as a fidelity fund or fund).

[2/2009 wef 29/07/2009]

(2) The assets of the fidelity fund of an approved exchange shall —

(*a*) be the property of the exchange;

(*b*) be kept separate from all other property of the exchange; and

(*c*) be held in trust for the purposes set out in this Part.

[2/2009 wef 29/07/2009]

[SIA, s. 75; FTA, s. 49AA]

Moneys constituting fidelity fund

177. The fidelity fund of an approved exchange shall consist of —

(*a*) all moneys paid to the exchange by its members in accordance with this Part;

(*b*) all moneys paid to the fund by the exchange;

(*c*) all interest and profits from time to time accruing from the investment of the fund;

(*d*) all moneys recovered by or on behalf of the exchange in the exercise of any right of action conferred by this Part;

(*e*) all moneys paid by an insurer pursuant to a contract of insurance or indemnity entered into by the exchange under section 194; and

(*f*) all other moneys lawfully paid into the fund.

[2/2009 wef 29/07/2009]

[SIA, s. 76; FTA, s. 49B]

Fund to be kept in separate bank account

178. All moneys forming part of a fidelity fund shall, pending the investment or application thereof in accordance with this Part, be kept in a separate bank account in Singapore.
[SIA, s. 77; FTA, s. 49C]

Payments out of fidelity fund

179. Subject to this Part, there shall be paid out of the fidelity fund of an approved exchange as required and in such order as the exchange considers proper —

(*a*) the amount of all claims, including costs, allowed by the exchange or established against the exchange under this Part;

(*b*) all legal and other expenses incurred in investigating or defending claims made under this Part or incurred in relation to the fund or in the exercise by the exchange of the rights, powers and authorities vested in it by this Part in relation to the fund;

(*c*) all premiums payable in respect of contracts of insurance or indemnity entered into by the exchange under section 194;

(*d*) all expenses incurred or involved in the administration of the fund, including the salaries and wages of persons employed by the exchange in relation thereto; and

(*e*) all other moneys payable out of the fund in accordance with this Act.

[2/2009 wef 29/07/2009]

[SIA, s. 78; FTA, s. 49D]

Accounts of fund

180.—(1) An approved exchange shall establish and keep proper accounts of its fidelity fund and shall, within 5 months from the last day of each financial year of that exchange, cause a balance-sheet in respect of such accounts to be made out as at the last day of that financial year.

[2/2009 wef 29/07/2009]

(2) The approved exchange shall appoint an auditor to audit the accounts of the fidelity fund.

[2/2009 wef 29/07/2009]

(3) The auditor appointed by the approved exchange shall —

(*a*) regularly and fully audit the accounts of the fidelity fund; and

(*b*) audit each balance-sheet and cause it to be laid before the exchange not later than 3 months after the balance-sheet was made out.

[2/2009 wef 29/07/2009]

[SIA, s. 79; FTA, s. 49E]

Fidelity fund to consist of amount of $20 million, etc.

181. The fidelity fund of an approved exchange shall consist of an amount of not less than —

(*a*) $20 million; or

(*b*) such other amount as the Authority may, by order published in the *Gazette*, specify in substitution of the amount specified under paragraph (*a*),

to be paid to the credit of the fund on the approval of the exchange under this Act or at any time after its approval as determined by the Authority.

[2/2009 wef 29/07/2009]

[SIA, s. 81; FTA, s. 49F]

Provisions if fund is reduced below minimum amount

182. If the fidelity fund of an approved exchange is reduced below the minimum amount referred to in section 181, the exchange shall take steps to make up the deficiency —

(*a*) by transferring an amount that is equal to the deficiency from other funds of the exchange to the fidelity fund; and

(*b*) in the event that there are insufficient funds to transfer under paragraph (*a*), by requiring each member of the exchange to contribute to the fund such amount as the exchange may determine.

[2/2009 wef 29/07/2009]

[SIA, s. 82; FTA, s. 49G]

Levy to meet liabilities

183.—(1) If at any time a fidelity fund is not sufficient to satisfy the liabilities that are then ascertained of an approved exchange in relation thereto, the approved exchange —

(*a*) may impose on every member a levy of such amount as it thinks fit; or

(*b*) if ordered by the Authority, shall impose a levy of such amount which shall in the aggregate be equivalent to the amount so specified in the order.

[2/2009 wef 29/07/2009]

(2) The amount of such levy shall be paid within the time and in the manner specified by the approved exchange either generally or in relation to any particular case.

[2/2009 wef 29/07/2009]

(3) No member of an approved exchange shall be required to pay by way of levy under this section more than $300,000 in the aggregate in any particular case.

[2/2009 wef 29/07/2009]

[SIA, s. 83]

Power of approved exchange to make advances to fund

184.—(1) An approved exchange may, out of its general funds, give or advance any sum of money to its fidelity fund on such terms as it thinks fit.

[2/2009 wef 29/07/2009]

(2) Any sum of money advanced by an approved exchange under subsection (1) may be repaid out of the fidelity fund to the general funds of the approved exchange, as the case may be.

[2/2009 wef 29/07/2009]

[SIA, s. 84]

Investment of fund

185. Any moneys in a fidelity fund that are not immediately required for any purpose referred to in this Part may be invested by an approved exchange in any manner in which trustees are for the time being authorised by law to invest trust funds.

[2/2009 wef 29/07/2009]

[SIA, s. 85; FTA, s. 49H]

Application of fund

186.—(1) Subject to this Part, a fidelity fund shall be held and applied for the purpose of compensating any person (other than an accredited investor) who suffers pecuniary loss because of a defalcation committed —

(*a*) in the course of, or in connection with, a dealing in securities, or the trading of a futures contract;

(*b*) by a member of an approved exchange or by any agent of such member; and

[2/2009 wef 29/07/2009]

(*c*) in relation to any money or other property which, after the establishment of the fidelity fund was entrusted to or received —

(i) by that member or by any of its agents for or on behalf of any other person; or

(ii) by that member either as the sole trustee or as trustee with any other person or persons, or by any of its agents as trustee or for or on behalf of the trustees of that money or property.

(2) Subject to this Part, the fidelity fund shall be applied for the purpose of paying to the Official Assignee or a trustee in bankruptcy within the meaning of the Bankruptcy Act (Cap. 20) an amount not greater than the amount that the Official Assignee or the trustee in bankruptcy, as the case may be, certifies is required in order to make up or reduce the total

deficiency arising because the available assets of a bankrupt, who is a member of an approved exchange, are insufficient to satisfy any debts arising from dealings in securities or trading in futures contracts that have been proved in the bankruptcy by creditors of the bankrupt member.

[2/2009 wef 29/07/2009]

(3) Subsection (2) shall apply in the case of a member of an approved exchange who has made a voluntary arrangement with his creditors under Part V of the Bankruptcy Act in like manner as that subsection applies in the case of a member who has become bankrupt.

[2/2009 wef 29/07/2009]

(4) For the purposes of subsection (3) —

(*a*) a reference to a trustee in bankruptcy in subsection (2) shall be deemed to be a reference to a nominee within the meaning of Part V of the Bankruptcy Act;

(*b*) a reference to debts proved in bankruptcy in subsection (2) shall be deemed to be a reference to debts provable in relation to a voluntary arrangement within the meaning of Part V of the Bankruptcy Act; and

(*c*) a reference to the bankrupt in subsection (2) shall be deemed to be a reference to the person who made the voluntary arrangement under Part V of the Bankruptcy Act.

(5) Subject to this Part, the fidelity fund shall be applied for the purpose of paying to a liquidator of a member of an approved exchange that is being wound up an amount not greater than the amount that the liquidator certifies is required to make up or reduce the total deficiency arising because the available assets of the member are insufficient to satisfy any debts arising from dealings in securities or trading in futures contracts that have been proved in the liquidation of the member.

[2/2009 wef 29/07/2009]

(6) Where a claim has been made for compensation in respect of a pecuniary loss under subsection (1), no claim for a payment under subsection (2) or (5) shall be made in respect of the same pecuniary loss.

(7) Where a claim has been made for a payment in respect of a deficiency referred to in subsection (2), no claim for compensation under subsection (1) or for a payment under subsection (5) shall be made in respect of the same deficiency.

(8) Where a claim has been made for a payment in respect of a deficiency referred to in subsection (5), no claim for compensation under subsection (1) or for a payment under subsection (2) shall be made in respect of the same deficiency.

(9) Moneys paid under subsection (2) or (5) may only be applied by the Official Assignee, a trustee in bankruptcy, a nominee or a liquidator, as the case may be, for the purpose of satisfying debts arising from dealings in securities or trading in futures contracts, and for no other purpose.

(10) Subject to the provisions of this section, the amount or the sum of the amounts that may be paid out of the fidelity fund under this Part for the purpose of —

(*a*) compensating pecuniary loss under subsection (1); or

(*b*) making a payment under subsection (2) or (5),

[*]shall not, in respect of each member, exceed the prescribed amount.

[*] Prescribed amount shall be $2 million for the purposes of section 186(1) — see G.N. No. S 367/2005.

(11) Subject to the provisions of this section —

(*a*) the amount that may be paid out of the fidelity fund to each claimant under subsection (1) in relation to each member; or

(*b*) the amount that the Official Assignee, a trustee in bankruptcy, a nominee or a liquidator may pay to each creditor of a member from any amount paid to the Official Assignee, trustee in bankruptcy, nominee or liquidator, as the case may be, under subsection (2) or (5),

[†]shall not exceed the prescribed amount.

[†] Prescribed amount shall be $50,000 for the purposes of section 186(11) — see G.N. No. S 367/2005.

(12) For the purposes of subsections (10) and (11), any amount paid out of the fidelity fund shall, to the extent to which the fund is subsequently reimbursed therefor, be disregarded.

(13) In this section, "agent", in relation to a member of an approved exchange —

(*a*) means a person who is a director, an officer, an employee or a representative of the member; and

(*b*) includes a person who has been, but at the time of any defalcation in question has ceased to be, a director, an officer, an employee or a representative of the member if, at the time of the defalcation, the person claiming compensation has reasonable grounds for believing that person to be a director, an officer, an employee or a representative of the member.

[2/2009 wef 29/07/2009]

(14) In this section, any reference to dealing in securities or trading of a futures contract is a reference to such dealing or trading which is done or to be done —

(*a*) on the approved exchange which establishes, keeps and administers the fidelity fund; or

(*b*) through a trading linkage of the approved exchange with an overseas securities exchange or an overseas futures exchange.

[2/2009 wef 29/07/2009]

Claims against fund

187.—(1) Subject to this Part, every person who suffers pecuniary loss referred to in section 186 shall be entitled to claim compensation out of the fidelity fund and to take proceedings in the High Court under this Act against an approved exchange to establish such claim.

[2/2009 wef 29/07/2009]

(2) A person shall not have any claim against the fidelity fund in respect of a defalcation in respect of money or other property which prior to the commission of the defalcation had, in the due course of the administration of a trust, ceased to be under the sole control of the director or directors of the member of an approved exchange.

[2/2009 wef 29/07/2009]

(3) Subject to this Part, the amount which any claimant shall be entitled to claim as compensation out of a fidelity fund shall be the amount of the actual pecuniary loss suffered by him (including the reasonable costs of and disbursements incidental to the making and proof of his claim) less the amount or value of all moneys or other benefits received or receivable by him from any source other than the fund in reduction of the loss.

[SIA, s. 87; FTA, s. 49J]

Notice calling for claims against fund

188.—(1) An approved exchange may cause to be published in a daily newspaper published and circulating generally in Singapore a notice, in or to the effect of the form prescribed, specifying a date, not being earlier than 3 months after the date of publication, on or before which claims for compensation out of the fidelity fund, in relation to the person specified in the notice, may be made.

[2/2009 wef 29/07/2009]

(2) A claim for compensation out of a fidelity fund in respect of a defalcation shall be made in writing to the approved exchange, as the case may be —

(*a*) where a notice under subsection (1) has been published, on or before the date specified in the notice; or

(*b*) where no such notice has been published, within 6 months after the claimant became aware of the defalcation.

[2/2009 wef 29/07/2009]

(3) Any claim which is not made in accordance with subsection (2) shall be barred unless the approved exchange otherwise allows.

[2/2009 wef 29/07/2009]

(4) No action for damages shall lie against an approved exchange or against any member or employee of the approved exchange by reason of any notice published in good faith and without malice for the purposes of this section.

[2/2009 wef 29/07/2009]

[SIA, s. 88; FTA, s. 49K]

Power of approved exchange to settle claims

189.—(1) An approved exchange may, subject to this Part, allow and settle any proper claim for compensation out of a fidelity fund at any time after the commission of the defalcation in respect of which the claim arose.

[2/2009 wef 29/07/2009]

(2) Subject to subsection (3), a person shall not commence proceedings under this Part against an approved exchange without the consent of the approved exchange, as the case may be, unless —

(*a*) the approved exchange has disallowed his claim; and

[2/2009 wef 29/07/2009]

(*b*) the claimant has exhausted all relevant rights of action and other legal remedies for the recovery of the money or other property, in respect of which the defalcation was committed, available against a member of the approved exchange in relation to whom or to which the claim arose and all other persons liable in respect of the loss suffered by the claimant.

[2/2009 wef 29/07/2009]

(3) A person who has been refused consent to commence proceedings under this Part by an approved exchange under subsection (2) may apply for leave to a Judge of the High Court in chambers who may make such order in the matter as he thinks fit.

[2/2009 wef 29/07/2009]

(4) An approved exchange shall, after disallowing (whether wholly or in part) any claim for compensation out of a fidelity fund, serve notice of such disallowance in the prescribed form on the claimant or his solicitor.

[2/2009 wef 29/07/2009]

(5) No proceedings against an approved exchange in respect of a claim which has been disallowed by the exchange shall be commenced after the expiration of 3 months after service of notice of disallowance under subsection (4).

[2/2009 wef 29/07/2009]

(6) In any proceedings brought to establish a claim —

(*a*) evidence of any admission or confession by, or other evidence which would be admissible against, the member of an approved exchange or other person by whom it is alleged a defalcation was committed, shall be admissible to prove the commission of the defalcation, notwithstanding that the member or other person is not the defendant in or a party to those proceedings; and

[2/2009 wef 29/07/2009]

(*b*) all defences which would have been available to that member or person shall be available to the approved exchange.

[2/2009 wef 29/07/2009]

(7) An approved exchange or, where proceedings are brought to establish a claim, the High Court, if satisfied that the defalcation on which the claim is founded was actually committed, may allow the claim and act accordingly, notwithstanding that the person who committed the defalcation has not been convicted or prosecuted therefor or that the evidence on which the approved exchange or the High Court, as the case may be, acts would not be sufficient to establish the guilt of that person upon a criminal trial in respect of the defalcation.

[2/2009 wef 29/07/2009]

[SIA, s. 89; FTA, s. 49L]

Power of approved exchange to require production of evidence

190.—(1) An approved exchange may require any person to produce and deliver any contract note, document or statement of evidence necessary to support any claim made, or necessary for the purpose either of exercising its rights against a member of an approved

exchange or the directors of that member or any other person concerned, or of enabling criminal proceedings to be taken against any person in respect of a defalcation.

[2/2009 wef 29/07/2009]

(2) Where a person who is required under subsection (1) to produce or deliver any contract note, document or statement of evidence fails to do so, the approved exchange may disallow any claim by him under this Part.

[2/2009 wef 29/07/2009]

[SIA, s. 91; FTA, s. 49M]

Subrogation of approved exchange to rights, etc., of claimant upon payment from fund

191. On payment out of a fidelity fund of any moneys in respect of any claim under this Part, the approved exchange shall be subrogated to the extent of such payment to all the rights and remedies of the claimant in relation to the loss suffered by him by reason of the defalcation on which the claim was based.

[2/2009 wef 29/07/2009]

[SIA, s. 92; FTA, s. 49N]

Payment of claims only from fund

192. No moneys or other property belonging to an approved exchange, other than the fidelity fund, shall be available for the payment of any claim under this Part, whether the claim is allowed by the approved exchange or is made the subject of an order of the High Court.

[2/2009 wef 29/07/2009]

[SIA, s. 93; FTA, s. 49O]

Provision where fund insufficient to meet claims or where claims exceed total amount payable

193.—(1) Where the amount at credit in a fidelity fund is insufficient to pay the whole amount of all claims against it which have been allowed or in respect of which orders of the High Court have been made, then the amount at credit in the fund shall, subject to subsection (2), be apportioned between the claimants in such manner as the approved exchange thinks equitable, and such claim shall, so far as it then remains unpaid, be charged against future receipts of the fund and paid out of the fund when moneys are available therein.

[2/2009 wef 29/07/2009]

(2) Where the aggregate of all claims which have been allowed or in respect of which orders of the High Court have been made in relation to a defalcation by or in connection with a member of an approved exchange exceeds the total amount which may, pursuant to section 186 (10), be paid under this Part in respect of that member, then such total amount shall be apportioned between the claimants in such manner as the approved exchange thinks equitable.

[2/2009 wef 29/07/2009]

(3) Upon payment out of the fidelity fund of such total amount in accordance with the apportionment of all such claims under subsection (2), any order relating thereto and all other claims against the fund which may thereafter arise or be made in respect of that defalcation by or in connection with that member shall be absolutely discharged.

[SIA, s. 94; FTA, s. 49P]

Power of approved exchange to enter into contracts of insurance

194.—(1) An approved exchange may in its discretion, enter into any contract with any person or body of persons, corporate or unincorporate, carrying on fidelity insurance business in Singapore whereby the approved exchange will be insured or indemnified to the extent and in the manner provided by such contract against liability in respect of claims under this Part.

[2/2009 wef 29/07/2009]

(2) Any contract under subsection (1) may be entered into in relation to members generally, or in relation to any particular member or members named therein, or in relation to members generally with the exclusion of any particular member or members named therein.

(3) No action shall lie against an approved exchange or against any member or employee of an approved exchange for injury alleged to have been suffered by any other member by reason of the publication in good faith of a statement that any contract entered into under this section does or does not apply with respect to it.

[2/2009 wef 29/07/2009]

[SIA, s. 95]

Application of insurance moneys

195. No claimant against a fidelity fund shall have any right of action against any person or body of persons with whom a contract of insurance or indemnity is made under this Part in respect of such contract, or have any right or claim with respect to any moneys paid by the insurer in accordance with any such contract.

[SIA, s. 96]

PART XII

MARKET CONDUCT

Division 1 — Prohibited Conduct — Securities

Application of this Division

196. This Division shall apply to —

(*a*) acts occurring within Singapore in relation to —

(i) securities of any corporation, whether formed or carrying on business in Singapore or elsewhere;

(i*a*) securities of any business trust; or

(ii) securities listed for quotation or quoted on a securities market in Singapore or elsewhere; and

(*b*) acts occurring outside Singapore, in relation to —

(i) securities of a corporation that is formed or carrying on business in Singapore;

(i*a*) securities of a business trust, the trustee of which is formed in Singapore or carries on business on behalf of the business trust in Singapore; or

(ii) securities listed for quotation or quoted on a securities market in Singapore.

[1/2005]

[Malaysia SIA, s. 88C]

Interpretation of this Division

196A. In this Division —

"debenture" has the same meaning as in section 2 and, in relation to a business trust, means any debenture issued by the trustee of the business trust in its capacity as trustee of the business trust;

"securities" —

(*a*) in relation to a corporation, for the purposes of sections 196(*a*)(i) and (*b*)(i), 198, 202 and 203, means —

(i) debentures, stocks or shares issued or proposed to be issued by a corporation;

(ii) any right, option or derivative in respect of any such debentures, stocks or shares;

[2/2009 wef 20/04/2009]

(iii) any right under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

(A) the value or price of any such debentures, stocks or shares;

(B) the value or price of any group of any such debentures, stocks or shares; or

(C) an index of any such debentures, stocks or shares; or

(iv) such other product or class of products as the Authority may prescribe,

[2/2009 wef 20/04/2009]

but does not include —

(AA) futures contracts;

(BB) bills of exchange;

(CC) promissory notes;

(DD) certificates of deposit issued by a bank or finance company; or

(EE) such other product or class of products as the Authority may prescribe as not being securities;

[2/2009 wef 20/04/2009]

(*b*) in relation to a business trust, for the purposes of sections 196(*a*)(i*a*) and (*b*)(i*a*), 198, 202 and 203, means —

(i) units in a business trust;

(ii) derivatives of units in a business trust;

(iii) debentures of a business trust;

(iv) any right, option or derivative in respect of any such debentures; or

(v) such other product or class of products as the Authority may prescribe,

[2/2009 wef 20/04/2009]

but does not include —

(A) futures contracts;

(B) bills of exchange;

(C) promissory notes; or

(D) such other product or class of products as the Authority may prescribe as not being securities; and

[2/2009 wef 20/04/2009]

(*c*) in any other case, has the same meaning as in section 2.

[1/2005]

False trading and market rigging transactions

197.—(1) No person shall do any thing, cause any thing to be done or engage in any course of conduct, if his purpose, or any of his purposes, for doing that thing, causing that thing to be done or engaging in that course of conduct, as the case may be, is to create a false or misleading appearance —

(*a*) of active trading in any securities on a securities market; or

(*b*) with respect to the market for, or the price of, such securities.

[Act 34 of 2012 wef 18/03/2013]

(1A) No person shall do any thing, cause any thing to be done or engage in any course of conduct that creates, or is likely to create, a false or misleading appearance of active trading in any securities on a securities market, or with respect to the market for, or the price of, such securities, if —

(*a*) he knows that doing that thing, causing that thing to be done or engaging in that course of conduct, as the case may be, will create, or will be likely to create, that false or misleading appearance; or

(*b*) he is reckless as to whether doing that thing, causing that thing to be done or engaging in that course of conduct, as the case may be, will create, or will be likely to create, that false or misleading appearance.

[Act 34 of 2012 wef 18/03/2013]

(2) No person shall, by means of any purchase or sale of any securities that do not involve a change in the beneficial ownership of those securities, or by any fictitious transaction or device, maintain, inflate, depress, or cause fluctuations in, the market price of any securities.

(3) Without prejudice to the generality of subsection (1), where a person —

(*a*) effects, takes part in, is concerned in or carries out, directly or indirectly, any transaction of purchase or sale of any securities, being a transaction that does not involve any change in the beneficial ownership of the securities;

(*b*) makes or causes to be made an offer to sell any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that a person associated with him has made or caused to be made or proposes to make or to cause to be made, an offer to purchase the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price; or

(*c*) makes or causes to be made an offer to purchase any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that a person associated with him has made or caused to be made or proposes to make or to cause to be made, an offer to sell the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price,

it shall be presumed that his purpose, or one of his purposes, for doing so is to create a false or misleading appearance of active trading in securities on a securities market.

[Act 34 of 2012 wef 18/03/2013]

(4) The presumption under subsection (3) may be rebutted if the defendant establishes that the purpose or purposes for which he did the act was not, or did not include, the purpose of creating a false or misleading appearance of active trading in securities on a securities market.

[Act 34 of 2012 wef 18/03/2013]

(5) For the purposes of this section, a purchase or sale of securities does not involve a change in the beneficial ownership if a person who had an interest in the securities before the purchase or sale, or a person associated with the first-mentioned person in relation to those securities, has an interest in the securities after the purchase or sale.

(6) In any proceedings against a person for a contravention of subsection (2) in relation to a purchase or sale of securities that did not involve a change in the beneficial ownership of those securities, it is a defence if the defendant establishes that the purpose or purposes for which he purchased or sold the securities was not, or did not include, the purpose of creating a false or misleading appearance with respect to the market for, or the price of, securities.

(7) The reference in subsection (3)(*a*) to a transaction of purchase or sale of securities includes —

(*a*) a reference to the making of an offer to purchase or sell securities; and

(*b*) a reference to the making of an invitation, however expressed, that expressly or impliedly invites a person to offer to purchase or sell securities.

[SIA, s. 97; Aust. Corporations 2001, s. 998]

Securities market manipulation

198.—(1) No person shall effect, take part in, be concerned in or carry out, directly or indirectly, 2 or more transactions in securities of a corporation, being transactions that have, or are likely to have, the effect of raising, lowering, maintaining or stabilising the price of securities of the corporation on a securities market, with intent to induce other persons to subscribe for, purchase or sell securities of the corporation or of a related corporation.

(1A) No person shall effect, take part in, be concerned in or carry out, directly or indirectly, 2 or more transactions in securities of a business trust, being transactions that have, or are likely to have, the effect of raising, lowering, maintaining or stabilising the price of securities of the business trust on a securities market, with intent to induce other persons to subscribe for, purchase or sell securities of the business trust.

[1/2005]

(2) A reference in subsection (1) or (1A) to transactions in securities of a corporation or securities of a business trust, as the case may be, includes —

(*a*) a reference to the making of an offer to purchase or sell such securities of the corporation or such securities of the business trust, as the case may be; and

(*b*) a reference to the making of an invitation, however expressed, that directly or indirectly invites a person to offer to purchase or sell such securities of the corporation or such securities of the business trust, as the case may be.

[1/2005]

[SIA, s. 98]

False or misleading statements, etc.

199. No person shall make a statement, or disseminate information, that is false or misleading in a material particular and is likely —

(*a*) to induce other persons to subscribe for securities;

(*b*) to induce the sale or purchase of securities by other persons; or

(*c*) to have the effect of raising, lowering, maintaining or stabilising the market price of securities,

if, when he makes the statement or disseminates the information —

(i) he does not care whether the statement or information is true or false; or

(ii) he knows or ought reasonably to have known that the statement or information is false or misleading in a material particular.

[SIA, s. 99; Aust. Corporations 2001, s. 999]

Fraudulently inducing persons to deal in securities

200.—(1) No person shall —

(*a*)

by making or publishing any statement, promise or forecast that he knows or ought reasonably to have known to be misleading, false or deceptive;

(*b*) by any dishonest concealment of material facts;

(*c*) by the reckless making or publishing of any statement, promise or forecast that is misleading, false or deceptive; or

(*d*) by recording or storing in, or by means of, any mechanical, electronic or other device information that he knows to be false or misleading in a material particular,

induce or attempt to induce another person to deal in securities.

(2) In any proceedings against a person for a contravention of subsection (1) constituted by recording or storing information as mentioned in subsection (1)(*d*), it is a defence if it is established that, at the time when the defendant so recorded or stored the information, he had no reasonable grounds for expecting that the information would be available to any other person.

(3) In any proceedings against a person for a contravention of subsection (1), the opinion of any registered or public accountant as to the financial position of any company at any time or during any period in respect of which he has made an audit or examination of the affairs of the company according to recognised audit practice shall be admissible, for any party to the proceedings, as evidence of the financial position of the company at that time or during that period, notwithstanding that the opinion is based in whole or in part on book-entries, documents or vouchers or on written or verbal statements by other persons.

[SIA, s. 100; Companies, s. 404 (4)]

Employment of manipulative and deceptive devices

201. No person shall, directly or indirectly, in connection with the subscription, purchase or sale of any securities —

(*a*) employ any device, scheme or artifice to defraud;

(*b*) engage in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, upon any person;

(*c*) make any statement he knows to be false in a material particular; or

(*d*) omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

[SIA, s.102]

Dissemination of information about illegal transactions

202. No person shall circulate or disseminate, or authorise or be concerned in the circulation or dissemination of, any statement or information to the effect that the price of any securities of a corporation or any securities of a business trust will, or is likely, to rise or fall or be maintained by reason of any transaction entered into or to be entered into or other act or thing done or to be done in relation to securities of that corporation, or of a corporation that is related to that corporation, or securities of that business trust, as the case may be, which to his

knowledge, was entered into or done in contravention of section 197, 198, 199, 200 or 201 or if entered into or done would be in contravention of section 197, 198, 199, 200 or 201 if —

(*a*) the person, or a person associated with the person, has entered into or purports to enter into any such transaction or has done or purports to do any such act or thing; or

(*b*) the person, or a person associated with the person, has received, or expects to receive, directly or indirectly, any consideration or benefit for circulating or disseminating, or authorising or being concerned in the circulation or dissemination, the statement or information.

[1/2005]

[SIA, s. 101]

Continuous disclosure

203.—(1) This section shall apply to —

(*a*) an entity the securities of which are listed for quotation on a securities exchange;

(*b*) a trustee of a business trust, where the securities of the business trust are listed for quotation on a securities exchange; or

(*c*) a responsible person of a collective investment scheme, where the units of the collective investment scheme are listed for quotation on a securities exchange,

if the entity, trustee or responsible person is required by the securities exchange under the listing rules or any other requirement of the securities exchange to notify the securities exchange of information on specified events or matters as they occur or arise for the purpose of the securities exchange making that information available to a securities market operated by the securities exchange.

[1/2005]

(2) The persons specified in subsection (1)(*a*), (*b*) or (*c*) shall not intentionally, recklessly or negligently fail to notify the securities exchange of such information as is required to be disclosed by the securities exchange under the listing rules or any other requirement of the securities exchange.

[1/2005]

(3) Notwithstanding section 204, a contravention of subsection (2) shall not be an offence unless the failure to notify is intentional or reckless.

[Aust. Corporations 2001, s. 1001A]

Penalties under this Division

204.—(1) Any person who contravenes any of the provisions of this Division shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 7 years or to both.

(2) No proceedings shall be instituted against a person for an offence in respect of a contravention of any of the provisions of this Division after —

(*a*)

a court has made an order against him for the payment of a civil penalty under section 232; or

(*b*) the person has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 232(5),

in respect of that contravention.

[2/2009 wef 29/07/2009]

Division 2 — Prohibited Conduct — Futures Contracts, Leveraged Foreign Exchange Trading

Application of this Division

205. This Division shall apply to —

(*a*) acts occurring within Singapore, in relation to —

(i) futures contracts, whether traded on a futures market in Singapore or elsewhere; or

(ii) foreign exchange in connection with leveraged foreign exchange trading, whether in Singapore or elsewhere; and

(*b*) acts occurring outside Singapore, in relation to —

(i) futures contracts traded on a futures market in Singapore;

(ii) foreign exchange in connection with leveraged foreign exchange trading in Singapore; or

(iii) foreign exchange in connection with leveraged foreign exchange trading that is accessible from Singapore.

False trading

206.—(1) No person shall do any thing, cause any thing to be done or engage in any course of conduct, if his purpose, or any of his purposes, for doing that thing, causing that thing to be done or engaging in that course of conduct, as the case may be, is to create a false or misleading appearance —

(*a*) of active trading in any futures contract on a futures market or in connection with leveraged foreign exchange trading; or

(*b*) with respect to the market for, or the price of, futures contracts on a futures market or foreign exchange in connection with leveraged foreign exchange trading.

(2) No person shall do any thing, cause any thing to be done or engage in any course of conduct that creates, or is likely to create, a false or misleading appearance of active trading in any futures contract on a futures market or in connection with leveraged foreign exchange

trading, or with respect to the market for, or the price of, futures contracts on a futures market or foreign exchange in connection with leveraged foreign exchange trading, if —

(*a*) he knows that doing that thing, causing that thing to be done or engaging in that course of conduct, as the case may be, will create, or will be likely to create, that false or misleading appearance; or

(*b*) he is reckless as to whether doing that thing, causing that thing to be done or engaging in that course of conduct, as the case may be, will create, or will be likely to create, that false or misleading appearance.

[Act 34 of 2012 wef 18/03/2013]

Bucketing

207.—(1) No person shall knowingly execute, or hold himself out as having executed, an order for the purchase or sale of a futures contract on a futures market, without having effected a bona fide purchase or sale of the futures contract in accordance with the business rules and practices of the futures market.

(2) No person shall knowingly execute, or hold himself out as having executed, an order to make a purchase or sale of foreign exchange in connection with leveraged foreign exchange trading, without having effected a bona fide purchase or sale in accordance with the order.

[FTA, s. 51]

Manipulation of price of futures contract and cornering

208. No person shall, directly or indirectly —

(*a*) manipulate or attempt to manipulate the price of a futures contract that may be dealt in on a futures market, or of any commodity which is the subject of such futures contract; or

(*b*) corner, or attempt to corner, any commodity which is the subject of a futures contract.

[FTA, s. 53]

Fraudulently inducing persons to trade in futures contracts

209.—(1) No person shall —

(*a*) by making or publishing any statement, promise or forecast that he knows or ought reasonably to have known to be false, misleading or deceptive;

(*b*) by any dishonest concealment of material facts;

(*c*) by the reckless making or publishing of any statement, promise or forecast that is false, misleading or deceptive; or

(*d*) by recording or storing in, or by means of, any mechanical, electronic or other device information that he knows to be false or misleading in a material particular,

induce or attempt to induce another person to trade in a futures contract or engage in leveraged foreign exchange trading.

(2) In any proceedings against a person for a contravention of subsection (1) constituted by recording or storing information as mentioned in subsection (1)(*d*), it is a defence if it is established that, at the time when the defendant so recorded or stored the information, he had no reasonable grounds for expecting that the information would be available to any other person.

[FTA, s. 55]

Employment of fraudulent or deceptive devices, etc.

210. No person shall, directly or indirectly, in connection with any transaction involving trading in a futures contract or leveraged foreign exchange trading —

(*a*) employ any device, scheme or artifice to defraud;

(*b*) engage in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, upon any person;

(*c*) make any false statement of a material fact; or

(*d*) omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

[FTA, s. 54]

Dissemination of information about illegal transactions

211. No person shall circulate, disseminate, or authorise, or be concerned in the circulation or dissemination of, any statement or information to the effect that the price of a class of futures contracts or foreign exchange in connection with leveraged foreign exchange trading will, or is likely to, rise or fall or be maintained because of the market operations of one or more persons which, to his knowledge, are conducted in contravention of section 206, 207, 208, 209 or 210 if —

(*a*) the person, or a person associated with the person, has conducted such market operations; or

(*b*) the person, or a person associated with the person, has received, or expects to receive, directly or indirectly, any consideration or benefit for circulating or disseminating, or authorising or being concerned in the circulation or dissemination, the statement or information.

[FTA, s. 52]

Penalties under this Division

212.—(1) Any person who contravenes any of the provisions of this Division shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 7 years or to both.

(2) No proceedings shall be instituted against a person for an offence in respect of a contravention of any of the provisions of this Division after —

(*a*)

a court has made an order against him for the payment of a civil penalty under section 232; or

(*b*) the person has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 232(5),

in respect of that contravention.

[2/2009 wef 29/07/2009]

Division 3 — Insider Trading

Application of this Division

213. This Division shall apply to —

(*a*) acts occurring within Singapore, in relation to —

(i) securities of any corporation, whether formed or carrying on business in Singapore or elsewhere;

(i*a*) securities of any business trust;

(ii) securities listed for quotation or quoted on a securities market in Singapore or elsewhere; or

(iii) securities traded on a futures market in Singapore or elsewhere; and

(*b*) acts occurring outside Singapore, in relation to —

(i) securities of a corporation that is formed or carries on business in Singapore;

(i*a*) securities of a business trust, the trustee of which is formed in Singapore or carries on business on behalf of the business trust in Singapore;

(ii) securities listed for quotation or quoted on a securities market in Singapore; or

(iii) securities traded on a futures market in Singapore.

[1/2005]

[Malaysia SIA, s. 89P]

Interpretation of this Division

214. In this Division —

"debenture" has the same meaning as in section 2 and, in relation to a business trust, means a debenture issued by the trustee of the business trust in its capacity as trustee of the business trust;

"financial performance", in relation to a business trust, means the performance of the business relating to the trust property of the business trust which is managed and operated by the trustee of the business trust;

"information" includes —

(*a*) matters of supposition and other matters that are insufficiently definite to warrant being made known to the public;

(*b*) matters relating to the intentions, or the likely intentions, of a person;

(*c*) matters relating to negotiations or proposals with respect to —

(i) commercial dealings;

(ii) dealing in securities; or

(iii) trading in futures contract;

(*d*) information relating to the financial performance of a corporation or business trust, or otherwise;

(*e*) information that a person proposes to enter into, or had previously entered into one or more transactions or agreements in relation to securities or has prepared or proposes to issue a statement relating to such securities; and

(*f*) matters relating to the future;

"purchase", in relation to securities, includes, in the case of an option contract under which a party acquires an option or right from another party, acquiring the option or right under the contract, or taking an assignment of the option or right, whether or not on another's behalf;

"securities" means —

(*a*) in relation to a corporation, for the purposes of sections 213(*a*)(i) and (*b*)(i) and 218 —

(i) debentures, stocks or shares issued or proposed to be issued by a corporation;

(ii) any right, option or derivative in respect of any such debentures, stocks or shares;

(iii) any right under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

(A) the value or price of any such debentures, stocks or shares;

(B) the value or price of any group of any such debentures, stocks or shares; or

(C) an index of any such debentures, stocks or shares;

(iv) a futures contract only if the commodity which is the subject of the futures contract is a share or stock of a corporation; or

(v) such other product or class of products as the Authority may prescribe,

but does not include such product or class of products as the Authority may prescribe as not being securities;

[2/2009 wef 20/04/2009]

(*b*) in relation to a business trust, for the purposes of sections 213(*a*)(i*a*) and (*b*)(i*a*) and 218(1A) and (4A) —

(i) units in a business trust;

(ii) derivatives of units in a business trust;

(iii) debentures of a business trust;

(iv) any right, option or derivative in respect of any such debentures; or

(v) such other product or class of products as the Authority may prescribe,

but does not include such product or class of products as the Authority may prescribe as not being securities;

[2/2009 wef 20/04/2009]

(*c*) in any other case —

(i) debentures or stocks issued or proposed to be issued by a government;

(ii) debentures, stocks or shares issued or proposed to be issued by a corporation or body unincorporate;

(iii) any right, option or derivative in respect of any such debentures, stocks or shares;

(iv) any unit in a collective investment scheme;

(v) any unit, or derivative of a unit, in a business trust;

(vi) any right under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

(A) the value or price of any such debentures, stocks, shares, units in a collective investment scheme or units in a business trust;

(B) the value or price of any group of any such debentures, stocks, shares, units in a collective investment scheme or units in a business trust; or

(C) an index of any such debentures, stocks, shares, units in a collective investment scheme or units in a business trust;

[2/2009 wef 20/04/2009]

(vii)

a futures contract only if the commodity which is the subject of the futures contract is a share or share index, or stock or stock index; or

(viii) such other product or class of products as the Authority may prescribe,

[2/2009 wef 20/04/2009]

but does not include —

(AA) bills of exchange;

(BB) promissory notes;

(CC) certificates of deposit issued by a bank or finance company; or

(DD) such other product or class of products as the Authority may prescribe as not being securities;

[2/2009 wef 20/04/2009]

"sell", in relation to securities, includes, in the case of an option contract under which a party acquires an option or right from another party —

(*a*) grant or assign the option or right; or

(*b*) take, or cause to be taken, such action as releases the option or right,

whether or not on another's behalf;

"trust property" has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A).

[1/2005]

[SIA, s. 2; Malaysia SIA, s. 89]

Information generally available

215. For the purposes of this Division, information is generally available if —

(*a*) it consists of readily observable matter;

(*b*) without limiting the generality of paragraph (*a*) —

(i) it has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in securities of a kind whose price or value might be affected by the information; and

(ii) since it was so made known, a reasonable period for it to be disseminated among such persons has elapsed; or

(*c*) it consists of deductions, conclusions or inferences made or drawn from either or both of the following:

(i) information referred to in paragraph (*a*);

(ii) information made known as referred to in paragraph (*b*)(i).

[Aust. Corporations 2001, s. 1002B]

Material effect on price or value of securities

216. For the purposes of this Division, a reasonable person would be taken to expect information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell the first-mentioned securities.
[Aust. Corporations 2001, s. 1002C]

Trading and procuring trading in securities

217.—(1) For the purposes of this Division, trading in securities that is ordinarily permitted on the securities market or futures market shall be taken to be permitted on that securities market or futures market even though trading in any such securities on that securities market or futures market is suspended.

(2) For the purposes of this Division but without limiting the meaning that the expression "procure" has apart from this section, if a person incites, induces, or encourages an act or omission by another person, the first-mentioned person is taken to procure the act or omission by the other person.
[Aust. Corporations 2001, s. 1002D]

Prohibited conduct by connected person in possession of inside information

218.—(1) Subject to this Division, where —

(*a*) a person who is connected to a corporation possesses information concerning that corporation that is not generally available but, if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of securities of that corporation; and

(*b*) the connected person knows or ought reasonably to know that —

(i) the information is not generally available; and

(ii) if it were generally available, it might have a material effect on the price or value of those securities of that corporation,

subsections (2), (3), (4), (5) and (6) shall apply.

[1/2005]

(1A) Subject to this Division, where —

(*a*) a person who is connected to any corporation, where such corporation —

(i) in relation to a business trust, acts as its trustee or manages or operates the business trust; or

(ii) in relation to a collective investment scheme that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes and all or any units of which

are listed on a securities exchange, is the trustee or manager of the scheme,

[2/2009 wef 29/07/2009]

possesses information concerning that corporation, business trust or scheme, as the case may be, that is not generally available but, if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of securities of that corporation, of securities of that business trust or of units in that scheme, as the case may be; and

(*b*) the connected person knows or ought reasonably to know that —

(i) the information is not generally available; and

(ii) if it were generally available, it might have a material effect on the price or value of those securities of that corporation, of those securities of that business trust or of those units in that scheme, as the case may be,

subsections (2), (3), (4A), (5) and (6) shall apply.

[1/2005]

(2) The connected person must not (whether as principal or agent) —

(*a*) subscribe for, purchase or sell, or enter into an agreement to subscribe for, purchase or sell, any such securities referred to in subsection (1) or (1A), as the case may be; or

(*b*) procure another person to subscribe for, purchase or sell, or to enter into an agreement to subscribe for, purchase or sell, any such securities referred to in subsection (1) or (1A), as the case may be.

[1/2005]

(3) Where trading in the securities referred to in subsection (1) or (1A) is permitted on the securities market of a securities exchange or futures market of a futures exchange, the connected person must not, directly or indirectly, communicate the information, or cause the information to be communicated, to another person if the connected person knows, or ought reasonably to know, that the other person would or would be likely to —

(*a*) subscribe for, purchase or sell, or enter into an agreement to subscribe for, purchase or sell, any such securities; or

(*b*) procure a third person to subscribe for, purchase or sell, or to enter into an agreement to subscribe for, purchase or sell, any such securities.

[1/2005]

(4) In any proceedings for a contravention of subsection (2) or (3) against a person connected to a corporation referred to in subsection (1), where the prosecution or plaintiff proves that the connected person was at the material time —

(*a*) in possession of information concerning the corporation to which he was connected; and

(*b*) the information was not generally available,

it shall be presumed, until the contrary is proved, that the connected person knew at the material time that —

(i) the information was not generally available; and

(ii) if the information were generally available, it might have a material effect on the price or value of securities of that corporation.

[1/2005]

(4A) In any proceedings for a contravention of subsection (2) or (3) against a person connected to a corporation which —

(*a*) in relation to a business trust, acts as its trustee or manages or operates the business trust; or

(*b*) in relation to a collective investment scheme, is the trustee or manager of the scheme,

as the case may be, referred to in subsection (1A), where the prosecution or plaintiff proves that the connected person was at the material time —

(i) in possession of information concerning the corporation, business trust or scheme, as the case may be; and

(ii) the information was not generally available,

it shall be presumed, until the contrary is proved, that the connected person knew at the material time that —

(A) the information was not generally available; and

(B) if the information were generally available, it might have a material effect on the price or value of securities of that corporation, of securities of that business trust or of units in the scheme, as the case may be.

[1/2005]

(5) In this Division —

(*a*) "connected person" means a person referred to in subsection (1) or (1A) who is connected to a corporation; and

(*b*) a person is connected to a corporation if —

(i) he is an officer of that corporation or of a related corporation;

(ii) he is a substantial shareholder in that corporation or in a related corporation; or

[2/2009 wef 01/10/2012]

(iii) he occupies a position that may reasonably be expected to give him access to information of a kind to which this section applies by virtue of —

(A) any professional or business relationship existing between himself (or his employer or a corporation of which he is an officer) and that corporation or a related corporation; or

(B) being an officer of a substantial shareholder in that corporation or in a related corporation.

[1/2005]
[2/2009 wef 01/10/2012]

(6) In subsection (5), "officer", in relation to a corporation, includes —

(*a*) a director, secretary or employee of the corporation;

(*b*) a receiver, or receiver and manager, of property of the corporation;

(*c*) a judicial manager of the corporation;

(*d*) a liquidator of the corporation; and

(*e*) a trustee or other person administering a compromise or arrangement made between the corporation and another person.

Prohibited conduct by other persons in possession of inside information

219.—(1) Subject to this Division, where —

(*a*) a person who is not a connected person referred to in section 218 (referred to in this section as the insider) possesses information that is not generally available but, if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of securities; and

(*b*) the insider knows that —

(i) the information is not generally available; and

(ii) if it were generally available, it might have a material effect on the price or value of those securities,

subsections (2) and (3) shall apply.

(2) The insider must not (whether as principal or agent) —

(*a*) subscribe for, purchase or sell, or enter into an agreement to subscribe for, purchase or sell, any such securities; or

(*b*) procure another person to subscribe for, purchase or sell, or to enter into an agreement to subscribe for, purchase or sell, any such securities.

(3) Where trading in the securities referred to in subsection (1) is permitted on the securities market of a securities exchange or futures market of a futures exchange, the insider must not, directly or indirectly, communicate the information, or cause the information to be communicated, to another person if the insider knows, or ought reasonably to know, that the other person would or would be likely to —

(*a*) subscribe for, purchase or sell, or enter into an agreement to subscribe for, purchase or sell, any such securities; or

(*b*) procure a third person to subscribe for, purchase or sell, or to enter into an agreement to subscribe for, purchase or sell, any such securities.

[Aust. Corporations 2001, s. 1002G]

Not necessary to prove intention to use

220.—(1) For the avoidance of doubt, in any proceedings against a person for a contravention of section 218 or 219, it is not necessary for the prosecution or plaintiff to prove that the accused person or defendant intended to use the information referred to in section 218 (1)(*a*) or (1A)(*a*) or 219(1)(*a*) in contravention of section 218 or 219, as the case may be.

[1/2005]

(2) In any proceedings against a person for a contravention of section 218 or 219, it is not necessary for the prosecution or plaintiff to prove the absence of facts or circumstances which if they existed would, by virtue of sections 222 to 230 or any regulations made under section 341, preclude the act from constituting a contravention of section 218 or 219, as the case may be.

[Malaysia SIA, s. 89F]

Penalties under this Division

221.—(1) A person who contravenes section 218 or 219, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 or to imprisonment for a term not exceeding 7 years or to both.

(2) No proceedings shall be instituted against a person for an offence in respect of a contravention of section 218 or 219 after —

(*a*) a court has made an order against him for the payment of a civil penalty under section 232; or

(*b*) the person has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 232(5),

in respect of that contravention.

[2/2009 wef 29/07/2009]

Exception for redemption of units in collective investment scheme

222. Sections 218(2) and 219(2) shall not apply in respect of the redemption of units in a collective investment scheme by a trustee or manager under a trust deed relating to that collective investment scheme in accordance with a buy-back covenant contained or deemed to be contained in the trust deed at a price that is required by the trust deed to be calculated, so far as is reasonably practicable, by reference to the underlying value of the assets less —

(*a*) any liabilities of that collective investment scheme to which the units relates; and

(*b*) any reasonable charge for purchasing the units.

[1/2005]

[Malaysia SIA, s. 89N]

Exception for underwriters

223.—(1) Sections 218(2) and 219(2) shall not apply in respect of —

(*a*)

subscribing for, or purchasing, securities under an underwriting agreement or a sub-underwriting agreement;

(*b*) entering into an agreement referred to in paragraph (*a*); or

(*c*) selling securities subscribed for, or purchased, under an agreement referred to in paragraph (*a*).

[1/2005]

(2) Sections 218(3) and 219(3) shall not apply in respect of the communication of information in relation to securities —

(*a*) to a person solely for the purpose of procuring the person to enter into an underwriting agreement in relation to any such securities; or

(*b*) by a person who may be required under an underwriting agreement to subscribe for, or purchase, any such securities if the communication is made to another person solely for the purpose of procuring the other person to do either or both of the following:

(i) enter into a sub-underwriting agreement in relation to any such securities;

(ii) subscribe for, or purchase, any such securities.

[1/2005]

[Aust. Corporations 2001, s. 1002J]

Exception for purchase pursuant to legal requirement

224.—(1) Sections 218(2) and 219(2) shall not apply in respect of the purchase of securities pursuant to a requirement imposed by the Government, a statutory body or any regulatory authority, or any requirement imposed under any written law or order of court.

[16/2003]

(2) Sections 218(2) and 219(2) shall not apply in respect of the sale of securities pursuant to any requirement imposed by the Government or any requirement imposed under any written law or order of court.

[16/2003]

[Aust. Corporations 2001, s. 1002K]

Exception for information communicated pursuant to legal requirement

225. Sections 218(3) and 219(3) shall not apply in respect of the communication of information pursuant to a requirement imposed by the Government, a statutory body or any regulatory authority, or any requirement imposed under any written law or order of court.

[Aust. Corporations 2001, s. 1002L]

Attribution of knowledge within corporations

226.—(1) For the purposes of this Division —

(*a*)

a corporation is taken to possess any information which an officer of the corporation possesses and which came into his possession in the course of the performance of duties as such an officer; and

(*b*) if an officer of a corporation knows or ought reasonably to know any matter or thing because he is an officer of the corporation, it is to be presumed, until the contrary is proved, that the corporation knows or ought reasonably to know that matter or thing.

(2) A corporation does not contravene section 218(2) or 219(2) by entering into a transaction or agreement at any time merely because of information in the possession of an officer of the corporation if —

(*a*) the decision to enter into the transaction or agreement was taken on its behalf by a person other than that officer;

(*b*) it had in operation at that time arrangements that could reasonably be expected to ensure that the information was not communicated to the person who made the decision and that no advice with respect to the transaction or agreement was given to that person by a person in possession of the information; and

(*c*) the information was not so communicated and no such advice was so given.

[Malaysia SIA, s. 89G]

Attribution of knowledge within partnerships and limited liability partnerships

227.—(1) For the purposes of this Division —

(*a*) a partner of a partnership or a limited liability partnership (as the case may be) is taken to possess any information —

(i) which another partner of the partnership or limited liability partnership (as the case may be) possesses and which came into such other partner's possession in his capacity as a partner of the partnership or limited liability partnership (as the case may be); or

(ii) which an employee of the partnership or a manager of a limited liability partnership (as the case may be) possesses and which came into the possession of such an employee or manager in the course of the performance of his duties as such an employee or manager; and

(*b*) if a partner or employee of a partnership or a partner, manager or employee of a limited liability partnership (as the case may be) knows or ought reasonably to know any matter or thing in his capacity as such a partner, manager or employee, it is to be presumed that every partner of the partnership or limited liability partnership (as the case may be) knows or ought reasonably to know that matter or thing.

[5/2005]

(2) The partners of a partnership or limited liability partnership (as the case may be) do not contravene section 218(2) or 219(2) by entering into a transaction or agreement at any time

merely because one or more (but not all) of the partners, or a manager or managers, or an employee or employees, of the partnership or limited liability partnership (as the case may be) are in actual possession of information if —

(*a*) the decision to enter into the transaction or agreement was taken on behalf of the partnership or limited liability partnership by any one or more of the following persons:

(i) a partner who is taken to have possessed the information merely because another partner, or a manager or employee, of the partnership or limited liability partnership, was in possession of the information;

(ii) an employee of the partnership or limited liability partnership or a manager of the limited liability partnership who was not in possession of the information;

(*b*) the partnership or limited liability partnership had in operation at that time arrangements that could reasonably be expected to ensure that the information was not communicated to the person or persons who made the decision and that no advice with respect to the transaction or agreement was given to that person or any of those persons by a person in possession of the information; and

(*c*) the information was not so communicated and no such advice was so given.

[5/2005]

(3) A partner of a partnership or limited liability partnership (as the case may be) does not contravene section 218(2) or 219(2) by entering into a transaction or agreement otherwise than on behalf of the partnership or limited liability partnership merely because he is taken to possess information that is in the possession of another partner, a manager or an employee of the partnership.

[5/2005]

[Malaysia SIA, s. 89H]

Exception for knowledge of person's own intentions or activities

228. An individual does not contravene section 218(2) or 219(2) by entering into a transaction or agreement in relation to securities merely because he is aware that he proposes to enter into, or has previously entered into, one or more transactions or agreements in relation to those securities.

[Aust. Corporations 2001, s. 1002P]

Exception for corporations and its officers, etc.

229.—(1) A corporation does not contravene section 218(2) or 219(2) by entering into a transaction or agreement in relation to securities merely because it is aware that it proposes to enter into or has previously entered into, one or more transactions or agreements in relation to those securities.

(2) Subject to subsection (3), a corporation does not contravene section 218(2) or 219(2) by entering into a transaction or agreement in relation to securities merely because an officer of the

corporation is aware that the corporation proposes to enter into, or has previously entered into, one or more transactions or agreements in relation to those securities.

(3) Subsection (2) shall not apply unless the officer of the corporation mentioned in that subsection became aware of the matters referred to in that subsection in the course of the performance of duties as such an officer.

(4) Subject to subsection (5), a person does not contravene section 218(2) or 219(2) by entering into a transaction or agreement on behalf of a corporation in relation to securities merely because he is aware that the corporation proposes to enter into, or has previously entered into, one or more transactions or agreements in relation to those securities.

(5) Subsection (4) shall not apply unless the person became aware of the matters referred to in that subsection in the course of the performance of duties as an officer of the corporation or in the course of acting as an agent of the corporation.
[Malaysia SIA, s. 89K]

Unsolicited transactions by holder of capital markets services licence and representatives

230.—(1) The holder of a capital markets services licence to deal in securities or trade in futures contracts, or a representative of such a holder does not contravene section 218(2) or 219(2) by subscribing for, purchasing or selling, or entering into an agreement to subscribe for, purchase or sell, securities that are traded on the stock market or futures market if —

(*a*) the holder or representative entered into the transaction or agreement concerned on behalf of another person (referred to in this section as the principal) under a specific instruction by the principal to enter into that transaction or agreement which was not solicited by the holder or representative;

[2/2009 wef 26/11/2010]

(*b*) the holder or representative has not given any advice to the principal in relation to the transaction or agreement or otherwise sought to procure the principal's instructions to enter into the transaction or agreement; and

[2/2009 wef 26/11/2010]

(*c*) the principal is not an associate of the holder or representative.

[2/2009 wef 26/11/2010]

(2) Nothing in this section shall affect the application of section 218(2) or 219(2) in relation to the principal.
[Malaysia SIA, s. 89M]

Parity of information defences

231.—(1) In any proceedings against a person for a contravention of section 218(2) or 219(2) because the person entered into, or procured another person to enter into, a transaction or agreement at a time when certain information was in the first-mentioned person's possession, it is a defence if the court is satisfied that —

(*a*) the information came into the first-mentioned person's possession solely as a result of the information having been made known as referred to in section 215(*b*)(i); or

(*b*) the other party to the transaction or agreement knew, or ought reasonably to have known, of the information before entering into the transaction or agreement.

(2) In an action against a person for a contravention of section 218(3) or 219(3) because the person communicated information, or caused information to be communicated, to another person, it is a defence if the court is satisfied that —

(*a*) the information came into the first-mentioned person's possession solely as a result of the information having been made known as referred in section 215(*b*)(i); or

(*b*) the other person knew, or ought reasonably to have known, of the information before the information was communicated.

[Aust. Corporations 2001, s. 1002T]

Division 4 — Civil Liability

Civil penalty

232.—(1) Whenever it appears to the Authority that any person has contravened any provision in this Part, the Authority may, with the consent of the Public Prosecutor, bring an action in a court against him to seek an order for a civil penalty in respect of that contravention.

(2) If the court is satisfied on a balance of probabilities that the person has contravened a provision in this Part which resulted in his gaining a profit or avoiding a loss, the court may make an order against him for the payment of a civil penalty of a sum —

(*a*) not exceeding 3 times —

(i) the amount of the profit that the person gained; or

(ii) the amount of the loss that he avoided,

as a result of the contravention; or

(*b*) equal to $50,000 if the person is not a corporation, or $100,000 if the person is a corporation,

whichever is the greater.

(3) If the court is satisfied on a balance of probabilities that the person has contravened a provision in this Part which did not result in his gaining a profit or avoiding a loss, the court may make an order against him for the payment of a civil penalty of a sum not less than $50,000 and not more than $2 million.

(4) Notwithstanding subsections (2) and (3), the court may make an order against a person against whom an action has been brought under this section if the Authority, with the consent of the Public Prosecutor, has agreed to allow the person to consent to the order with or without admission of a contravention of a provision in this Part and the order may be made on such terms as may be agreed between the Authority and the defendant.

(5) Nothing in this section shall be construed to prevent the Authority from entering into an agreement with any person to pay, with or without admission of liability, a civil penalty within the limits referred to in subsection (2) or (3) for a contravention of any provision in this Part.

(6) A civil penalty imposed under this section shall be paid into the Consolidated Fund.

[Act 34 of 2012 wef 18/03/2013]

(7) If the person fails to pay the civil penalty imposed on him within the time specified in the court order referred to in subsection (4) or specified under the agreement referred to in subsection (5), the Authority may recover the civil penalty on behalf of the Government as though the civil penalty were a judgment debt due to the Authority.

[1/2005]
[Act 34 of 2012 wef 18/03/2013]

(8) Any defence that is available to a person who is prosecuted for a contravention of any provision in this Part, shall also be available to a defendant to an action under this section in respect of that contravention.

[SIA, s.104A]

Action under section 232 not to commence, etc., in certain situations

233.—(1) An action under section 232 shall not be commenced after the expiration of 6 years from the date of the contravention of any of the provisions in this Part.

(2) An action under section 232 shall not be commenced if the person has been convicted or acquitted in criminal proceedings for the contravention of any of the provisions in this Part, except where he has been acquitted on the ground of the withdrawal of the charge against him.

(3) An action under section 232 shall be stayed after criminal proceedings have been commenced against the person for the contravention of any of the provisions in this Part, and may thereafter be continued only if —

(*a*) that person has been discharged in respect of that contravention and the discharge does not amount to an acquittal; or

(*b*) the charge against him in respect of that contravention has been withdrawn.

[SIA, s. 104B]

Civil liability

234.—(1) A person who has acted in contravention of any of the provisions in this Part (referred to in this section and sections 235 and 236 as the contravening person) shall, if he had gained a profit or avoided a loss as a result of that contravention, whether or not he had been convicted or had a civil penalty imposed on him in respect of that contravention, be liable to pay compensation to any person (referred to in this section and sections 235 and 236 as the claimant) who —

(*a*) contemporaneously with the contravention, had subscribed for, purchased or sold securities, or entered into futures contract, or contracts or arrangements in connection with leveraged foreign exchange trading, of the same description; and

(*b*) had suffered loss by reason of the difference between —

(i) the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading were dealt in or traded contemporaneously with the contravention; and

[2/2009 wef 01/10/2009]

(ii) the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if —

(A) in any case where the contravening person had acted in contravention of section 218 or 219, the information referred to in section 218(1) or 219(1), as the case may be, had been generally available; or

(B) in any other case, the contravention had not occurred.

[Act 34 of 2012 wef 18/03/2013]

(1A) Without prejudice to subsection (1), the contravening person shall, whether or not he had gained a profit or avoided a loss as a result of that contravention, and whether or not he had been convicted or had a civil penalty imposed on him in respect of that contravention, be liable to pay compensation to the claimant, if —

(*a*) the contravening person has contravened section 199, 200, 201, 209 or 210, in connection with any subscription, purchase or sale of securities, any trading in futures contracts or any leveraged foreign exchange trading, by —

(i) making, disseminating or publishing any false, misleading or deceptive statement, information, promise or forecast; or

(ii) concealing or omitting to state any material fact; and

(*b*) the claimant —

(i) in reliance on that statement, information, promise or forecast or in ignorance of that concealed or omitted material fact, had (whether contemporaneously with the contravention or otherwise) subscribed for, purchased or sold any securities, or entered into any futures contract, or contracts or arrangements in connection with leveraged foreign exchange trading, of the same description; and

(ii) had suffered loss.

[Act 34 of 2012 wef 18/03/2013]

(2) The amount of compensation that the contravening person is liable to pay to the claimant under subsection (1) is the amount of the loss suffered by the claimant referred to in subsection (1)(*b*), after deducting any amount of compensation paid or payable to the same claimant in respect of the same contravention under an order of court or an agreement to pay by the contravening person or any defendant, defendant corporation or defendant partnership under Division 4 or 5 or under an order for disgorgement under section 236L, up to the maximum amount recoverable.

[Act 34 of 2012 wef 18/03/2013]

(2A) The amount of compensation that the contravening person is liable to pay to the claimant under subsection (1A) is —

(*a*) in any case where the claimant had contemporaneously with the contravention subscribed for, purchased or sold any securities, or entered into any futures contract, or contracts or arrangements in connection with leveraged foreign exchange trading, of the same description, and had suffered the loss referred to in subsection (1)(*b*), any one of the following amounts that is elected by the claimant:

(i) the amount of the loss suffered by the claimant referred to in subsection (1)(*b*), after deducting any amount of compensation paid or payable to the same claimant in respect of the same contravention under an order of court or an agreement to pay by the contravening person or any defendant, defendant corporation or defendant partnership under Division 4 or 5 or under an order for disgorgement under section 236L, up to the maximum amount recoverable; or

(ii) the amount of any loss that reasonably results from the claimant's reliance on the statement, information, promise or forecast referred to in subsection (1A)(*a*)(i) or ignorance of the concealed or omitted material fact referred to in subsection (1A)(*a*)(ii), after deducting any amount of compensation paid or payable to the same claimant in respect of the same contravention under an order of court or an agreement to pay by the contravening person or any defendant, defendant corporation or defendant partnership under Division 4 or 5 or under an order for disgorgement under section 236L; or

(*b*) in any other case, the amount of any loss that reasonably results from the claimant's reliance on the statement, information, promise or forecast referred to in subsection (1A)(*a*)(i) or ignorance of the concealed or omitted material fact referred to in subsection (1A)(*a*)(ii), after deducting any amount of compensation paid or payable to the same claimant in respect of the same contravention under an order of court or an agreement to pay by the contravening person or any defendant, defendant corporation or defendant partnership under Division 4 or 5 or under an order for disgorgement under section 236L.

[Act 34 of 2012 wef 18/03/2013]

(3) Any defence that is available to a person who is prosecuted for a contravention of any provision in this Part, shall also be available to a defendant to an action under this section in respect of the contravention.

(4) An action under this section shall not be commenced after the expiration of 6 years from the date of completion of the dealing or trading in which the loss occurred.

[Act 34 of 2012 wef 18/03/2013]

(5) For the purposes of this section, in determining whether any dealing in securities, trading in futures contracts or leveraged foreign exchange trading took place contemporaneously with the contravention, the court shall take into account the following matters:

(*a*) the volume of securities, futures contracts, or contracts in connection with leveraged foreign exchange trading of the same description dealt in or traded

between the date and time of the contravention and the date and time of the dealing in securities, trading in futures contracts, or leveraged foreign exchange trading;

(*b*) the date and time the contravention, if it was effected by a transaction or transactions involving the subscription for securities, purchase or sale of securities, trading in futures contracts or leveraged foreign exchange trading, was cleared and settled;

(*c*) whether the dealing in securities, trading in futures contracts, or leveraged foreign exchange trading took place before or after the contravention;

(*d*) in the case of a contravention under section 203, 218 or 219, whether the dealing in securities took place before or after the information to which the contravention relates became generally known;

(*e*) such other factors and developments, whether in Singapore or elsewhere, as the court may consider relevant.

[Act 34 of 2012 wef 18/03/2013]

(6) In this section and section 236, "maximum recoverable amount", in respect of each contravention by a contravening person means —

(*a*) the amount of the profit that the contravening person gained; or

(*b*) the amount of the loss that he avoided,

as a result of the contravention, after deducting all amounts of compensation that the contravening person had previously been ordered by a court to pay, in respect of the same contravention, to other claimants (each being a claimant whose claim is one where the amount of compensation that the contravening person is liable to pay is specified under subsection (2) or (2A)(*a*)(i)).

[SIA, s. 104C]

[Act 34 of 2012 wef 18/03/2013]

Action under section 234 not to commence, etc., in certain situations

235.—(1) Except with the leave of court, no action under section 234 may be brought against the contravening person in respect of a contravention of any of the provisions in this Part which resulted in his gaining a profit or avoiding a loss after the commencement of —

(*a*) criminal proceedings under this Part against the contravening person for the same contravention; or

(*b*) an action under section 232 against the contravening person for the same contravention.

(2) Any action under section 234 against the contravening person in respect of a contravention of any of the provisions in this Part which resulted in his gaining a profit or avoiding a loss, being an action that is pending on the date of commencement of —

(*a*) criminal proceedings under this Part against the contravening person for the same contravention; or

(*b*) an action under section 232 against the contravening person for the same contravention,

shall be stayed, and may not thereafter be continued except with the leave of court.

(3) Leave under subsection (1) or (2) may not be granted if a date has been fixed by a court under section 236(1) for the filing of claims, and in that event the claimant to the proposed action or the action that has been stayed, as the case may be, shall comply with such directions relating to the filing and proof of his claim under section 236 as that court may issue in his case. *[SIA, s. 104D]*

Civil liability in event of conviction, etc.

236.—(1) Notwithstanding section 234, where the contravening person —

(*a*) has been convicted of an offence under this Part; or

(*b*) has an order for the payment of a civil penalty made against him under section 232, other than by way of a default judgment or a consent order made with or without admission of contravention under section 232(4),

[2/2009 wef 29/07/2009]

in respect of the contravention of any of the provisions in this Part, the court which convicted him or made the order against him (referred to in this section as the relevant court) may, after the conviction or the order imposing the civil penalty has been made final, fix a date on or before which all claimants have to file and prove their claims for compensation in respect of that contravention.

[Act 34 of 2012 wef 18/03/2013]

(2) For the purposes of subsection (1), the relevant court shall not fix a date that is earlier than 3 months from the date the conviction or the order imposing the civil penalty, as the case may be, has been made final.

(3) Subject to subsection (3A), the relevant court may, after the expiry of the date fixed under subsection (1), make an order against the contravening person to pay compensation to each claimant who has filed and proven his claim for compensation.

[Act 34 of 2012 wef 18/03/2013]

(3A) Where the amount of compensation that a claimant would have been entitled if he had brought an action under section 234 is specified under section 234(2) or (2A)(*a*)(i), the compensation amount ordered by the relevant court for that claimant shall be equal to the lesser of the following amounts:

(*a*) the amount of compensation which that claimant has proven to the satisfaction of the court that he would have been entitled to if he had brought an action under section 234 against the contravening person himself;

(*b*) the pro-rated portion of the maximum recoverable amount, calculated according to the relationship which the amount referred to in paragraph (*a*) bears to the total amount of all other claims (each being a claim the claimant of which is one who, if he had brought an action under section 234, would have been entitled to the amount

of compensation specified under section 234(2) or (2A)(*a*)(i)) which have been proved to the court.

[Act 34 of 2012 wef 18/03/2013]

(4) For the purposes of this section, a conviction is made final if —

(*a*) the conviction is upheld on appeal, revision or otherwise;

(*b*) the conviction is not subject to further appeal;

(*c*) no notice of appeal against the conviction is lodged within the time prescribed by sections 377 and 378 of the Criminal Procedure Code 2010; or

[15/2010 wef 02/01/2011]

(*d*) any appeal against the conviction is withdrawn.

(5) For the purposes of this section, an order imposing a civil penalty is made final if —

(*a*) the order is not set aside on appeal or revision or is varied only as to the amount of the civil penalty to be imposed;

(*b*) the order is not subject to further appeal;

(*c*) no notice of appeal against the imposition of the penalty is lodged within the time prescribed by Rules of Court (Cap. 322, R 5) made under section 238; or

(*d*) any appeal against the imposition of the penalty is withdrawn.

[SIA, s. 104E]

Division 5 — Attributed Liability

Interpretation of this Division

236A. In this Division, unless the context otherwise requires —

"defendant" means an individual liable to an order for a civil penalty under section 236H in respect of a contravention of any provision in this Part committed by a corporation, partnership, limited liability partnership or unincorporated association;

"defendant corporation" means a corporation —

(*a*) liable to be punished under section 236B(1) or to an order for a civil penalty under section 236B(3) in respect of a contravention of any provision in this Part committed by its employee or officer; or

(*b*) liable to an order for a civil penalty under section 236C(1);

"defendant partnership" means a partnership or limited liability partnership —

(*a*) liable to be punished under section 236E(1) or to an order for a civil penalty under section 236E(3) in respect of a contravention of any provision in this Part committed by a partner or employee of the partnership or a partner, manager or employee of the limited liability partnership, as the case may be; or

(*b*) liable to an order for a civil penalty under section 236F(1);

"partnership", for the purposes of Subdivision (2), means the partnership at the time of the contravention by the contravening person referred to in section 236E(1) or 236F (1), as the case may be.

[2/2009 wef 01/10/2012]

Subdivision (1) — Corporations

Liability of corporation when employee or officer commits contravention with consent or connivance of corporation

236B.—(1) Where an offence of contravening any provision in this Part is proved to have been committed by an employee or an officer of a corporation (referred to in this section as the contravening person) —

(*a*) with the consent or connivance of the corporation; and

(*b*) for the benefit of the corporation,

the corporation shall be guilty of that offence as if the corporation had committed the contravention, and shall be liable to be proceeded against and punished accordingly.

(2) No proceedings shall be instituted against a corporation under subsection (1) after —

(*a*) a court has made an order against the corporation for the payment of a civil penalty under subsection (3); or

(*b*) the corporation has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 232(5) (as that provision is applied to an action under subsection (3) by subsection (6)),

in respect of the same contravention.

(3) Where it appears to the Authority that a corporation is liable to be punished under subsection (1) for a contravention committed by a contravening person, the Authority may, with the consent of the Public Prosecutor, bring an action in a court against the corporation to seek an order for a civil penalty in respect of that contravention as if the corporation had committed the contravention, whether or not such action is brought against the contravening person.

(4) If the court in subsection (3) is satisfied on a balance of probabilities that the corporation is liable to be punished under subsection (1) for a contravention of any provision in this Part, which contravention resulted in the corporation gaining a profit or avoiding a loss, the court may make an order against the corporation for the payment of a civil penalty of a sum —

(*a*) not exceeding 3 times —

(i) the amount of the profit that the corporation gained; or

(ii) the amount of the loss that it avoided,

as a result of the contravention by the contravening person; or

(*b*) equal to $100,000,

whichever is the greater.

(5) If the court in subsection (3) is satisfied on a balance of probabilities that the corporation is liable to be punished under subsection (1) for a contravention of any provision in this Part, which contravention did not result in the corporation gaining a profit or avoiding a loss, the court may make an order against the corporation for the payment of a civil penalty of a sum not less than $50,000 and not more than $2 million.

(6) Sections 232(4) to (7) and 233 shall apply in relation to an action brought against a corporation under subsection (3) as they apply in relation to an action under section 232.

(7) Any defence that would be available to —

(*a*) the contravening person if he were prosecuted for his contravention; or

(*b*) the corporation if it were prosecuted under subsection (1) in respect of that contravention,

shall also be available to the corporation in an action under subsection (3) in respect of that contravention.

(8) The means by which consent or connivance of the corporation under subsection (1) or (3) may be established include proving that —

(*a*) the corporation's board of directors intentionally, knowingly or recklessly carried out the relevant conduct, or expressly, tacitly or impliedly authorised or permitted the contravention;

(*b*) a high managerial agent of the corporation intentionally, knowingly or recklessly engaged in the relevant conduct, or expressly, tacitly or impliedly authorised or permitted the contravention; or

(*c*) a corporate culture existed within the corporation that directed or encouraged non-compliance with the relevant provision.

(9) In this section —

"board of directors" means the body (by whatever name called) exercising the executive authority of the corporation;

"corporate culture" means an attitude, policy, rule, course of conduct or practice existing within the corporation generally or in the part of the corporation in which the relevant activity takes place;

"high managerial agent" means an employee, agent or officer of the corporation with duties of such responsibility that his conduct may fairly be assumed to represent the corporation's policy.

[2/2009 wef 01/10/2012]

Civil penalty when corporation fails to prevent or detect contravention by employee or officer

236C.—(1) A corporation which fails to prevent or detect a contravention of any provision in this Part committed by an employee or officer of the corporation (referred to in this section as the contravening person), which contravention is —

(*a*) committed for the benefit of the corporation; and

(*b*) attributable to the negligence of the corporation,

commits a contravention and shall be liable to an order for a civil penalty under this section.

(2) Where it appears to the Authority that a corporation has committed a contravention under subsection (1), the Authority may, with the consent of the Public Prosecutor, bring an action in a court against the corporation to seek an order for a civil penalty.

(3) If the court is satisfied on a balance of probabilities that the corporation has committed a contravention under subsection (1), which resulted in the corporation gaining a profit or avoiding a loss, the court may make an order against the corporation for the payment of a civil penalty of a sum —

(*a*) not exceeding 3 times —

(i) the amount of the profit that the corporation gained; or

(ii) the amount of the loss that it avoided,

as a result of the contravention by the contravening person; or

(*b*) equal to $100,000,

whichever is the greater.

(4) If the court is satisfied on a balance of probabilities that the corporation has committed a contravention under subsection (1), which did not result in the corporation gaining a profit or avoiding a loss, the court may make an order against the corporation for the payment of a civil penalty of a sum not less than $50,000 and not more than $2 million.

(5) Sections 232(4) to (7) and 233 shall apply in relation to an action brought against a corporation under subsection (2) as they apply in relation to an action under section 232.

(6) Any defence that would be available to the contravening person if he were prosecuted for his contravention shall also be available to the corporation in an action under subsection (2) in respect of its failure to prevent or detect that contravention.

(7) For the purposes of subsection (1), in determining whether a contravention is attributable to the negligence of a corporation, the court shall take into account the following matters:

(*a*) whether the corporation has established adequate policies and procedures for the purposes of preventing and detecting market misconduct;

(*b*) whether the corporation has consistently enforced compliance with its policies and procedures referred to in paragraph (*a*); and

(*c*) such other factors as the court may consider relevant.

[2/2009 wef 01/10/2012]

Civil liability of corporation for contravention by employee or officer

236D.—(1) A defendant corporation which has gained a profit or avoided a loss as a result of the contravention of a provision in this Part by the contravening person referred to in section 236B(1) or 236C(1) shall, whether or not it had been convicted or had a civil penalty imposed on it, be liable to pay compensation to any person (referred to in this section as the claimant) who —

(*a*) contemporaneously with the contravention by the contravening person, had subscribed for, purchased or sold securities, or entered into any futures contract, or contracts or arrangements in connection with leveraged foreign exchange trading, of the same description; and

(*b*) had suffered loss by reason of the difference between —

(i) the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading were dealt in or traded contemporaneously with the contravention by the contravening person; and

(ii) the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if —

(A) in any case where the contravening person had acted in contravention of section 218 or 219, the information referred to in section 218(1) or 219(1), as the case may be, had been generally available; or

(B) in any other case, the contravention by the contravening person had not occurred.

[Act 34 of 2012 wef 18/03/2013]

(2) The amount of compensation that the defendant corporation is liable to pay to the claimant under subsection (1) is the amount of the loss suffered by the claimant, after deducting any amount of compensation paid or payable —

(*a*) by the contravening person under an order of court or an agreement to pay; or

(*b*) under an order for disgorgement under section 236L,

to the same claimant in respect of the same contravention, up to the maximum recoverable amount.

(3) Any defence that would be available to —

(*a*) the contravening person if he were prosecuted for his contravention; or

(*b*) the defendant corporation if it were prosecuted under section 236B(1) or had an action brought against it under section 236C(2),

shall also be available to the defendant corporation in an action under this section in respect of that contravention.

(4) An action under this section shall not be commenced after the expiration of 6 years from the date of completion of the contemporaneous dealing or trading in which the loss occurred.

(5) In determining whether the dealing or trading took place contemporaneously with the contravention by the contravening person, the court shall take into account the matters set out in section 234(5).

(6) In this section, "maximum recoverable amount" means —

(*a*) the amount of profit that the defendant corporation gained; or

(*b*) the amount of the loss that it avoided,

as a result of the contravention by the contravening person, after deducting all amounts of compensation that the defendant corporation had previously been ordered by a court to pay to other claimants under this section in respect of the same contravention.

[2/2009 wef 01/10/2012]

Subdivision (2) — Partnerships and limited liability partnerships

Liability of partnership and limited liability partnership when partner, etc., commits contravention with consent or connivance

236E.—(1) Where an offence of contravening any provision of this Part is proved to have been committed by a partner or employee of a partnership or a partner, manager or employee of a limited liability partnership (referred to in this section as the contravening person) —

(*a*) with the consent or connivance of the partnership or limited liability partnership; and

(*b*) for the benefit of the partnership or limited liability partnership,

the partnership or limited liability partnership shall be guilty of that offence as if it had committed the contravention, and every partner of that partnership, or the limited liability partnership, as the case may be, shall be liable to be proceeded against and punished accordingly.

(2) No proceedings shall be instituted against any partner of the partnership or the limited liability partnership under subsection (1) after —

(*a*) a court has made an order against the partner or limited liability partnership for the payment of a civil penalty under subsection (3); or

(*b*) the partner or limited liability partnership has entered into an agreement with the Authority to pay, with or without admission of liability, a civil penalty under section 232(5) (as that provision is applied to an action under subsection (3) by subsection (6)),

in respect of the same contravention.

(3) Where it appears to the Authority that a partnership or a limited liability partnership is liable to be punished under subsection (1) for a contravention committed by a contravening

person, the Authority may, with the consent of the Public Prosecutor, bring an action in a court against the partnership or limited liability partnership to seek an order for a civil penalty in respect of that contravention as if the partnership or limited liability partnership had committed the contravention, whether or not such action is brought against the contravening person.

(4) If the court in subsection (3) is satisfied on a balance of probabilities that the partnership or limited liability partnership is liable to be punished under subsection (1) for a contravention of any provision in this Part, which contravention resulted in the partnership or limited liability partnership gaining a profit or avoiding a loss, the court may make an order against the partnership or limited liability partnership for the payment of a civil penalty of a sum —

(*a*) not exceeding 3 times —

(i) the amount of the profit that the partnership or limited liability partnership gained; or

(ii) the amount of the loss that it avoided,

as a result of the contravention by the contravening person; or

(*b*) equal to $100,000,

whichever is the greater.

(5) If the court in subsection (3) is satisfied on a balance of probabilities that the partnership or limited liability partnership is liable to be punished under subsection (1) for a contravention of any provision in this Part, which contravention did not result in the partnership or limited liability partnership gaining a profit or avoiding a loss, the court may make an order against the partnership or limited liability partnership for the payment of a civil penalty of a sum not less than $50,000 and not more than $2 million.

(6) Sections 232(4) to (7) and 233 shall apply in relation to an action brought against a partnership or limited liability partnership under subsection (3) as they apply in relation to an action under section 232.

(7) Any defence that would be available to —

(*a*) the contravening person if he were prosecuted for his contravention; or

(*b*) the partnership or limited liability partnership if it were prosecuted under subsection (1) in respect of that contravention,

shall also be available to the partnership or limited liability partnership in an action under subsection (3) in respect of that contravention.

(8) The means by which consent or connivance of the partnership or limited liability partnership under subsection (1) or (3) may be established include proving that —

(*a*) the executive partners of the partnership or limited liability partnership intentionally, knowingly or recklessly carried out the relevant conduct, or expressly, tacitly or impliedly authorised or permitted the contravention;

(*b*)

a high managerial agent of the partnership or limited liability partnership intentionally, knowingly or recklessly engaged in the relevant conduct, or expressly, tacitly or impliedly authorised or permitted the contravention; or

(*c*) a corporate culture existed within the partnership or limited liability partnership that directed or encouraged non-compliance with the relevant provision.

(9) In this section —

"corporate culture" means an attitude, policy, rule, course of conduct or practice existing within the partnership or limited liability partnership generally or in the part of the partnership or limited liability partnership in which the relevant activity takes place;

"executive partners" means the partners exercising the executive authority of the partnership or limited liability partnership;

"high managerial agent" means a partner, manager or employee of the partnership or limited liability partnership with duties of such responsibility that his conduct may fairly be assumed to represent the partnership or limited liability partnership's policy.

[2/2009 wef 01/10/2012]

Civil penalty when partnership or limited liability partnership fails to prevent or detect contravention by partner, etc.

236F.—(1) A partnership or limited liability partnership which fails to prevent or detect a contravention of any provision in this Part committed by a partner or employee of the partnership or a partner, manager or employee of the limited liability partnership, as the case may be (referred to in this section as the contravening person), which contravention is —

(*a*) committed for the benefit of the partnership or limited liability partnership; and

(*b*) attributable to the negligence of the partnership or limited liability partnership,

commits a contravention and shall be liable to an order for a civil penalty under this section.

(2) Where it appears to the Authority that a partnership or limited liability partnership has committed a contravention under subsection (1), the Authority may, with the consent of the Public Prosecutor, bring an action in a court against the partnership or limited liability partnership to seek an order for a civil penalty.

(3) If the court is satisfied on a balance of probabilities that the partnership or limited liability partnership has committed a contravention under subsection (1), which resulted in the partnership or limited liability partnership gaining a profit or avoiding a loss, the court may make an order against the partnership or limited liability partnership for the payment of a civil penalty of a sum —

(*a*) not exceeding 3 times —

(i) the amount of the profit that the partnership or limited liability partnership gained; or

(ii) the amount of the loss that it avoided,

as a result of the contravention by the contravening person; or

(*b*) equal to $100,000,

whichever is the greater.

(4) If the court is satisfied on a balance of probabilities that the partnership or limited liability partnership has committed a contravention under subsection (1), which did not result in the partnership or limited liability partnership gaining a profit or avoiding a loss, the court may make an order against the partnership or limited liability partnership for the payment of a civil penalty of a sum not less than $50,000 and not more than $2 million.

(5) Sections 232(4) to (7) and 233 shall apply in relation to an action brought against a partnership or limited liability partnership under subsection (2) as they apply in relation to an action under section 232.

(6) Any defence that would be available to the contravening person if he were prosecuted for his contravention shall also be available to the partnership or limited liability partnership in an action under subsection (2) in respect of its failure to prevent or detect that contravention.

(7) For the purposes of subsection (1), in determining whether a contravention is attributable to the negligence of a partnership or limited liability partnership, the court shall take into account the following matters:

(*a*) whether the partnership or limited liability partnership has established adequate policies and procedures for the purposes of preventing and detecting market misconduct;

(*b*) whether the partnership or limited liability partnership has consistently enforced compliance with its policies and procedures referred to in paragraph (*a*); and

(*c*) such other factors as the court may consider relevant.

[2/2009 wef 01/10/2012]

Civil liability of partnership or limited liability partnership for contravention by partner, etc.

236G.—(1) A defendant partnership which has gained a profit or avoided a loss as a result of the contravention of a provision in this Part by the contravening person referred to in section 236E(1) or 236F(1) shall, whether or not the partners of the partnership or the limited liability partnership had been convicted or the partnership or limited liability partnership had a civil penalty imposed on it, be liable to pay compensation to any person (referred to in this section as the claimant) who —

(*a*) contemporaneously with the contravention by the contravening person, had subscribed for, purchased or sold securities, or entered into any futures contract, or contracts or arrangements in connection with leveraged foreign exchange trading, of the same description; and

(*b*) had suffered loss by reason of the difference between —

(i)

the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading were dealt in or traded contemporaneously with the contravention by the contravening person; and

(ii) the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if —

(A) in any case where the contravening person had acted in contravention of section 218 or 219, the information referred to in section 218(1) or 219(1), as the case may be, had been generally available; or

(B) in any other case, the contravention by the contravening person had not occurred.

[Act 34 of 2012 wef 18/03/2013]

(2) The amount of compensation that the defendant partnership is liable to pay to the claimant under subsection (1) is the amount of the loss suffered by the claimant, after deducting any amount of compensation paid or payable —

(*a*) by the contravening person under an order of court or an agreement to pay; or

(*b*) under an order for disgorgement under section 236L,

to the same claimant in respect of the same contravention, up to the maximum recoverable amount.

(3) Any defence that would be available to —

(*a*) the contravening person if he were prosecuted for his contravention; or

(*b*) the defendant partnership if it were prosecuted under section 236E(1) or had an action brought against it under section 236F(2),

shall also be available to the defendant partnership in an action under this section in respect of that contravention.

(4) An action under this section shall not be commenced after the expiration of 6 years from the date of completion of the contemporaneous dealing or trading in which the loss occurred.

(5) In determining whether the dealing or trading took place contemporaneously with the contravention by the contravening person, the court shall take into account the matters set out in section 234(5).

(6) In this section, "maximum recoverable amount" means —

(*a*) the amount of profit that the defendant partnership gained; or

(*b*) the amount of the loss that it avoided,

as a result of the contravention by the contravening person, after deducting all amounts of compensation that the defendant partnership had previously been ordered by a court to pay to other claimants under this section in respect of the same contravention.

[2/2009 wef 01/10/2012]

Subdivision (3) — Officers, partners, etc., of entities

Civil penalty against officer of corporation, etc.

236H.—(1) Where it appears to the Authority that a corporation, partnership, limited liability partnership or unincorporated association (referred to in this section as the contravening person) has contravened any provision in this Part —

(*a*) with the consent or connivance of a person (referred to in this section as the defendant) who is an officer or (where its affairs are managed by its members) a member of the corporation, a partner of the partnership, a partner or manager of the limited liability partnership, or an officer of the unincorporated association (other than a partnership) or a member of its governing body, as the case may be; or

(*b*) as a result of any neglect on the part of the defendant,

the Authority may, with the consent of the Public Prosecutor, bring an action in a court against the defendant to seek an order for a civil penalty in respect of that contravention as if the defendant had committed the contravention, whether or not such action is brought against the contravening person.

(2) If the court is satisfied on a balance of probabilities that the contravening person has contravened a provision in this Part with the consent or connivance of the defendant, or as a result of any neglect on the part of the defendant, which contravention resulted in the defendant gaining a profit or avoiding a loss, the court may make an order against the defendant for the payment of a civil penalty of a sum —

(*a*) not exceeding 3 times —

(i) the amount of the profit that the defendant gained; or

(ii) the amount of the loss that he avoided,

as a result of the contravention by the contravening person; or

(*b*) equal to $50,000,

whichever is the greater.

(3) If the court is satisfied on a balance of probabilities that the contravening person has contravened a provision in this Part with the consent or connivance of the defendant, or as a result of any neglect on the part of the defendant, which contravention did not result in the defendant gaining a profit or avoiding a loss, the court may make an order against the defendant for the payment of a civil penalty of a sum not less than $50,000 and not more than $2 million.

(4) Sections 232(4) to (7) and 233 shall apply in relation to an action brought against a defendant under subsection (1) as they apply in relation to an action under section 232.

(5) Any defence that would be available to —

(*a*) the contravening person if it were prosecuted for its contravention; or

(*b*) the defendant if he were prosecuted under section 331 in respect of that contravention,

shall also be available to the defendant in an action under subsection (1) in respect of that contravention.

[2/2009 wef 01/10/2012]

Civil liability of officer of corporation, etc.

236I.—(1) A defendant who has gained a profit or avoided a loss as a result of the contravention of a provision in this Part by a contravening person referred to in section 236H(1) shall, whether or not the defendant had been convicted under section 331 or had a civil penalty imposed on him under section 236H, be liable to pay compensation to any person (referred to in this section as the claimant) who —

(*a*) contemporaneously with the contravention by the contravening person, had subscribed for, purchased or sold securities, or entered into futures contract, or contracts or arrangements in connection with leveraged foreign exchange trading, of the same description; and

(*b*) had suffered loss by reason of the difference between —

(i) the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading were dealt in or traded contemporaneously with the contravention by the contravening person; and

(ii) the price at which the securities, futures contracts, or contracts or arrangements in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if —

(A) in any case where the contravening person had acted in contravention of section 218 or 219, the information referred to in section 218(1) or 219(1), as the case may be, had been generally available; or

(B) in any other case, the contravention by the contravening person had not occurred.

[Act 34 of 2012 wef 18/03/2013]

(2) The amount of compensation that the defendant is liable to pay to the claimant is the amount of the loss suffered by the claimant, after deducting any amount of compensation paid or payable —

(*a*) by the contravening person under an order of court or an agreement to pay; or

(*b*) under an order for disgorgement under section 236L,

to the same claimant in respect of the same contravention, up to the maximum recoverable amount.

(3) Any defence that would be available to —

(*a*) the contravening person if it were prosecuted for its contravention; or

(*b*) the defendant if he were prosecuted under section 331 in respect of that contravention,

shall also be available to the defendant in an action under this section in respect of that contravention.

(4) An action under this section shall not be commenced after the expiration of 6 years from the date of completion of the contemporaneous dealing or trading in which the loss occurred.

(5) In determining whether a dealing in securities, trading in futures contracts, or leveraged foreign exchange trading took place contemporaneously with the contravention by the contravening person, the court shall take into account the matters referred to in section 234(5)(*a*) to (*e*).

(6) In this section, "maximum recoverable amount" means —

(*a*) the amount of the profit that the defendant gained; or

(*b*) the amount of the loss that he avoided,

as a result of the contravention by the contravening person, after deducting all amounts of compensation that the defendant had previously been ordered by a court to pay to other claimants under this section in respect of the same contravention.

[2/2009 wef 01/10/2012]

Subdivision (4) — General

Actions not to commence or stayed in certain situations

236J.—(1) Except with the leave of court, no action may be brought against —

(*a*) a defendant corporation under section 236B, 236C or 236D;

(*b*) a defendant partnership (including, in the case of a partnership, any of the partners) under section 236E, 236F or 236G; or

(*c*) a defendant under section 236H or 236I,

which relates to a contravention of a provision in this Part (referred to in this section as the primary contravention) by a contravening person referred to in section 236B(1) or 236C(1) (in relation to the defendant corporation), 236E(1) or 236F(1) (in relation to the defendant partnership) or 236H(1) (in relation to the defendant), as the case may be, after the commencement of —

(i) criminal proceedings in respect of the primary contravention against the contravening person; or

(ii) an action under section 232 in respect of the primary contravention against the contravening person,

and any such action in paragraph (*a*), (*b*) or (*c*) pending on the date of commencement of the proceedings or action in paragraph (i) or (ii) shall be stayed, and may not thereafter be continued except with the leave of court.

(2) Leave under subsection (1) may not be granted if —

(*a*) in the criminal proceedings referred to in subsection (1)(i), the contravening person has been acquitted of the primary contravention; or

(*b*) in the action under section 232 referred to in subsection (1)(ii), the court is not satisfied that the contravening person has committed the primary contravention.

(3) Except with the leave of court, no action under section 236D, 236G or 236I may be brought against the defendant corporation, defendant partnership or defendant in respect of a primary contravention after the commencement of —

(*a*) criminal proceedings against the defendant corporation under section 236B(1), the defendant partnership (including, in the case of a partnership, any of the partners) under section 236E(1) or the defendant under section 331 in respect of the same contravention;

(*b*) an action against the defendant corporation under section 236B(3), the defendant partnership under section 236E(3) or the defendant under section 236H in respect of the same contravention; or

(*c*) an action against the defendant corporation under section 236C(2) or the defendant partnership under section 236F(2) in respect of the failure to prevent or detect that contravention,

and any such action under section 236D, 236G or 236I, as the case may be, pending on the date of commencement of the proceedings or action in paragraph (*a*), (*b*) or (*c*) shall be stayed, and may not thereafter be continued except with the leave of court.

(4) Leave under subsection (3) may not be granted if a date has been fixed by a court under section 236K for the filing of claims, and in that event the claimant to the proposed action or the action that has been stayed, as the case may be, shall comply with such directions relating to the filing and proof of his claim under section 236K as that court may issue in his case.

[2/2009 wef 01/10/2012]

Civil liability in event of conviction or civil penalty

236K.—(1) Notwithstanding section 236D, 236G or 236I, where a defendant corporation, defendant partnership (including, in the case of a partnership, any of the partners) or defendant —

(*a*) has been convicted of an offence under this Division; or

(*b*)

has had an order for the payment of civil penalty made against it or him under this Division, other than by way of a default judgment or a consent order made with or without admission of contravention,

and has gained a profit or avoided a loss as a result of the contravention by the contravening person referred to in section 236B(1), 236C(1), 236E(1), 236F(1) or 236H(1), as the case may be, the court which convicted or made the order for a civil penalty against the defendant corporation, defendant partnership (or any of the partners thereof) or defendant may, after the conviction or the order imposing the civil penalty has been made final, fix a date on or before which all claimants have to file and prove their claims against the defendant corporation, defendant partnership or defendant, as the case may be, for compensation in respect of that contravention.

(2) Section 236(2) to (5) shall apply, with the necessary modifications, to an action under subsection (1), and in such application —

(*a*) any reference to the contravening person shall be read as the defendant corporation, the defendant partnership or the defendant in subsection (1); and

(*b*) the reference to an action under section 234 shall be read as an action under section 236D (in relation to the defendant corporation), 236G (in relation to the defendant partnership) or 236I (in relation to the defendant), as the case may be.

(3) In this section, "claimant" means any person who would qualify as a claimant to bring an action against the defendant corporation, defendant partnership or defendant under section 236D, 236G or 236I, as the case may be.

[2/2009 wef 01/10/2012]

Order for disgorgement against third party

236L.—(1) Without prejudice to any action under section 234, 236, 236D, 236G, 236I or 236K, where —

(*a*) a person has been convicted by a court of an offence in respect of a contravention of any provision in this Part;

(*b*) a person has had an order for the payment of a civil penalty made against him under section 232 or any of the provisions in this Division by a court, other than by way of a default judgment or a consent order made with or without admission of contravention, in respect of a contravention of any provision in this Part; or

(*c*) in an action commenced under this section, a court is satisfied on a balance of probabilities that a contravention by a person of any provision in this Part has occurred,

the court may, on the application of the Authority or any claimant, make an order against any other person (referred to in this section as a third party) who has received the whole or any part of the benefit of that contravention for disgorgement of that benefit, being benefit derived from trades carried out for the third party by the person referred to in paragraph (*a*), (*b*) or (*c*).

(2) The court shall issue a notice to a third party against whom an application for an order for disgorgement under subsection (1) is made, giving the third party an opportunity to show cause, within such time as may be specified in the notice, why the order should not be made.

(3) An application for an order for disgorgement under subsection (1) shall not be commenced after the expiration of 6 years from the date on which the contravention referred to in that subsection was committed.

(4) The court shall not make an order for disgorgement against a third party, or shall not order disgorgement of the entire benefit derived by the third party, if the court is satisfied, on a balance of probabilities, that —

(*a*) the third party acquired the benefit without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the benefit was derived from the contravention referred to in subsection (1); and

(*b*) the third party has so altered his position in reliance on his having an indefeasible interest in the benefit that, in the opinion of the court, it would be inequitable to make the order for disgorgement or to order disgorgement of the entire benefit derived by him, as the case may be.

(5) Notwithstanding subsection (4), the court may make an order for disgorgement against a third party referred to in subsection (4) of a sum that is, in the opinion of the court, equitable.

(6) The court may, after the order for disgorgement has been made final, fix a date, not earlier than 6 months from the date the order for disgorgement has been made final, on or before which all claimants have to file and prove their claims for compensation in respect of the contravention referred to in subsection (1).

(7) The court may, after the expiry of the date fixed under subsection (6), order that each claimant who has filed and proven his claim for compensation be paid out of the sum under the final order for disgorgement, an amount —

(*a*) equal to the amount of loss suffered by the claimant, after deducting any other compensation paid or payable to the same claimant under an order of court or an agreement to pay in respect of the same contravention; or

(*b*) equal to the pro-rated portion of the sum under the final order for disgorgement, calculated according to the relationship which the amount referred to in paragraph (*a*) bears to all amounts proved to the court,

whichever is the lesser.

(8) Any sum remaining under the order for disgorgement shall be paid into the Consolidated Fund.

(9) If the third party fails to pay the sums under the order for disgorgement within the time specified in the court order under subsection (7) —

(*a*) each claimant may recover the sum due to him under the order for disgorgement as though it were a judgment debt due to him; and

(*b*)

the remaining sum under the order for disgorgement may be recovered by the Authority as though it were a judgment debt due to the Authority and paid into the Consolidated Fund.

(10) After the expiry of the date fixed under subsection (6), no person shall make any subsequent application under this section for an order for disgorgement against the third party in respect of the same contravention.

(11) For the purposes of this section, an order for disgorgement is made final if —

(*a*) the order is not set aside on appeal or revision or is varied only as to the sum to be disgorged;

(*b*) the order is not subject to further appeal;

(*c*) no notice of appeal against the order is lodged within the time prescribed by Rules of Court (Cap. 322, R 5); or

(*d*) any appeal against the order is withdrawn.

(12) In this section —

"benefit", in relation to a contravention of any provision in this Part, means a profit gained or loss avoided as a result of that contravention;

"claimant", in relation to a contravention of any provision in this Part, means any person who would qualify as a claimant under section 234 in respect of that contravention.

[2/2009 wef 01/10/2012]

Division 6 — Miscellaneous

[2/2009 wef 01/10/2012]

Jurisdiction of District Court

237. A District Court shall have jurisdiction to hear and determine any action or application under Division 4 or 5 regardless of the monetary amount.

[Act 34 of 2012 wef 18/03/2013]

Rules of Court

238.—(1) Rules of Court (Cap. 322, R 5) may be made —

(*a*) to regulate and prescribe the procedure and practice to be followed in respect of proceedings under Divisions 4 and 5; and

[Act 34 of 2012 wef 18/03/2013]
[2/2009 wef 01/10/2012]

(*b*) to provide for costs and fees of such proceedings, and for regulating any matter relating to the costs of such proceedings.

(2) Without prejudice to the generality of subsection (1), Rules of Court may, in relation to proceedings under sections 236, 236K and 236L —

(*a*)

provide for the advertisement of a notice for the filing and proof of claims under those sections;

[2/2009 wef 01/10/2012]

(*b*) prescribe the procedure for the filing, proof and hearing of those claims; and

(*c*) provide for the payment of the costs and fees of an action that has been stayed under section 235(2) or 236J.

[2/2009 wef 01/10/2012]

[SIA, s. 104G]

PART XIII

OFFERS OF INVESTMENTS

Division 1 — Shares and Debentures

Subdivision (1) — Interpretation

Preliminary provisions

239.—(1) In this Division —

"borrowing entity" means an entity that is or will be under a liability (whether or not such liability is present or future) to repay any money received by it in response to an invitation to subscribe for or purchase debentures of the entity;

[*Deleted by Act 2/2009 wef 29/07/2009*]

"control", in relation to an entity, means the capacity of a person to determine the outcome of decisions on the financial and operating policies of the entity, having regard to —

(*a*) the influence which the person can, in practice, exert on the entity (as opposed to the rights which the person can exercise in the entity); and

(*b*) any practice or pattern of behaviour of the person affecting the financial or operating policies of the entity (even if such practice or pattern of behaviour involves a breach of an agreement or a breach of trust),

but does not include any capacity of a person to influence decisions on the financial and operating policies of the entity if such influence is required by law or under any contract or order of court to be exercised for the benefit of other persons;

"debenture" includes debenture stock, bonds, notes and any other debt securities issued by a corporation or any other entity, whether or not constituting a charge on the assets of the issuer but does not include —

(*a*) a cheque, letter of credit, order for the payment of money or bill of exchange;

(*b*) subject to the regulations made under this Act, a promissory note having a face value of not less than $100,000 and having a maturity period of not more than 12 months; or

(*c*) for the purposes of the application of this definition to a provision of this Act in respect of which any regulations made thereunder provide that the word "debenture" does not include a prescribed document or a document included in a prescribed class of documents, that document or a document included in that class of documents, as the case may be;

"debenture issuance programme" means any scheme or arrangement by an entity for the issue of debentures or units of debentures where only part of the maximum amount or aggregate number of debentures or units of debentures under the programme is offered initially and a further tranche or tranches may be offered subsequently;

"expert" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"guarantor entity", in relation to a borrowing entity, means an entity that has guaranteed or has agreed to guarantee the repayment of any money received or to be received by the borrowing entity in response to an invitation to subscribe for or purchase debentures of the borrowing entity;

"immediate family", in relation to an individual, means the individual's spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister;

"issuer", in relation to an offer of securities, means the entity that issued or will be issuing the securities being offered;

"limited liability partnership" means any limited liability partnership whether registered in Singapore under the Limited Liability Partnerships Act (Cap. 163A) or otherwise;
[2/2009 wef 29/07/2009]

"minimum subscription", in relation to any securities offered for subscription, means the amount stated in the prospectus relating to the offer as the minimum amount which must be raised by the issue of the securities so offered, failing which no securities will be allotted or issued;

"preliminary document" means a document which has been lodged with the Authority and is issued for the purpose of determining the appropriate issue or sale price of, and the number of, securities to be issued or sold and which contains the information required to be included in a prospectus under section 243, except for such information as may be prescribed by the Authority;

"profile statement" means a profile statement referred to in section 240(4);

"promoter", in relation to a prospectus issued by or in connection with an entity, means a promoter of the entity who was a party to the preparation of the prospectus or of any relevant portion thereof, but does not include any person by reason only of his acting in a professional capacity;

"prospectus" means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of securities, and includes any document deemed to be a prospectus under section 257, but does not include —

(*a*) a profile statement; or

(*b*) any material, advertisement or publication which is authorised by section 251 (other than subsection (5));

"recognised securities exchange" means a corporation which has been declared by the Authority, by order published in the *Gazette*, to be a recognised securities exchange for the purposes of this Division;

"related party" means —

(*a*) in relation to an entity —

(i) a director or an equivalent person of the entity;

(ii) the chief executive officer or equivalent person of the entity;

(iii) a person who controls the entity;

(iv) a related corporation;

(v) any other entity controlled by it;

(vi) any other entity controlled by the person referred to in sub-paragraph (iii); and

(vii) a related party of any individual referred to in sub-paragraph (i), (ii) or (iii); and

(*b*) in relation to an individual —

(i) his immediate family;

(ii) a trustee of any trust of which the individual or any member of the individual's immediate family is —

(A) a beneficiary; or

(B) where the trust is a discretionary trust, a discretionary object,

when the trustee acts in that capacity; and

(iii) any corporation in which he and his immediate family (whether directly or indirectly) have interests in voting shares of an aggregate of not less than 30% of the total votes attached to all voting shares;

"replacement document" means a replacement prospectus or a replacement profile statement referred to in section 241(1), as the case may be;

"securities" means —

(*a*) shares or units of shares of a corporation;

(*b*) debentures or units of debentures of an entity;

(*c*) interests in a limited partnership or limited liability partnership formed in Singapore or elsewhere; or

(*d*) such other product or class of products as the Authority may prescribe,

but does not include such other product or class of products as the Authority may prescribe as not being securities;

[2/2009 wef 20/04/2009]

"statutory meeting" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"supplementary document" means a supplementary prospectus or a supplementary profile statement referred to in section 241(1), as the case may be;

"underlying entity", in relation to an offer of units of shares or debentures, means the entity the shares or debentures of which are the subject of the offer;

"unit", in relation to a share or debenture, means any right or interest, whether legal or equitable, in the share or debenture, by whatever name called, and includes any option to acquire any such right or interest in the share or debenture.

[16/2003; 31/2004; 1/2005]

(2) For the purposes of this Division, a statement shall be deemed to be included in a prospectus or profile statement if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

(3) For the purposes of this Division —

(*a*) any invitation to a person to deposit money with or to lend money to an entity shall be deemed to be an offer of debentures of the entity; and

(*b*) any document that is issued or intended or required to be issued by an entity acknowledging or evidencing or constituting an acknowledgment of the indebtedness of the entity in respect of any money that is or may be deposited with or lent to the entity in response to such an invitation shall be deemed to be a debenture.

[1/2005]

(3A) Notwithstanding subsection (3) —

(*a*) any invitation to a person by a prescribed entity to make a deposit with the prescribed entity is not an offer of debentures; and

(*b*) the following documents issued or intended or required to be issued by a prescribed entity are not debentures:

(i) any certificate of deposit;

(ii) any other document acknowledging or evidencing or constituting an acknowledgment of the indebtedness of the prescribed entity in respect of any deposit that is or may be made with the prescribed entity.

[1/2005]

(4) In subsections (3A) and (5) —

"deposit" has the same meaning as in section 4B(4) of the Banking Act (Cap. 19);

"prescribed entity" means —

(*a*) any bank licensed under the Banking Act; or

(*b*) any entity or any entity of a class which has been declared by the Authority, by order published in the *Gazette*, to be a prescribed entity for the purposes of this subsection.

[1/2005]

(5) The Authority may, by notice in writing —

(*a*) impose such conditions or restrictions on a prescribed entity as it thinks fit; and

(*b*) at any time vary or revoke any condition or restriction so imposed,

and the prescribed entity shall comply with every such condition or restriction imposed on it by the Authority that has not been revoked by the Authority.

[1/2005]

(5A) Any person who contravenes any condition or restriction imposed under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(6) For the purposes of this Division, a person makes an offer of any securities if, and only if, as principal —

(*a*) he makes (either personally or by an agent) an offer to any person in Singapore which upon acceptance would give rise to a contract for the issue or sale of those securities by him or another person with whom he has made arrangements for that issue or sale; or

(*b*) he invites (either personally or by an agent) any person in Singapore to make an offer which upon acceptance would give rise to a contract for the issue or sale of those securities by him or another person with whom he has made arrangements for that issue or sale.

[1/2005]

(7) In subsection (6), "sale" includes any disposal for valuable consideration.

[1/2005]

(8) This Division applies only in relation to offers of securities made on or after the commencement of this Division.

[1/2005]

[Companies, s. 4]

Authority may disapply this Division to certain offers

239A. Notwithstanding any provision to the contrary in this Division, where —

(*a*)

an offer of securities is one to which (but for this section) both this Division and Division 2 apply; and

(*b*) the Authority has by order published in the *Gazette* declared that this Division shall not apply to that offer or a class of offers to which that offer belongs,

then this Division shall not apply to that offer.

[1/2005]

Modification of provisions to certain offers

239B. The Authority may, if it thinks it necessary in the interest of the public or a section of the public or for the protection of investors, by regulations modify or adapt the provisions of this Division in their application to such offer of securities as may be prescribed, and the provisions of this Division shall apply to such offer subject to such modifications or adaptations.

[2/2009 wef 29/07/2009]

Subdivision (2) — Prospectus requirements

Requirement for prospectus and profile statement, where relevant

240.—(1) No person shall make an offer of securities unless the offer —

(*a*) is made in or accompanied by a prospectus in respect of the offer —

(i) that is prepared in accordance with section 243;

(ii) a copy of which, being one that has been signed in accordance with subsection (4A), is lodged with the Authority; and

(iii) that is registered by the Authority; and

(*b*) complies with such requirements as may be prescribed by the Authority.

[16/2003; 1/2005]

(2) A person who lodges a preliminary document with the Authority shall be deemed to have lodged a prospectus with the Authority.

(3) A preliminary document referred to in subsection (2) must contain all information to be included in a prospectus other than such information as may be prescribed by the Authority.

(4) Notwithstanding subsection (1), an offer of securities may be made in or accompanied by an extract from, or an abridged version of, a prospectus (referred to in this section as a profile statement), instead of a prospectus, if —

(*a*) a prospectus in respect of such offer is prepared in accordance with section 243, and the profile statement is prepared in accordance with section 246;

(*b*) a copy of the prospectus and a copy of the profile statement, each of which has been signed in accordance with subsection (4A), are lodged with the Authority, and the prospectus is lodged no later than the profile statement;

(*c*) the prospectus and profile statement are registered by the Authority;

(*d*) sufficient copies of the prospectus are made available for collection at the times and places specified in the profile statement; and

(*e*) the offer complies with such requirements as may be prescribed by the Authority.

[16/2003; 1/2005]

(4A) The copy of a prospectus or profile statement lodged with the Authority shall be signed —

(*a*) where the person making the offer is the issuer —

(i) in a case where the issuer is not the government of a State, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer; or

(ii) in a case where the issuer is the government of a State, by an official of that government who is authorised to sign the prospectus on its behalf;

(*b*) where the person making the offer is an individual and is not the issuer —

(i) in a case where the issuer is not the government of a State —

(A) by that person; and

(B) if the issuer is controlled by that person, one or more of his related parties, or that person and one or more of his related parties, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer; or

(ii) in a case where the issuer is the government of a State, by that person;

(*c*) where the person making the offer is an entity (not being the government of a State) and is not the issuer —

(i) in a case where the issuer is not the government of a State —

(A) by every director or equivalent person of that entity; and

(B) if the issuer is controlled by that entity, one or more of its related parties, or that entity and one or more of its related parties, by every director or equivalent person of the issuer, and every person who is named therein as a proposed director or an equivalent person of the issuer; or

(ii) in a case where the issuer is the government of a State, by every director or equivalent person of that entity; and

(*d*) where the person making the offer is the government of a State and is not the issuer —

(i) in a case where the issuer is not the government of another State —

(A)

by an official of the government of the State who is authorised to sign the prospectus on its behalf; and

(B) if the issuer is controlled by that government, one or more of its related parties, or that government and one or more of its related parties, by every director or every equivalent person of the issuer, and every person who is named therein as a proposed director or an equivalent person of the issuer; or

(ii) in a case where the issuer is the government of another State, by an official of the government of the first-mentioned State who is authorised to sign the prospectus on its behalf.

[1/2005]

(4B) A requirement under subsection (4A) for the copy of a prospectus or profile statement to be signed by a director or an equivalent person is satisfied if the copy is signed —

(*a*) by that director or equivalent person; or

(*b*) by a person who is authorised in writing by that director or equivalent person to sign on his behalf.

[1/2005]

(4C) A requirement under subsection (4A) for the copy of a prospectus or profile statement to be signed by a person named therein as a proposed director or an equivalent person is satisfied if the copy is signed —

(*a*) by that proposed director or equivalent person; or

(*b*) by a person who is authorised in writing by that proposed director or equivalent person to sign on his behalf.

[1/2005]

(5) No person shall make any offer of securities of an entity that has not been formed or does not exist.

[1/2005]

(6) [*Deleted by Act 1/2005*]

(7) Any person who contravenes subsection (1) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(8) The Authority may register a prospectus or a profile statement on any day within the period prescribed by the Authority from the date of lodgment thereof with the Authority, unless —

(*a*) the Authority gives to the person making the offer a notice of an opportunity to be heard under subsection (15);

(*b*)

the Authority gives to the person making the offer a notice of an extension, in which case the Authority may, not later than 28 days from the date of lodgment of the prospectus or profile statement —

(i) register the prospectus or profile statement; or

(ii) give the person making the offer a notice of an opportunity to be heard under subsection (15);

(*c*) the person making the offer applies in writing to extend the period during which the prospectus or profile statement may be registered, and the Authority grants an extension as it thinks fit, in which case the Authority may, at any time up to and including the date on which the extended period ends —

(i) register the prospectus or profile statement; or

(ii) give the person making the offer a notice of an opportunity to be heard under subsection (15); or

(*d*) the person making the offer gives a notice in writing to the Authority to withdraw the lodgment of the prospectus or profile statement, in which case the Authority shall not register the prospectus or profile statement.

[1/2005]
[2/2009 wef 29/03/2010]

(8A) Where, after a notice of an opportunity to be heard has been given under subsection (8)(*a*), (*b*)(ii) or (*c*)(ii), the Authority decides not to refuse registration of the prospectus or profile statement, the Authority may proceed with the registration on such date as it considers appropriate, except that that date shall not be earlier than such day from the date of lodgment of the prospectus or profile statement with the Authority as the Authority may prescribe.

[1/2005]
[2/2009 wef 29/03/2010]

(8B) For the purposes of subsections (8) and (8A), the Authority may prescribe the same period and day for all offers or different periods and days for different offers.

[2/2009 wef 29/03/2010]

(9) Where a prospectus lodged with the Authority is a preliminary document, the Authority shall not register the prospectus unless a copy of the prospectus which has been signed in accordance with subsection (4A) and which contains the information required to be stipulated in the prospectus under section 243, including such information which could be omitted from the preliminary document by virtue of subsection (3), has been lodged with the Authority.

[1/2005]

(9A) A person making an offer of securities may lodge any amendment to a prospectus or profile statement in respect of that offer at any time before, but not after, the registration of the prospectus or profile statement by the Authority.

[1/2005]

(10) Subject to subsection (11) —

(*a*)

where any amendment to a prospectus is lodged, the prospectus and any profile statement which is lodged shall be deemed for the purposes of subsection (8) to have been lodged when such amendment was lodged; and

(*b*) where any amendment to a profile statement is lodged, the profile statement shall be deemed for the purposes of subsection (8) to have been lodged when such amendment was lodged.

[16/2003; 1/2005]

(11) Where an amendment to a prospectus or profile statement is lodged with the consent of the Authority, the prospectus or profile statement as amended shall be deemed, for the purposes of subsection (8), to have been lodged when the original prospectus or profile statement was lodged with the Authority.

[1/2005]

(11A) An amendment to a prospectus or profile statement that is lodged shall be treated as part of the original prospectus or profile statement.

[16/2003]

(12) The Authority may, for public information, publish —

(*a*) a prospectus or profile statement lodged with the Authority under this section; and

(*b*) where applicable, the translation thereof in the English language lodged with the Authority under section 318A(1),

and, for the purposes of this subsection, the person making the offer shall provide the Authority with a copy of the prospectus or profile statement and, where applicable, the translation in such form or medium for publication as the Authority may require.

[16/2003; 1/2005]

(13) The Authority shall refuse to register a prospectus if —

(*a*) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(*b*) there is an omission from the prospectus of any information that is required to be included in it under section 243;

(*c*) the copy of the prospectus that is lodged with the Authority is not signed in accordance with subsection (4A);

(*d*) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act;

(*e*) any written consent of an expert to the issue of the prospectus required under section 249, or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*ea*) any written consent of an issue manager to the issue of the prospectus required under section 249A(1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*eb*)

any written consent of an underwriter to the issue of the prospectus required under section 249A(2), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or

(*f*) the Authority is of the opinion that it is not in the public interest to do so.

[16/2003; 1/2005]

(14) The Authority shall refuse to register a profile statement if —

(*a*) the Authority is of the opinion that the profile statement contains a false or misleading statement;

(*b*) there is an omission from the profile statement of information required by section 246 to be included in it or an inclusion in the profile statement of information prohibited by that section from being included in it;

(*c*) the copy of the profile statement that is lodged with the Authority is not signed in accordance with subsection (4A);

(*ca*) any written consent of an expert to the issue of the profile statement required under section 249, or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*cb*) any written consent of an issue manager to the issue of the profile statement required under section 249A(1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*cc*) any written consent of an underwriter to the issue of the profile statement required under section 249A(2), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*d*) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act;

(*e*) the prospectus has not been registered by the Authority; or

(*f*) the Authority is of the opinion that it is not in the public interest to do so.

[16/2003; 1/2005]

(15) The Authority shall not refuse to register a prospectus under subsection (13) or a profile statement under subsection (14) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to register the prospectus or profile statement on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the issuer or, where applicable, the underlying entity is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the

person making the offer (being an entity), the issuer or, where applicable, the underlying entity.

[1/2005]

(16) Any person making an offer may, within 30 days after he is notified that the Authority has refused to register a prospectus or profile statement to which his offer relates under subsection (13) or (14), appeal to the Minister, whose decision shall be final.

[1/2005]

(17) If —

(*a*) a prospectus or profile statement is issued, circulated or distributed before it has been registered by the Authority; or

(*b*) an application to subscribe for or purchase securities is accepted, or securities are allotted, issued or sold, before a prospectus and, where applicable, profile statement in respect of the securities has been registered by the Authority,

the person making the offer and every person who is knowingly a party to —

(i) the issue, circulation or distribution of the prospectus or profile statement;

(ii) the acceptance of the application to subscribe for or purchase the securities; or

(iii) the allotment, issue or sale of the securities,

as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(18) This section is subject to section 240A.

[1/2005]

(19) For the purposes of subsections (13)(*a*) and (14)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(20) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties not exceeding a fine of $50,000.

[Companies, s. 43, s. 45A and s. 50; Aust. Corporations 2001, s. 721]

Debenture issuance programme

240A.—(1) A prospectus for every offer of debentures or units of debentures that is part of a debenture issuance programme shall comprise —

(*a*) a base prospectus applicable to every offer under the debenture issuance programme; and

(*b*) a pricing statement applicable to that particular offer.

[1/2005]

(2) A profile statement for every offer of debentures or units of debentures that is part of a debenture issuance programme shall comprise —

(*a*) an extract from, or an abridged version of, a base prospectus referred to in subsection (1)(*a*) (referred to in this section as a base profile statement); and

(*b*) a pricing statement applicable to that particular offer.

[1/2005]

(3) In respect of an offer referred to in subsection (1), the requirements of section 240(1)(*a*)(ii) and (iii) are satisfied if a copy of the base prospectus and a copy of the pricing statement, each of which is signed in accordance with section 240(4A), have been lodged with and registered by the Authority, either separately, whether on the same date or on different dates, or as a single document.

[1/2005]

(4) In respect of an offer referred to in subsection (2), the requirements of section 240(4)(*b*) and (*c*) are satisfied if a copy of the base profile statement and a copy of the pricing statement, each of which is signed in accordance with section 240(4A), have been lodged with and registered by the Authority, either separately, whether on the same date or on different dates, or as a single document.

[1/2005]

(5) For the avoidance of doubt, where the base prospectus or base profile statement in relation to a debenture issuance programme has been lodged with and registered by the Authority, it shall be treated as having been lodged with and registered by the Authority in respect of every offer under that programme.

[1/2005]

(6) For the purposes of the application of the provisions of this Subdivision to an offer referred to in subsection (1), a reference to a prospectus shall, unless the context otherwise requires or the Authority has prescribed otherwise, be read as a reference to both the base prospectus and the pricing statement.

[1/2005]

(7) For the purposes of the application of the provisions of this Subdivision to an offer referred to in subsection (2), a reference to a profile statement shall, unless the context otherwise requires or the Authority has prescribed otherwise, be read as a reference to both the base profile statement and the pricing statement.

[1/2005]

(8) The Authority may, by regulations, prescribe how the provisions of this Subdivision shall apply to an offer referred to in subsection (1) or (2).

[1/2005]

(9) For the avoidance of doubt, a pricing statement may be registered by the Authority at any time after its lodgment with the Authority.

[1/2005]

Lodging supplementary document or replacement document

241.—(1) If, after a prospectus or profile statement is registered but before the close of the offer of securities, the person making that offer becomes aware of —

(*a*) a false or misleading statement in the prospectus or profile statement;

(*b*) an omission from the prospectus of any information that should have been included in it under section 243, or an omission from the profile statement of any information that should have been included in it under section 246, as the case may be; or

(*c*) a new circumstance that —

(i) has arisen since the prospectus or profile statement was lodged with the Authority; and

(ii) would have been required by —

(A) section 243 to be included in the prospectus; or

(B) section 246 to be included in the profile statement,

if it had arisen before the prospectus or the profile statement, as the case may be, was lodged,

and that is materially adverse from the point of view of an investor, the person may lodge a supplementary or replacement prospectus, or a supplementary or replacement profile statement (referred to in this section as a supplementary or replacement document, as the case may be), with the Authority.

[16/2003; 1/2005]

(1A) If, after a base prospectus or a base profile statement referred to in section 240A is registered but before the expiration of 24 months from the registration of the base prospectus by the Authority, the person making that offer intends to update any information or include any new information in the base prospectus or base profile statement, the person may lodge a supplementary or replacement document with the Authority, provided that no offer to which the base prospectus or base profile statement relates is subsisting at the time of the lodgment.

[1/2005]

(1B) Subsections (7) to (16) shall not apply to a supplementary or replacement document which is lodged under subsection (1A).

[1/2005]

(1C) For the purposes of subsection (1A), an offer shall not be treated as subsisting if —

(*a*) a pricing statement in respect of the offer of debentures or units of debentures has not been registered by the Authority under section 240A; or

(*b*) a pricing statement in respect of the offer of debentures or units of debentures has been registered by the Authority under section 240A, and —

(i) the offer has closed with no application to subscribe for or purchase the debentures or units of debentures having been received or accepted; or

(ii) one or more applications to subscribe for or purchase the debentures or units of debentures have been received or accepted, and —

(A)

in a case where the debentures or units of debentures are or will be listed for quotation on a securities exchange, trading in them has commenced; or

(B) in any other case, all of those debentures or units of debentures have been issued or sold.

[1/2005]

(2) At the beginning of a supplementary document, there shall be —

(*a*) a statement that it is a supplementary prospectus or a supplementary profile statement, as the case may be;

(*b*) an identification of the prospectus or profile statement it supplements;

(*c*) an identification of any previous supplementary document lodged with the Authority in relation to the offer; and

(*d*) a statement that it is to be read together with the prospectus or profile statement it supplements and any previous supplementary document in relation to the offer.

[1/2005]

(3) At the beginning of a replacement document, there shall be —

(*a*) a statement that it is a replacement prospectus or a replacement profile statement, as the case may be; and

(*b*) an identification of the prospectus or profile statement it replaces.

(4) The supplementary document and the replacement document must be dated with the date on which they are lodged with the Authority.

(5) The person making the offer shall take reasonable steps —

(*a*) to inform potential investors of the lodgment of any supplementary or replacement document under subsection (1) or (1A); and

(*b*) to make available to them the supplementary document or replacement document.

[1/2005]

(6) For the purposes of the application of this Division to events that occur after the lodgment of the supplementary document —

(*a*) where the supplementary document is a supplementary prospectus, the prospectus in relation to the offer shall be taken to be the original prospectus together with the supplementary prospectus and any previous supplementary prospectus in relation to the offer; and

(*b*) where the supplementary document is a supplementary profile statement, the profile statement in relation to the offer shall be taken to be the original profile statement together with the supplementary profile statement and any previous supplementary profile statement in relation to the offer.

[16/2003; 1/2005]

(6A) [*Deleted by Act 1/2005*]

(6B) For the purposes of the application of this Division to events that occur after the lodgment of the replacement document —

(*a*) where the replacement document is a replacement prospectus, the prospectus in relation to the offer shall be taken to be the replacement prospectus; and

(*b*) where the replacement document is a replacement profile statement, the profile statement in relation to the offer shall be taken to be the replacement profile statement.

[16/2003; 1/2005]

(7) If a supplementary document or replacement document is lodged with the Authority, the offer shall be kept open for at least 14 days after the lodgment of the supplementary document or replacement document.

[1/2005]

(8) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to subscribe for securities, then —

(*a*) where the securities have not been issued to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall —

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all

moneys the applicants have paid on account of their applications for the securities; or

(*b*) where the securities have been issued to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; or

(iii) shall —

(A) treat the issue of the securities as void, in which case the issue shall be deemed void; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(9) Subsections (8)(*b*) and (11) have effect notwithstanding sections 76 and 76A, and Division 3A of Part IV, of the Companies Act (Cap. 50).

[42/2005]

(10) An applicant who wishes to exercise his option under subsection (8)(*a*)(i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days from the receipt of such notification, pay to the applicant all moneys paid by the applicant on account of his application for the securities.

[1/2005]

(11) An applicant who wishes to exercise his option under subsection (8)(*b*)(i) or (ii) to return securities issued to him shall, within 14 days from the date of lodgment of the

supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to be evidence of title to those securities to that person, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by the applicant for the securities, and the issue of those securities shall be deemed to be void.

[1/2005]

(12) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to purchase securities, then —

(*a*) where the securities have not been transferred to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall —

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys the applicants have paid on account of their applications for the securities; or

(*b*) where the securities have been transferred to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; or

(iii) shall treat the sale of the securities as void, in which case the sale shall be deemed void, and shall —

(A) if documents purporting to evidence title to the securities (referred to in this paragraph as the title documents) have been issued to the applicants —

(AA) within 7 days from the date of lodgment of the supplementary document or replacement document, inform the applicants to return the title documents to the person making the offer within 14 days from the date of lodgment of the supplementary document or replacement document; and

(AB) within 7 days from the date of receipt of the title documents or the date of lodgment of the supplementary document or replacement document, whichever is the later, pay to the applicants all moneys paid by them for the securities; or

(B) if no title documents have been issued to the applicants, within 7 days from the date of the lodgment of the supplementary document or replacement document, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(13) An applicant who wishes to exercise his option under subsection (12)(*a*)(i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days of the receipt of such notification, pay to the applicant all moneys paid by him on account of his application for the securities.

[1/2005]

(14) An applicant who wishes to exercise his option under subsection (12)(*b*)(i) or (ii) to return securities sold to him shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to evidence title to those securities to the person making the offer, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by him for the securities and the sale of the securities shall be deemed to be void.

[1/2005]

(15) Any person who contravenes subsection (8) or (12) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(16) Any person who contravenes any other provision of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(17) For the purposes of subsection (1)(*a*), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 50A ; Aust. Corporations 2001, s. 719]

Stop order for prospectus and profile statement

242.—(1) If a prospectus has been registered and —

(*a*) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(*b*) there is an omission from the prospectus of any information that is required to be included in it under section 243;

(*c*) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act; or

(*d*) the Authority is of the opinion that it is in the public interest to do so,

the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of securities to which the prospectus relates direct that no or no further securities be allotted, issued or sold.

[16/2003; 1/2005]

(2) If a profile statement has been registered and —

(*a*) the Authority is of the opinion that the profile statement contains a false or misleading statement;

(*b*) there is an omission from the profile statement of any information that is required to be included in it under section 246;

(*c*) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act; or

(*d*) the Authority is of the opinion that it is in the public interest to do so,

the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of securities to which the profile statement relates direct that no or no further securities be allotted, issued or sold.

[16/2003; 1/2005]

(3) Notwithstanding subsections (1) and (2), the Authority shall not serve a stop order if any of the securities to which the prospectus or profile statement relates has been issued or sold, and listed for quotation on a securities exchange and trading in them has commenced.

[1/2005]

(4) The Authority shall not serve a stop order under subsection (1) or (2) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the stop order is served on the ground that it is in the public interest to do so on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the issuer or, where applicable, the underlying entity is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*aa*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*b*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer or, where applicable, the underlying entity.

[16/2003; 1/2005]

(5) Where applications to subscribe for securities to which the prospectus or profile statement relates have been made prior to the stop order, then —

(*a*) where the securities have not been issued to the applicants —

(i) the applications shall be deemed to have been withdrawn and cancelled; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the securities; or

(*b*) where the securities have been issued to the applicants —

(i) the issue of the securities shall be deemed to be void; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(6) Subsection (5)(*b*) has effect notwithstanding sections 76 and 76A, and Division 3A of Part IV, of the Companies Act (Cap. 50).

[42/2005]

(7) Where applications to purchase securities to which the prospectus or profile statement relates have been made prior to the stop order, then —

(*a*) where the securities have not been transferred to the applicants —

(i) the applications shall be deemed to have been withdrawn and cancelled; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the securities; or

(*b*) where the securities have been transferred to the applicants, the sale shall be deemed to be void, and the person making the offer shall —

(i) if documents purporting to evidence title to the securities have been issued to the applicants —

(A) within 7 days from the date of the stop order, inform the applicants to return such documents to the person making the offer within 14 days from that date; and

(B) within 7 days from the date of the receipt of those documents or the date of the stop order, whichever is the later, pay to the applicants all moneys paid by them for the securities; or

(ii) if no such documents have been issued to the applicants, within 7 days from the date of the stop order, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(8) If the Authority is of the opinion that any delay in serving a stop order pending the holding of a hearing required under subsection (4) is not in the interests of the public, the Authority may, without giving an opportunity to be heard, serve an interim stop order on the person making the offer directing that no or no further securities to which the prospectus or profile statement relates be allotted, issued or sold.

[1/2005]

(9) An interim stop order shall, unless revoked by the Authority, be in force —

(*a*) in a case where —

(i) it is served during a hearing under subsection (4); or

(ii) a hearing under subsection (4) is commenced while it is in force,

until the Authority makes an order under subsection (1) or (2); and

(*b*) in any other case, for a period of 14 days from the day on which the interim stop order is served.

[16/2003]

(10) Subsections (5) and (7) shall not apply where only an interim stop order has been served.

(11) Any person who fails to comply with a stop order served under subsection (1) or (2) or an interim stop order served under subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(12) Any person who contravenes subsection (5) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(13) For the purposes of subsections (1)(*a*) and (2)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Aust. Corporations 2001, s. 739]

Contents of prospectus

243.—(1) A prospectus for an offer of securities shall contain —

(*a*) all the information that investors and their professional advisers would reasonably require to make an informed assessment of the matters specified in subsection (3); and

(*b*) the matters prescribed by the Authority.

[1/2005]

(2) The prospectus shall, with respect to subsection (1)(*a*), contain such information —

(*a*) only to the extent to which it is reasonable for investors and their professional advisers to expect to find in the prospectus; and

(*b*) only to the extent that a person whose knowledge is relevant —

(i) actually knows the information; or

(ii) in the circumstances ought reasonably to have obtained the information by making enquiries.

(3) The matters referred to in subsection (1)(*a*) shall relate to —

(*a*) the rights and liabilities attaching to the securities;

(*b*) the assets and liabilities, profits and losses, financial position and performance, and prospects of the issuer;

(*c*) if the underlying entity is controlled by —

(i) the person making the offer;

(ii) one or more of the related parties of the person making the offer; or

(iii) the person making the offer and one or more of his related parties,

the assets and liabilities, profits and losses, financial position and performance, and prospects of that entity; and

(*d*) in the case of an offer of units of shares or debentures, where the person making the offer, or an entity which is controlled by —

(i) the person making the offer;

(ii) one or more of the related parties of the person making the offer; or

(iii) the person making the offer and one or more of his related parties,

is or will be required to issue or deliver the relevant securities, or to meet financial or contractual obligations to the holders of those units, the capacity of that person or entity to issue or deliver the relevant securities, or the ability of that person or entity to meet those financial or contractual obligations.

[1/2005]

(4) In deciding what information shall be included under subsection (1)(*a*), regard shall be had to —

(*a*) the nature of the securities and the nature of the entity concerned;

(*b*) the matters that likely investors may reasonably be expected to know; and

(*c*) the fact that certain matters may reasonably be expected to be known to the professional advisers of such investors.

[1/2005]

(5) For the purposes of subsection (2)(*b*), a person's knowledge is relevant only if he is one of the following persons:

(*a*) the person making the offer;

(*b*) if the person making the offer is an entity, a director or an equivalent person of the entity;

(*c*) the issuer;

(*d*) a director or an equivalent person, or a proposed director or an equivalent person, of the issuer;

(*da*) a person named in the prospectus with his consent as an underwriter to the issue or sale;

(*e*) a person named in the prospectus as a stockbroker to the issue or sale if he participates in any way in the preparation of the prospectus;

(*f*) a person named in the prospectus with his consent as having made a statement —

(i) that is included in the prospectus; or

(ii) on which a statement made in the prospectus is based;

(*g*) a person named in the prospectus with his consent as having performed a particular professional or advisory function.

[1/2005]

(6) A condition requiring or binding an applicant for securities to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

[1/2005]

(7) This section does not affect any liability that a person has under any other law.

[Companies, s. 45; Aust. Corporations 2001, s. 710]

244. [*Repealed by Act 16/2003*]

Retention of over-subscriptions and statement of asset-backing in debenture issues

245.—(1) An entity shall not accept or retain subscriptions to a debenture issue in excess of the amount of the issue as disclosed in the prospectus unless the entity has specified in the prospectus —

(*a*) that it expressly reserves the right to accept or retain over- subscriptions; and

(*b*) a limit expressed as a specific sum of money on the amount of over-subscriptions that may be accepted or retained, being an amount not more than 25% in excess of the amount of the issue as disclosed in the prospectus.

[1/2005]

(2) Subject to regulations made by the Authority for the purposes of this subsection, where an entity specifies in a prospectus relating to a debenture issue that it reserves the right to accept or retain over-subscriptions —

(*a*) the entity shall not make, authorise or permit any statement of or reference as to the asset-backing for the issue to be made or contained in any prospectus relating to the issue, other than a statement or reference to the total tangible assets and the total liabilities of the entity and of its guarantor entities; and

(*b*) the prospectus shall contain a statement or reference as to what the total assets and total liabilities of the entity would be if over-subscriptions to the limit specified in the prospectus were accepted or retained.

[1/2005]

(3) Every entity or other person that contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[Companies, s. 49]

Contents of profile statement

246.—(1) A profile statement for an offer of securities shall contain —

(*a*) the following particulars:

(i) identification of the person making the offer and, where the person making the offer is not the issuer, the issuer and, where applicable, the underlying entity;

(ii) identification of the persons signing the profile statement;

(iii) the nature of the securities;

(iv) the nature of the risks involved in investing in the securities;

(v) details of all amounts payable in respect of the securities (including any amount by way of fee, commission or charge);

(*b*) a statement that copies of the prospectus are available for collection at the times and places specified in the profile statement; and

(*c*) a statement that the persons referred to in section 240(4A) who have signed the profile statement are satisfied that the profile statement contains a fair summary of the key information in the prospectus.

[1/2005]

(2) A profile statement shall not contain —

(*a*) any statement that is false or misleading in the form and context in which it is included;

(*b*) any material information that is not contained in the prospectus; and

(*c*) any material information that differs in any material particular from that set out in the prospectus.

[1/2005]

(3) For the purposes of subsection (2)(*a*), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 45A; Aust. Corporations 2001, s. 714]

Exemption from requirements as to form or content of prospectus or profile statement

247.—(1) The Authority may exempt any person or any prospectus or profile statement from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003]

(2) The Authority shall not grant an exemption under subsection (1) unless it is of the opinion that —

(*a*) the cost of complying with the requirement in respect of which exemption has been applied for outweighs the resulting protection to investors; or

(*b*) it would not be prejudicial to the public interest if the requirement in respect of which exemption has been applied for were dispensed with.

[16/2003]

(3) The Authority may exempt any class of persons, or any class or description of prospectuses or profile statements, from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003]

(4) [*Deleted by Act 16/2003*]

(5) Any person who contravenes any of the conditions or restrictions imposed under subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Companies, s. 46]

Exemption for certain governmental and international entities as regards signing of copy of prospectus or profile statement by all directors or equivalent persons

248.—(1) This section shall apply only to entities that are both of a governmental and international character.

[1/2005]

(2) An entity to which this section applies may apply in writing to the Authority for an exemption from the requirements of section 240(1)(*a*)(ii), (4)(*b*), (4A), (13)(*c*) and (14)(*c*) and the Authority may, if it considers those requirements unduly burdensome on the entity, exempt such entity from complying therewith.

[1/2005]

(3) The Authority may subject such exemption to a requirement that such minimum number of directors or equivalent persons who are resident in Singapore as the Authority may, in that case, decide must sign the copy of the prospectus or profile statement.

[1/2005]

(4) In the event that no director or equivalent person is resident in Singapore, the Authority may permit a duly authorised agent to sign the prospectus or profile statement so long as such authorisation is supported by a resolution of the board of the entity.

[1/2005]

(5) The Authority may, if satisfied that a particular entity cannot comply with any of the requirements in subsection (3) or (4), grant the exemption applied for.

[1/2005]

(6) Any prospectus or profile statement that complies with the terms of exemption granted by the Authority shall be deemed to be a prospectus or profile statement for the purposes of this Division and a copy of such prospectus or profile statement shall be registered by the Authority.
[Companies, s. 51]

Expert's consent to issue of prospectus or profile statement containing statement by him

249.—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement which includes a statement purporting to be made by, or based on a statement made by, an expert, the prospectus or profile statement shall not be issued unless —

(*a*) the expert has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and

(*b*) there appears in the prospectus or profile statement, as the case may be, a statement that the expert has given and has not withdrawn his consent.

[1/2005]

(1A) Every person making the offer shall cause a true copy of every written consent referred to in subsection (1) to be deposited, within 7 days after the registration of the prospectus or profile statement, at the registered office of the issuer in Singapore or, if the issuer has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(1B) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the securities to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (1A) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

(2) If any prospectus or profile statement is issued in contravention of subsection (1), the person making the offer and every person who is knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[16/2003; 1/2005]

(3) The Authority may exempt any person or class of persons, or any prospectus or profile statement or class or description of prospectuses or profile statements, from this section, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003; 1/2005]

(4) Any person who contravenes any of the conditions or restrictions imposed under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not

exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[16/2003]

[Companies, s. 54]

Consent of issue manager and underwriter to being named in prospectus or profile statement

249A.—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement in which a person is named as the issue manager to the offer, the prospectus or profile statement shall not be issued unless —

(*a*) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as issue manager to that offer; and

(*b*) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn his consent.

[1/2005]

(2) Where an offer of securities is made in or accompanied by a prospectus or profile statement in which a person is named as the underwriter (but not a sub-underwriter) to the offer, the prospectus or profile statement shall not be issued unless —

(*a*) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as underwriter to that offer; and

(*b*) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn such consent.

[1/2005]

(3) If any prospectus or profile statement is issued in contravention of subsection (1) or (2), the person making the offer and every person who is knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(4) Every person making the offer shall cause a true copy of every written consent referred to in subsections (1) and (2) to be deposited, within 7 days after the registration of the prospectus or profile statement, at the registered office of the issuer in Singapore or, if it has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(5) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the securities to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (4) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

Duration of validity of prospectus and profile statement

250.—(1) No person shall make an offer of securities, or allot, issue or sell any securities, on the basis of a prospectus or profile statement after the expiration of the period referred to in subsection (3).

[1/2005]

(2) In a case where an entity makes an offer of securities or where the securities being offered are those issued by an entity or a proposed entity, no officer or equivalent person or promoter of the entity or proposed entity shall authorise or permit —

(*a*) the offer of those securities; or

(*b*) the allotment, issue or sale of those securities,

on the basis of a prospectus or profile statement after the expiration of the period referred to in subsection (3).

[1/2005]

(3) The period under subsection (1) or (2) is —

(*a*) in a case where the securities are debentures or units of debentures issued under a debenture issuance programme under section 240A, 24 months from the date of registration by the Authority of the base prospectus in relation to such offer, allotment, issue or sale; or

(*b*) in any other case, 6 months from the date of registration by the Authority of the prospectus in relation to such offer, allotment, issue or sale.

[1/2005]

(4) If default is made in complying with subsection (1) or (2), the person and, in the case of an entity or a proposed entity, every officer or equivalent person or promoter of the entity or proposed entity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(5) An allotment, an issue or a sale of securities that is made in contravention of subsection (1) or (2) shall not, by reason only of that fact, be voidable or void.

[1/2005]

[Companies, s. 57 (8)-(10)]

Restrictions on advertisements, etc.

251.—(1) If a prospectus is required for an offer or intended offer of securities, a person shall not —

(*a*) advertise the offer or intended offer; or

(*b*) publish a statement that —

(i) directly or indirectly refers to the offer or intended offer; or

(ii) is reasonably likely to induce persons to subscribe for or purchase the securities,

unless the advertisement or publication is authorised by this section.

[1/2005]

(2) In determining whether a statement —

(*a*) indirectly refers to an offer or intended offer of securities; or

(*b*) is reasonably likely to induce persons to subscribe for or purchase securities,

regard shall be had to whether the statement —

(i) forms part of the normal advertising of an entity's products or services and is genuinely directed at maintaining its existing customers, or attracting new customers, for those products or services;

(ii) communicates information that materially deals with the affairs of the entity; and

(iii) is likely to encourage investment decisions being made on the basis of the statement rather than on the basis of information contained in a prospectus or profile statement.

[1/2005]

(3) Notwithstanding subsection (6), a person may, before a prospectus or profile statement is registered by the Authority, disseminate a preliminary document which has been lodged with the Authority to institutional investors, relevant persons as defined in section 275(2) or persons to whom an offer referred to in section 275(1A) is to be made without contravening subsection (1), if —

(*a*) the front page of the preliminary document contains —

(i) the following statement:

"This is a preliminary document and is subject to further amendments and completion in the prospectus to be registered by the Monetary Authority of Singapore.";

(ii) a statement that a person to whom a copy of the preliminary document has been issued shall not circulate it to any other person; and

(iii) a statement in bold lettering that no offer or agreement shall be made on the basis of the preliminary document to purchase or subscribe for any securities to which the preliminary document relates;

(*b*) the preliminary document does not contain or have attached to it any form of application that will facilitate the making by any person of an offer of the securities to which the preliminary document relates, or the acceptance of such an offer by any person; and

(*c*)

when the prospectus is registered by the Authority, the person takes reasonable steps to notify the persons to whom the preliminary document was issued that the registered prospectus is available for collection.

[1/2005]

(4) Notwithstanding subsection (6), a person does not contravene subsection (1) by presenting oral or written material, on matters contained in a preliminary document which has been lodged with the Authority, to institutional investors, relevant persons as defined in section 275(2) or persons to whom an offer referred to in section 275(1A) is to be made before a prospectus or profile statement is registered by the Authority.

[1/2005]

(5) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 240 without contravening subsection (1).

[1/2005]

(6) Before a prospectus or profile statement is registered, an advertisement or publication does not contravene subsection (1) if it contains only the following:

(*a*) a statement that identifies the securities, the person making the offer, the issuer and, where applicable, the underlying entity;

(*b*) a statement that a prospectus or profile statement for the offer will be made available when the offer is made;

(*c*) a statement that anyone wishing to acquire the securities will need to make an application in the manner set out in the prospectus or profile statement; and

(*d*) a statement of how to obtain, or arrange to receive, a copy of the prospectus or profile statement.

[1/2005]

(7) To satisfy subsection (6), the advertisement or publication shall include all of the statements referred to in paragraphs (*a*), (*b*) and (*c*) of that subsection, and may include the statement referred to in paragraph (*d*).

(8) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if —

(*a*) it includes a statement that the prospectus or profile statement in respect of the offer of securities is available for collection at the times and places specified in the statement;

(*b*) it includes a statement that anyone wishing to acquire the securities will need to make an application in the manner set out in the prospectus or profile statement; and

(*c*) it does not contain any information that is not included in the prospectus or profile statement.

[1/2005]

(9) An advertisement or a publication does not contravene subsection (1) if it —

(*a*) consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange made by any person;

[2/2009 wef 29/07/2009]

(*b*) consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the underlying entity or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;

(*c*) consists solely of a report about the issuer or the underlying entity that is published by the person making the offer, the issuer or the underlying entity, which —

(i) does not contain information that materially affects the affairs of the issuer or underlying entity other than information previously made available in a prospectus that has been registered by the Authority, an annual report or a disclosure, notice or report referred to in paragraph (*a*) or (*b*); and

(ii) does not refer (directly or indirectly) to the offer or intended offer;

(*d*) consists solely of a statement made by the person making the offer, the issuer or the underlying entity that a prospectus or profile statement in respect of the offer or intended offer has been lodged with the Authority;

(*e*) is a news report, or a genuine comment, by a person other than any person referred to in paragraph (*f*)(i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio, television or any other means of broadcasting or communication, relating to —

(i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;

(ii) a disclosure, notice or report referred to in paragraph (*a*);

(iii) a notice, report, presentation, general meeting or proposed general meeting referred to in paragraph (*b*);

(iv) a report referred to in paragraph (*c*);

(*f*) is a report about the securities which are the subject of the offer or intended offer, published by someone who is not —

(i) the person making the offer, the issuer or the underlying entity;

(ii) a director or an equivalent person of the person making the offer, the issuer or the underlying entity;

(iii) a person who has an interest in the success of the issue or sale of the securities; or

(iv)

a person acting at the instigation of, or by arrangement with, any person referred to in sub-paragraph (i), (ii) or (iii);

(*g*) is a disclosure, notice, report or publication of a description prescribed by the Authority, and such other conditions as the Authority may prescribe are satisfied; or

[2/2009 wef 01/10/2012]

(*h*) is a publication made by the person making the offer, the issuer or the underlying entity solely to correct or provide clarification on any erroneous or inaccurate information or comment contained in —

(i) an earlier news report or a genuine comment referred to in paragraph (*e*); or

(ii) an earlier publication published in the ordinary course of business of publishing a newspaper, periodical or magazine, or of broadcasting by radio, television or any other means of broadcasting or communication, referred to in subsection (10),

provided that the first-mentioned publication does not contain any material information that is not included in the prospectus.

[1/2005]

(10) A person does not contravene subsection (1) if —

(*a*) he publishes any advertisement or publication in the ordinary course of a business of —

(i) publishing a newspaper, periodical or magazine; or

(ii) broadcasting by radio, television, or any other means of broadcasting or communication; and

(*b*) he did not know and had no reason to suspect that its publication would constitute a contravention of subsection (1).

(11) Subsection (9)(*e*) and (*f*) shall not apply to an advertisement or statement if any person gives consideration or any other benefit for the publication of the advertisement or statement.

[1/2005]

(12) Any person who contravenes subsection (1) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(13) This section does not affect any liability that a person has under any other law.

(14) The Authority may exempt any person or class of persons from this section, subject to such conditions or restrictions as may be determined by the Authority.

(15) Any person who contravenes any of the conditions or restrictions imposed under subsection (14) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(16) For the purposes of this section, any reference to publishing a statement shall be construed as including a reference to making a statement, whether oral or written, which is reasonably likely to be published.

[1/2005]

(17) For the purposes of subsections (1) and (2), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(18) For the purposes of subsection (2)(ii), the reference to affairs of the entity shall —

(*a*) in the case where the entity is a corporation, be construed as including a reference to the matters referred to in section 2(2); and

(*b*) in any other case, be construed as a reference to such matters as may be prescribed by the Authority.

[1/2005]

(19) For the purposes of subsection (9)(*c*)(i), the reference to affairs of the issuer or underlying entity shall —

(*a*) in the case where the issuer or underlying entity is a corporation, be construed as including a reference to the matters referred to in section 2(2); and

(*b*) in any other case, be construed as a reference to such matters as may be prescribed by the Authority.

[1/2005]

[Companies, s. 48; Aust. Corporations 2001, s. 734]

Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies

252.—(1) A person referred to in section 254(3) (other than paragraph (*a*)) shall notify in writing the person making the offer of securities, as soon as practicable, if he becomes aware at any time after the prospectus or profile statement is registered by the Authority but before the close of the offer that —

(*a*) a statement in the prospectus or the profile statement is false or misleading;

(*b*) there is an omission to state any information required to be included in the prospectus under section 243 or there is an omission to state any information required to be included in the profile statement under section 246, as the case may be; or

(*c*) a new circumstance —

(i) has arisen since the prospectus or the profile statement was lodged with the Authority; and

(ii) would have been required to be included in the prospectus under section 243, or required to be included in the profile statement under section 246, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,

and the failure to so notify would have been materially adverse from the point of view of an investor.

[16/2003; 1/2005]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(3) For the purposes of subsection (1)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 55A; Aust. Corporations 2001, s. 730]

Criminal liability for false or misleading statements

253.—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 280, where a prospectus or profile statement is prepared and issued in relation to the offer, and —

(*a*) a false or misleading statement is contained in —

(i) the prospectus or the profile statement; or

(ii) any application form for the securities;

(*b*) there is an omission to state any information required to be included in the prospectus under section 243 or there is an omission to state any information required to be included in the profile statement under section 246, as the case may be; or

(*c*) there is an omission to state a new circumstance that —

(i) has arisen since the prospectus or the profile statement was lodged with the Authority; and

(ii) would have been required to be included in the prospectus under section 243, or required to be included in the profile statement under section 246, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,

the persons referred to in subsection (4) shall be guilty of an offence even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission, and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing

offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[16/2003; 1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person made the statement without having reasonable grounds for making the statement.

(3) A person shall not be taken to have contravened subsection (1) if the false or misleading statement, or the omission to state any information or new circumstance, is not materially adverse from the point of view of the investor.

(4) The persons guilty of the offence are —

(*a*) the person making the offer;

(*b*) where the person making the offer is an entity —

(i) each director or equivalent person of the entity; and

(ii) if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;

(*c*) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties —

(i) the issuer;

(ii) each director or equivalent person of the issuer; and

(iii) each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the issuer;

(*d*) an issue manager to the offer of the securities who is, and who has consented to be, named in the prospectus or profile statement, if —

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii) knowing that the statement in the prospectus or profile statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(*e*) an underwriter (but not a sub-underwriter) to the issue or sale of the securities who is, and who has consented to be, named in the prospectus or profile statement, if —

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii) knowing that the statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(*f*) a person named in the prospectus or the profile statement with his consent as having made —

(i) the statement that is false or misleading, if he intentionally or recklessly makes that statement; or

(ii) a statement on which the false or misleading statement is based, if he knows that the second-mentioned statement is false or misleading and fails to take immediate steps to withdraw his consent,

but only in respect of the inclusion of the false or misleading statement; and

(*g*) any other person who intentionally or recklessly makes the false or misleading statement, or omits to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance, as the case may be.

[1/2005]

(5) For the purposes of subsection (4) and this subsection —

(*a*) remedial action includes any of the following:

(i) preventing the statement from being included, or having the information or circumstance included, in the prospectus or profile statement, as the case may be;

(ii) procuring the lodgment of a supplementary or replacement prospectus under section 241; and

(*b*) a person is reckless as to the matter referred to in subsection (4)(*d*)(iii) or (*e*)(iii) if, having been put upon inquiry that the statement to be, or which has been, included in the prospectus or profile statement is likely to be false or misleading, that the information or circumstance is likely to be required to be included in that document, or that there is likely to be an omission to state the information or circumstance in that document, he fails to —

(i) make all inquiries as are reasonable in the circumstances to verify this; and

(ii) take such remedial action as is appropriate in the circumstances without delay, if such action is warranted by the outcome of the inquiries.

[1/2005]

(6) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 56; Aust. Corporations 2001, s. 728]

Civil liability for false or misleading statements

254.—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 280, where a prospectus or profile statement is prepared and issued in relation to the offer, and —

(*a*) a false or misleading statement is contained in —

(i) the prospectus or the profile statement; or

(ii) any application form for the securities;

(*b*) there is an omission to state any information required to be included in the prospectus under section 243 or there is an omission to state any information required to be included in the profile statement under section 246, as the case may be; or

(*c*) there is an omission to state a new circumstance that —

(i) has arisen since the prospectus or the profile statement was lodged with the Authority; and

(ii) would have been required by section 243 to be included in the prospectus, or required to be included in the profile statement under section 246, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,

the persons referred to in subsection (3) shall be liable to compensate any person who suffers loss or damage as a result of the false or misleading statement in or omission from the prospectus or the profile statement, even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission.

[16/2003; 1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person makes the statement without having reasonable grounds for making the statement.

(3) The persons liable are —

(*a*) the person making the offer;

(*b*) where the person making the offer is an entity —

(i) each director or equivalent person of the entity; and

(ii)

if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;

(*c*) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties —

(i) the issuer;

(ii) each director or equivalent person of the issuer; and

(iii) each person who is, and who has consented to be, named in the prospectus or the profile statement as a proposed director or an equivalent person of the issuer;

(*d*) an issue manager to the offer of the securities who is, and who has consented to be, named in the prospectus or the profile statement;

(*da*) an underwriter (but not a sub-underwriter) to the issue or sale of the securities who is, and who has consented to be, named in the prospectus or the profile statement;

(*e*) a person named in the prospectus or the profile statement with his consent as having made a statement —

(i) that is included in the prospectus or the profile statement; or

(ii) on which a statement made in the prospectus or the profile statement is based,

but only in respect of the inclusion of that statement; and

(*f*) any other person who made the false or misleading statement or omitted to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance.

[1/2005]

(4) A person who acquires securities as a result of an offer that was made in or accompanied by a profile statement is taken to have acquired the securities in reliance on both the profile statement and the prospectus for the offer.

[1/2005]

(4A) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(5) No action under subsection (1) shall be commenced after the expiration of 6 years from the date on which the cause of action arose.

(6) This section does not affect any liability that a person has under any other law.

[Companies, s. 55; Aust. Corporations 2001, s. 728]

Defences

255.—(1) A person referred to in section 253(4)(*a*), (*b*) or (*c*) is not liable under section 253(1), and a person referred to in section 254(3) is not liable under section 254(1), only because of a false or misleading statement in a prospectus or a profile statement if the person proves that he —

(*a*) made all inquiries (if any) that were reasonable in the circumstances; and

(*b*) after doing so, believed on reasonable grounds that the statement was not false or misleading.

[1/2005]

(2) A person referred to in section 253(4)(*a*), (*b*) or (*c*) is not liable under section 253(1), and a person referred to in section 254(3) is not liable under section 254(1), only because of an omission from a prospectus or a profile statement in relation to a particular matter if the person proves that he —

(*a*) made all inquiries (if any) that were reasonable in the circumstances; and

(*b*) after doing so, believed on reasonable grounds that there was no omission from the prospectus or profile statement in relation to that matter.

[1/2005]

(3) A person is not liable under section 253(1) or 254(1) only because of a false or misleading statement in, or an omission from, a prospectus or a profile statement if the person proves that he placed reasonable reliance on information given to him by —

(*a*) if the person is an entity, someone other than —

(i) a director or an equivalent person; or

(ii) an employee or agent,

of the entity; or

(*b*) if the person is an individual, someone other than an employee or agent of the individual.

[1/2005]

(4) For the purposes of subsection (3), a person is not the agent of an entity or individual merely because he performs a particular professional or advisory function for the entity or individual.

[1/2005]

(5) A person who is named in a prospectus or a profile statement as —

(*a*) a proposed director or an equivalent person of the issuer, or an issue manager or underwriter;

(*b*) having made a statement included in the prospectus or the profile statement; or

(*c*) having made a statement on the basis of which a statement is included in the prospectus or the profile statement,

is not liable under section 253(1) or 254(1) only because of a false or misleading statement in, or an omission from, the prospectus or the profile statement if the person proves that he

publicly withdrew his consent to being named in the prospectus or the profile statement in that way.

[1/2005]

(6) A person is not liable under section 253(1) or 254(1) only because of a new circumstance that has arisen since the prospectus or the profile statement was lodged with the Authority if the person proves that he was not aware of the matter.

(7) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 55B; Aust. Corporations 2001, s. 731, s. 732 and s. 733]

256. [*Repealed by Act 1/2005*]

Document containing offer of securities for sale deemed prospectus

257.—(1) Subsection (2) applies where —

(*a*) an entity allots or agrees to allot to any person any securities of the entity with a view to all or any of them being subsequently offered for sale to another person; and

(*b*) such offer (referred to in this section as a subsequent offer) does not qualify for an exemption under Subdivision (4) of this Division (other than section 280).

[1/2005]

(2) Any document by which the subsequent offer is made shall for all purposes be deemed to be a prospectus issued by the entity, and the entity shall for all purposes be deemed to be the person making the offer, and all written laws and rules of law as to the contents of prospectuses and to liability in respect of statements and non-disclosure in prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly as if —

(*a*) an offer of securities has been made; and

(*b*) persons accepting the subsequent offer in respect of any securities were subscribers therefor,

but without prejudice to the liability, if any, of the persons making the subsequent offer, in respect of statements or non-disclosures in the document or otherwise.

[16/2003; 1/2005]

(3) For the purposes of this Act, it shall, unless the contrary is proved, be sufficient evidence that an allotment of, or an agreement to allot, securities was made with a view to the securities being subsequently offered for sale if it is shown —

(*a*) that an offer of the securities or of any of them for sale was made within 6 months after the allotment or agreement to allot; or

(*b*) that at the date when the offer was made the whole consideration to be received by the entity in respect of the securities had not been so received.

[1/2005]

(4) The requirements of this Division as to prospectuses shall have effect as though the persons making the subsequent offer were persons named in the prospectus as directors or equivalent persons of the entity.

[1/2005]

(5) In addition to complying with the other requirements of this Division, the document making the subsequent offer shall state —

(*a*) the net amount of the consideration received or to be received by the entity in respect of the securities being offered; and

(*b*) the place and time at which a copy of the contract under which the securities have been or are to be allotted may be inspected.

[1/2005]

[Companies, s. 52]

Application and moneys to be held in trust in separate bank account until allotment

258.—(1) All application and other moneys paid prior to allotment by any applicant on account of securities offered to him shall, until the allotment of the securities, be held by the person making the offer of the securities upon trust for the applicant in a separate bank account, being a bank account that is established and kept by the person solely for the purpose of depositing the application and other moneys that are paid by applicants for those securities.

[1/2005]

(2) There shall be no obligation or duty on any bank with which any such moneys have been deposited to enquire into or see to the proper application of those moneys, so long as the bank acts in good faith.

[1/2005]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[Companies, s. 58]

Allotment of securities where prospectus indicates application to list on securities exchange

259.—(1) Where a prospectus states or implies that application has been or will be made for permission for the securities offered thereby to be listed for quotation on any securities exchange, and —

(*a*) the permission is not applied for in the form required by the securities exchange within 3 days from the date of the issue of the prospectus; or

(*b*) the permission is not granted before the expiration of 6 weeks from the date of the issue of the prospectus or such longer period not exceeding 12 weeks from the date of the issue as is, within those 6 weeks, notified to the applicant by or on behalf of the securities exchange,

then —

(i) any allotment whenever made of securities made on an application in pursuance of the prospectus shall, subject to subsection (3), be void; and

(ii) any person who continues to allot such securities after the period specified in paragraph (*a*) or (*b*), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) Where the permission has not been applied for, or has not been granted as mentioned under subsection (1), the person making the offer shall, subject to subsection (3), immediately repay without interest all moneys received from applicants in pursuance of the prospectus, and if any such moneys is not repaid within 14 days after the person making the offer so becomes liable to repay them, then —

(*a*) he shall be liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days; and

(*b*) where the person making the offer is an entity, in addition to the liability of the entity, the directors or equivalent persons of the entity shall be jointly and severally liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days.

[1/2005]

(3) Where in relation to any securities of an entity —

(*a*) permission is not applied for as specified in subsection (1)(*a*); or

(*b*) permission is not granted as specified in subsection (1)(*b*),

the Authority may, on the application of the entity made before any of the securities is purported to be allotted, exempt the allotment of the securities from the provisions of this section, and the Authority shall give notice of such exemption in the *Gazette*.

[1/2005]

(4) A director or an equivalent person shall not be liable under subsection (2) if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

[1/2005]

(5) Any condition requiring or binding any applicant for securities to waive compliance with any requirement of this section or purporting to do so shall be void.

[1/2005]

(6) Without limiting the application of any of its provisions, this section shall have effect —

(*a*) in relation to any securities agreed to be taken by a person underwriting an offer thereof contained in a prospectus as if he had applied therefor in pursuance of the prospectus; and

(*b*) in relation to a prospectus offering securities for sale as if a reference to sale were substituted for a reference to allotment.

[1/2005]

(7) All moneys received from applicants in pursuance of the prospectus shall be kept in a separate bank account so long as the person making the offer may become liable to repay it under subsection (2).

[16/2003; 1/2005]

(8) Any person who contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(9) Where the securities exchange has within the time specified in subsection (1)(*b*) granted permission subject to compliance with any requirements specified by the securities exchange, permission shall be deemed to have been granted by the securities exchange if the directors or equivalent persons have given to the securities exchange an undertaking in writing to comply with the requirements of the securities exchange.

[1/2005]

(10) If any such undertaking referred to in subsection (9) is not complied with, each director or equivalent person who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(11) A person shall not issue a prospectus inviting persons to subscribe for securities of an entity if it includes —

(*a*) a false or misleading statement that permission has been granted for those securities to be listed for quotation on, dealt in or quoted on any securities exchange; or

(*b*) any statement in any way referring to any such permission or to any application or intended application for any such permission, or to listing for quotation, dealing in or quoting the securities, on any securities exchange, or to any requirement of a securities exchange, unless —

(i) that statement is or is to the effect that permission has been granted, or that application has been or will be made to the securities exchange within 3 days from the date of the issue of the prospectus; or

(ii) that statement has been approved by the Authority for inclusion in the prospectus.

[1/2005]

(12) Any person who contravenes subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not

exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(13) Where a prospectus contains a statement to the effect that the memorandum and articles or other constituent document or documents of the issuer comply, or have been drawn so as to comply, with the requirements of any securities exchange, the prospectus shall, unless the contrary intention appears from the prospectus, be deemed for the purposes of this section to imply that application has been, or will be, made for permission for the securities to which the prospectus relates to be listed for quotation on the securities exchange.

[1/2005]

[Companies, s. 53]

Prohibition of allotment unless minimum subscription received

260.—(1) No allotment shall be made of any securities of a company unless —

(*a*) the minimum subscription has been subscribed; and

(*b*) the sum payable on application for the securities so subscribed has been received by the company,

but if a cheque for the sum payable has been received by the company, the sum shall be deemed not to have been received by the company until the cheque is paid by the bank on which it is drawn.

[1/2005]

(2) The minimum subscription shall —

(*a*) be calculated based on the price at which each share or debenture, or each unit of share or debenture, is or will be offered; and

(*b*) be reckoned exclusively of any amount payable otherwise than in cash.

[1/2005]

(3) The amount payable on application on each share or debenture, or each unit of share or debenture, offered shall not be less than 5% of the price at which the share or debenture, or unit of share or debenture, is or will be offered.

[1/2005]

(4) If the conditions referred to in subsection (1)(*a*) and (*b*) have not been satisfied on the expiration of 4 months after the first issue of the prospectus, all moneys received from applicants for securities shall be immediately repaid to them without interest.

[1/2005]

(5) If any money referred to in subsection (4) is not repaid within 5 months after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of 10% per annum from the expiration of the period of 5 months; but a director shall not be so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(6) An allotment made by a company to an applicant in contravention of this section shall be voidable at the option of the applicant which option may be exercised by written notice served on the company —

(*a*) within one month after the holding of the statutory meeting of the company and not later; or

(*b*) in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment and not later,

and the allotment shall be so voidable notwithstanding that the company is in the course of being wound up.

(7) Every director of a company who knowingly contravenes or permits or authorises the contravention of any of the provisions of this section shall be guilty of an offence and shall be liable in addition to the penalty or punishment for the offence to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee has sustained or incurred thereby.

(8) No proceedings for the recovery of any compensation under subsection (7) shall be commenced after the expiration of 2 years from the date of the allotment.

(9) Any condition requiring or binding any applicant for securities to waive compliance with any requirement of this section shall be void.

[1/2005]

[Companies, s. 57]

Subdivision (3) — Debentures

Preliminary provisions

261.—(1) Subject to subsection (1A), this Subdivision shall apply where an entity makes an offer of debentures.

[1/2005]

(1A) Sections 268, 269 and 270 shall not apply if the borrowing entity is a prescribed entity.

[1/2005]

(1B) In subsections (1A) and (1C), "prescribed entity" means —

(*a*) any bank licensed under the Banking Act (Cap. 19); or

(*b*) any entity or entity of a class which has been declared by the Authority, by order published in the *Gazette*, to be a prescribed entity for the purposes of this section.

[1/2005]

(1C) The Authority may, by notice in writing —

(*a*) impose such conditions or restrictions on a prescribed entity as it thinks fit; and

(*b*) at any time vary or revoke any condition or restriction so imposed,

and the prescribed entity shall comply with every such condition or restriction imposed on it by the Authority that has not been revoked by the Authority.

[1/2005]

(1D) Any person who contravenes any condition or restriction imposed under subsection (1C)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not

exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) [*Deleted by Act 1/2005*]

(3) In this Subdivision, a corporation is related to another corporation if it is deemed to be related to that other corporation by virtue of section 6 of the Companies Act (Cap. 50).

Offer of asset-backed securities

262.—(1) An offer of asset-backed securities shall be made only if they are issued by —

(*a*) a special purpose vehicle other than a trust; or

(*b*) the trustee of a trust that is a special purpose vehicle.

[1/2005]

(2) The Authority may exempt any person or class of persons from this section, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(3) In this section —

"asset-backed securities" means debentures or units of debentures issued pursuant to a securitisation transaction;

"securitisation transaction" means an arrangement that involves the sale, transfer or assignment of assets to a special purpose vehicle where —

(*a*) such sale, transfer or assignment is funded by the issue of debentures or units of debentures (whether by that special purpose vehicle or another special purpose vehicle); and

(*b*) payments in respect of such debentures or units of debentures are or will be principally derived, directly or indirectly, from the cash flows generated by the assets;

"special purpose vehicle" means an entity that is established solely in order to, or a trust that is established solely in order for its trustee to, do either or both of the following:

(*a*) hold (whether as a legal or equitable owner) the assets from which payments to holders of any asset-backed securities are or will be primarily derived;

(*b*) issue any asset-backed securities.

[1/2005]

263. [*Repealed by Act 16/2003*]

264. [*Repealed by Act 16/2003*]

Power of court in relation to certain irredeemable debentures

265.—(1) Notwithstanding anything in any debenture or trust deed, the security for any debentures which are irredeemable or redeemable only on the happening of a contingency shall,

if the court so orders, be enforceable, immediately or at such other time as the court directs if, on the application of the trustee for the holders of the debentures or (where there is no trustee) on the application of any holder of the debentures, the court is satisfied that —

(*a*) at the time of the issue of the debentures the assets of the borrowing entity which constituted or were intended to constitute the security therefor were sufficient or likely to become sufficient to discharge the principal debt and any interest thereon;

(*b*) the security, if realised under the circumstances existing at the time of the application, would be likely to bring not more than 60% of the principal sum of moneys outstanding (regard being had to all prior charges and charges ranking pari passu if any); and

(*c*) the assets covered by the security, on a fair valuation on the basis of a going concern after allowing a reasonable amount for depreciation are worth less than the principal sum and the borrowing entity is not making sufficient profit to pay the interest due on the principal sum or (where no definite rate of interest is payable) interest thereon at such rate as the court considers would be a fair rate to expect from a similar investment.

[1/2005]

(2) Subsection (1) shall not affect any power to vary rights or accept any compromise or arrangement created by the terms of the debentures or the relevant trust deed or under a compromise or arrangement between the borrowing entity and creditors.

[1/2005]

[Companies, s. 100]

Duties of trustees

266.—(1) A trustee for the holders of debentures shall —

(*a*) at all times exercise due diligence and vigilance in carrying out its functions and duties, and in safeguarding the rights and interests of the holders of debentures;

(*b*) ensure that it has the ability and powers to perform all of its duties as set out in the trust deed;

(*c*) ensure that any trustee appointed for the holders of any collateral upon which the debentures are secured is subject to duties that are at least equivalent to those imposed under paragraphs (*a*) and (*b*); and

(*d*) comply with such other requirements as may be prescribed by the Authority by regulations made under section 341, or as may be imposed by the Authority in respect of any particular offer or transaction relating to the debentures.

[Act 34 of 2012 wef 18/03/2013]

(2) Where, after due inquiry, the trustee for the holders of debentures at any time is of the opinion that the assets of the borrowing entity and of any of its guarantor entities which are or should be available whether by way of security or otherwise, are insufficient, or likely to become insufficient, to discharge the principal debt as and when it becomes due, the trustee may apply to the Authority for an order under this subsection.

[1/2005]

(3) The Authority, on such application —

(*a*) after giving the borrowing entity an opportunity of making representations in relation to that application, by order in writing served on the entity at its registered office in Singapore, may impose such restrictions on the activities of the borrowing entity, including restrictions on advertising for deposits or loans and on borrowing by the entity as the Authority thinks necessary for the protection of the interests of the holders of the debentures; or

(*b*) may, and if the borrowing entity so requires, shall direct the trustee to apply to the court for an order under subsection (5); and the trustee shall apply accordingly.

[1/2005]

(4) Where —

(*a*) after due inquiry, the trustee at any time is of the opinion that the assets of the borrowing entity and of any of its guarantor entities which are or should be available, whether by way of security or otherwise, are insufficient or likely to become insufficient, to discharge the principal debt as and when it becomes due; or

(*b*) the borrowing entity has contravened an order made by the Authority under subsection (2),

the trustee may, and where the borrowing entity has requested the trustee to do so, shall apply to the court for an order under subsection (5).

[1/2005]

(5) Where an application is made to the court under subsection (3) or (4), the court may, after giving the borrowing entity an opportunity to be heard, by order, do all or any of the following things:

(*a*) direct the trustee to convene a meeting of the holders of the debentures for the purpose of placing before them such information relating to their interests and such proposals for the protection of their interests as the trustee considers necessary or appropriate, and of obtaining their directions in relation thereto and give such directions in relation to the conduct of the meeting as the court thinks fit;

(*b*) stay all or any actions or proceedings before any court by or against the borrowing entity;

(*c*) restrain the payment of any moneys by the borrowing entity to the holders of debentures of the borrowing entity or to any class of such holders;

(*d*) appoint a receiver of such of the property as constitutes the security, if any, for the debentures;

(*e*) give such further directions from time to time as may be necessary to protect the interests of the holders of the debentures, the members of the borrowing entity or any of its guarantor entities or the public,

but in making any such order the court shall have regard to the rights of all creditors of the borrowing entity.

[1/2005]

(6) The court may vary or rescind any order made under subsection (5) as the court thinks fit.

(7) A trustee in making any application to the Authority or to the court shall have regard to the nature and kind of the security given when the offer of the debentures was made, and if no security was given shall have regard to the position of the holders of the debentures as unsecured creditors of the borrowing entity.

[1/2005]

(8) A trustee may rely upon any certificate or report given or statement made by any advocate and solicitor, auditor or officer of the borrowing entity or guarantor entity if it has reasonable grounds for believing that such advocate and solicitor, auditor or officer was competent to give or make the certificate, report or statement.

[1/2005]

[Companies, s. 101]

Powers of trustee to apply to court for directions, etc.

267.—(1) A trustee for the holders of debentures may apply to the court —

(*a*) for directions in relation to any matter arising in connection with the performance of the functions of the trustee; or

(*b*) to determine any question in relation to the interests of the holders of debentures.

(2) The court may —

(*a*) give such directions to the trustee as the court thinks fit; and

(*b*) if satisfied that the determination of the question will be just and beneficial, accede wholly or partially to any such application on such terms and conditions as the court thinks fit or make such other order on the application as the court thinks just.

(3) The court may, on an application under this section, order a meeting of all or any of the holders of debentures to be called to consider any matters in which they are concerned and to advise the trustee on those matters and may give such ancillary or consequential directions as the court thinks fit.

(4) The meeting shall be held and conducted in such manner as the court directs, under the chairmanship of a person nominated by the trustee or such other person as the meeting appoints.

[Companies, s. 102]

Right of Authority, securities exchange and holders of debentures to apply to court for order

267A. Without prejudice to any other right of action or remedy in any written law or rule of law, a holder of debentures, the Authority or a securities exchange (in a case where the debentures are quoted or listed for quotation on that securities exchange) may apply to the court for an order to compel the trustee for the holders of such debentures to perform his duties as set

out in the trust deed relating to those debentures, and the court may either make the order on such terms as it considers appropriate, or dismiss the application.

[16/2003]

Obligations of borrowing entity

268.—(1) Where there is a trustee for the holders of any debentures of a borrowing entity, the directors or equivalent persons of the borrowing entity shall —

(*a*) at the end of a period not exceeding 3 months ending on a day (being a day after the date of the issue of the relevant prospectus) which the trustee is hereby required to notify the borrowing entity in writing; and

(*b*) at the end of each succeeding period thereafter, being a period of 3 months or such shorter time as the trustee may, in any special circumstances allow,

prepare a report that relates to that period and complies with the requirements of subsection (2) and within one month after the end of each such period lodge a copy of the report relating to that period with the Authority and with the trustee.

[1/2005]

(2) The report referred to in subsection (1) shall be signed by not less than 2 of the directors or equivalent persons on behalf of all of them and shall set out in detail any matters adversely affecting the security or the interests of the holders of the debentures and, without affecting the generality of subsection (1), shall state —

(*a*) whether or not the limitations on the amount that the entity may borrow have been exceeded;

(*b*) whether or not the borrowing entity and each of its guarantor entities have observed and performed all the covenants and provisions binding upon them respectively by or pursuant to the debentures or any trust deed;

(*c*) whether or not any event has happened which has caused or could cause the debentures or any provision of the relevant trust deed to become enforceable and, if so, particulars of that event;

(*d*) whether or not any circumstances affecting the borrowing entity, its subsidiaries or its guarantor entities or any of them have occurred which materially affect any security or charge included in or created by the debentures or any trust deed and, if so, particulars of those circumstances;

(*e*) whether or not there has been any substantial change in the nature of the business of the borrowing entity or any of its subsidiaries or any of its guarantor entities since the debentures were first issued which has not previously been reported upon as required by this section and, if so, particulars of that change; and

(*f*) where the borrowing entity has deposited money with or lent money to or assumed any liability of a corporation which is related to the borrowing entity, particulars of —

(i)

the total amounts so deposited or lent and the extent of any liability so assumed during the period covered by the report; and

(ii) the total amounts owing to the borrowing entity in respect of money so deposited or lent and the extent of any liability so assumed as at the end of the period covered by the report,

distinguishing between deposits, loans and assumptions of liabilities which are secured and those which are unsecured, but not including any deposit with or loan to or any liability assumed on behalf of a corporation if that corporation has guaranteed the repayment of the debentures of the borrowing entity and has secured the guarantee by a charge over its assets in favour of the trustee for the holders of the debentures of the borrowing entity.

[1/2005]

(3) Any person who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $20,000 and, in the case of a continuing offence, to a further fine not exceeding $2,000 for every day or part thereof during which the offence continues after conviction.

(4) Where there is a trustee for the holders of any debentures issued by a borrowing entity, the borrowing entity and each of its guarantor entities which has guaranteed the repayment of the moneys raised by the issue of those debentures shall, whether or not any demand therefor has been made —

(*a*) in writing furnish the trustee, within 21 days after the creation of the charge, with the particulars of any charge created by the entity or the guarantor entity, as the case requires; and

(*b*) when the amount to be advanced on the security of the charge is indeterminate, in writing furnish the trustee, within 7 days after the advance, with particulars of the amount or amounts in fact advanced.

[1/2005]

(5) Where any such advance referred to in subsection (4)(*b*) is merged in a current account with bankers or trade creditors, it shall be sufficient for particulars of the net amount outstanding in respect of any such advance to be furnished every 3 months.

(6) The directors or equivalent persons of every borrowing entity and of every guarantor entity shall cause to be made out and lodged with the Authority and with the trustee for the holders of the debentures, if any —

(*a*) a profit and loss account for the first 6 months of every financial year of the entity and a balance-sheet as at the end of that period, not later than 3 months after the expiration of the period of 6 months; and

(*b*) a profit and loss account for every financial year of the entity and a balance-sheet as at the end of that period, not later than 5 months after the expiration of that financial year.

[1/2005]

(7) Any person who fails to comply with subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $15,000 and, in the case of a continuing offence, to a further fine not exceeding $1,000 for every day or part thereof during which the offence continues after conviction.

(8) Section 201(4) to (7) and (11) to (16) and section 207(1), (2) and (7) of the Companies Act (Cap. 50), shall, with such adaptations as are necessary, be applicable to every profit and loss account and balance-sheet made out and lodged under subsection (6) as if that profit and loss account and balance-sheet were a profit and loss account and balance-sheet referred to in those sections.

(9) Where —

(*a*) the directors or equivalent persons of a borrowing entity do not lodge with the trustee for the holders of debentures a report as required by subsection (1); or

(*b*) the directors or equivalent persons of a borrowing entity or the directors of a guarantor entity do not lodge with the trustee the balance-sheets and profit and loss accounts as required by subsection (6) within the time prescribed,

the trustee shall immediately lodge notice of that fact with the Authority.

[1/2005]

(10) Notwithstanding anything in subsection (8) —

(*a*) a profit and loss account and balance-sheet of a borrowing entity or its guarantor entity required to be made out and lodged in accordance with subsection (6)(*a*) need not be audited; and

(*b*) a profit and loss account and balance-sheet of a borrowing entity or its guarantor entity required to be made out and lodged in accordance with subsection (6)(*b*) need not be audited, or the audit thereof may be of a limited nature or extent, if the trustee for the holders of the debentures of the borrowing entity has, by notice in writing, consented to the audit being dispensed with or being of a limited nature or extent, as the case may be.

[2/2009 wef 29/07/2009]

(11) Where the trustee has by notice in writing given his consent under subsection (10), the directors or equivalent persons of the borrowing entity, or the directors or equivalent persons of the guarantor entity, in respect of whose profit and loss account and balance-sheet the notice was given, shall lodge with the Authority a copy of the notice at the time when the profit and loss account and balance-sheet to which the notice relates are lodged with the Authority.

[1/2005]

(12) Notwithstanding anything in this section, a profit and loss account and balance-sheet of a borrowing entity or its guarantor entity required to be made out and lodged in accordance with subsection (6) may, unless the trustee for the holders of the debentures of the borrowing entity otherwise requires in writing, be based upon the value of the stock in trade of the borrowing entity or the guarantor entity, as the case may be, as reasonably estimated by the directors or equivalent persons of the borrowing entity or guarantor entity.

[1/2005]

(13) The estimation of the directors or equivalent persons referred to in subsection (12) shall be made on the basis of the values of such stock in trade as adopted for the purpose of the profit and loss account and balance-sheet of that entity laid before the entity at its last preceding annual general meeting and certified in writing by the directors or equivalent persons as such.

[1/2005]

[Companies, s. 103]

Obligation of guarantor entity to furnish information

269.—(1) For the purpose of the preparation of a report that, by this Subdivision, is required to be signed by or on behalf of the directors or equivalent persons, or persons approved by the Authority, of a borrowing entity or any of them, that borrowing entity may, by notice in writing, require any of its guarantor entities to furnish it with any information relating to that guarantor entity which is, by this Subdivision, required to be contained in that report.

[1/2005]

(2) The guarantor entity shall furnish the borrowing entity with the information required under subsection (1) before such date, being a date not earlier than 14 days after the notice is given, as may be specified in that behalf in the notice.

[1/2005]

(3) A guarantor entity which fails to comply with a requirement contained in a notice given under subsection (1) and every officer or equivalent person of that entity who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $20,000 and, in the case of a continuing offence, to a further fine not exceeding $2,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[Companies, s. 104]

Loans and deposits to be immediately repayable on certain events

270.—(1) Where there is, in any prospectus issued in connection with an offer of debentures, a statement as to any particular purpose or project for which the moneys received by the borrowing entity in response to the offer are to be applied, the borrowing entity shall, where there is a trustee for the holders of those debentures, from time to time make reports to the trustee as to the progress that has been made towards achieving such purpose or completing such project.

[16/2003; 1/2005]

(2) Each such report shall be included in the report required to be furnished to the trustee for the holders of the debentures under section 268(1).

(3) When it appears to the trustee for the holders of the debentures that such purpose or project has not been achieved or completed —

(*a*) within the time stated in the prospectus within which the purpose or project is to be achieved or completed; or

(*b*) where no such time was stated, within a reasonable time,

the trustee may and, if in his opinion it is necessary for the protection of the interests of the holders of the debentures, shall give notice in writing to the borrowing entity requiring it to

repay the moneys so received by the borrowing entity and, within one month after such notice is given, lodge with the Authority a copy thereof.

[1/2005]

(4) The trustee shall not give notice under subsection (3) if he is satisfied —

(*a*) that the purpose or project has been substantially achieved or completed;

(*b*) that the interests of the holders of debentures have not been materially prejudiced by the failure to achieve or complete the purpose or project within the time stated in the prospectus or within a reasonable time; or

(*c*) that the failure to achieve the purpose or project was due to circumstances beyond the control of the borrowing entity that could not reasonably have been foreseen by the borrowing entity at the time that the prospectus was issued.

[1/2005]

(5) Upon receipt by the borrowing entity of a notice referred to in subsection (3), the borrowing entity shall be liable to repay, and on demand in writing by a person entitled thereto shall immediately repay to him any moneys owing to him as the result of a loan or deposit made in response to the offer unless —

(*a*) before the moneys were accepted by the borrowing entity, the borrowing entity had given notice in writing to the persons from whom the moneys were received specifying the purpose or project for which the moneys would in fact be used and the moneys were accepted by the borrowing entity accordingly; or

(*b*) the borrowing entity by notice in writing served on the holders of the debentures —

(i) had specified the purpose or project for which the moneys would in fact be applied by the borrowing entity; and

(ii) had offered to repay the moneys to the holders of the debentures, and that person had not within 14 days after the receipt of the notice, or such longer time as was specified in the notice, in writing demanded from the borrowing entity repayment of the money.

[1/2005]

(6) Where the borrowing entity has given a notice in writing as provided in subsection (5), specifying the purpose or project for which the moneys will in fact be applied by the borrowing entity, this section shall apply and have effect as if the purpose or project so specified in the notice was the particular purpose or project specified in the prospectus as the purpose or project for which the moneys were to be applied.

[1/2005]

[Companies, s. 105]

Liability of trustees for debenture holders

271.—(1) Subject to this section, any provision contained in a trust deed relating to or securing an issue of debentures, or in any contract with the holders of debentures secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from

or indemnifying him against liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee.

(2) Subsection (1) shall not invalidate —

(*a*) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or

(*b*) any provision enabling such a release to be given —

(i) on the agreement thereto of a majority of not less than three fourths in nominal value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and

(ii) either with respect to specific acts or omissions or on the dissolution of the trustee or on his ceasing to act.

(3) Subsection (1) shall not operate —

(*a*) to invalidate any provision in force on 29th December 1967 so long as any trustee then entitled to the benefit of that provision remains a trustee of the deed in question; or

(*b*) to deprive any trustee of any exemption or right to be indemnified in respect of anything done or omitted to be done by the trustee while any such provision was in force.

[Companies, s. 106]

Subdivision (4) — Exemptions

Issue or transfer of securities for no consideration

272.—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of shares or debentures of an entity if no consideration is or will be given for the issue or transfer of the shares or debentures.

[1/2005]

(2) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of units of shares or debentures of an entity if —

(*a*) no consideration is or will be given for the issue or transfer of the units of shares or debentures; and

(*b*) no consideration is or will be given for the underlying shares or debentures on the exercise or conversion of the units of shares or debentures.

[1/2005]

Small offers

272A.—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to personal offers of securities of an entity by a person if —

(*a*) the total amount raised by the person from such offers within any period of 12 months does not exceed —

(i) $5 million (or its equivalent in a foreign currency); or

(ii) such other amount as may be prescribed by the Authority in substitution for the amount specified in sub-paragraph (i);

(*b*) in respect of each offer, the person making the offer gives the person to whom he makes the offer —

(i) the following statement in writing:

"This offer is made in reliance on the exemption under section 272A (1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore."; and

(ii) a notification in writing that the securities to which the offer (referred to in this sub-paragraph as the initial offer) relates shall not be subsequently sold to any person, unless the offer resulting in such subsequent sale is made —

(A) in compliance with Subdivisions (2) and (3) of this Division;

(B) in reliance on subsection (8)(*c*) or any other exemption under any provision of this Subdivision (other than this subsection); or

(C) where at least 6 months have elapsed from the date the securities were acquired under the initial offer, in reliance on the exemption under this subsection;

(*c*) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*d*) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[2/2009 wef 29/07/2009]
[1/2005]

(*e*) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 250; or

(ii) the person making the offer has before making the offer informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) For the purposes of subsection (1)(*b*), where any notice, circular, material, publication or other document is issued in connection with the offer, the person making the offer is deemed to have given the statement and notification to the person to whom he makes the offer in accordance with that provision if such statement or notification is contained in the first page of that notice, circular, material, publication or document.

[1/2005]

(3) For the purposes of subsection (1), a personal offer of securities is one that —

(*a*) may be accepted only by the person to whom it is made; and

(*b*) is made to a person who is likely to be interested in that offer, having regard to —

(i) any previous contact before the date of the offer between the person making the offer and that person;

(ii) any previous professional or other connection established before that date between the person making the offer and that person; or

(iii) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to —

(A) the person making the offer;
(B) the holder of a capital markets services licence to deal in securities;
(C) an exempt person in respect of dealing in securities;
(D) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;
(E) an exempt financial adviser as defined in section 2(1) of the Financial Advisers Act; or
(F) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services,

that he is interested in offers of that kind.

[1/2005]

(4) In determining the amount raised by an offer, the following shall be included:

(*a*) the amount payable for the securities at the time they are allotted, issued or sold;

(*b*) if the securities are issued partly-paid, any amount payable at a future time if a call is made;

(*c*) if the securities carry a right (by whatever name called) to be converted into other securities or to acquire other securities, any amount payable on the exercise of the right to convert them into, or to acquire, other securities.

[1/2005]

(5) In determining whether the amount raised by a person from offers within a period of 12 months exceeds the applicable amount specified in subsection (1)(*a*), each amount raised —

(*a*) by that person from any offer of securities issued by the same entity; or

(*b*) by that person or another person from any offer of securities of an entity, units or derivatives of units in a business trust, or units in a collective investment scheme, which is a closely related offer,

if any, within that period in reliance on the exemption under subsection (1), section 282V(1) or 302B(1) shall be included.

[1/2005]

(6) Whether an offer is a closely related offer under subsection (5) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(7) For the purpose of this section, an offer of securities made by a person acting as an agent of another person shall be treated as an offer made by that other person.

[1/2005]

(8) Where securities acquired through an offer made in reliance on the exemption under subsection (1) (referred to in this subsection as an initial offer) are subsequently sold by the person who acquired the securities to another person, Subdivisions (2) and (3) of this Division shall apply to the offer from the first-mentioned person to the second-mentioned person which resulted in that sale, unless —

(*a*) such offer is made in reliance on an exemption under any provision of this Subdivision (other than this section);

(*b*) such offer is made in reliance on an exemption under subsection (1) and at least 6 months have elapsed from the date the securities were acquired under the initial offer; or

(*c*) such offer is one —

(i) that may be accepted only by the person to whom it is made;

(ii) that is made to a person who is likely to be interested in the offer having regard to —

(A) any previous contact before the date of the offer between the person making the initial offer and that person;

(B) any previous professional or other connection established before that date between the person making the initial offer and that person; or

(C) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to —

(CA) the person making the initial offer;

(CB) the holder of a capital markets services licence to deal in securities;

(CC) an exempt person in respect of dealing in securities;

(CD) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;

(CE) an exempt financial adviser as defined in section 2 (1) of the Financial Advisers Act; or

(CF) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services,

that he is interested in offers of that kind;

(iii) in respect of which the first-mentioned person has given the second-mentioned person —

(A) the following statement in writing:

"This offer is made in reliance on the exemption under section 272A(8)(*c*) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore."; and

(B) a notification in writing that the securities being offered shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made —

(BA) in compliance with Subdivisions (2) and (3) of this Division;

(BB) in reliance on this subsection or any other exemption under any provision of this Subdivision (other than subsection (1)); or

(BC)

where at least 6 months have elapsed from the date the securities were acquired under the initial offer, in reliance on the exemption under subsection (1);

(iv) that is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer; and

(v) in respect of which no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(A) the holder of a capital markets services licence to deal in securities;

(B) an exempt person in respect of dealing in securities; or

(C) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing.

[1/2005]

(9) Subsection (2) shall apply, with the necessary modifications, in relation to the statement and notification referred to in subsection (8)(*c*)(iii).

[1/2005]

(10) In subsections (1)(*c*) and (8)(*c*)(iv), "advertisement" means —

(*a*) a written or printed communication;

(*b*) a communication by radio, television or other medium of communication; or

(*c*) a communication by means of a recorded telephone message,

that is published in connection with an offer of securities, but does not include —

(i) a document —

(A) purporting to describe the securities being offered, or the business and affairs of the person making the offer, the issuer or, where applicable, the underlying entity; and

(B) purporting to have been prepared for delivery to and review by persons to whom the offer is made so as to assist them in making an investment decision in respect of the securities being offered;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

[2/2009 wef 29/07/2009]

(iii) a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the underlying

entity or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting.

[1/2005]

(11) In subsection (10)(i)(A), the reference to the affairs of the person making the offer, the issuer or, where applicable, the underlying entity shall —

(*a*) in the case where the person making the offer, the issuer or the underlying entity is a corporation, be construed as including a reference to the matters referred to in section 2(2); and

(*b*) in any other case, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

Private placement

272B.—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to offers of securities of an entity that are made by a person if —

(*a*) the offers are made to no more than 50 persons within any period of 12 months;

(*b*) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*c*) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(*d*) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 250; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) The Authority may prescribe such other number of persons in substitution for the number specified in subsection (1)(*a*).

[1/2005]

(3) In determining whether offers of securities by a person are made to no more than the applicable number of persons specified in subsection (1)(*a*) within a period of 12 months, each person to whom —

(*a*) an offer of securities issued by the same entity is made by the first-mentioned person; or

(*b*) an offer of securities of an entity, units or derivatives of units in a business trust, or units in a collective investment scheme, is made by the first-mentioned person or another person where such offer is a closely related offer,

if any, within that period in reliance on the exemption under this section, section 282W or 302C shall be included.

[1/2005]

(4) Whether an offer is a closely related offer under subsection (3) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(5) For the purposes of subsection (1) —

(*a*) an offer of securities to an entity or to a trustee shall be treated as an offer to a single person, provided that the entity or trust is not formed primarily for the purpose of acquiring the securities which are the subject of the offer;

(*b*) an offer of securities to an entity or to a trustee shall be treated as an offer to the equity owners, partners or members of that entity, or to the beneficiaries of the trust, as the case may be, if the entity or trust is formed primarily for the purpose of acquiring the securities which are the subject of the offer;

(*c*) an offer of securities to 2 or more persons who will own the securities acquired as joint owners shall be treated as an offer to a single person;

(*d*) an offer of securities to a person acting on behalf of another person (whether as an agent or otherwise) shall be treated as an offer made to that other person;

(*e*) offers of securities made by a person as an agent of another person shall be treated as offers made by that other person;

(*f*) where an offer is made to a person with a view to another person acquiring an interest in those securities by virtue of section 4, only the second-mentioned person shall be counted for the purposes of determining whether offers of the securities are made to no more than the applicable number of persons specified in subsection (1)(*a*); and

(*g*) where —

(i)

an offer of securities is made to a person in reliance on the exemption under subsection (1) with a view to those securities being subsequently offered for sale to another person; and

(ii) that subsequent offer —

(A) is not made in reliance on an exemption under any provision of this Subdivision; or

(B) is made in reliance on an exemption under subsection (1) or section 280,

both persons shall be counted for the purposes of determining whether offers of the securities are made to no more than the applicable number of persons specified in subsection (1)(*a*).

[1/2005]

(6) In subsection (1)(*b*), "advertisement" has the same meaning as in section 272A(10).

[1/2005]

Offer made under certain circumstances

273.—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities if —

(*a*) it is made in connection with a take-over offer which is in compliance with the Take-over Code;

(*b*) it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in an unlisted corporation or some or all of the shares of a particular class in an unlisted corporation —

(i) to all members of the corporation or all members of the corporation holding shares of that class; or

(ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,

where such offer is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs of the country in which the corporation was incorporated;

(*c*) it is made in connection with a proposed compromise or arrangement between —

(i) an unlisted corporation and its creditors or a class of them; or

(ii) an unlisted corporation and its members or a class of them,

and such proposed compromise or arrangement and the execution thereof is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs, compromises and arrangements of the country in which the corporation was incorporated;

(*ca*)

it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in a corporation or some or all of the shares of a particular class in a corporation —

(i) to all members of the corporation or all members of the corporation holding shares of that class; or

(ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,

and such offer complies with the Take-over Code as though the Take-over Code is applicable to it;

(*cb*) it is made in connection with a proposed compromise or arrangement between —

(i) a corporation and its creditors or a class of them; or

(ii) a corporation and its members or a class of them,

and such proposed compromise or arrangement and the execution thereof complies with the Take-over Code as though the Take-over Code is applicable to it;

(*cc*) it is an offer to enter into an underwriting agreement relating to securities;

(*cd*) it is an offer of securities of an entity —

(i) being an entity which is formed or constituted in Singapore or otherwise, whose securities are not listed for quotation on a securities exchange; or

(ii) being an entity which is not formed or constituted in Singapore, whose securities are listed for quotation on a securities exchange and such listing is not a primary listing,

that is made to existing members or debenture holders of that entity (whether or not it is renounceable in favour of persons other than existing members or debenture holders);

(*ce*) it is an offer of shares or debentures of an entity made to any existing member or debenture holder of the entity whose shares are listed for quotation on a securities exchange;

(*cf*) it is an offer of debentures of an entity made to any existing debenture holder of the entity whose debentures are listed for quotation on a securities exchange;

(*cg*) it is an offer of units of shares or debentures of an entity made to any existing member or debenture holder of the entity whose shares are listed for quotation on a securities exchange, where such units may only be exercised or converted by any existing member or debenture holder into shares or debentures, as the case may be, of the entity;

(*ch*) it is an offer of units of debentures of an entity made to any existing debenture holder of the entity whose debentures are listed on a securities exchange, where

such units may only be exercised or converted by any existing debenture holder into debentures of the entity;

(*ci*) it is an offer of securities of a corporation made in the circumstances specified under section 306 of the Companies Act (Cap. 50);

(*d*) it is an offer of shares or debentures (not being such excluded shares or excluded debentures as may be prescribed by the Authority) that have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange;

[2/2009 wef 29/07/2009]

(*e*) it is an offer of units of shares or debentures (not being such excluded units of shares or debentures as may be prescribed by the Authority) where —

(i) the units of shares or debentures have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange; or

[2/2009 wef 29/07/2009]

(ii) an application has been or will be made for permission for the units of shares or debentures to be listed for quotation or quoted on a securities exchange and the shares or debentures have been previously issued and are listed for quotation on a securities exchange or a recognised securities exchange; or

[2/2009 wef 29/07/2009]

(*f*) it is made (whether or not in relation to securities that have been previously issued) by an entity to a qualifying person, where the securities are to be held by or for the benefit of the qualifying person and are the securities of the entity or any of its related parties.

[16/2003; 1/2005]

(1A) An offer of securities does not come within subsection (1)(*d*) or (*e*) if —

(*a*) the securities being offered are borrowed by the issuer from an existing shareholder, holder of a debenture, or holder of units of shares or debentures, solely for the purpose of facilitating the offer of securities by the issuer; and

(*b*) such borrowing is made under an agreement or arrangement between the issuer and the shareholder or holder which promises the issue or allotment of securities by the issuer to the shareholder or holder at the same time or shortly after the offer.

[1/2005]

(2) An offer of securities comes within subsection (1)(*f*) only if no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(*a*) the holder of a capital markets services licence to deal in securities;

(*b*) an exempt person in respect of dealing in securities; or

(*c*) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing.

[1/2005]

(3) [*Deleted by Act 1/2005*]

(4) For the purposes of subsection (1)(*f*), a person is a qualifying person in relation to an entity if he is a bona fide director or equivalent person, former director or equivalent person, consultant, adviser, employee or former employee of the entity or a related corporation of that entity (being a corporation), or if he is the spouse, widow, widower or a child, adopted child or step-child below the age of 18, of such director or equivalent person, former director or equivalent person, employee or former employee.

[1/2005]

(5) Where, on the application of any person interested, the Authority declares that circumstances exist whereby —

(*a*) the cost of providing a prospectus for an offer of securities outweighs the resulting protection to investors; or

(*b*) it would not be prejudicial to the public interest if a prospectus were dispensed with for an offer of securities,

then Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to such an offer for a period of 6 months from the date of the declaration.

[1/2005]

(6) The Authority may, on making a declaration under subsection (5), impose such conditions or restrictions on the offer as it may determine.

[16/2003; 1/2005]

(7) A declaration made under subsection (5) shall be final.

[16/2003]

(8) Any person who contravenes any of the conditions or restrictions specified in the declaration made under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[16/2003]

(9) In subsection (1)(*b*) and (*c*), "unlisted corporation" means a corporation —

(*a*) that is not a company; and

(*b*) the securities of which are not listed for quotation on any securities exchange.

[1/2005]

(10) In subsection (1)(*ca*) and (*cb*), "corporation" means a corporation that is not a company.

[1/2005]

[Companies, s. 106B]

Offer made to institutional investors

274. Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities, whether or not they have been previously issued, made to an institutional investor.

[1/2005]

[Companies, s. 106C]

Offer made to accredited investors and certain other persons

275.—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities, whether or not they have been previously issued, where the offer is made to a relevant person, if —

(*a*) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*b*) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(*c*) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 250; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(1A) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities to a person who acquires the securities as principal, whether or not the securities have been previously issued, if —

(*a*) the offer is on terms that the securities may only be acquired at a consideration of not less than $200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(*b*) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*c*) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(*d*) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 250; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) In this section —

"advertisement" means —

(*a*) a written or printed communication;

(*b*) a communication by radio, television or other medium of communication; or

(*c*) a communication by means of a recorded telephone message,

that is published in connection with an offer in respect of securities, but does not include —

(i) an information memorandum;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

[2/2009 wef 29/07/2009]

(iii)

a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the underlying entity or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;

"information memorandum" means a document —

(*a*) purporting to describe the securities being offered, or the business and affairs of the person making the offer, the issuer or, where applicable, the underlying entity; and

(*b*) purporting to have been prepared for delivery to and review by relevant persons and persons to whom an offer referred to in subsection (1A) is to be made so as to assist them in making an investment decision in respect of the securities being offered;

"relevant person" means —

(*a*) an accredited investor;

(*b*) a corporation the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor;

(*c*) a trustee of a trust the sole purpose of which is to hold investments and each beneficiary of which is an individual who is an accredited investor;

(*d*) an officer or equivalent person of the person making the offer (such person being an entity) or a spouse, parent, brother, sister, son or daughter of that officer or equivalent person; or

(*e*) a spouse, parent, brother, sister, son or daughter of the person making the offer (such person being an individual).

[1/2005]

(2A) In the definition of "information memorandum" in subsection (2), the reference to the affairs of the person making the offer, the issuer or, where applicable, the underlying entity shall —

(*a*) in the case where the person making the offer, the issuer or the underlying entity is a corporation, be construed as including a reference to the matters referred to in section 2(2); and

(*b*) in any other case, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

(3) Notwithstanding any requirement in section 99 or any regulation made thereunder that a person has to deal in securities for his own account with or through a person prescribed by the Authority so that he can qualify as an exempt person, a person who acquires securities under section 274 or this section for his own account shall be considered an exempt person even though he does not comply with that requirement.

[1/2005]

(4) The Authority may, by order published in the *Gazette*, specify an amount in substitution of any amount specified in subsection (1A)(*a*).

[1/2005]

[Companies, s. 106D]

Offer of securities acquired pursuant to section 274 or 275

276.—(1) Notwithstanding sections 272A, 272B, 273(1)(*d*), (*e*) and (*f*), 277, 278 and 279 but subject to subsection (7), where securities initially acquired pursuant to an offer made in reliance on an exemption under section 274 or 275 are sold within the period of 6 months from the date of the initial acquisition to any person other than —

(*a*) an institutional investor;

(*b*) a relevant person as defined in section 275(2); or

(*c*) any person pursuant to an offer referred to in section 275(1A),

then Subdivisions (2) and (3) of this Division shall apply to the offer resulting in that sale.

[1/2005]
[2/2009 wef 29/07/2009]

(1A) The reference to the sale of securities under subsection (1) shall, in a case where the securities initially acquired are debentures, or units of shares or debentures, with an attached right of conversion into shares or debentures, include a reference to the sale of the converted shares or debentures.

[2/2009 wef 29/07/2009]

(2) Where securities initially acquired pursuant to an offer made in reliance on an exemption under section 274 or 275 are sold to —

(*a*) an institutional investor;

(*b*) a relevant person as defined in section 275(2); or

(*c*) any person pursuant to an offer referred to in section 275(1A),

Subdivisions (2) and (3) of this Division shall not apply to the offer resulting in that sale.

[1/2005]

(3) Subject to subsection (7), securities of a corporation (other than a corporation that is an accredited investor) —

(*a*) the sole business of which is to hold investments; and

(*b*) the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor,

shall not be transferred within 6 months after the corporation has acquired any securities pursuant to an offer made in reliance on an exemption under section 275 unless —

(i) that transfer —

(A) is made only to institutional investors or relevant persons as defined in section 275(2); or

(B) arises from an offer referred to in section 275(1A);

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]
[2/2009 wef 29/07/2009]

(4) Subject to subsection (7), where —

(*a*) the sole purpose of a trust (other than a trust the trustee of which is an accredited investor) is to hold investments; and

(*b*) each beneficiary of the trust is an individual who is an accredited investor,

the beneficiaries' rights and interest (howsoever described) in the trust shall not be transferred within 6 months after securities are acquired for the trust pursuant to an offer made in reliance on an exemption under section 275 unless —

(i) that transfer —

(A) is made only to institutional investors or relevant persons as defined in section 275(2); or

(B) arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than $200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]
[2/2009 wef 29/07/2009]

(5) For the avoidance of doubt, the reference to beneficiaries in subsection (4) shall include a reference to unitholders of a business trust and participants of a collective investment scheme.

[1/2005]

(6) For the avoidance of doubt, where any securities are acquired pursuant to an offer made in reliance on an exemption under section 274 or 275, an offer to sell those securities may be made in reliance on an exemption under section 273(1)(*d*) or (*e*) after 6 months have elapsed from the date of the first-mentioned offer.

[1/2005]

(7) Subsections (1), (3) and (4) shall not apply where the securities of the corporation acquired are of the same class as other securities of the corporation —

(*a*) an offer of which has previously been made in or accompanied by a prospectus; and

(*b*) which are listed for quotation on a securities exchange.

[2/2009 wef 29/07/2009]

[Companies, s. 106E]

Offer made using offer information statement

277.—(1) Subject to subsection (1A), Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities (not being such securities as may be prescribed by the Authority) issued by an entity whose shares are listed for quotation on a securities exchange, whether by means of a rights issue or otherwise, if —

(*a*) in the case where the securities offered are units of shares or debentures, the shares or debentures are those of the entity that issued the units;

(*b*) an offer information statement relating to the offer which complies with such form and content requirements as may be prescribed by the Authority is lodged with the Authority; and

(*c*) either —

(i) the offer is made in or accompanied by the offer information statement referred to in paragraph (*b*); or

(ii) all the conditions in subsection (1B) are satisfied.

[1/2005]
[2/2009 wef 01/10/2012]

(1A) Subsection (1) shall only apply to an offer of securities referred to in that subsection made within a period of 6 months from the date the offer information statement relating to that offer is lodged with the Authority.

[2/2009 wef 01/10/2012]

(1B) The conditions referred to in subsection (1)(*c*)(ii) are —

(*a*) the offer is made using any automated teller machine or such other electronic means as may be prescribed by the Authority;

(*b*) the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer —

(i) how he can obtain, or arrange to receive, a copy of the offer information statement in respect of the offer; and

(ii) that he should read the offer information statement before submitting his application,

before enabling him to submit any application to subscribe for or purchase securities; and

(*c*) the person making the offer complies with such other requirements as the Authority may prescribe.

[2/2009 wef 01/10/2012]

(2) The Authority may, on the application of any person interested, modify the prescribed form and content of the offer information statement in such manner as is appropriate, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003]

(3) Sections 249, 249A, 253, 254 and 255 shall apply in relation to an offer information statement referred to in subsection (1) as they apply in relation to a prospectus.

[1/2005]

(4) For the purposes of subsection (3) —

(*a*) a reference in section 249 or 249A to the registration of the prospectus shall be read as a reference to the lodgment of the offer information statement; and

(*b*) a reference in section 253 or 254 to any information or new circumstance required to be included in a prospectus under section 243 shall be read as a reference to any information prescribed under subsection (1)(*b*).

[16/2003; 1/2005]

(5) Where the written consent of an expert is required to be given under section 249 (as applied in relation to an offer information statement under subsection (3)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[16/2003; 1/2005]

(6) Where the written consent of an issue manager or underwriter is required to be given under section 249A (as applied in relation to an offer information statement under subsection (3)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[1/2005]

[Companies, s. 106F]

Offer in respect of international debentures

278.—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of debentures, or units of debentures, by a body incorporated in a country outside Singapore where the offer —

(*a*) is made by the holder of a capital markets services licence to deal in securities or an exempt person under section 99(1)(*a*) or (*b*), to such institutional, professional or business investors as the Authority may, by order in the *Gazette*, specify, being persons or bodies that appear to the Authority to have sufficient expertise to understand any risk involved in buying or selling those debentures, or units of debentures (whether as principal or agent); and

(*b*) complies with the conditions specified in subsection (2).

[1/2005]

(2) The conditions referred to in subsection (1)(*b*) are that —

(*a*) the debentures, or units of debentures, are denominated in a currency, other than the Singapore dollar, and each debenture, or each unit of debenture, has a face value of at least US$5,000 or its equivalent in another currency; and

(*b*) the shares of the issuing corporation are listed on a recognised securities exchange or the offer is guaranteed by a corporation whose shares are listed on a recognised securities exchange.

[1/2005]

(3) The Authority may by order in the *Gazette* add to, vary or amend the conditions specified in subsection (2).

[Companies, s. 106G]

Offer of debentures made by Government or international financial institutions

279. Subdivisions (2) and (3) of this Division shall not apply to an offer of debentures, or units of debentures, made by or guaranteed by —

(*a*) the Government; or

(*b*) an international financial institution in which Singapore holds membership of any class or description, whether or not it holds any share in the share capital of that institution.

[1/2005]

[Companies, s. 106H]

Making offer using automated teller machine or electronic means

280.—(1) Subject to subsection (3) and such requirements as may be prescribed by the Authority, a person making an offer of securities using —

(*a*) any automated teller machine; or

(*b*) such other electronic means as may be prescribed by the Authority,

is exempted from the requirement under section 240(1)(*a*) that the offer be made in or accompanied by a prospectus in respect of the offer or, where applicable, the requirement under section 240(4) that the offer be made in or accompanied by a profile statement in respect of the offer.

[1/2005]

(2) For the avoidance of doubt, a prospectus which complies with all other requirements of section 240(1)(*a*) or, where applicable, a profile statement which complies with all other requirements of section 240(4) must still be prepared and issued in respect of any offer referred to in subsection (1).

[1/2005]

(3) Subsection (1) shall not apply unless the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer —

(*a*) how he can obtain, or arrange to receive, a copy of the prospectus or, where applicable, profile statement in respect of the offer; and

(*b*) that he should read the prospectus or, where applicable, profile statement before submitting his application,

before enabling him to submit any application to subscribe for or purchase securities.

[1/2005]

Revocation of exemption

281.—(1) Where the Authority considers that a person is contravening, or is likely to contravene, or has contravened any condition or restriction imposed under section 273(6), or that it is necessary in the public interest or for the protection of investors, it may revoke any exemption under this Subdivision, subject to such conditions as it thinks fit.

[16/2003]

(2) The Authority may revoke an exemption under subsection (1) without giving the person affected by the revocation an opportunity to be heard, but the person may, within 14 days of the revocation, apply to the Authority for the revocation to be reviewed by the Authority, and the revocation shall remain in effect unless it is withdrawn by the Authority.

(3) A revocation made under this section shall be final and conclusive and there shall be no appeal therefrom.

[Companies, s. 106J]

Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

282. For the avoidance of doubt, it is hereby declared that in relation to any transaction carried out under an exempted offer under this Part, nothing in this Part shall limit or diminish any liability which any person may incur in respect of any relevant offence under Division 2 of Part XII of the Companies Act (Cap. 50) or Part XII of this Act or any penalty, award of compensation or punishment in respect of any such offence.

[1/2005]

[Companies, s. 106L]

Division 1A — Business Trusts

Subdivision (1) — Interpretation

Preliminary provisions

282A.—(1) In this Division, unless the context otherwise requires —

"control", in relation to an entity, means the capacity of a person to determine the outcome of decisions on the financial and operating policies of the entity, having regard to —

(*a*) the influence which the person can, in practice, exert on the entity (as opposed to the rights which the person can exercise in the entity); and

(*b*) any practice or pattern of behaviour of that person affecting the financial or operating policies of the entity (even if such practice or pattern of behaviour involves a breach of an agreement or a breach of trust),

but does not include any capacity of a person to influence decisions on the financial and operating policies of the entity if such influence is required by law or under any contract or order of court to be exercised for the benefit of other persons;

"expert" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"immediate family", in relation to an individual, means the individual's spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister;

"issuer", in relation to an offer of units or derivatives of units in a business trust, means —

(*a*) in the case of units being offered, the trustee of the business trust in its capacity as the trustee that issued or will be issuing such units; or

(*b*) in the case of derivatives of units being offered, the trustee of the business trust in its capacity as the trustee, or any other entity, that issued or will be issuing such derivatives of units;

"minimum subscription", in relation to any units or derivatives of units in a business trust offered for subscription, means the amount stated in the prospectus relating to the offer, as the minimum amount which must be raised by the issue of the units or derivatives of units so offered failing which no units or derivatives of units will be allotted or issued;

"preliminary document" means a document which has been lodged with the Authority and is issued for the purpose of determining the appropriate issue or sale price of, and the number of, units or derivatives of units in a business trust or proposed business trust to be issued or sold and which contains the information required to be included in a prospectus under section 282F, except for such information as may be prescribed by the Authority;

"profile statement" means a profile statement referred to in section 282C(4);

"promoter", in relation to a prospectus issued in connection with a business trust, means a promoter of the business trust who was a party to the preparation of the prospectus or of any relevant portion thereof, but does not include any person by reason only of his acting in a professional capacity;

"prospectus" means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of units or derivatives of units in a business trust or proposed business trust and includes any document deemed to be a prospectus under section 282Q, but does not include —

(*a*) a profile statement; or

(*b*) any material, advertisement or publication which is authorised by section 282L (other than subsection (5) thereof);

"recognised securities exchange" means a corporation which has been declared by the Authority, by order published in the *Gazette*, to be a recognised securities exchange for the purposes of this Division;

"related party" means —

(*a*) in relation to an entity —

(i) a director or equivalent person of the entity;

(ii) the chief executive officer or equivalent person of the entity;

(iii) a person who controls the entity;

(iv) a related corporation;

(v) any other entity controlled by it;

(vi) any other entity controlled by the person referred to in sub-paragraph (iii); and

(vii) a related party of any individual referred to in sub-paragraph (i), (ii) or (iii); and

(*b*) in relation to an individual —

(i) his immediate family;

(ii) a trustee of any trust of which the individual or any member of the individual's immediate family is —

(A) a beneficiary; or

(B) where the trust is a discretionary trust, a discretionary object,

when the trustee acts in that capacity; and

(iii) any corporation in which he and his immediate family (whether directly or indirectly) have interests in voting shares of an aggregate of not less than 30% of the votes attached to all voting shares;

"replacement document" means a replacement prospectus or a replacement profile statement referred to in section 282D(1), as the case may be;

"supplementary document" means a supplementary prospectus or a supplementary profile statement referred to in section 282D(1), as the case may be;

[*Deleted by Act 2/2009 wef 19/11/2012*]

"trust deed" has the same meaning as "deed" in section 2 of the Business Trusts Act;

"trust property" has the same meaning as in section 2 of the Business Trusts Act.

[1/2005]
[2/2009 wef 19/11/2012]

(2) For the purposes of this Division, a statement shall be deemed to be included in a prospectus or profile statement if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

[1/2005]

(3) For the purposes of this Division, a person makes an offer of any units or derivatives of units in a business trust if, and only if, as principal —

(*a*) he makes (either personally or by an agent) an offer to any person in Singapore which upon acceptance would give rise to a contract for the issue or sale of those units or derivatives of units by him or another person with whom he has made arrangements for that issue or sale; or

(*b*) he invites (either personally or by an agent) any person in Singapore to make an offer which upon acceptance would give rise to a contract for the issue or sale of

those units or derivatives of units by him or another person with whom he has made arrangements for that issue or sale.

[1/2005]

(4) In subsection (3), "sale" includes any disposal for valuable consideration.

[1/2005]

[SFA, s. 239]

Division not to apply to certain business trusts which are collective investment schemes

282B. This Division does not apply to an offer of units or derivatives of units in a business trust, where —

(*a*) the business trust is also a collective investment scheme that has been authorised under section 286 or recognised under section 287; or

(*b*) the business trust is also a collective investment scheme and the offer is made in reliance on an exemption under Subdivision (4) of Division 2.

[1/2005]

Modification of provisions to certain offers

282BA. The Authority may, if it thinks it necessary in the interest of the public or a section of the public or for the protection of investors, by regulations modify or adapt the provisions of this Division in their application to such offer of units or derivatives of units in a business trust as may be prescribed, and the provisions of this Division shall apply to such offer subject to such modifications or adaptations.

[2/2009 wef 29/07/2009]

Subdivision (2) — Prospectus requirements

Requirement for prospectus and profile statement, where relevant

282C.—(1) No person shall make an offer of units or derivatives of units in a business trust unless —

(*a*) the business trust is a registered business trust or recognised business trust; and

(*b*) the offer —

(i) is made in or accompanied by a prospectus in respect of the offer —

(A) that is prepared in accordance with section 282F;

(B) a copy of which, being one that has been signed in accordance with subsection (5), is lodged with the Authority; and

(C) that is registered by the Authority; and

(ii) complies with such requirements as may be prescribed by the Authority.

[1/2005]
[2/2009 wef 01/10/2012]

(2) A person who lodges a preliminary document with the Authority shall be deemed to have lodged a prospectus with the Authority.

[1/2005]

(3) A preliminary document referred to in subsection (2) shall contain all information to be included in a prospectus other than such information as may be prescribed by the Authority.

[1/2005]

(4) Notwithstanding subsection (1), an offer of units or derivatives of units in a business trust may be made in or accompanied by an extract from, or an abridged version of, a prospectus (referred to in this section as a profile statement), instead of a prospectus, if —

(*a*) a prospectus in respect of such offer is prepared in accordance with section 282F, and the profile statement is prepared in accordance with section 282G;

(*b*) a copy of the prospectus and a copy of the profile statement, each of which has been signed in accordance with subsection (5), are lodged with the Authority, and the prospectus is lodged no later than the profile statement;

(*c*) the prospectus and profile statement are registered by the Authority;

(*d*) sufficient copies of the prospectus are made available for collection at the times and places specified in the profile statement; and

(*e*) the offer complies with such requirements as may be prescribed by the Authority.

[1/2005]

(5) The copy of a prospectus or profile statement lodged with the Authority shall be signed —

(*a*) where the person making the offer is the issuer, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer;

(*b*) where the person making the offer is an individual and is not the issuer —

(i) by that person; and

(ii) if the issuer is controlled by that person, one or more of his related parties, or that person and one or more of his related parties, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer; and

(*c*) where the person making the offer is an entity and is not the issuer —

(i) by every director or equivalent person of that entity; and

(ii) if the issuer is controlled by that entity, one or more of its related parties, or that entity and one or more of its related parties, by every director or equivalent person of the issuer, and every person who is named therein as a proposed director or an equivalent person of the issuer.

[1/2005]

(6) A requirement under subsection (5) for the copy of a prospectus or profile statement to be signed by a director or an equivalent person is satisfied if the copy is signed —

(*a*) by that director or equivalent person; or

(*b*) by a person who is authorised in writing by that director or equivalent person to sign on his behalf.

[1/2005]

(7) A requirement under subsection (5) for the copy of a prospectus or profile statement to be signed by a person named therein as a proposed director or an equivalent person is satisfied if the copy is signed —

(*a*) by that proposed director or equivalent person; or

(*b*) by a person who is authorised in writing by that proposed director or equivalent person to sign on his behalf.

[1/2005]

(8) No person shall make any offer of units or derivatives of units in a business trust that has not been formed or does not exist.

[1/2005]

(9) Any person who contravenes subsection (1) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(10) The Authority may register a prospectus or profile statement on any day within the period prescribed by the Authority from the date of lodgment thereof with the Authority, unless —

(*a*) the Authority gives to the person making the offer a notice of an opportunity to be heard under subsection (20);

(*b*) the Authority gives to the person making the offer notice of an extension, in which case the Authority may, not later than 28 days from the date of lodgment of the prospectus or profile statement —

(i) register the prospectus or profile statement; or

(ii) give the person making the offer a notice of an opportunity to be heard under subsection (20);

(*c*) the person making the offer applies in writing to extend the period during which the prospectus or profile statement may be registered, and the Authority grants an extension as it thinks fit, in which case the Authority may, at any time up to and including the date on which the extended period ends —

(i) register the prospectus or profile statement; or

(ii) give the person making the offer a notice of an opportunity to be heard under subsection (20); or

(*d*)

the person making the offer gives a notice in writing to the Authority to withdraw the lodgment of the prospectus or profile statement, in which case the Authority shall not register the prospectus or profile statement.

[1/2005]
[2/2009 wef 29/03/2010]

(11) Where, after a notice of an opportunity to be heard has been given under subsection (10)(*a*), (*b*)(ii) or (*c*)(ii), the Authority decides not to refuse registration of the prospectus or profile statement, the Authority may proceed with the registration on such date as it considers appropriate, except that that date shall not be earlier than such day from the date of lodgment of the prospectus or profile statement with the Authority as the Authority may prescribe.

[2/2009 wef 29/03/2010]
[1/2005]

(11A) For the purposes of subsections (10) and (11), the Authority may prescribe the same period and day for all offers or different periods and days for different offers.

[2/2009 wef 29/03/2010]

(12) Where a prospectus lodged with the Authority is a preliminary document, the Authority shall not register the prospectus unless a copy of the prospectus which has been signed in accordance with subsection (5) and which contains the information required to be stipulated in the prospectus under section 282F, including such information which could be omitted from the preliminary document by virtue of subsection (3), has been lodged with the Authority.

[1/2005]

(13) A person making an offer of units or derivatives of units in a business trust may lodge any amendment to a prospectus or profile statement in respect of that offer at any time before but not after the registration of the prospectus or profile statement by the Authority.

[1/2005]

(14) Subject to subsection (15) —

(*a*) where any amendment to a prospectus is lodged, the prospectus and any profile statement which is lodged shall be deemed, for the purposes of subsection (10), to have been lodged when such amendment was lodged; and

(*b*) where any amendment to a profile statement is lodged, the profile statement shall be deemed, for the purposes of subsection (10), to have been lodged when such amendment was lodged.

[1/2005]

(15) Where an amendment to a prospectus or profile statement is lodged with the consent of the Authority, the prospectus or profile statement as amended shall be deemed, for the purposes of subsection (10), to have been lodged when the original prospectus or profile statement was lodged with the Authority.

[1/2005]

(16) An amendment to a prospectus or profile statement that is lodged shall be treated as part of the original prospectus or profile statement.

[1/2005]

(17) The Authority may, for public information, publish —

(*a*) a prospectus or profile statement lodged with the Authority under this section; and

(*b*) where applicable, the translation thereof in the English language lodged with the Authority under section 318A(1),

and, for the purposes of this subsection, the person making the offer shall provide the Authority with a copy of the prospectus or profile statement and, where applicable, the translation, in such form or medium for publication as the Authority may require.

[1/2005]

(18) The Authority shall refuse to register a prospectus if —

(*a*) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(*b*) there is an omission from the prospectus of any information that is required to be included in it under section 282F;

(*c*) the copy of the prospectus that is lodged with the Authority is not signed in accordance with subsection (5);

(*d*) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act;

(*e*) any written consent of an expert to the issue of the prospectus required under section 282I, or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*f*) any written consent of an issue manager to the issue of the prospectus required under section 282J(1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*g*) any written consent of an underwriter to the issue of the prospectus required under section 282J(2), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or

(*h*) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

(19) The Authority shall refuse to register a profile statement if —

(*a*) the Authority is of the opinion that the profile statement contains a false or misleading statement;

(*b*) there is an omission from the profile statement of information required under section 282G to be included in it or an inclusion in the profile statement of information prohibited by that section from being included in it;

(*c*) the copy of the profile statement that is lodged with the Authority is not signed in accordance with subsection (5);

(*d*) any written consent of an expert to the issue of the profile statement required under section 282I, or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*e*) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act;

(*f*) the prospectus has not been registered by the Authority;

(*g*) any written consent of an issue manager to the issue of the profile statement required under section 282J(1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*h*) any written consent of an underwriter to the issue of the profile statement required under section 282J(2), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or

(*i*) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

(20) The Authority shall not refuse to register a prospectus under subsection (18) or a profile statement under subsection (19) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to register the prospectus or profile statement on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the issuer, the trustee-manager of the business trust or the business trust itself is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere; or

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer or the trustee-manager of the business trust, or in relation to or in respect of the trust property of the business trust.

[1/2005]

(21) Any person making an offer may, within 30 days after he is notified that the Authority has refused to register a prospectus or profile statement to which his offer relates under subsection (18) or (19), appeal to the Minister whose decision shall be final.

[1/2005]

(22) If —

(*a*) a prospectus or profile statement is issued, circulated or distributed before it has been registered by the Authority; or

(*b*) an application to subscribe for or purchase units or derivatives of units in a business trust is accepted, or units or derivatives of units in a business trust are allotted, issued or sold, before a prospectus and, where applicable, profile statement, where applicable, in respect of the units or derivatives of units has been registered by the Authority,

the person making the offer and every person who is knowingly a party to —

(i) the issue, circulation or distribution of the prospectus or profile statement;

(ii) the acceptance of the application to subscribe for or purchase the units or derivatives of units; or

(iii) the allotment, issue or sale of the units or derivatives of units,

as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(23) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide for penalties not exceeding a fine of $50,000.

[1/2005]

(24) For the purposes of subsections (18)(*a*) and (19)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 240]

Lodging supplementary document or replacement document

282D.—(1) If, after a prospectus or profile statement is registered but before the close of the offer of units or derivatives of units in a business trust, the person making that offer becomes aware of —

(*a*) a false or misleading statement in the prospectus or profile statement;

(*b*) an omission from the prospectus of any information that should have been included in it under section 282F, or an omission from the profile statement of any information that should have been included in it under section 282G, as the case may be; or

(*c*) a new circumstance that —

(i) has arisen since the prospectus or profile statement was lodged with the Authority; and

(ii) would have been required by —

(A) section 282F to be included in the prospectus; or

(B) section 282G to be included in the profile statement,

if it had arisen before the prospectus or the profile statement, as the case may be, was lodged,

and that is materially adverse from the point of view of an investor, the person may lodge a supplementary or replacement prospectus, or a supplementary or replacement profile statement (referred to in this section as a supplementary or replacement document, as the case may be), with the Authority.

[1/2005]

(2) At the beginning of a supplementary document, there shall be —

(*a*) a statement that it is a supplementary prospectus or a supplementary profile statement, as the case may be;

(*b*) an identification of the prospectus or profile statement it supplements;

(*c*) an identification of any previous supplementary document lodged with the Authority in relation to the offer; and

(*d*) a statement that it is to be read together with the prospectus or profile statement it supplements and any previous supplementary document in relation to the offer.

[1/2005]

(3) At the beginning of a replacement document, there shall be —

(*a*) a statement that it is a replacement prospectus or a replacement profile statement, as the case may be; and

(*b*) an identification of the prospectus or profile statement it replaces.

[1/2005]

(4) The supplementary document and the replacement document must be dated with the date on which they are lodged with the Authority.

[1/2005]

(5) The person making the offer shall take reasonable steps —

(*a*) to inform potential investors of the lodgment of any supplementary or replacement document under subsection (1); and

(*b*) to make available to them the supplementary document or replacement document.

[1/2005]

(6) For the purposes of the application of this Division to events that occur after the lodgment of the supplementary document —

(*a*) where the supplementary document is a supplementary prospectus, the prospectus in relation to the offer shall be taken to be the original prospectus together with the supplementary prospectus and any previous supplementary prospectus in relation to the offer; and

(*b*) where the supplementary document is a supplementary profile statement, the profile statement in relation to the offer shall be taken to be the original profile statement together with the supplementary profile statement and any previous supplementary profile statement in relation to the offer.

[1/2005]

(7) For the purposes of the application of this Division to events that occur after the lodgment of the replacement document —

(*a*) where the replacement document is a replacement prospectus, the prospectus in relation to the offer shall be taken to be the replacement prospectus; and

(*b*) where the replacement document is a replacement profile statement, the profile statement in relation to the offer shall be taken to be the replacement profile statement.

[1/2005]

(8) If a supplementary document or replacement document is lodged with the Authority, the offer shall be kept open for at least 14 days after the lodgment of the supplementary document or replacement document.

[1/2005]

(9) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to subscribe for units or derivatives of units in a business trust, then —

(*a*) where the units or derivatives of units have not been issued to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall —

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units in the business trust; or

(*b*)

where the units or derivatives of units have been issued to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; or

(iii) shall —

(A) treat the issue of the units or derivatives of units in the business trust as void, in which case the issue shall be deemed void; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(10) An applicant who wishes to exercise his option under subsection (9)(*a*)(i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days from the receipt of such notification, pay to the applicant all moneys paid by him on account of his application for the units or derivatives of units in the business trust.

[1/2005]

(11) An applicant who wishes to exercise his option under subsection (9)(*b*)(i) or (ii) to return units or derivatives of units in the business trust issued to him shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to be evidence of

title to those units or derivatives of units to that person, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by the applicant for the units or derivatives of units in the business trust, and the issue of those units or derivatives of units shall be deemed to be void.

[1/2005]

(12) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to purchase units or derivatives of units in a business trust, then —

(*a*) where the units or derivatives of units have not been transferred to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall —

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units in the business trust; or

(*b*) where the units or derivatives of units have been transferred to the applicants, the person making the offer —

(i) shall —

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; or

(iii) shall treat the sale of the units or derivatives of units in the business trust as void, in which case the sale shall be deemed void, and shall —

(A) if documents purporting to evidence title to the units or derivatives of units (referred to in this paragraph as the title documents) have been issued to the applicants —

(AA) within 7 days from the date of lodgment of the supplementary document or replacement document, inform the applicants to return the title documents to the person making the offer within 14 days from the date of lodgement of the supplementary document or replacement document; and

(AB) within 7 days from the date of the receipt of the title documents or the date of lodgment of the supplementary document or replacement document, whichever is the later, pay to the applicants all moneys paid by them for the units or derivatives of units; or

(B) if no title documents have been issued to the applicants, within 7 days from the date of the lodgment of the supplementary document or replacement document, pay to the

applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(13) An applicant who wishes to exercise his option under subsection (12)(*a*)(i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days of the receipt of such notification, pay to him all moneys paid by him on account of his application for the units or derivatives of units in the business trust.

[1/2005]

(14) An applicant who wishes to exercise his option under subsection (12)(*b*)(i) or (ii) to return units or derivatives of units in the business trust sold to him shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to evidence title to those units or derivatives of units to the person making the offer, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by him for the units or derivatives of units and the sale of those units or derivatives of units shall be deemed to be void.

[1/2005]

(15) Any person who contravenes subsection (9) or (12) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(16) Any person who contravenes any other provision of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(17) For the purposes of subsection (1)(*a*), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 241]

Stop order for prospectus and profile statement

282E.—(1) If a prospectus has been registered and —

(*a*) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(*b*) there is an omission from the prospectus of any information that is required to be included in it under section 282F;

(*c*) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act; or

(*d*) the Authority is of the opinion that it is in the public interest to do so,

the Authority may, by an order in writing (referred to in this section as a stop order) served on the person making the offer of units or derivatives of units in a business trust to which the prospectus relates, direct that no or no further units or derivatives of units in the business trust be allotted, issued or sold.

[1/2005]

(2) If a profile statement has been registered and —

(*a*) the Authority is of the opinion that the profile statement contains a false or misleading statement;

(*b*) there is an omission from the profile statement of any information that is required to be included in it under section 282G;

(*c*) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act; or

(*d*) the Authority is of the opinion that it is in the public interest to do so,

the Authority may, by an order in writing (referred to in this section as a stop order) served on the person making the offer of the units or derivatives of units in a business trust to which the profile statement relates, direct that no or no further units or derivatives of units in the business trust allotted, issued or sold.

[1/2005]

(3) Notwithstanding subsections (1) and (2), the Authority shall not serve a stop order if any of the units or derivatives of units in a business trust to which the prospectus or profile statement relates has been issued or sold, and listed for quotation on a securities exchange and trading in them has commenced.

[1/2005]

(4) The Authority shall not serve a stop order under subsection (1) or (2) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the stop order is served on the ground that it is in the public interest to do so on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the issuer, the trustee-manager of the business trust or the business trust itself is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer, the trustee-manager of the business trust or, in relation to or in respect of the trust property of the business trust.

[1/2005]

(5) Where applications to subscribe for units or derivatives of units in a business trust to which the prospectus or profile statement relates have been made prior to the stop order, then —

(*a*) where the units or derivatives of units have not been issued to the applicants —

(i) the applications shall be deemed to have been withdrawn and cancelled; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units; or

(*b*) where the units or derivatives of units have been issued to the applicants —

(i) the issue of the units or derivatives of units shall be deemed to be void; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(6) Where applications to purchase units or derivatives of units in a business trust to which the prospectus or profile statement relates have been made prior to the stop order, then —

(*a*) where the units or derivatives of units have not been transferred to the applicants —

(i) the applications shall be deemed to have been withdrawn and cancelled; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units; or

(*b*) where the units or derivatives of units have been transferred to the applicants, the sale shall be deemed to be void, and the person making the offer shall —

(i) if documents purporting to evidence title to the units or derivatives of units have been issued to the applicants —

(A) within 7 days from the date of the stop order, inform the applicants to return such documents to the person making the offer within 14 days from that date; and

(B) within 7 days from the date of the receipt of those documents or the date of the stop order, whichever is the later, pay to the applicants all moneys paid by them for the units or derivatives of units; or

(ii) if no such documents have been issued to the applicants, within 7 days from the date of the stop order, pay to the applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(7) If the Authority is of the opinion that any delay in serving a stop order pending the holding of a hearing required under subsection (4) is not in the interests of the public, the Authority may, without giving an opportunity to be heard, serve an interim stop order on the person making the offer directing that no or no further units or derivatives of units in a business trust to which the prospectus or profile statement relates be allotted, issued or sold.

[1/2005]

(8) An interim stop order shall, unless revoked by the Authority, be in force —

(*a*) in a case where —

(i) it is served during a hearing under subsection (4); or

(ii) a hearing under subsection (4) is commenced while it is in force,

until the Authority makes an order under subsection (1) or (2); and

(*b*) in any other case, for a period of 14 days from the day on which the interim stop order is served.

[1/2005]

(9) Subsections (5) and (6) shall not apply where only an interim stop order has been served.

[1/2005]

(10) Any person who fails to comply with a stop order served under subsection (1) or (2) or an interim stop order served under subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(11) Any person who contravenes subsection (5) or (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(12) For the purposes of subsections (1)(*a*) and (2)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 242]

Contents of prospectus

282F.—(1) A prospectus for an offer of units or derivatives of units in a business trust shall contain —

(*a*) all the information that investors and their professional advisers would reasonably require to make an informed assessment of the matters specified in subsection (3); and

(*b*) the matters prescribed by the Authority.

[1/2005]

(2) The prospectus shall, with respect to subsection (1)(*a*), contain such information —

(*a*) only to the extent to which it is reasonable for investors and their professional advisers to expect to find in the prospectus; and

(*b*) only to the extent that a person whose knowledge is relevant —

(i) actually knows the information; or

(ii) in the circumstances ought reasonably to have obtained the information by making enquiries.

[1/2005]

(3) The matters referred to in subsection (1)(*a*) shall relate to —

(*a*) the rights and liabilities attaching to the units or derivatives of units in the business trust;

(*b*) where the person making the offer of units or derivatives of units in the business trust is the trustee-manager of the business trust or the trustee-manager of the business trust is controlled by —

(i) the person making the offer;

(ii) one or more of the related parties of the person making the offer; or

(iii) the person making the offer and one or more of his related parties,

the assets and liabilities, profits and losses and financial position and performance of the business trust and of the trustee-manager, and the prospects of the business trust;

(*c*) where derivatives of units in the business trust are issued by an entity other than the trustee-manager of the business trust and the person making the offer is that entity or that entity is controlled by —

(i) the person making the offer;

(ii) one or more of the related parties of the person making the offer; or

(iii) the person making the offer and one or more of his related parties,

the assets and liabilities, profits and losses, financial position and performance, and prospects of that entity; and

(*d*) in the case of an offer of derivatives of units in the business trust, where the person making the offer, or an entity which is controlled by —

(i) the person making the offer;

(ii) one or more of the related parties of the person making the offer; or

(iii) the person making the offer and one or more of his related parties,

is or will be required to issue or deliver the relevant units or derivatives of units, or meet financial or contractual obligations to the holders of those derivatives of units, the capacity of that person or entity to issue or deliver the relevant units or derivatives of units in that business trust, or the ability of that person or entity to meet those financial or contractual obligations.

[1/2005]

(4) In deciding what information shall be included under subsection (1)(*a*), regard shall be had to —

(*a*) the nature of the units or derivatives of units in the business trust and the nature of the business trust concerned;

(*b*) the matters that likely investors may reasonably be expected to know; and

(*c*) the fact that certain matters may reasonably be expected to be known to the professional advisers of such investors.

[1/2005]

(5) For the purposes of subsection (2)(*b*), a person's knowledge is relevant only if he is one of the following persons:

(*a*) the person making the offer;

(*b*) if the person making the offer is an entity, a director or equivalent person of the entity;

(*c*) the issuer;

(*d*) a director or equivalent person, or a proposed director or equivalent person, of the issuer;

(*e*) a person named in the prospectus with his consent as an underwriter to the issue or sale;

(*f*) a person named in the prospectus as a stockbroker to the issue or sale if he participates in any way in the preparation of the prospectus;

(*g*) a person named in the prospectus with his consent as having made a statement —

(i) that is included in the prospectus; or

(ii) on which a statement made in the prospectus is based;

(*h*) a person named in the prospectus with his consent as having performed a particular professional or advisory function.

[1/2005]

(6) A condition requiring or binding an applicant for units or derivatives of units in a business trust to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

[1/2005]

(7) This section does not affect any liability that a person has under any other law.

[1/2005]

(8) In subsection (3)(*b*), "assets and liabilities, profits and losses, financial position and performance, and prospects", in relation to a business trust, means —

(*a*) the assets and liabilities, profits and losses, financial position and performance of that business trust derived from the accounting records and other records kept by the trustee-manager of that business trust; and

(*b*) the business and financial prospects anticipated with respect to the operations of the trustee-manager of the business trust in its capacity as trustee-manager of the business trust.

[1/2005]

[SFA, s. 243]

Contents of profile statement

282G.—(1) A profile statement for an offer of units or derivatives of units in a business trust shall contain —

(*a*) the following particulars:

(i) identification of the business trust, the trustee-manager of the business trust, the person making the offer and the issuer;

(ii) identification of the persons signing the profile statement;

(iii) the nature of the units or derivatives of units;

(iv) the nature of the risks involved in investing in the units or derivatives of units; and

(v) details of all amounts payable in respect of the units or derivatives of units (including any amount by way of fee, commission or charge);

(*b*) a statement that copies of the prospectus are available for collection at the times and places specified in the profile statement; and

(*c*) a statement that the persons referred to in section 282C(5) who have signed the profile statement are satisfied that the profile statement contains a fair summary of the key information in the prospectus.

[1/2005]

(2) A profile statement shall not contain —

(*a*) any statement that is false or misleading in the form and context in which it is included;

(*b*) any material information that is not contained in the prospectus; and

(*c*) any material information that differs in any material particular from that set out in the prospectus.

[1/2005]

(3) For the purposes of subsection (2)(*a*), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 246]

Exemption from requirements as to form or content of prospectus or profile statement

282H.—(1) The Authority may exempt any person or any prospectus or profile statement from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(2) The Authority shall not grant an exemption under subsection (1) unless it is of the opinion that —

(*a*) the cost of complying with the requirement in respect of which exemption has been applied for outweighs the resulting protection to investors; or

(*b*) it would not be prejudicial to the public interest if the requirement in respect of which the exemption has been applied for were dispensed with.

[1/2005]

(3) The Authority may exempt any class of persons or any class or description of prospectuses or profile statements, from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(4) Any person who contravenes any of the conditions or restrictions imposed under subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SFA, s. 247]

Expert's consent to issue of prospectus or profile statement containing statement by him

282I.—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement which includes a statement purporting to be made by, or based on a statement made by, an expert, the prospectus or profile statement shall not be issued unless —

(*a*) the expert has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and

(*b*) there appears in the prospectus or profile statement, as the case may be, a statement that the expert has given and has not withdrawn his consent.

[1/2005]

(2) Every person making the offer shall cause a true copy of every written consent referred to in subsection (1) to be deposited, within 7 days after the registration of the prospectus or

profile statement, at the registered office of the issuer in Singapore or, if the issuer has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(3) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the units or derivatives of units in the business trust to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (2) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

(4) If any prospectus or profile statement is issued in contravention of subsection (1), the person making the offer and every person who is knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(5) The Authority may exempt any person or class of persons, or any prospectus or profile statement or class or description of prospectuses or profile statements, from this section, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(6) Any person who contravenes any of the conditions or restrictions imposed under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.
[SFA, s. 249]

[1/2005]

Consent of issue manager and underwriter to being named in prospectus or profile statement

282J.—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement in which a person is named as the issue manager to the offer, the prospectus or profile statement shall not be issued unless —

(*a*) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as issue manager to that offer; and

(*b*) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn his consent.

[1/2005]

(2) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement in which a person is named as the underwriter (but not a sub-underwriter) to the offer, the prospectus or profile statement shall not be issued unless —

(*a*) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as underwriter to that offer; and

(*b*) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn such consent.

[1/2005]

(3) If any prospectus or profile statement is issued in contravention of subsection (1) or (2), the person making the offer and every person who is knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(4) Every person making the offer shall cause a true copy of every written consent referred to in subsections (1) and (2) to be deposited, within 7 days after the registration of the prospectus or profile statement, at the registered office of the issuer in Singapore or, if it has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(5) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the units or derivatives of units in the business trust to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (4) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

Duration of validity of prospectus and profile statement

282K.—(1) No person shall make an offer of units or derivatives of units in a business trust, or allot, issue or sell any units or derivatives of units in a business trust, on the basis of a prospectus or profile statement after the expiration of a period of 6 months from the date of registration by the Authority of the prospectus in relation to such offer, allotment, issue or sale.

[1/2005]

(2) In a case where an entity makes an offer of units or derivatives of units in a business trust or where the units or derivatives of units in a business trust being offered are those issued by an entity or a proposed entity, no officer or equivalent person or promoter of the entity or proposed entity shall authorise or permit —

(*a*) the offer of those units or derivatives of units; or

(*b*) the allotment, issue or sale of those units or derivatives of units,

on the basis of a prospectus or profile statement after the expiration of a period of 6 months from the date of registration by the Authority of the prospectus in relation to such offer, allotment, issue or sale.

[1/2005]

(3) If default is made in complying with subsection (1) or (2), the person and, in the case of an entity or proposed entity, every officer or equivalent person or promoter of the entity or proposed entity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(4) An allotment, an issue or a sale of units or derivatives of units in a business trust that is made in contravention of subsection (1) or (2) shall not, by reason only of that fact, be voidable or void.

[1/2005]

[SFA, s. 250]

Restrictions on advertisements, etc.

282L.—(1) If a prospectus is required for an offer or intended offer of units or derivatives of units in a business trust, a person shall not —

(*a*) advertise the offer or intended offer; or

(*b*) publish a statement that —

(i) directly or indirectly refers to the offer or intended offer; or

(ii) is reasonably likely to induce persons to subscribe for or purchase the units or derivatives of units,

unless the advertisement or publication is authorised by this section.

[1/2005]

(2) In determining whether a statement —

(*a*) indirectly refers to an offer or intended offer of units or derivatives of units in a business trust; or

(*b*) is reasonably likely to induce persons to subscribe for or purchase units or derivatives of units in a business trust,

regard shall be had to whether the statement —

(i) forms part of —

(A) the normal advertising by a trustee-manager of a business trust on behalf of the business trust in respect of the products or services offered by the trustee-manager on behalf of the business trust, and is genuinely directed at maintaining existing customers, or attracting new customers, for those products or services; or

(B) the normal advertising of an entity's products or services, and is genuinely directed at maintaining its existing customers, or attracting new customers, for those products or services;

(ii) communicates information that materially deals with the affairs of the business trust or the entity; and

(iii) is likely to encourage investment decisions being made on the basis of the statement rather than on the basis of information contained in a prospectus or profile statement.

[1/2005]

(3) Notwithstanding subsection (6), a person may, before a prospectus or profile statement is registered by the Authority, disseminate a preliminary document which has been lodged with the Authority to institutional investors, relevant persons as defined in section 282Z(3) or persons to whom an offer referred to in section 282Z(2) is to be made without contravening subsection (1), if —

(*a*) the front page of the preliminary document contains —

(i) the following statement:

"This is a preliminary document and is subject to further amendments and completion in the prospectus to be registered by the Monetary Authority of Singapore.";

(ii) a statement that a person to whom a copy of the preliminary document has been issued shall not circulate it to any other person; and

(iii) a statement in bold lettering that no offer or agreement shall be made on the basis of the preliminary document to purchase or subscribe for any units or derivatives of units in the business trust to which the preliminary document relates;

(*b*) the preliminary document does not contain or have attached to it any form of application that will facilitate the making by any person of an offer of the units or derivatives of units in the business trust to which the preliminary document relates, or the acceptance of such an offer by any person; and

(*c*) when the prospectus is registered by the Authority, the person takes reasonable steps to notify the persons to whom the preliminary document was issued that the registered prospectus is available for collection.

[1/2005]

(4) Notwithstanding subsection (6), a person does not contravene subsection (1) by presenting oral or written material, on matters contained in a preliminary document which has been lodged with the Authority, to institutional investors, relevant persons as defined in section 282Z(3) or persons to whom an offer referred to in section 282Z(2) is to be made before a prospectus or profile statement is registered by the Authority.

[1/2005]

(5) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 282C without contravening subsection (1).

[1/2005]

(6) Before a prospectus or profile statement is registered, an advertisement or a publication does not contravene subsection (1) if it contains only the following:

(*a*) a statement that identifies the units or derivatives of units in the business trust, the person making the offer, the issuer, the business trust and the trustee-manager of the business trust;

(*b*) a statement that a prospectus or profile statement for the offer will be made available when the offer is made;

(*c*) a statement that anyone wishing to acquire the units or derivatives of units in the business trust will need to make an application in the manner set out in the prospectus or profile statement; and

(*d*) a statement of how to obtain, or arrange to receive, a copy of the prospectus or profile statement.

[1/2005]

(7) To satisfy subsection (6), the advertisement or publication shall include all of the statements referred to in paragraphs (*a*), (*b*) and (*c*) of that subsection, and may include the statement referred to in paragraph (*d*).

[1/2005]

(8) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if —

(*a*) it includes a statement that the prospectus or profile statement in respect of the offer of units or derivatives of units in the business trust is available for collection at the times and places specified in the statement;

(*b*) it includes a statement that anyone wishing to acquire the units or derivatives of units in the business trust will need to make an application in the manner set out in the prospectus or profile statement; and

(*c*) it does not contain any information that is not included in the prospectus or profile statement.

[1/2005]

(9) An advertisement or a publication does not contravene subsection (1) if it —

(*a*) consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange made by any person;

[2/2009 wef 29/07/2009]

(*b*) consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the trustee-manager of the business trust or any entity, a notice or report of a general meeting or proposed general meeting of the unitholders of the business trust, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;

(*c*)

consists solely of a report about the issuer or the business trust whose units or derivatives of units are the subject of the offer or intended offer that is published by the person making the offer, the issuer or the trustee-manager of the business trust, which —

(i) does not contain information that materially affects the affairs of the issuer or the business trust other than information previously made available in a prospectus that has been registered by the Authority, an annual report or a disclosure, notice or report referred to in paragraph (*a*) or (*b*); and

(ii) does not refer (directly or indirectly) to the offer or intended offer;

(*d*) consists solely of a statement made by the person making the offer, the issuer or the trustee-manager of the business trust that a prospectus or profile statement in respect of the offer or intended offer has been lodged with the Authority;

(*e*) is a news report, or a genuine comment, by a person other than any person referred to in paragraph (*f*)(i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio, television or any other means of broadcasting or communication, relating to —

(i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;

(ii) a disclosure, notice or report referred to in paragraph (*a*);

(iii) a notice, report, presentation, general meeting or proposed general meeting referred to in paragraph (*b*);

(iv) a report referred to in paragraph (*c*);

(*f*) is a report about the units or derivatives of units in a business trust which are the subject of the offer or intended offer, published by someone who is not —

(i) the person making the offer, the issuer or the trustee-manager of the business trust;

(ii) a director or equivalent person of the person making the offer, the issuer or the trustee-manager of the business trust;

(iii) a person who has an interest in the success of the issue or sale of the units or derivatives of units in the business trust; or

(iv) a person acting at the instigation of, or by arrangement with, any person referred to in sub-paragraph (i), (ii) or (iii);

(*g*) is a disclosure, notice, report or publication of a description prescribed by the Authority, and such other conditions as the Authority may prescribe are satisfied; or

[2/2009 wef 01/10/2012]

(*h*)

is a publication made by the person making the offer, the issuer or the trustee-manager of the business trust solely to correct or provide clarification on any erroneous or inaccurate information or comment contained in —

(i) an earlier news report or a genuine comment referred to in paragraph (*e*); or

(ii) an earlier publication published in the ordinary course of business of publishing a newspaper, periodical or magazine, or of broadcasting by radio, television or any other means of broadcasting or communication, referred to in subsection (10),

provided that the first-mentioned publication does not contain any material information that is not included in the prospectus.

[1/2005]

(10) A person does not contravene subsection (1) if —

(*a*) he publishes any advertisement or publication in the ordinary course of a business of —

(i) publishing a newspaper, periodical or magazine; or

(ii) broadcasting by radio, television or any other means of broadcasting or communication; and

(*b*) he did not know and had no reason to suspect that its publication would constitute a contravention of subsection (1).

[1/2005]

(11) Subsection (9)(*e*) and (*f*) shall not apply to an advertisement or a statement if any person gives consideration or any other benefit for the publication of the advertisement or statement.

[1/2005]

(12) Any person who contravenes subsection (1) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(13) This section does not affect any liability that a person has under any other law.

[1/2005]

(14) The Authority may exempt any person or class of persons from this section, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(15) Any person who contravenes any of the conditions or restrictions imposed under subsection (14) shall be guilty of an offence and shall be liable on conviction to a fine not

exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(16) For the purposes of this section, any reference to publishing a statement shall be construed as including a reference to making a statement, whether oral or written, which is reasonably likely to be published.

[1/2005]

(17) For the purposes of subsections (1) and (2), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(18) For the purposes of subsection (2)(ii), the reference to affairs of the business trust or the entity shall —

(*a*) in the case of the business trust, be construed to refer to such matters as may be prescribed by the Authority;

(*b*) in the case where the entity is a corporation, be construed as including a reference to the matters referred to in section 2(2); and

(*c*) in the case where the entity is not a corporation, be construed to refer to such matters as may be prescribed by the Authority.

[1/2005]

(19) For the purposes of subsection (9)(*c*)(i), the reference to affairs of the issuer or the business trust shall —

(*a*) in the case where the issuer is a corporation, be construed as including a reference to the matters referred to in section 2(2);

(*b*) in the case where the issuer is not a corporation, be construed to refer to such matters as may be prescribed by the Authority; and

(*c*) in the case of the business trust, be construed to refer to such matters as may be prescribed by the Authority.

[1/2005]

[SFA, s. 251]

Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies

282M.—(1) A person referred to in section 282O(3) (other than paragraph (*a*)) shall notify in writing the person making the offer of units or derivatives of units in a business trust, as soon as practicable, if he becomes aware at any time after the prospectus or profile statement is registered by the Authority but before the close of the offer that —

(*a*) a statement in the prospectus or the profile statement is false or misleading;

(*b*) there is an omission to state any information required to be included in the prospectus under section 282F or there is an omission to state any information

required to be included in the profile statement under section 282G, as the case may be; or

(*c*) a new circumstance —

(i) has arisen since the prospectus or the profile statement was lodged with the Authority; and

(ii) would have been required to be included in the prospectus under section 282F, or required to be included in the profile statement under section 282G, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,

and the failure to so notify would have been materially adverse from the point of view of an investor.

[1/2005]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

[1/2005]

(3) For the purposes of subsection (1)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 252]

Criminal liability for false or misleading statements

282N.—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 282ZC, where a prospectus or profile statement is prepared and issued in relation to the offer, and —

(*a*) a false or misleading statement is contained in —

(i) the prospectus or the profile statement; or

(ii) any application form for the units or derivatives of units;

(*b*) there is an omission to state any information required to be included in the prospectus under section 282F or there is an omission to state any information required to be included in the profile statement under section 282G, as the case may be; or

(*c*) there is an omission to state a new circumstance that —

(i) has arisen since the prospectus or the profile statement was lodged with the Authority; and

(ii) would have been required to be included in the prospectus under section 282F, or required to be included in the profile statement under

section 282G, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,

the persons referred to in subsection (4) shall be guilty of an offence even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission, and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person made the statement without having reasonable grounds for making the statement.

[1/2005]

(3) A person shall not be taken to have contravened subsection (1) if the false or misleading statement, or the omission to state any information or new circumstance, is not materially adverse from the point of view of the investor.

[1/2005]

(4) The persons guilty of the offence are —

(*a*) the person making the offer;

(*b*) where the person making the offer is an entity —

(i) each director or equivalent person of the entity; and

(ii) if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;

(*c*) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties —

(i) the issuer;

(ii) each director or equivalent person of the issuer; and

(iii) each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the issuer;

(*d*) an issue manager to the offer of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or profile statement, if —

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii)

knowing that the statement in the prospectus or profile statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(*e*) an underwriter (but not a sub-underwriter) to the issue or sale of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or profile statement, if —

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii) knowing that the statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(*f*) a person named in the prospectus or the profile statement with his consent as having made —

(i) the statement that is false or misleading, if he intentionally or recklessly makes that statement; or

(ii) a statement on which the false or misleading statement is based, if he knows that the second-mentioned statement is false or misleading and fails to take immediate steps to withdraw his consent,

but only in respect of the inclusion of the false or misleading statement; and

(*g*) any other person who intentionally or recklessly makes the false or misleading statement, or omits to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance, as the case may be.

[1/2005]

(5) For the purposes of subsection (4) and this subsection —

(*a*) remedial action includes any of the following:

(i) preventing the statement from being included, or having the information or circumstance included, in the prospectus or profile statement, as the case may be;

(ii) procuring the lodgment of a supplementary or replacement prospectus under section 282D; and

(*b*)

a person is reckless as to the matter referred to in subsection (4)(*d*)(iii) or (*e*)(iii) if, having been put upon inquiry that the statement to be, or which has been, included in the prospectus or profile statement is likely to be false or misleading, that the information or circumstance is likely to be required to be included in that document, or that there is likely to be an omission to state the information or circumstance in that document, he fails to —

(i) make all inquiries as are reasonable in the circumstances to verify this; and

(ii) take such remedial action as is appropriate in the circumstances without delay, if such action is warranted by the outcome of the inquiries.

[1/2005]

(6) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 253]

Civil liability for false or misleading statements

282O.—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 282ZC, where a prospectus or profile statement is prepared and issued in relation to the offer, and —

(*a*) a false or misleading statement is contained in —

(i) the prospectus or the profile statement; or

(ii) any application form for the units or derivatives of units;

(*b*) there is an omission to state any information required to be included in the prospectus under section 282F or there is an omission to state any information required to be included in the profile statement under section 282G, as the case may be; or

(*c*) there is an omission to state a new circumstance that —

(i) has arisen since the prospectus or the profile statement was lodged with the Authority; and

(ii) would have been required to be included in the prospectus under section 282F, or required to be included in the profile statement under section 282G, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,

the persons referred to in subsection (3) shall be liable to compensate any person who suffers loss or damage as a result of the false or misleading statement in or omission from the prospectus or the profile statement, even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission.

[1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person makes the statement without having reasonable grounds for making the statement.

[1/2005]

(3) The persons liable are —

(*a*) the person making the offer;

(*b*) where the person making the offer is an entity —

(i) each director or equivalent person of the entity; and

(ii) if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;

(*c*) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties —

(i) the issuer;

(ii) each director or equivalent person of the issuer; and

(iii) each person who is, and who has consented to be, named in the prospectus or the profile statement as a proposed director or an equivalent person of the issuer;

(*d*) an issue manager to the offer of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or the profile statement;

(*e*) an underwriter (but not a sub-underwriter) to the issue or sale of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or the profile statement;

(*f*) a person named in the prospectus or the profile statement with his consent as having made a statement —

(i) that is included in the prospectus or the profile statement; or

(ii) on which a statement made in the prospectus or the profile statement is based,

but only in respect of the inclusion of that statement; and

(*g*) any other person who made the false or misleading statement or omitted to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance.

[1/2005]

(4) A person who acquires units or derivatives of units in a business trust as a result of an offer that was made in or accompanied by a profile statement is taken to have acquired the units or derivatives of units in reliance on both the profile statement and the prospectus for the offer.

[1/2005]

(5) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(6) No action under subsection (1) shall be commenced after the expiration of 6 years from the date on which the cause of action arose.

[1/2005]

(7) This section shall not affect any liability that a person has under any other law.

[1/2005]

[SFA, s. 254]

Defences

282P.—(1) A person referred to in section 282N(4)(*a*), (*b*) or (*c*) is not liable under section 282N(1), and a person referred to in section 282O(3) is not liable under section 282O (1), only because of a false or misleading statement in a prospectus or a profile statement if the person proves that he —

(*a*) made all inquiries (if any) that were reasonable in the circumstances; and

(*b*) after doing so, believed on reasonable grounds that the statement was not false or misleading.

[1/2005]

(2) A person referred to in section 282N(4)(*a*), (*b*) or (*c*) is not liable under section 282N(1), and a person referred to in section 282O(3) is not liable under section 282O(1), only because of an omission from a prospectus or a profile statement in relation to a particular matter if the person proves that he —

(*a*) made all inquiries (if any) that were reasonable in the circumstances; and

(*b*) after doing so, believed on reasonable grounds that there was no omission from the prospectus or profile statement in relation to that matter.

[1/2005]

(3) A person is not liable under section 282N(1) or 282O(1) only because of a false or misleading statement in, or an omission from, a prospectus or a profile statement if the person proves that he placed reasonable reliance on information given to him by —

(*a*) if the person is an entity, someone other than —

(i) a director or equivalent person; or

(ii) an employee or agent,

of the entity; or

(*b*) if the person is an individual, someone other than an employee or agent of the individual.

[1/2005]

(4) For the purposes of subsection (3), a person is not the agent of an entity or individual merely because he performs a particular professional or advisory function for the entity or individual.

[1/2005]

(5) A person who is named in a prospectus or a profile statement as —

(*a*) a proposed director or equivalent person of the issuer, or an issue manager or underwriter;

(*b*) having made a statement included in the prospectus or the profile statement; or

(*c*) having made a statement on the basis of which a statement is included in the prospectus or the profile statement,

is not liable under section 282N(1) or 282O(1) only because of a false or misleading statement in, or an omission from, the prospectus or the profile statement if the person proves that he publicly withdrew his consent to being named in the prospectus or the profile statement in that way.

[1/2005]

(6) A person is not liable under section 282N(1) or 282O(1) only because of a new circumstance that has arisen since the prospectus or the profile statement was lodged with the Authority if the person proves that he was not aware of the matter.

[1/2005]

(7) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 255]

Document containing offer of units or derivatives of units for sale deemed prospectus

282Q.—(1) Subsection (2) applies where —

(*a*) an entity allots or agrees to allot to any person any units or derivatives of units in a business trust with a view to all or any of them being subsequently offered for sale to another person; and

(*b*) such offer (referred to in this section as a subsequent offer) does not qualify for an exemption under Subdivision (3) of this Division (other than section 282ZC).

[1/2005]

(2) Any document by which the subsequent offer is made shall for all purposes be deemed to be a prospectus issued by the entity, and the entity shall for all purposes be deemed to be the person making the offer, and all written laws and rules of law as to the contents of prospectuses and to liability in respect of statements and non-disclosure in prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly as if —

(*a*) an offer of units or derivatives of units in the business trust has been made; and

(*b*) persons accepting the subsequent offer in respect of any units or derivatives of units in the business trust were subscribers therefor,

but without prejudice to the liability, if any, of the persons making the subsequent offer, in respect of statements or non-disclosures in the document or otherwise.

[1/2005]

(3) For the purposes of this Act, it shall, unless the contrary is proved, be sufficient evidence that an allotment of, or an agreement to allot, units or derivatives of units in a business trust was made with a view to the units or derivatives of units being subsequently offered for sale if it is shown —

(*a*) that an offer of the units or derivatives of units or of any of them for sale was made within 6 months after the allotment or agreement to allot; or

(*b*) that at the date when the offer was made the whole consideration to be received by the entity in respect of the units or derivatives of units had not been so received.

[1/2005]

(4) The requirements of this Division as to prospectuses shall have effect as though the persons making the subsequent offer were persons named in the prospectus as directors or equivalent persons of the entity.

[1/2005]

(5) In addition to complying with the other requirements of this Division, the document making the subsequent offer shall state —

(*a*) the net amount of the consideration received or to be received by the entity in respect of the units or derivatives of units in the business trust being offered; and

(*b*) the place and time at which a copy of the contract under which the units or derivatives of units in the business trust have been or are to be allotted may be inspected.

[1/2005]

[SFA, s. 257]

Application and moneys to be held in trust in separate bank account until allotment

282R.—(1) All application and other moneys paid prior to allotment by any applicant on account of units or derivatives of units in a business trust offered to him shall, until the allotment of the units or derivatives of units in the business trust, be held by the person making the offer of the units or derivatives of units upon trust for the applicant in a separate bank account, being a bank account that is established and kept by the person solely for the purpose of depositing the application and other moneys that are paid by applicants for those units or derivatives of units.

[1/2005]

(2) There shall be no obligation or duty on any bank with which any such moneys have been deposited to enquire into or see to the proper application of those moneys, so long as the bank acts in good faith.

[1/2005]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not

exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SFA, s. 258]

Allotment of units or derivatives of units where prospectus indicates application to list on securities exchange

282S.—(1) Where a prospectus states or implies that application has been or will be made for permission for the units or derivatives of units in a business trust offered thereby to be listed for quotation on any securities exchange, and —

(*a*) the permission is not applied for in the form required by the securities exchange within 3 days from the date of the issue of the prospectus; or

(*b*) the permission is not granted before the expiration of 6 weeks from the date of the issue of the prospectus or such longer period not exceeding 12 weeks from the date of the issue as is, within those 6 weeks, notified to the applicant by or on behalf of the securities exchange,

then —

(i) any allotment whenever made of units or derivatives of units made on an application in pursuance of the prospectus shall, subject to subsection (3), be void; and

(ii) any person who continues to allot such units or derivatives of units after the period specified in paragraph (*a*) or (*b*), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) Where, the permission has not been applied for, or has not been granted as mentioned under subsection (1), the person making the offer shall, subject to subsection (3), immediately repay without interest all moneys received from applicants in pursuance of the prospectus, and if any such moneys is not repaid within 14 days after the person making the offer so becomes liable to repay them, then —

(*a*) he shall be liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days; and

(*b*) where the person making the offer is an entity, in addition to the liability of the entity, the directors or equivalent persons of the entity shall be jointly and severally liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days.

[1/2005]

(3) Where in relation to any units or derivatives of units in a business trust —

(*a*) permission is not applied for as specified in subsection (1)(*a*); or

(*b*) permission is not granted as specified in subsection (1)(*b*),

the Authority may, on the application of the issuer made before any of the units or derivatives of units is purported to be allotted, exempt the allotment of the units or derivatives of units from the provisions of this section, and the Authority shall give notice of such exemption in the *Gazette*.

[1/2005]

(4) A director or equivalent person shall not be liable under subsection (2) if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

[1/2005]

(5) Any condition requiring or binding any applicant for units or derivatives of units in a business trust to waive compliance with any requirement of this section or purporting to do so shall be void.

[1/2005]

(6) Without limiting the application of any of its provisions, this section shall have effect —

(*a*) in relation to any units or derivatives of units in a business trust agreed to be taken by a person underwriting an offer thereof contained in a prospectus as if he had applied therefor in pursuance of the prospectus; and

(*b*) in relation to a prospectus offering units or derivatives of units in a business trust for sale as if a reference to sale were substituted for a reference to allotment.

[1/2005]

(7) All moneys received from applicants in pursuance of the prospectus shall be kept in a separate bank account so long as the person making the offer may become liable to repay it under subsection (2).

[1/2005]

(8) Any person who contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(9) Where the securities exchange has within the time specified in subsection (1)(*b*) granted permission subject to compliance with any requirements specified by the securities exchange, permission shall be deemed to have been granted by the securities exchange if the directors or equivalent persons of the issuer have given to the securities exchange an undertaking in writing to comply with the requirements of the securities exchange.

[1/2005]

(10) If any such undertaking referred to in subsection (9) is not complied with, each director or equivalent person who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(11) A person shall not issue a prospectus inviting persons to subscribe for units or derivatives of units in a business trust if it includes —

(*a*) a false or misleading statement that permission has been granted for those units or derivatives of units to be listed for quotation on, dealt in or quoted on any securities exchange; or

(*b*) any statement in any way referring to any such permission or to any application or intended application for any such permission, or to listing for quotation, dealing in or quoting the units or derivatives of units, on any securities exchange, or to any requirement of a securities exchange, unless —

(i) that statement is or is to the effect that permission has been granted, or that application has been or will be made to the securities exchange within 3 days from the date of the issue of the prospectus; or

(ii) that statement has been approved by the Authority for inclusion in the prospectus.

[1/2005]

(12) Any person who contravenes subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(13) Where a prospectus contains a statement to the effect that the trust deed of a business trust or the memorandum and articles or other constituent document or documents of the issuer comply, or have been drawn so as to comply, with the requirements of any securities exchange, the prospectus shall, unless the contrary intention appears from the prospectus, be deemed for the purposes of this section to imply that application has been, or will be, made for permission for the units or derivatives of units in the business trust to which the prospectus relates to be listed for quotation on the securities exchange.

[1/2005]

[SFA, s. 259]

Prohibition of allotment unless minimum subscription received

282T.—(1) No allotment shall be made of any units or derivatives of units in a business trust unless —

(*a*) the minimum subscription has been subscribed; and

(*b*) the sum payable on application for the units or derivatives of units so subscribed has been received by the trustee-manager of the business trust,

but if a cheque for the sum payable has been received by the trustee-manager, the sum shall be deemed not to have been received by the trustee-manager until the cheque is paid by the bank on which it is drawn.

[1/2005]

(2) The minimum subscription shall —

(*a*) be calculated based on the price at which each unit or derivative of a unit is offered or will be offered; and

(*b*) be reckoned exclusively of any amount payable otherwise than in cash.

[1/2005]

(3) The amount payable on application for each unit or derivative of a unit offered shall not be less than 5% of the price at which the unit or derivative of a unit is or will be offered.

[1/2005]

(4) If the conditions referred to in subsection (1)(*a*) and (*b*) have not been satisfied on the expiration of 4 months after the first issue of the prospectus, all moneys received from applicants for units or derivatives of units in the business trust shall be immediately repaid to them without interest.

[1/2005]

(5) If any money referred to in subsection (4) is not repaid within 5 months after the issue of the prospectus, the directors of the trustee-manager of the business trust shall be jointly and severally liable to repay that money with interest at the rate of 10% per annum from the expiration of the period of 5 months; but a director shall not be so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

[1/2005]

(6) An allotment made by the trustee-manager of a business trust of any units or derivatives of units in the business trust to an applicant in contravention of this section shall be voidable at the option of the applicant, whose option may be exercised by written notice served on the trustee-manager of the business trust within one month after the date of the allotment and not later, and the allotment shall be so voidable notwithstanding that the business trust is in the course of being wound up.

[1/2005]

(7) The trustee-manager of a business trust which contravenes any of the provisions of this section, and every director of a trustee-manager who knowingly contravenes or permits or authorises the contravention of any of the provisions of this section, shall be guilty of an offence and shall be liable in addition to the penalty or punishment for the offence to pay into the trust property of the business trust and compensate the allottee respectively for any loss, damages or costs which the business trust (represented by any diminishment in value to the trust property of the business trust) or the allottee has sustained or incurred thereby.

[1/2005]

(8) No proceedings for the recovery of any compensation under subsection (7) shall be commenced after the expiration of 2 years from the date of the allotment.

[1/2005]

(9) Any condition requiring or binding any applicant for units or derivatives of units in a business trust to waive compliance with any requirement of this section shall be void.

[SFA, s. 260]

[1/2005]

Subdivision (2A) — Recognised business trusts

Power of Authority to recognise business trusts constituted outside Singapore

282TA.—(1) The Authority may, upon an application made to it in such form and manner as may be prescribed and subject to subsection (2), recognise a business trust constituted outside Singapore.

(2) The Authority may recognise a business trust under subsection (1) if and only if the Authority is satisfied that —

(*a*) the laws and practices of the jurisdiction under which the business trust is constituted and regulated affords to investors in Singapore protection at least equivalent to that provided to them under the Business Trusts Act (Cap. 31A) in the case of registered business trusts;

(*b*) the business trust satisfies such criteria as may be prescribed by the Authority; and

(*c*) the person making the offer of, or the issuer of, units or derivatives of units in the business trust, or the trustee-manager of the business trust satisfies such criteria as may be prescribed by the Authority.

(3) Without prejudice to subsection (2), in considering whether to recognise a business trust under subsection (1), the Authority may have regard to such other factors as may be prescribed.

(4) Without prejudice to subsection (2), the Authority may refuse to recognise any business trust where it appears to the Authority that it is not in the public interest to do so.

(5) The Authority shall not refuse to recognise a business trust under subsection (1) without giving the person who made the application an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to recognise the business trust on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the issuer or the trustee-manager or the business trust itself is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer or the trustee-manager of the business trust, or in relation to or in respect of the trust property of the business trust.

(6) Any person making an application under subsection (1) may, within 30 days after he is notified that the Authority has refused to recognise that business trust constituted outside Singapore under subsection (1), appeal to the Minister whose decision shall be final.

(7) An application made under subsection (1) shall be accompanied by such information or record as the Authority may require.

(8) The Authority may publish for public information, in such manner as it considers appropriate, particulars of any business trust that is recognised under subsection (1).

(9) While a business trust remains a recognised business trust, a person making an offer of, or an issuer of, units or derivatives of units in the trust, or the trustee-manager of the trust shall ensure that the criteria prescribed by the Authority in accordance with subsection (2)(*b*) and (*c*) which are applicable to him continue to be satisfied.

(10) The trustee-manager of a recognised business trust shall furnish such information or record regarding the business trust as the Authority may, at any time, require for the proper administration of this Act.

(11) Any person who contravenes subsection (9) or (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 01/10/2012]

Power of Authority to impose conditions or restrictions

282TB.—(1) The Authority may recognise a business trust under section 282TA(1) subject to such conditions or restrictions as it thinks fit to impose for the purpose of protection of investors, and the trustee-manager of the trust and a person making an offer of, or an issuer of, units or derivatives of units in the trust shall comply with the conditions or restrictions applicable to him.

(2) The Authority may, at any time, by notice in writing to any of the persons referred to in subsection (1), vary any condition or restriction or impose such further condition or restriction as the Authority may think fit.

(3) Any person who contravenes any condition or restriction applicable to him under subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[2/2009 wef 01/10/2012]

Revocation, suspension or withdrawal of recognition

282TC.—(1) The Authority may revoke the recognition of a recognised business trust granted under section 282TA(1) if —

(*a*) the application for recognition, or any related information or record submitted to the Authority whether at the same time as or subsequent to the application, was false or misleading in a material particular or omitted a material particular which, had it been known to the Authority at the time of submission, would have resulted in the Authority not granting the recognition;

(*b*) the Authority is of the opinion that the continued recognition of the business trust is or will be against the public interest;

(*c*)

the Authority is of the opinion that the continued recognition of the business trust is or will be prejudicial to its unitholders or potential unitholders; or

(*d*) there has been a contravention of section 282TA(9) or (10) or a condition or restriction referred to in section 282TB.

(2) Where the Authority revokes the recognition of a recognised business trust under subsection (1), the Authority may issue such directions as it deems fit to a person making an offer of, or the issuer of, units or derivatives of units in the trust, or the trustee−manager of the trust, including a direction that he provides the holders of the units or derivatives of units with an option to redeem or sell back to him their units or derivatives of units, as the case may be, on such terms as the Authority may approve; and the person to whom the directions are issued shall comply with them.

(3) In determining whether to issue a direction under subsection (2), the Authority shall consider —

(*a*) whether the trustee-manager is able to liquidate the property of the trust without material adverse financial effect to the unitholders, and for this purpose, the factors which the Authority may take into account include —

(i) the liquidity of the property of the trust;

(ii) the penalties, if any, payable for liquidating the property; and

(iii) in a case where the units of the trust are also listed for quotation or quoted on an overseas securities exchange, the potential impact which the liquidation may have on unitholders in the country or territory where they are listed; and

(*b*) where the units or derivatives of units of the trust are listed for quotation on the official list of a securities exchange, whether the holders of the units or derivatives of units are afforded an opportunity to liquidate, sell or redeem their units or derivatives of units on reasonable terms in accordance with the requirements of the listing rules of the securities exchange.

(4) A person who without reasonable excuse contravenes any of the directions issued by the Authority to him under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(5) Notwithstanding subsection (1), the Authority may, if it considers it desirable to do so, instead of revoking the recognition of a recognised business trust, suspend the recognition of that recognised business trust for a specific period, and may at any time remove such suspension.

(6) Where the Authority revokes the recognition of a recognised business trust under subsection (1) or suspends the recognition of a recognised business trust under subsection (5), it shall notify the trustee-manager of the business trust and, where the Authority deems it

necessary, the person who made the application to the Authority for recognition of the business trust under section 282TA(1).

(7) Subject to subsection (8), the Authority may, upon an application in writing made to it by the trustee-manager of the business trust or the person who made the application to the Authority for recognition of a business trust under section 282TA(1), in such form and manner as may be prescribed, withdraw the recognition of that recognised business trust.

(8) The Authority may refuse to withdraw the recognition of a recognised business trust under subsection (7) where the Authority is of the opinion that —

(*a*) there is any matter concerning the recognised business trust which should be investigated before the recognition is withdrawn; or

(*b*) the withdrawal of the recognition would not be in the public interest.

(9) The Authority shall not —

(*a*) revoke the recognition of a recognised business trust under subsection (1);

(*b*) impose a direction under subsection (2);

(*c*) suspend the recognition of a recognised business trust under subsection (5); or

(*d*) refuse the withdrawal of the recognition of a recognised business trust under subsection (8),

without giving the person referred to in subsection (2), (6) or (7), as the case may be, an opportunity to be heard, except that an opportunity to be heard need not be given for a revocation or suspension on the ground that the continued recognition of the recognised business trust is against the public interest on the basis of any of the following circumstances:

(i) the person making the offer (being an entity), the issuer, the trustee-manager of the recognised business trust or the recognised business trust itself is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(ii) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(iii) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer or the trustee-manager, or in relation to the trust property of the recognised business trust.

(10) The person referred to in subsection (2), (6) or (7), as the case may be, may, within 30 days after he is notified that the Authority —

(*a*) has revoked the recognition of that recognised business trust under subsection (1);

(*b*) has imposed a direction on him under subsection (2);

(*c*) has suspended the recognition of that recognised business trust under subsection (5); or

(*d*)

has refused to withdraw the recognition of that recognised business trust under subsection (8),

appeal to the Minister whose decision shall be final.

(11) Where the Authority revokes a recognition under subsection (1), suspends a recognition under subsection (5) or withdraws a recognition under subsection (8), it may —

(*a*) impose such conditions on the revocation, suspension or withdrawal as it considers appropriate; and

(*b*) publish notice of the revocation, suspension or withdrawal, and the reason therefor, in such manner as it considers appropriate.

[2/2009 wef 01/10/2012]

Subdivision (3) — Exemptions

Issue or transfer of units or derivatives of units for no consideration

282U.—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units in a business trust if no consideration is or will be given for the issue or transfer of the units.

[1/2005]

(2) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of derivatives of units in a business trust if —

(*a*) no consideration is or will be given for the issue or transfer of the derivatives of units; and

(*b*) no consideration is or will be given for the units in the business trust on the exercise or conversion of the derivatives of units.

[1/2005]

Small offers

282V.—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to personal offers of units or derivatives of units in a business trust by a person if —

(*a*) the total amount raised by the person from such offers within any period of 12 months does not exceed —

(i) $5 million (or its equivalent in a foreign currency); or

(ii) such other amount as may be prescribed by the Authority in substitution for the amount specified in sub-paragraph (i);

(*b*) in respect of each offer, the person making the offer —

(i) gives the person to whom he makes the offer —

(A) in the case where the business trust is not registered under the Business Trusts Act (Cap. 31A), the following statement in writing:

"This offer is made in reliance on the exemption under section 282V(1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the business trust is not registered under the Business Trusts Act."; and

(B) in the case where the business trust is registered under the Business Trusts Act, the following statement in writing:

"This offer is made in reliance on the exemption under section 282V(1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore."; and

(ii) gives the person to whom he makes the offer a notification in writing that the units or derivatives of units to which the offer (referred to in this sub-paragraph as the initial offer) relates shall not be subsequently sold to any person, unless the offer resulting in such subsequent sale is made —

(A) in compliance with Subdivision (2) of this Division;

(B) in reliance on subsection (8)(*c*) or any other exemption under any provision of this Subdivision (other than this subsection); or

(C) where at least 6 months have elapsed from the date the units or derivatives of units were acquired under the initial offer, in reliance on the exemption under this subsection;

(*c*) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*d*) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(*e*) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 282K; or

(ii) the person making the offer has before making the offer informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) For the purposes of subsection (1)(*b*), where any notice, circular, material, publication or other document is issued in connection with the offer, the person making the offer is deemed to have given the statement and notification to the person to whom he makes the offer in accordance with that provision if such statement or notification is contained in the first page of that notice, circular, material, publication or document.

[1/2005]

(3) For the purposes of subsection (1), a personal offer of units or derivatives of units in a business trust is one that —

(*a*) may be accepted only by the person to whom it is made; and

(*b*) is made to a person who is likely to be interested in that offer, having regard to —

(i) any previous contact before the date of the offer between the person making the offer and that person;

(ii) any previous professional or other connection established before that date between the person making the offer and that person; or

(iii) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to —

(A) the person making the offer;
(B) the holder of a capital markets services licence to deal in securities;
(C) an exempt person in respect of dealing in securities;
(D) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;
(E) an exempt financial adviser as defined in section 2(1) of the Financial Advisers Act; or
(F) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services,

that he is interested in offers of that kind.

[1/2005]

(4) In determining the amount raised by an offer, the following shall be included:

(*a*) the amount payable for the units or derivatives of units in a business trust at the time they are allotted, issued or sold;

(*b*) if the units or derivatives of units in a business trust are issued partly-paid, any amount payable at a future time if a call is made;

(*c*) if the units or derivatives of units in a business trust carry a right (by whatever name called) to be converted into other units or derivatives of units in the business trust or to acquire other units or derivatives of units in the business trust, any amount payable on the exercise of the right to convert them into, or to acquire, other units or derivatives of units.

[1/2005]

(5) In determining whether the amount raised by a person from offers within a period of 12 months exceeds the applicable amount specified in subsection (1)(*a*), each amount raised —

(*a*) by that person from any offer of units or derivatives of units in a business trust issued by the same entity; or

(*b*) by that person or another person from any offer of securities which is a closely related offer,

if any, within that period in reliance on the exemption under subsection (1), section 272A(1) or 302B(1) shall be included.

[1/2005]

(6) Whether an offer is a closely related offer under subsection (5) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(7) For the purpose of this section, an offer of units or derivatives of units in a business trust made by a person acting as an agent of another person shall be treated as an offer made by that other person.

[1/2005]

(8) Where units or derivatives of units in a business trust acquired through an offer made in reliance on the exemption under subsection (1) (referred to in this subsection as an initial offer) are subsequently sold by the person who acquired the units or derivatives of units to another person, Subdivision (2) of this Division shall apply to the offer from the first-mentioned person to the second-mentioned person which resulted in that sale, unless —

(*a*) such offer is made in reliance on an exemption under any provision of this Subdivision (other than this section);

(*b*) such offer is made in reliance on an exemption under subsection (1) and at least 6 months have elapsed from the date the units or derivatives of units were acquired under the initial offer; or

(*c*) such offer is one —

(i) that may be accepted only by the person to whom it is made;

(ii) that is made to a person who is likely to be interested in the offer having regard to —

(A) any previous contact before the date of the offer between the person making the initial offer and that person;

(B) any previous professional or other connection established before that date between the person making the initial offer and that person; or

(C) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to —

(CA) the person making the initial offer;

(CB) the holder of a capital markets services licence to deal in securities;

(CC) an exempt person in respect of dealing in securities;

(CD) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;

(CE) an exempt financial adviser as defined in section 2 (1) of the Financial Advisers Act (Cap. 110); or

(CF) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services,

that he is interested in offers of that kind;

(iii) in respect of which the first-mentioned person has given the second-mentioned person —

(A) the following statement in writing —

(AA) in the case where the business trust is not registered under the Business Trusts Act (Cap. 31A) —

"This offer is made in reliance on the exemption under section 282V(8)(*c*) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the business trust is not registered under the Business Trusts Act."; and

(AB) in the case where the business trust is registered under the Business Trusts Act —

"This offer is made in reliance on the exemption under section 282V(8)(*c*) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore."; and

(B) a notification in writing that the units or derivatives of units being offered shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made —

(BA) in compliance with Subdivision (2) of this Division;

(BB) in reliance on this subsection or any other exemption under any provision of this Subdivision (other than subsection (1)); or

(BC) where at least 6 months have elapsed from the date the units or derivatives of units were acquired under the initial offer, in reliance on the exemption under subsection (1);

(iv) that is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer; and

(v) in respect of which no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(A) the holder of a capital markets services licence to deal in securities;

(B) an exempt person in respect of dealing in securities; or

(C) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing.

[1/2005]

(9) Subsection (2) shall apply, with the necessary modifications, in relation to the statement and notification referred to in subsection (8)(*c*)(iii).

[1/2005]

(10) In subsections (1)(*c*) and (8)(*c*)(iv), "advertisement" means —

(*a*) a written or printed communication;

(*b*) a communication by radio, television or other medium of communication; or

(*c*) a communication by means of a recorded telephone message,

that is published in connection with an offer of units or derivatives of units in a business trust, but does not include —

(i) a document —

(A) purporting to describe the units or derivatives of units being offered, or the business and affairs of the person making the offer, the issuer, the trustee of the business trust or the business trust; and

(B) purporting to have been prepared for delivery to and review by persons to whom the offer is made so as to assist them in making an investment decision in respect of the units or derivatives of units being offered;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

[2/2009 wef 29/07/2009]

(iii) a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the trustee of the business trust or any entity, a notice or report of a general meeting or proposed general meeting of the unitholders of the business trust, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting.

[1/2005]

(11) In subsection (10)(i)(A), the reference to the affairs of the person making the offer, the issuer, the trustee of the business trust or the business trust shall —

(*a*) in the case where the person making the offer, the issuer or the trustee of the business trust is a corporation, be construed as including a reference to the matters referred to in section 2(2);

(*b*) in the case where the person making the offer, the issuer or the trustee of the business trust is not a corporation, be construed as referring to such matters as may be prescribed by the Authority; and

(*c*) in the case of the business trust, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

Private placement

282W.—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to offers of units or derivatives of units in a business trust that are made by a person if —

(*a*) the offers are made to no more than 50 persons within any period of 12 months;

(*b*) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*c*) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(*d*) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 282K; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) The Authority may prescribe such other number of persons in substitution for the number specified in subsection (1)(*a*).

[1/2005]

(3) In determining whether offers of units or derivatives of units in a business trust by a person are made to no more than the applicable number of persons specified in subsection (1)(*a*) within a period of 12 months, each person to whom —

(*a*) an offer of units or derivatives of units issued by the same entity is made by the first-mentioned person; or

(*b*) an offer of securities is made by the first-mentioned person or another person where such offer is a closely related offer,

if any, within that period in reliance on the exemption under this section, section 272B or 302C shall be included.

[1/2005]

(4) Whether an offer is a closely related offer under subsection (3) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(5) For the purposes of subsection (1) —

(*a*) an offer of units or derivatives of units in a business trust to an entity or to a trustee shall be treated as an offer to a single person, provided that the entity or trust is not formed primarily for the purpose of acquiring the units or derivatives of units which are the subject of the offer;

(*b*) an offer of units or derivatives of units in a business trust to an entity or to a trustee shall be treated as an offer to the equity owners, partners or members of that entity, or to the beneficiaries of the trust, as the case may be, if the entity or trust is formed primarily for the purpose of acquiring the units or derivatives of units which are the subject of the offer;

(*c*) an offer of units or derivatives of units in a business trust to 2 or more persons who will own the units or derivatives of units acquired as joint owners shall be treated as an offer to a single person;

(*d*) an offer of units or derivatives of units in a business trust to a person acting on behalf of another person (whether as an agent or otherwise) shall be treated as an offer made to that other person;

(*e*) offers of units or derivatives of units in a business trust made by a person as an agent of another person shall be treated as offers made by that other person;

(*f*) where an offer is made to a person with a view to another person acquiring an interest in those units or derivatives of units in a business trust by virtue of section 4, only the second-mentioned person shall be counted for the purposes of determining whether offers of the units or derivatives of units are made to no more than the applicable number of persons specified in subsection (1)(*a*); and

(*g*) where —

(i) an offer of units or derivatives of units in a business trust is made to a person in reliance on the exemption under subsection (1) with a view to those units or derivatives of units being subsequently offered for sale to another person; and

(ii) that subsequent offer —

(A) is not made in reliance on an exemption under any provision of this Subdivision; or

(B) is made in reliance on an exemption under subsection (1) or section 282ZC,

both persons shall be counted for the purposes of determining whether offers of the units or derivatives of units are made to no more than the applicable number of persons specified in subsection (1)(*a*).

[1/2005]

(6) In subsection (1)(*b*), "advertisement" has the same meaning as in section 282V(10).

[1/2005]

Offer made under certain circumstances

282X.—(1) Subdivision (2) of this Division (other than subsection (1)(*a*) of sections 282C and 282Q) shall not apply to an offer of units or derivatives of units in a business trust if —

(*a*) it is made in connection with a take-over offer which is in compliance with the Take-over Code;

(*b*) it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in a corporation or some or all of the shares of a particular class in a corporation —

(i) to all members of the corporation or all members of the corporation holding shares of that class; or

(ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,

and such offer complies with the Take-over Code as though the Take-over Code were applicable to it;

(*c*) it is made in connection with a proposed compromise or arrangement between —

(i) a corporation and its creditors or a class of them; or

(ii) a corporation and its members or a class of them,

and such proposed compromise or arrangement and the execution thereof complies with the Take-over Code as though the Take-over Code were applicable to it;

(*d*) it is an offer of units in a business trust (not being such excluded units in a business trust, or units in such excluded business trust, as may be prescribed by the Authority) that have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange;

[2/2009 wef 29/07/2009]

(*e*) it is an offer of derivatives of units in a business trust (not being such excluded derivatives of units in a business trust, or derivatives of units in such excluded business trust, as may be prescribed by the Authority) where —

(i) the derivatives of units have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange; or

[2/2009 wef 29/07/2009]

(ii) an application has been or will be made for permission for the derivatives of units to be listed for quotation or quoted on a securities exchange and the units have been previously issued and are listed for quotation on a securities exchange or a recognised securities exchange;

[2/2009 wef 29/07/2009]

(*f*) it is an offer of units in a business trust made to any existing unitholder of the business trust or any holder of debentures of the trustee-manager issued in its capacity as trustee-manager of the business trust whose units are listed for quotation on a securities exchange; or

(*g*) it is an offer of derivatives of units in a business trust made to any existing unitholder of the business trust or any holder of debentures of the trustee-manager issued in its capacity as trustee-manager of the business trust whose units are listed

for quotation on a securities exchange, where such derivatives of units may only be exercised or converted by any existing unitholder or holder of debentures into units of the business trust.

[1/2005]

(2) An offer of units or derivatives of units in a business trust does not come within subsection (1)(*d*) or (*e*) if —

(*a*) the units or derivatives of units being offered are borrowed by the issuer from an existing unitholder or holder of derivatives of units, solely for the purpose of facilitating the offer of units or derivatives of units by the issuer; and

(*b*) such borrowing is made under an agreement or arrangement between the issuer and the unitholder or holder which promises the issue or allotment of units or derivatives of units by the issuer to the unitholder or holder at the same time or shortly after the offer.

[1/2005]

(3) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust if —

(*a*) it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in an unlisted corporation or some or all of the shares of a particular class in an unlisted corporation —

(i) to all members of the corporation or all members of the corporation holding shares of that class; or

(ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,

where such offer is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs of the country in which the corporation was incorporated;

(*b*) it is made in connection with a proposed compromise or arrangement between —

(i) an unlisted corporation and its creditors or a class of them; or

(ii) an unlisted corporation and its members or a class of them,

and such proposed compromise or arrangement and the execution thereof is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs, compromises and arrangements of the country in which the corporation was incorporated;

(*c*) it is made (whether or not in relation to units or derivatives of units in a business trust that have been previously issued) by the trustee of the business trust to a qualifying person, where the units or derivatives of units are to be held by or for the benefit of the qualifying person and are the units or derivatives of units of the business trust or the securities of any of its related parties;

(*d*) it is an offer to enter into an underwriting agreement relating to units or derivatives of units in a business trust; or

(*e*) it is an offer of units or derivatives of units in a business trust —

(i) being a business trust which is registered in Singapore or otherwise, whose units or derivatives of units are not listed for quotation on a securities exchange; or

(ii) being a business trust which is not registered in Singapore, whose units or derivatives of units are listed for quotation on a securities exchange and such listing is not a primary listing,

that is made to existing unitholders of the business trust or holders of debentures of the trustee issued in its capacity as trustee of the business trust (whether or not it is renounceable in favour of persons other than existing unitholders or holders of debentures).

[1/2005]

(4) An offer of units or derivatives of units in a business trust comes within subsection (3)(*c*) only if no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(*a*) the holder of a capital markets services licence to deal in securities;

(*b*) an exempt person in respect of dealing in securities; or

(*c*) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealings.

[1/2005]

(5) For the purposes of subsection (3)(*c*), a person is a qualifying person in relation to a business trust if he is a bona fide director or equivalent person, former director or equivalent person, consultant, adviser, employee or former employee of the trustee of the business trust or a related corporation of that trustee (being a corporation), or if he is the spouse, widow, widower or a child, adopted child or step-child below the age of 18, of such director or equivalent person, former director or equivalent person, employee or former employee.

[1/2005]

(6) Where, on the application of any person interested, the Authority declares that circumstances exist whereby —

(*a*) the cost of providing a prospectus for an offer of units or derivatives of units in a business trust outweighs the resulting protection to investors; or

(*b*) it would not be prejudicial to the public interest if a prospectus were dispensed with for an offer of units or derivatives of units in a business trust,

then Subdivision (2) of this Division (other than section 282Q) shall not apply to such offer for a period of 6 months from the date of the declaration.

[1/2005]

(7) The Authority may, on making a declaration under subsection (6), impose such conditions or restrictions on the offer as the Authority may determine.

[1/2005]

(8) A declaration made under subsection (6) shall be final.

[1/2005]

(9) Any person who contravenes any of the conditions or restrictions specified in the declaration made under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(10) In subsection (1)(*b*) and (*c*), "corporation" means a corporation that is not a company.

[1/2005]

(11) In subsection (3)(*a*) and (*b*), "unlisted corporation" means a corporation —

(*a*) that is not a company; and

(*b*) the shares or debentures, or units of shares or debentures of which are not listed for quotation on any securities exchange.

[1/2005]

[SFA, s. 273]

Offer made to institutional investors

282Y. Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust, whether or not they have been previously issued, made to an institutional investor.

[1/2005]

[SFA, s. 274]

Offer made to accredited investors and certain other persons

282Z.—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust, whether or not they have been previously issued, where the offer is made to a relevant person, if —

(*a*) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*b*) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction

in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(*c*) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 282K; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust to a person who acquires the units or derivatives of units as principal, whether or not the units or derivatives of units have been previously issued, if —

(*a*) the offer is on terms that the units or derivatives of units may only be acquired at a consideration of not less than $200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(*b*) the offer is not accompanied by an advertisement making an offer or calling attention to the offer, or intended offer;

(*c*) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by —

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(*d*) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 282K; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(3) In this section —

"advertisement" means —

(*a*) a written or printed communication;

(*b*) a communication by radio, television or other medium of communication; or

(*c*) a communication by means of a recorded telephone message,

that is published in connection with an offer in respect of units or derivatives of units in a business trust, but does not include —

(i) an information memorandum;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

[2/2009 wef 29/07/2009]

(iii) a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the trustee of the business trust or any entity, a notice or report of a general meeting or proposed general meeting of the unitholders of the business trust, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;

"information memorandum" means a document —

(*a*) purporting to describe —

(i) the units or derivatives of units in the business trust being offered; or

(ii) the business and affairs of any one or more of the following —

(A) the issuer;
(B) the person making the offer;
(C) the business trust;
(D) the trustee of the business trust; and

(*b*) purporting to have been prepared for delivery to and review by relevant persons and persons to whom an offer referred to in subsection (2) is to be made so as to assist them in making an investment decision in respect of the units or derivatives of units in the business trust being offered;

"relevant person" means —

(*a*) an accredited investor;

(*b*) a corporation the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor;

(*c*) a trustee of a trust the sole purpose of which is to hold investments and each beneficiary of which is an individual who is an accredited investor;

(*d*) an officer or equivalent person of the person making the offer (such person being an entity) or a spouse, parent, brother, sister, son or daughter of that officer or equivalent person; or

(*e*) a spouse, parent, brother, sister, son or daughter of the person making the offer (such person being an individual).

[1/2005]

(4) In the definition of "information memorandum" in subsection (3), the reference to the affairs of the issuer, the person making the offer, the trustee of the business trust or the business trust shall —

(*a*) in the case where the issuer, the person making the offer or the trustee of the business trust is a corporation, be construed as including a reference to the matters referred to in section 2(2);

(*b*) in the case where the issuer, the person making the offer or the trustee of the business trust is not a corporation, be construed to refer to such matters as may be prescribed by the Authority; and

(*c*) in the case of a business trust, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

(5) Notwithstanding any requirement in section 99 or any regulation made thereunder that a person has to deal in securities for his own account with or through a person prescribed by the Authority so that he can qualify as an exempt person, a person who acquires units or derivatives of units in a business trust under section 282Y or this section for his own account shall be considered an exempt person even though he does not comply with that requirement.

[1/2005]

(6) The Authority may, by order published in the *Gazette*, specify an amount in substitution of any amount specified in subsection (2)(*a*).

[1/2005]

[SFA, s. 275]

Offer of securities acquired pursuant to section 282Y or 282Z

282ZA.—(1) Notwithstanding sections 282V, 282W, 282X(1)(*d*) and (*e*) and (3)(*c*) and 282ZB but subject to subsection (7), where units or derivatives of units in a business trust initially acquired pursuant to an offer made in reliance on an exemption under section 282Y or

282Z are sold within the period of 6 months from the date of the initial acquisition to any person other than —

(*a*) an institutional investor;

(*b*) a relevant person as defined in section 282Z(3); or

(*c*) any person pursuant to an offer referred to in section 282Z(2),

then Subdivision (2) of this Division shall apply to the offer resulting in that sale.

[1/2005]
[2/2009 wef 29/07/2009]

(1A) The reference to the sale of derivatives of units in a business trust under subsection (1) shall, in a case where the derivatives of units initially acquired are derivatives of units with an attached right of conversion into units in the business trust, include a reference to the sale of the converted units.

[2/2009 wef 29/07/2009]

(2) Where units or derivatives of units in a business trust initially acquired pursuant to an offer made in reliance on an exemption under section 282Y or 282Z are sold to —

(*a*) an institutional investor;

(*b*) a relevant person as defined in section 282Z(3); or

(*c*) any person pursuant to an offer referred to in section 282Z(2),

Subdivision (2) of this Division shall not apply to the offer resulting in that sale.

[1/2005]

(3) Subject to subsection (7), securities of a corporation (other than a corporation that is an accredited investor) —

(*a*) the sole business of which is to hold investments; and

(*b*) the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor,

shall not be transferred within 6 months after the corporation has acquired any units or derivatives of units in a business trust pursuant to an offer made in reliance on an exemption under section 282Z unless —

(i) that transfer —

(A) is made only to institutional investors or relevant persons as defined in section 282Z(3); or

(B) arises from an offer referred to in section 282Z(2);

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]
[2/2009 wef 29/07/2009]

(4) Subject to subsection (7), where —

(*a*) the sole purpose of a trust (other than a trust the trustee of which is an accredited investor) is to hold investments; and

(*b*) each beneficiary of the trust is an individual who is an accredited investor,

the beneficiaries' rights and interest (howsoever described) in the trust shall not be transferred within 6 months after units or derivatives of units in a business trust are acquired for the trust pursuant to an offer made in reliance on an exemption under section 282Z unless —

(i) that transfer —

(A) is made only to institutional investors or relevant persons as defined in section 282Z(3); or

(B) arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than $200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]
[2/2009 wef 29/07/2009]

(5) For the avoidance of doubt, the reference to beneficiaries in subsection (4) shall include a reference to unitholders of a business trust and participants of a collective investment scheme.

[1/2005]

(6) For the avoidance of doubt, where any units or derivatives of units in a business trust are acquired pursuant to an offer made in reliance on an exemption under section 282Y or 282Z, an offer to sell those units or derivatives of units may be made in reliance on an exemption under section 282X(1)(*d*) or (*e*) after 6 months have elapsed from the date of the first-mentioned offer.

[1/2005]

(7) Subsections (1), (3) and (4) shall not apply where the units or derivatives of units in the business trust acquired are of the same class as other units or derivatives of units in the business trust —

(*a*) an offer of which has previously been made in or accompanied by a prospectus; and

(*b*) which are listed for quotation on a securities exchange.

[2/2009 wef 29/07/2009]

Offer of units converted from debentures

282ZAA.—(1) Notwithstanding sections 282V, 282W, 282X(1)(*d*) and (*e*) and (3)(*c*) and 282ZB, where —

(*a*) debentures with an attached right of conversion into units in a business trust are acquired pursuant to an offer made in reliance on an exemption under section 274 or 275; and

(*b*) the debentures are then converted into the units,

then Subdivision (2) shall apply to an offer resulting in a sale of any of the units if the sale takes place within 6 months from the date of acquisition of the debentures.

(2) Subsection (1) shall not apply to a sale of the units to —

(*a*) an institutional investor;

(*b*) a relevant person as defined in section 282Z(3); or

(*c*) any person pursuant to an offer referred to in section 282Z(2).

(3) Subsection (1) shall not apply where the units in the business trust sold are of the same class as other units in the business trust —

(*a*) an offer of which has previously been made in or accompanied by a prospectus; and

(*b*) which are listed for quotation on a securities exchange.

[2/2009 wef 29/07/2009]

Offer made using offer information statement

282ZB.—(1) Subject to subsection (2), Subdivision (2) of this Division (other than subsection (1)(*a*) of section 282C and section 282Q) shall not apply to an offer of units or derivatives of units in a business trust (not being such securities as may be prescribed by the Authority) issued by a trustee-manager acting in its capacity as trustee-manager of the business trust where units of the business trust which have been previously issued are listed for quotation on a securities exchange, whether by means of a rights issue or otherwise, if —

(*a*) in the case where derivatives of units in a business trust are being issued by the trustee-manager in its capacity as trustee-manager of the business trust, the units are those of that business trust;

(*b*) an offer information statement relating to the offer which complies with such form and content requirements as may be prescribed by the Authority is lodged with the Authority; and

(*c*) either —

(i) the offer is made in or accompanied by the offer information statement referred to in paragraph (*b*); or

(ii) all the conditions in subsection (2A) are satisfied.

[1/2005]
[2/2009 wef 01/10/2012]

(2) Subsection (1) shall only apply to an offer of units or derivatives of units in a business trust referred to in that subsection made within a period of 6 months from the date the offer information statement relating to that offer is lodged with the Authority.

[2/2009 wef 01/10/2012]

(2A) The conditions referred to in subsection (1)(*c*)(ii) are —

(*a*)

the offer is made using any automated teller machine or such other electronic means as may be prescribed by the Authority;

(*b*) the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer —

(i) how he can obtain, or arrange to receive, a copy of the offer information statement in respect of the offer; and

(ii) that he should read the offer information statement before submitting his application,

before enabling him to submit any application to subscribe for or purchase securities; and

(*c*) the person making the offer complies with such other requirements as the Authority may prescribe.

[2/2009 wef 01/10/2012]

(3) The Authority may, on the application of any person interested, modify the prescribed form and content of the offer information statement in such manner as is appropriate, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(4) Sections 282I, 282J, 282N, 282O and 282P shall apply in relation to an offer information statement referred to in subsection (1) as they apply in relation to a prospectus.

[1/2005]

(5) For the purposes of subsection (4) —

(*a*) a reference in section 282I or 282J to the registration of the prospectus shall be read as a reference to the lodgment of the offer information statement; and

(*b*) a reference in section 282N or 282O to any information or new circumstance required to be included in a prospectus under section 282F shall be read as a reference to any information prescribed under subsection (1)(*b*).

[1/2005]

(6) Where the written consent of an expert is required to be given under section 282I (as applied in relation to an offer information statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[1/2005]

(7) Where the written consent of an issue manager or underwriter is required to be given under section 282J (as applied in relation to that statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[1/2005]

Making offer using automated teller machine or electronic means

282ZC.—(1) Subject to subsection (3) and such requirements as may be prescribed by the Authority, a person making an offer of units or derivatives of units in a business trust using —

(*a*) any automated teller machine; or

(*b*) such other electronic means as may be prescribed by the Authority,

is exempted from the requirement under section 282C(1)(*b*)(i) that the offer be made in or accompanied by a prospectus in respect of the offer or, where applicable, the requirement under section 282C(4) that the offer be made in or accompanied by a profile statement in respect of the offer.

[1/2005]

(2) For the avoidance of doubt, a prospectus which complies with all other requirements of section 282C(1)(*b*)(i) or, where applicable, a profile statement which complies with all other requirements of section 282C(4) must still be prepared and issued in respect of any offer referred to in subsection (1).

[1/2005]

(3) Subsection (1) shall not apply unless the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer —

(*a*) how he can obtain, or arrange to receive, a copy of the prospectus or, where applicable, profile statement in respect of the offer; and

(*b*) that he should read the prospectus or, where applicable, profile statement before submitting his application,

before enabling him to submit any application to subscribe for or purchase units or derivatives of units in a business trust.

[1/2005]

Revocation of exemption

282ZD.—(1) Where the Authority considers that a person is contravening, or is likely to contravene, or has contravened any condition or restriction imposed under section 282X(7), or that it is necessary in the public interest or for the protection of investors, it may revoke any exemption under this Subdivision, subject to such conditions as it thinks fit.

[1/2005]

(2) The Authority may revoke an exemption under subsection (1) without giving the person affected by the revocation an opportunity to be heard, but the person may, within 14 days of the revocation, apply to the Authority for the revocation to be reviewed by the Authority, and the revocation shall remain in effect unless it is withdrawn by the Authority.

[1/2005]

(3) A revocation made under this section shall be final and conclusive and there shall be no appeal therefrom.

[1/2005]

[SFA, s. 281]

Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

282ZE. For the avoidance of doubt, it is hereby declared that in relation to any transaction carried out under an exempted offer under this Part, nothing in this Part shall limit or diminish any liability which any person may incur in respect of any relevant offence under Division 2 of

Part XII of the Companies Act (Cap. 50) or Part XII of this Act or any penalty, award of compensation or punishment in respect of any such offence.

[1/2005]

[SFA, s. 282]

Subdivision (4) — Debentures

Applicability of provisions relating to prospectus requirements

282ZF. Division 1 of this Part shall apply, subject to such modifications and adaptations as may be prescribed, to an offer to subscribe for or purchase debentures or units of debentures (within the meaning of section 239(1)) issued by a trustee of a trust on behalf of the trust and have effect accordingly.

[1/2005]

Division 2 — Collective Investment Schemes

Subdivision (1) — Interpretation

Interpretation of this Division

283.—(1) In this Division, unless the context otherwise requires —

[*Deleted by Act 2/2009 wef 29/07/2009*]

"control", in relation to an entity, means the capacity of a person to determine the outcome of decisions on the financial and operating policies of the entity, having regard to —

(*a*) the influence which the person can, in practice, exert on the entity (as opposed to the rights which the person can exercise in the entity); and

(*b*) any practice or pattern of behaviour of the person affecting the financial or operating policies of the entity (even if such practice or pattern of behaviour involves a breach of an agreement or a breach of trust),

but does not include any capacity of a person to influence decisions on the financial and operating policies of the entity if such influence is required by law or under any contract or order of court to be exercised for the benefit of other persons;

"immediate family", in relation to an individual, means the individual's spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister;

"preliminary document" means a document which has been lodged with the Authority and is issued for the purpose of determining the appropriate issue or sale price of, and the number of, units in a collective investment scheme to be issued or sold and which contains the information required to be included in a prospectus as may be prescribed under section 296(1)(*a*)(i), except for such information as may be prescribed by the Authority;

"profile statement" means a profile statement referred to in section 296(2);

"prospectus" means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of units in a collective investment scheme or proposed collective investment scheme, but does not include —

(*a*) a profile statement; or

(*b*) any material, advertisement or publication which is authorised by section 300 (other than subsection (3));

"recognised securities exchange" means a corporation which has been declared by the Authority, by order published in the *Gazette*, to be a recognised securities exchange for the purposes of this Division;

"related party" means —

(*a*) in relation to an entity —

(i) a director or an equivalent person of the entity;

(ii) the chief executive officer or an equivalent person of the entity;

(iii) a person who controls the entity;

(iv) a related corporation;

(v) any other entity controlled by it;

(vi) any other entity controlled by the person referred to in sub-paragraph (iii); and

(vii) a related party of any individual referred to in sub-paragraph (i), (ii) or (iii); and

(*b*) in relation to an individual —

(i) his immediate family;

(ii) a trustee of any trust of which the individual or any member of the individual's immediate family is —

(A) a beneficiary; or

(B) where the trust is a discretionary trust, a discretionary object,

when the trustee acts in that capacity; and

(iii) any corporation in which he and his immediate family (whether directly or indirectly) have interests in voting shares of an aggregate of not less than 30% of the total votes attached to all voting shares;

"replacement document" means a replacement prospectus or a replacement profile statement referred to in section 298(1), as the case may be;

"supplementary document" means a supplementary prospectus or a supplementary profile statement referred to in section 298(1), as the case may be;

"unit trust" means a collective investment scheme under which the property is held on trust for the participants.

[16/2003; 1/2005]

(2) For the purposes of this Division, a statement shall be deemed to be included in a prospectus or profile statement if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

[1/2005]

(3) For the purposes of this Division, a person makes an offer of units in a collective investment scheme if, and only if, as principal —

(*a*) he makes (either personally or by an agent) an offer to any person in Singapore which upon acceptance would give rise to a contract for the issue or sale of those units by him or another person with whom he has made arrangements for that issue or sale; or

(*b*) he invites (either personally or by an agent) any person in Singapore to make an offer which upon acceptance would give rise to a contract for the issue or sale of those units by him or another person with whom he has made arrangements for that issue or sale.

[1/2005]

(4) In subsection (3), "sale" includes any disposal for valuable consideration.

[1/2005]

[Companies, s. 4]

Use of term "real estate investment trust"

283A.—(1) No person shall, when describing or referring to any arrangement the rights or interests of which are, will be or have been the subject of an offer or intended offer, use the term "real estate investment trust" or any of its derivatives in any language in the name or description or any representation of that arrangement, unless —

(*a*) the arrangement is authorised under section 286 or is one for which an application for authorisation has been made and has not been refused by the Authority under that section;

(*b*) the arrangement is recognised under section 287 or is one for which an application for recognition has been made and has not been refused by the Authority under that section; or

(*c*) the Authority has given its consent in writing to that person to use that term or derivative, or that person belongs to a class of persons declared by the Authority by order published in the *Gazette* as persons who may use such term or derivative.

[31/2004; 1/2005]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not

exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[31/2004]

(3) For the avoidance of doubt, in subsection (1) —

(*a*) "offer" or "intended offer", in relation to any rights or interests in an arrangement, includes an offer or intended offer in relation to any such rights or interests that have previously been issued; and

(*b*) "representation", in relation to an arrangement, includes a representation of the arrangement in any bill head, letter paper, notice, advertisement, publication or writing, whether in electronic, print or other form.

[31/2004; 1/2005]

Code on Collective Investment Schemes

284.—(1) For the more effective administration, supervision and control of collective investment schemes, the Authority shall, under section 321, issue a code, to be known as the Code on Collective Investment Schemes.

(2) The Authority may from time to time revise the Code on Collective Investment Schemes by deleting, amending or adding to the provisions thereof.

(3) The Code on Collective Investment Schemes shall be deemed not to be subsidiary legislation.

[HK CUTMF]

Authority may disapply this Division to certain offers and invitations

284A. Notwithstanding any provision to the contrary in this Division, where —

(*a*) an offer of units in a collective investment scheme is one to which (but for this section) both this Division and Division 1 apply; and

(*b*) the Authority has by order published in the *Gazette* declared that this Division shall not apply to that offer or a class of offers to which that offer belongs,

then this Division (other than section 283A) does not apply to that offer.

[16/2003; 1/2005]
[2/2009 wef 01/10/2012]

Division not to apply to certain collective investment schemes which are business trusts

284B. This Division (other than section 283A) does not apply to an offer of units in a collective investment scheme, where —

(*a*) the collective investment scheme is also a registered business trust; or

(*b*) the collective investment scheme is also a business trust and the offer is made in reliance on an exemption under Subdivision (3) of Division 1A.

[1/2005]
[2/2009 wef 01/10/2012]

Modification of provisions to certain offers

284C. The Authority may, if it thinks it necessary in the interest of the public or a section of the public or for the protection of investors, by regulations modify or adapt the provisions of this Division in their application to such offer of units in a collective investment scheme as may be prescribed, and the provisions of this Division shall apply to such offer subject to such modifications or adaptations.

[2/2009 wef 29/07/2009]

Subdivision (2) — Authorisation and recognition

Requirement for authorisation or recognition

285.—(1) No person shall make an offer of units in a collective investment scheme if the collective investment scheme has not been authorised under section 286 or recognised under section 287.

[1/2005]
[2/2009 wef 29/07/2009]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[UK FSMA 2000, s. 238]

Authorised schemes

286.—(1) The Authority may, upon an application made to the Authority in such form and manner as may be prescribed by regulations made under section 341, authorise a collective investment scheme constituted in Singapore, subject to —

(*a*) subsection (2);

(*b*) the conditions specified in subsection (3); and

(*c*) such conditions or restrictions as the Authority may think fit to impose by notice in writing.

[Act 34 of 2012 wef 18/03/2013]

(1A) The Authority may, at any time, by notice in writing to the responsible person for a collective investment scheme authorised under subsection (1), vary or revoke any condition or restriction imposed by the Authority under subsection (1)(*c*) or impose such further condition or restriction as the Authority may think fit.

[Act 34 of 2012 wef 18/03/2013]

(2) The Authority may authorise, under subsection (1), a collective investment scheme which is constituted as a unit trust if and only if the Authority is satisfied that —

(*a*) there is a manager for the scheme which satisfies the requirements in subsection (3);

(*b*) there is a trustee for the scheme approved under section 289;

(*c*) there is a trust deed in respect of the scheme entered into by the manager and the trustee for the scheme that complies with prescribed requirements; and

(*d*) the scheme, the manager for the scheme and the trustee for the scheme comply with this Act and the Code on Collective Investment Schemes.

(3) It shall be a condition for the authorisation of a collective investment scheme under subsection (1) that —

(*a*) the manager of the scheme is —

(i) in the case of a collective investment scheme —

(A) that is a trust;

(B) that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and

[2/2009 wef 29/07/2009]

(C) all or any units of which are listed for quotation on a securities exchange,

the holder of a capital markets services licence for real estate investment trust management; and

(ii) in all other cases, the holder of a capital markets services licence for fund management or a person exempted under section 99(1)(*a*), (*b*), (*c*) or (*d*) in respect of fund management; and

[S 376/2008 wef 01/08/2008]

(*b*) the manager for the scheme is a fit and proper person, in the opinion of the Authority, and in considering if a person satisfies this requirement, the Authority may take into account any matter relating to —

(i) any person who is or will be employed by or associated with the manager;

(ii) any person exercising influence over the manager; or

(iii) any person exercising influence over a related corporation of the manager.

[16/2003]

(4) The Authority may authorise, under subsection (1), a collective investment scheme which is not constituted as a unit trust if and only if the Authority is satisfied that the scheme and the manager for the scheme comply with such requirements as may be prescribed.

(5) Without prejudice to subsection (2), the Authority may refuse to authorise any collective investment scheme under subsection (1) where it appears to the Authority that it is not in the public interest to do so.

[2/2009 wef 29/07/2009]

(6) The Authority shall not refuse to authorise a collective investment scheme under subsection (1) without giving the person who made the application an opportunity to be heard,

except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to authorise the collective investment scheme on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[16/2003; 1/2005]

(7) The responsible person for a collective investment scheme may, within 30 days after he is notified that the Authority has refused to authorise that scheme under subsection (1), appeal to the Minister whose decision shall be final.

[1/2005]

(8) An application made under subsection (1) shall be accompanied by such information or record as the Authority may require.

(9) The Authority may publish for public information, in such manner as it considers appropriate, particulars of any collective investment scheme authorised under subsection (1).

(10) The responsible person for a collective investment scheme authorised under subsection (1) and the approved trustee for the scheme, to the extent applicable, shall ensure that the conditions and requirements set out in subsections (2), (3) and (4), and every condition or restriction imposed by the Authority under subsection (1)(*c*) or (1A), as applicable to that scheme shall continue to be satisfied.

[Act 34 of 2012 wef 18/03/2013]

(11) Notwithstanding subsection (10), a failure by any person to comply with the Code on Collective Investment Schemes shall not of itself render that person liable to criminal proceedings but such failure may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

(12) If any person fails to comply with the Code on Collective Investment Schemes, the Authority may, in addition to, or as an alternative to any action under section 288, take such other action as it deems fit.

(13) The responsible person for a collective investment scheme which is authorised under subsection (1) shall furnish such information or record regarding the scheme as the Authority may, at any time, require for the proper administration of this Act.

(14) Where the manager for a collective investment scheme which is constituted as a unit trust and authorised under subsection (1) fails to comply with this Act or the Code on

Collective Investment Schemes, the Authority may direct the trustee for the scheme to remove that person and appoint a new manager for the scheme.

(15) Any person who contravenes subsection (10) or (13) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[UK FSMA 2000, s. 242, s. 243, s. 244, s. 245, s. 247 and s. 248; HK SF Bill, Clause 103]

Recognised schemes

287.—(1) The Authority may, upon an application made to the Authority in such form and manner as may be prescribed by regulations made under section 341, recognise a collective investment scheme constituted outside Singapore, subject to —

(*a*) subsection (2);

(*b*) the conditions specified in subsection (3); and

(*c*) such conditions or restrictions as the Authority may think fit to impose by notice in writing.

[Act 34 of 2012 wef 18/03/2013]

(1A) The Authority may, at any time, by notice in writing to the responsible person for a collective investment scheme recognised under subsection (1), vary or revoke any condition or restriction imposed by the Authority under subsection (1)(*c*) or impose such further condition or restriction as the Authority may think fit.

[Act 34 of 2012 wef 18/03/2013]

(2) The Authority may recognise a collective investment scheme under subsection (1) if and only if the Authority is satisfied that —

(*a*) the laws and practices of the jurisdictions under which the scheme is constituted and regulated affords to investors in Singapore protection at least equivalent to that provided to them by or under this Division in the case of comparable authorised schemes;

(*b*) [*Deleted by Act 1/2005*]

(*c*) there is a manager for the scheme which satisfies the requirements in subsection (3);

(*d*) there is a representative for the scheme for the functions set out in subsection (13) who is —

(i) an individual resident in Singapore; or

(ii) a company, or a foreign company registered under Division 2 of Part XI of the Companies Act (Cap. 50);

(*e*) the Authority has been furnished with information regarding —

(i)

the name of the representative referred to in paragraph (*d*) and his address (where such representative is a corporation) or contact particulars (where such representative is an individual); and

(ii) such other information as the Authority may prescribe; and

(*f*) the scheme, the manager for the scheme and the trustee for the scheme, where applicable, comply with this Act and the Code on Collective Investment Schemes.

[1/2005]

(3) It shall be a condition for the recognition of a collective investment scheme under subsection (1) that the manager for the scheme is —

(*a*) licensed or regulated in the jurisdiction of its principal place of business; and

(*b*) a fit and proper person, in the opinion of the Authority, and in considering if a person satisfies this requirement, the Authority may take into account any matter relating to —

(i) any person who is or will be employed by or associated with the manager;

(ii) any person exercising influence over the manager; or

(iii) any person exercising influence over a related corporation of the manager.

[16/2003; 1/2005]

(4) Without prejudice to subsection (2), the Authority may refuse to recognise any collective investment scheme under subsection (1) where it appears to the Authority that it is not in the public interest to do so.

[2/2009 wef 29/07/2009]

(5) The Authority shall not refuse to recognise a collective investment scheme under subsection (1) without giving the person who made the application an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to recognise the collective investment scheme on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[16/2003; 1/2005]

(6) The responsible person for a collective investment scheme may, within 30 days after he is notified that the Authority has refused to recognise that scheme under subsection (1), appeal to the Minister whose decision shall be final.

[1/2005]

(7) An application made under subsection (1) shall be accompanied by such information or record as the Authority may require.

(8) The Authority may publish for public information, in such manner as it considers appropriate, particulars of any collective investment scheme recognised under subsection (1).

(9) The responsible person for a collective investment scheme recognised under subsection (1) shall ensure that the conditions and requirements set out in subsections (2) and (3), and every condition or restriction imposed by the Authority under subsection (1)(*c*) or (1A), as applicable to that scheme, shall continue to be satisfied.

[Act 34 of 2012 wef 18/03/2013]

(10) Notwithstanding subsection (9), a failure by any person to comply with the Code on Collective Investment Schemes shall not of itself render that person liable to criminal proceedings but may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

(11) If any person fails to comply with the Code on Collective Investment Schemes, the Authority may in addition to, or as an alternative to any action under section 288, take such other action as it deems fit.

(12) The responsible person for a collective investment scheme which is recognised under subsection (1) shall furnish such information or record regarding the scheme as the Authority may, at any time, require for the proper administration of this Act.

(13) The representative for a collective investment scheme which is recognised under subsection (1) shall carry out, or procure the carrying out of the following functions:

(*a*) facilitate —

(i) the issuing and redeeming of units in the scheme;

(ii) the publishing of sale and purchase prices of units in the scheme;

(iii) the sending of reports of the scheme to participants;

(iv) the furnishing of such books relating to the sale and redemption of units as the Authority may require; and

(v) the inspection of the instruments constituting the scheme;

(*b*) either maintain for inspection in Singapore a subsidiary register of participants who subscribed for or purchased their units in Singapore, or maintain in Singapore any facility that enables the inspection or extraction of the equivalent information;

(*c*) within 14 days after any change in the particulars referred to in subsection (2)(*e*), give notice in writing of such change to the Authority;

(*d*) furnish such information or record regarding the scheme as the Authority may, at any time, require for the proper administration of this Act; and

(*e*) such other functions as the Authority may prescribe.

(13A) In carrying out or procuring the carrying out of the functions referred to in subsection (13), the representative shall ensure that —

(*a*) for the purposes of subsection (13)(*a*)(ii), the sale and purchase prices of units in the collective investment scheme are published in the language of the prospectus;

(*b*) for the purposes of subsection (13)(*a*)(iii), the reports of the scheme sent to participants are prepared in the language of the prospectus, except in relation to any participant who has consented to being sent a report in a language other than the language of the prospectus;

(*c*) for the purposes of subsection (13)(*a*)(v), if the instruments constituting the scheme are not in the language of the prospectus, an accurate translation of the instruments in the language of the prospectus is made available to a participant for inspection, unless the participant has consented to the making available to him for inspection of the instruments in a language other than the language of the prospectus; and

(*d*) for the purposes of subsection (13)(*b*), if the subsidiary register of participants or equivalent information is not in the language of the prospectus, an accurate translation of the register or equivalent information in the language of the prospectus is made available to a participant for inspection or extraction, unless the participant has consented to the making available to him for inspection or extraction of the register or equivalent information in a language other than the language of the prospectus.

[16/2003]

(13B) In subsection (13A), "language of the prospectus" means the language of the prospectus accompanying or making the offer of units in the collective investment scheme.

[16/2003; 1/2005]

(13C) Section 318A(2) shall not apply to the instruments constituting the scheme referred to in subsection (13)(*a*)(v) or to the subsidiary register of participants or equivalent information referred to in subsection (13)(*b*).

[16/2003]

(14) Any person who contravenes subsection (9), (12) or (13) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[UK FSMA 2000, s. 272, s. 273, s. 274, s. 275 and s. 276; ASIC Policy Statement 65 (modified)]

Revocation, suspension or withdrawal of authorisation or recognition

288.—(1) The Authority may revoke the authorisation of a collective investment scheme granted under section 286 or the recognition of a collective investment scheme granted under section 287 if —

(*a*) the application for authorisation or recognition, or any related information or record submitted to the Authority whether at the same time as or subsequent to the application, was false or misleading in a material particular or omitted a material particular which, had it been known to the Authority at the time of submission, would have resulted in the Authority not granting the authorisation or recognition;

(*aa*) the Authority is of the opinion that the continued authorisation or recognition of the scheme is or will be against the public interest;

(*b*) the Authority is of the opinion that the continued authorisation or recognition of the scheme is or will be prejudicial to its participants or potential participants; or

(*c*) in the case of —

(i) a scheme authorised under section 286, the responsible person for the scheme or the trustee for the scheme, where applicable, fails to comply with section 286(10) or (13); or

(ii) a scheme recognised under section 287, the responsible person for the scheme or the representative for the scheme, where applicable, fails to comply with section 287(9), (12) or (13).

[16/2003]

(2) Where the Authority revokes the authorisation or recognition of a collective investment scheme under subsection (1), the Authority may issue such directions as it deems fit to the responsible person for the scheme, including a direction that he —

(*a*) refund all moneys contributed by the participants of the scheme; or

(*b*) provide the participants with an option, on such terms as the Authority may approve, to obtain from him a refund of all moneys contributed by them or to redeem their units in accordance with the scheme.

(3) In determining whether to issue a direction under subsection (2), the Authority shall consider whether the responsible person for the collective investment scheme is able to liquidate the property of the scheme without material adverse financial effect to the participants, and for this purpose, the factors which the Authority may take into account include —

(*a*) whether a significant amount of the moneys contributed by the participants has been invested;

(*b*) the liquidity of the property of the scheme; and

(*c*) the penalties, if any, payable for liquidating the property.

(4) A responsible person who contravenes any of the directions issued by the Authority to him under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(5) Notwithstanding subsection (1), the Authority may, if it considers it desirable to do so, instead of revoking the authorisation or recognition of a collective investment scheme, suspend the authorisation or recognition of that scheme for a specific period, and may at any time remove such suspension.

(6) Where the Authority revokes the authorisation or recognition of a collective investment scheme under subsection (1) or suspends the authorisation or recognition of a collective investment scheme under subsection (5), it shall notify the responsible person for the scheme.

(7) Subject to subsection (8), the Authority may, upon an application in writing made to it by the responsible person for a collective investment scheme, in such form and manner as may be prescribed, withdraw the authorisation or recognition of that scheme.

(8) The Authority may refuse to withdraw the authorisation or recognition of a collective investment scheme under subsection (7) where the Authority is of the opinion that —

(*a*) there is any matter concerning the scheme which should be investigated before the authorisation or recognition is withdrawn; or

(*b*) the withdrawal of the authorisation or recognition would not be in the public interest.

(8A) The Authority shall not —

(*a*) revoke the authorisation or recognition of a collective investment scheme under subsection (1);

(*b*) suspend the authorisation or recognition of a collective investment scheme under subsection (5); or

(*c*) refuse the withdrawal of the authorisation or recognition of a collective investment scheme under subsection (8),

without giving the responsible person of the scheme an opportunity to be heard, except that an opportunity to be heard need not be given if the revocation or suspension is on the ground that the continued authorisation or recognition of the scheme is against the public interest on the basis of any of the following circumstances:

(i) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(ii) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(iii) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[16/2003; 1/2005]

(8B) The responsible person for a collective investment scheme may, within 30 days after he is notified that the Authority —

(*a*) has revoked the authorisation or recognition, as the case may be, of that scheme under subsection (1);

(*b*) has suspended the authorisation or recognition, as the case may be, of that scheme under subsection (5); or

(*c*) has refused to withdraw the authorisation or recognition, as the case may be, of that scheme under subsection (8),

appeal to the Minister whose decision shall be final.

[1/2005]

(9) Where the Authority revokes an authorisation or recognition under subsection (1), suspends an authorisation or recognition under subsection (5) or withdraws an authorisation or recognition under subsection (7), it may —

(*a*) impose such conditions on the revocation, suspension or withdrawal as it considers appropriate; and

(*b*) publish notice of the revocation, suspension or withdrawal, and the reason therefor, in such manner as it considers appropriate.

[UK FSMA 2000, s. 254, s. 255 and s. 256; HK SF Bill, Clause 105]

Approval of trustees

289.—(1) The Authority may, upon an application made to the Authority in such form and manner as may be prescribed by regulations made under section 341, approve a public company to act as a trustee for collective investment schemes which are authorised under section 286 and constituted as unit trusts (referred to in this Subdivision as an approved trustee), subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing.

[Act 34 of 2012 wef 18/03/2013]

(1A) The Authority may, at any time, by notice in writing to the approved trustee, vary or revoke any condition or restriction imposed by the Authority under subsection (1) or impose such further condition or restriction as the Authority may think fit.

[Act 34 of 2012 wef 18/03/2013]

(2) The Authority shall not approve a public company to act as trustee under subsection (1) unless the company satisfies such financial requirements and other criteria as the Authority may prescribe.

(3) An approved trustee shall continue to satisfy the financial requirements and other criteria prescribed under subsection (2) and every condition or restriction imposed by the Authority under subsection (1) or (1A).

[Act 34 of 2012 wef 18/03/2013]

(4) Where the Authority is of the opinion that an approved trustee —

(*a*) has failed to satisfy a financial requirement or other criterion prescribed under subsection (2), or any condition or restriction imposed by the Authority under subsection (1) or (1A);

[Act 34 of 2012 wef 18/03/2013]

(*b*) has not carried out its duties with due care and diligence;

(*c*) has acted in a manner which prejudices the participants of any authorised collective investment scheme; or

(*d*) has failed to comply with this Act or the Code on Collective Investment Schemes,

the Authority may —

(i) revoke an approval granted under this section and may direct the manager for the collective investment scheme or schemes which such approved trustee was acting for, to appoint a new trustee for the scheme or schemes;

(ii) prohibit such approved trustee from acting as trustee for any new collective investment scheme; or

(iii) issue such direction as it deems fit.

(4A) Where, upon the Authority exercising any power under section 292D(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to an approved trustee, the Authority considers that it is in the public interest to do so, the Authority may —

(*a*) revoke the approval granted to the approved trustee under this section; and

(*b*) direct the manager for the collective investment scheme or schemes, which the approved trustee was acting for, to appoint a new trustee for the scheme or schemes.

[Act 10 of 2013 wef 18/04/2013]

(5) An approved trustee shall comply with any direction issued to it under subsection (4).

(6) It shall not be necessary to publish any direction issued under subsection (4) in the *Gazette*.

[Act 34 of 2012 wef 18/03/2013]

(7) Any approved trustee who contravenes subsection (3) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[HK CUTMF Chapter 4]

Inspection of approved trustees

290.—(1) The Authority may, from time to time, inspect the books of an approved trustee.

(2) For the purpose of an inspection under this section, the approved trustee under inspection shall afford the Authority access to, and shall produce, its books and shall give such information and facilities as may be required to conduct the inspection.

(3) The Authority shall have the power to copy or take possession of the books of an approved trustee under inspection.

(4) An approved trustee which fails, without reasonable excuse, to produce any book or furnish any information or facilities in accordance with subsection (2), or otherwise obstructs the Authority in the exercise of its powers under this section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.
[SIA, s. 12]

Duty of trustees to furnish Authority with such return and information as Authority requires

291. An approved trustee shall furnish such returns and provide such information relating to its business as the Authority may require.
[SIA, s. 67]

Liability of trustees

292.—(1) Subject to subsection (2), any provision in a trust deed required under section 286 (2)(*c*) or in any contract with the participants of a collective investment scheme to which such a trust deed relates, shall be void in so far as it would have the effect of exempting a trustee under the trust deed from, or indemnifying a trustee against, liability for breach of trust where the trustee fails to exercise the degree of care and diligence required of a trustee.

(2) Subsection (1) shall not invalidate —

(*a*) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or

(*b*) any provision enabling such a release to be given —

(i) on the agreement thereto of a majority of not less than three-fourths of the participants in a collective investment scheme voting in person or by proxy at a meeting summoned for the purpose; and

(ii) either with respect to specific acts or omissions or on the trustee ceasing to act.
[Companies, s. 120]

Disqualification or removal of director or executive officer

292A.—(1) Notwithstanding the provisions of any other written law —

(*a*) an approved trustee shall not, without the prior written consent of the Authority, permit a person to act as its executive officer; and

(*b*) an approved trustee which is incorporated in Singapore shall not, without the prior written consent of the Authority, permit a person to act as its director,

if the person —

(i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 9(1)(*s*) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —

(A) involving fraud or dishonesty;

(B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(C) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

(ii) is an undischarged bankrupt, whether in Singapore or elsewhere;

(iii) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

(iv) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

(v) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A made against him that remains in force; or

(vi) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

(A) which is being or has been wound up by a court; or

(B) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

(2) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director of an approved trustee which is incorporated in Singapore, or an executive officer of an approved trustee —

(*a*) has wilfully contravened or wilfully caused the approved trustee to contravene any provision of this Act;

(*b*) has, without reasonable excuse, failed to secure the compliance of the approved trustee with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or

(*c*) has failed to discharge any of the duties of his office,

the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing to the approved trustee, direct the approved trustee to remove the director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the approved trustee shall comply with the notice.

(3) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, when determining whether a director or an executive officer of an approved trustee has failed to discharge the duties of his office for the purposes of subsection (2)(*c*), have regard to such criteria as may be prescribed.

(4) Before directing an approved trustee to remove a person from his office or employment under subsection (2), the Authority shall —

(*a*) give the approved trustee and the person notice in writing of its intention to do so; and

(*b*) in the notice referred to in paragraph (*a*), call upon the approved trustee and the person to show cause, within such time as may be specified in the notice, why the person should not be removed.

(5) If the approved trustee and the person referred to in subsection (4) —

(*a*) fail to show cause within the time specified under subsection (4)(*b*) or within such extended period of time as the Authority may allow; or

(*b*) fail to show sufficient cause,

the Authority may direct the approved trustee to remove the person under subsection (2).

(6) Any approved trustee which, or any director or executive officer of an approved trustee who, is aggrieved by a direction of the Authority under subsection (2) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision shall be final.

(7) Any approved trustee which contravenes subsection (1) or fails to comply with a notice issued under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(8) No criminal or civil liability shall be incurred by an approved trustee, or any person acting on behalf of the approved trustee, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the approved trustee under this section.

(9) In this section, unless the context otherwise requires —

"regulated financial institution" means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

"regulatory authority", in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.

[Act 10 of 2013 wef 18/04/2013]

Information of insolvency, etc.

292B.—(1) Any approved trustee which is or is likely to become insolvent, which is or is likely to become unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

(2) Any approved trustee which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Interpretation of sections 292C to 292H

292C. In this section and sections 292D to 292H, unless the context otherwise requires —

"business" includes affairs and property;

"office holder", in relation to an approved trustee, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved trustee, or acting in an equivalent capacity in relation to the approved trustee;

"relevant business" means any business of an approved trustee —

(*a*) which the Authority has assumed control of under section 292D; or

(*b*) in relation to which a statutory adviser or a statutory manager has been appointed under section 292D;

"statutory adviser" means a statutory adviser appointed under section 292D;

"statutory manager" means a statutory manager appointed under section 292D.

[Act 10 of 2013 wef 18/04/2013]

Action by Authority if approved trustee unable to meet obligations, etc.

292D.—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

(*a*) an approved trustee informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

(*b*) an approved trustee becomes unable to meet its obligations, or is insolvent, or suspends payments;

(*c*) the Authority is of the opinion that an approved trustee —

(i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors;

(ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction imposed on it under section 289(1) or (1A); or

(*d*) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

(*a*) require the approved trustee immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

(*b*) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the approved trustee on the proper management of such of the business of the approved trustee as the Authority may determine; or

(*c*) assume control of and manage such of the business of the approved trustee as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

(3) Where the Authority appoints 2 or more persons as the statutory manager of an approved trustee, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

(*a*) may be discharged or exercised by such persons jointly and severally;

(*b*) shall be discharged or exercised by such persons jointly; and

(*c*) shall be discharged or exercised by a specified person or such persons.

(4) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 289(4A), do one or more of the following:

(*a*) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(*b*) further exercise any of the powers under subsection (2);

(*c*) add to, vary or revoke any term or condition specified by the Authority under this section.

(5) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(*a*) the exercise or purported exercise of any power under this Act;

(*b*) the performance or purported performance of any function or duty under this Act; or

(*c*) the compliance or purported compliance with this Act.

(6) Any approved trustee that fails to comply with a requirement imposed by the Authority under subsection (2)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Effect of assumption of control under section 292D

292E.—(1) Upon assuming control of the relevant business of an approved trustee, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of an approved trustee, the Authority or statutory manager —

(*a*) shall manage the relevant business of the approved trustee in the name of and on behalf of the approved trustee; and

(*b*) shall be deemed to be an agent of the approved trustee.

(3) In managing the relevant business of an approved trustee, the Authority or statutory manager —

(*a*) shall take into consideration the interests of the public or the section of the public referred to in section 292D(1)(*c*)(i), and the need to protect investors; and

(*b*) shall have all the duties, powers and functions of the members of the board of directors of the approved trustee (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the approved trustee, including powers of delegation, in relation to the relevant business of the approved trustee; but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the approved trustee under the Companies Act or the constitution of the approved trustee.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of an approved trustee by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the approved trustee, which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the approved trustee, for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of an approved trustee, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the approved trustee.

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of an approved trustee, the Authority may at any time, by notice in writing to the person and the approved trustee, revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of an approved trustee is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the approved trustee during the period when the Authority or statutory manager is in control of the relevant business of the approved trustee —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved trustee in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the approved trustee during the period when the Authority or statutory manager is in control of the relevant business of the approved trustee —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of an approved trustee —

(*a*) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the approved trustee,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(*b*) no person shall exercise any voting or other right attached to any share in the approved trustee in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, "constitution", in relation to an approved trustee, means the memorandum of association and articles of association of the approved trustee.

[Act 10 of 2013 wef 18/04/2013]

Duration of control

292F.—(1) The Authority shall cease to be in control of the relevant business of an approved trustee when the Authority is satisfied that —

(*a*) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

(*b*) it is no longer necessary in the interests of the public or the section of the public referred to in section 292D(1)(*c*)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved trustee on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved trustee may be revoked by the Authority at any time —

(*a*) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 292D(1)(*c*)(i) or for the protection of investors; or

(*b*) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved trustee.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(*a*) the Authority's assumption of control of the relevant business of an approved trustee;

(*b*) the cessation of the Authority's control of the relevant business of an approved trustee;

(*c*) the appointment of a statutory manager in relation to the relevant business of an approved trustee; and

(*d*) the revocation of a statutory manager's appointment in relation to the relevant business of an approved trustee.

[Act 10 of 2013 wef 18/04/2013]

Responsibilities of officers, member, etc., of approved trustee

292G.—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved trustee —

(*a*) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved trustee to pay, deliver, convey, surrender or transfer to the

Authority or statutory manager, within such period as the High Court may specify, any property or book of the approved trustee which is comprised in, forms part of or relates to the relevant business of the approved trustee, and which is in the person's possession or control; and

(*b*) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved trustee shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the approved trustee, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

(*a*) without reasonable excuse, fails to comply with subsection (1)(*b*); or

(*b*) in purported compliance with subsection (1)(*b*), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Remuneration and expenses of Authority and others in certain cases

292H.—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved trustee —

(*a*) to a statutory manager or statutory adviser appointed in relation to the approved trustee, whether or not the appointment has been revoked; and

(*b*) where the Authority has assumed control of the relevant business of the approved trustee, to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

(2) The approved trustee shall reimburse the Authority any remuneration and expenses payable by the approved trustee to a statutory manager or statutory adviser.

[Act 10 of 2013 wef 18/04/2013]

Authority may issue directions

293.—(1) The Authority may, where it thinks it necessary or expedient in the interests of the public or a section of the public or for the protection of investors, issue directions by notice in writing either of a general or specific nature to —

(*a*) where a collective investment scheme is constituted as a corporation, the corporation;

(*b*) the manager, trustee, or representative for a collective investment scheme; or

(*c*) any class of such persons referred to in paragraph (*a*) or (*b*).

[Act 34 of 2012 wef 18/03/2013]

(2) Any person to whom a notice is given under subsection (1) shall comply with such direction as may be contained in the notice.

(3) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.

[Act 34 of 2012 wef 18/03/2013]

(4) Any person who contravenes any of the directions issued to him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[SIA, s. 21]

Service

294.—(1) Where a collective investment scheme —

(*a*) is authorised under section 286, any document relating to the scheme shall be sufficiently served if served on the responsible person for the scheme at his last known address; or

(*b*) is recognised under section 287, any document relating to the scheme shall be sufficiently served if served on the responsible person for the scheme or the representative for the scheme at his last known address.

(1A) For the avoidance of doubt, a reference in subsection (1) to service of any document relating to the scheme shall include the service of any process in relation to the scheme.

[1/2005]

(2) Any notice or direction to be given or served by the Authority on a corporation (where a collective investment scheme is constituted as a corporation), the manager for a collective investment scheme, the trustee for a collective investment scheme or the representative for a collective investment scheme shall for all purposes be regarded as duly given or served if it has been delivered or sent by post or facsimile transmission to such person at his last known address.

(3) In the case of a corporation, the last known address referred to in subsections (1) and (2) shall be —

(*a*) if it is a company incorporated in Singapore, the address of its registered office in Singapore; or

(*b*) if it is a foreign company, the address of its registered office in Singapore or the registered address of its agent or, if it does not maintain a place of business in Singapore, its registered office in the place of its incorporation.

[Companies, s. 376]

Winding up

295.—(1) Where a collective investment scheme is to be wound up, whether under this section or otherwise, the responsible person for the scheme shall give notice in writing of the proposed winding up to the Authority at least 7 days before the winding up.

(2) Where the Authority revokes or withdraws the authorisation of a collective investment scheme under section 288, the responsible person and, where applicable, the trustee shall take the necessary steps to wind up the scheme.

(3) Where —

(*a*) the responsible person for a collective investment scheme authorised under section 286 is in liquidation; or

(*b*) in the opinion of the trustee for a collective investment scheme authorised under section 286 which is constituted as a unit trust, the responsible person for the scheme has ceased to carry on business or has, to the prejudice of the participants of the scheme, failed to comply with any provision of the trust deed in respect of the scheme,

the trustee shall summon a meeting of the participants for the purpose of determining an appropriate course of action.

(4) A meeting under subsection (3) shall be summoned —

(*a*) by giving notice in writing of the proposed meeting at least 21 days before the proposed meeting to each participant at his last known address or, in the case of joint participants, to the participant whose name stands first in the records of the responsible person for the scheme; and

(*b*) by publishing, at least 21 days before the proposed meeting, an advertisement giving notice of the meeting in at least 4 local daily newspapers, one each published in the English, Malay, Chinese and Tamil languages.

(5) If at any such meeting a resolution is passed by a majority in number representing three-fourths in value of the participants present and voting either in person or by proxy at the meeting that the scheme to which the trust deed relates be wound up, the responsible person for the scheme and, where applicable, the trustee shall take the necessary steps to wind up the scheme.

(6) Any responsible person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(7) Any responsible person or, where applicable, trustee who contravenes subsection (2) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

(8) Any trustee who contravenes subsection (3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

[Companies, s. 118]

Power to acquire units of participants of real estate investment trust in certain circumstances

295A.—(1) Where an arrangement or a contract involving the transfer of all of the units, or all of the units in any particular class, in a real estate investment trust (referred to in this section as the subject trust), to —

(*a*) the trustee of another trust (including the trustee-manager of a business trust and the trustee of another real estate investment trust); or

(*b*) a corporation,

(referred to in this section as the transferee) has, within 4 months after the making of the offer in that behalf by the transferee, been approved as to the units or as to each class of units whose transfer is involved by participants of the subject trust holding no less than 90% of the total number of those units or of the units of that class (other than units already held at the date of the offer by the transferee), the transferee may, at any time within 2 months after the offer has been so approved, give notice in the prescribed manner to any dissenting participant of the subject trust that it desires to acquire his units.

(2) When a notice referred to in subsection (1) is given, the transferee shall, unless on an application made by a dissenting participant within one month from the date on which the notice was given or within 14 days of a statement being supplied to a dissenting participant under subsection (3) (whichever is the later) a court thinks fit to order otherwise, be entitled and bound to acquire those units —

(*a*) on the terms which under the arrangement or contract the units of the approving participants are to be transferred to the transferee; or

(*b*) if the offer contained 2 or more alternative sets of terms, on the terms which were specified in the offer as being applicable to dissenting participants.

(3) Where a transferee has given notice to any dissenting participant of the subject trust that it desires to acquire his units, the dissenting participant shall be entitled to require the transferee by a demand in writing served on the transferee, within one month from the date on which the notice was given, to supply him with a statement in writing of the names and addresses of all other dissenting participants as shown in the register of participants of the subject trust; and the transferee shall not be entitled or bound to acquire the units of the dissenting participants until 14 days after the posting of the statement of such names and addresses to the dissenting participant.

(4) Where, pursuant to any such arrangement or contract, units in the subject trust are transferred to the transferee or its nominee and those units together with any other units in the subject trust held by the transferee at the date of the transfer comprise or include 90% of the total number of the units in the subject trust or of any class of those units, then —

(*a*) the transferee shall within one month from the date of the transfer (unless on a previous transfer pursuant to the arrangement or contract it has already complied with this requirement) give notice of that fact in the prescribed manner to the participants of the subject trust holding the remaining units in, or the remaining

units of that class of units in, the subject trust who have not assented to the arrangement or contract; and

(*b*) any such participant may within 3 months from receiving the notice require the transferee to acquire his units.

(5) Where a participant has given notice under subsection (4)(*b*) with respect to any units, the transferee shall be entitled and bound to acquire those units —

(*a*) on the terms on which under the arrangement or contract the units of the approving participants were transferred to it; or

(*b*) on such other terms as are agreed or as the court on the application of either the transferee or the participant thinks fit to order.

(6) Where a notice has been given by the transferee under subsection (1) and a court has not, on an application made by the dissenting participant, ordered to the contrary, the transferee shall —

(*a*) after the expiration of one month after the date on which the notice has been given;

(*b*) after 14 days after a statement has been supplied to a dissenting participant under subsection (3); or

(*c*) if an application to the court by the dissenting participant is then pending, after that application has been disposed of,

transmit a copy of the notice to the trustee of the subject trust together with an instrument of transfer executed on behalf of the participant by any person appointed by the transferee and on its own behalf by the transferee, and pay, allot or transfer to the trustee of the subject trust the amount or other consideration representing the price payable by the transferee for the units which by virtue of this section the transferee is entitled to acquire, and the trustee of the subject trust shall thereupon register the transferee as the holder of those units.

(7) Any sums received by the trustee of the subject trust under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that trustee in trust for the several persons who had held the units in respect of which they were respectively received.

(8) Where any consideration other than cash is held in trust by the trustee of the subject trust for any person under this section, the trustee may, after the expiration of 2 years from, and shall, before the expiration of 10 years from, the date on which such consideration was allotted or transferred to him, transfer such consideration to the Official Receiver.

(9) The Official Receiver shall sell or dispose of any consideration so received in such manner as he thinks fit and shall deal with the proceeds of such sale or disposal in accordance with section 295B.

(10) In determining the units in the subject trust already held by the transferee at the date of the offer under subsection (1) or the percentage of the total number of units in the subject trust or of any class of those units held by the transferee under subsection (4), units held or acquired —

(*a*) by a nominee on behalf of the transferee;

(*b*) where the transferee is a corporation, by its related corporation or by a nominee of the related corporation;

(*c*) where the transferee is the trustee-manager of a business trust or the trustee of a real estate investment trust —

(i) by a person who controls more than 50% of the voting power in the business trust or real estate investment trust, or by a nominee of that person;

(ii) by the trustee-manager of the business trust on its own account, or by the manager for the real estate investment trust, or by a nominee of the trustee-manager or manager; or

(iii) by a related corporation of the trustee-manager for the business trust or the manager for the real estate investment trust or by a nominee of that related corporation; or

(*d*) where the transferee is the trustee of a trust that is not a business trust or real estate investment trust, by a related corporation of the trustee (being a corporation) or by a nominee of that related corporation,

shall be treated as held or acquired by the transferee.

(11) For the avoidance of doubt, in this section —

(*a*) a reference to a transferee (being the trustee of a trust) holding, acquiring or contracting to acquire units in another trust is a reference to his doing any of these as trustee of the first-mentioned trust; and

(*b*) a reference to a transfer of units of a trust to a transferee (being the trustee of another trust) is a reference to such transfer of units to him as trustee of that other trust.

(12) The reference in subsection (1) to units already held by the transferee —

(*a*) includes a reference to units which the transferee has contracted to acquire; but

(*b*) excludes units which are the subject of a contract binding the holder thereof to accept the offer when it is made, being a contract entered into by the holder for no consideration and under seal or for no consideration other than a promise by the transferee to make the offer.

(13) Where, during the period within which an offer for the transfer of units to the transferee can be approved, the transferee acquires or contracts to acquire any of the units whose transfer is involved but otherwise than by virtue of the approval of the offer, then the transferee may be treated for the purposes of this section as having acquired or contracted to acquire those units by virtue of the approval of the offer if, and only if —

(*a*)

the consideration for which the units are acquired or contracted to be acquired (referred to in this subsection as the acquisition consideration) does not at that time exceed the consideration specified in the terms of the offer; or

(*b*) those terms are subsequently revised so that when the revision is announced the acquisition consideration, at the time referred to in paragraph (*a*), no longer exceeds the consideration specified in those terms.

(14) In this section and sections 295B and 295C —

"dissenting participant" includes a participant who has not assented to the arrangement or contract and any participant who has failed or refused to transfer his units to the transferee in accordance with the arrangement or contract;

"Official Receiver" means the Official Assignee appointed under the Bankruptcy Act (Cap. 20) and includes his deputy and any person appointed as Assistant Official Assignee;

"real estate investment trust" means a collective investment scheme that is —

(*a*) authorised under section 286 or recognised under section 287; and

(*b*) a trust that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes and all or any of the units of which are listed for quotation on a securities exchange.

[2/2009 wef 29/03/2010]

Unclaimed money to be paid to Official Receiver

295B.—(1) The Official Receiver who receives moneys arising from the proceeds of a sale or disposal under section 295A shall place the moneys to the credit of a separate account to be entitled the Compulsory Acquisition of Scheme Account.

(2) The interest arising from the investment of the moneys standing to the credit of the Compulsory Acquisition of Scheme Account shall be paid into the Consolidated Fund.

(3) If any person makes any demand for any money placed to the credit of the Compulsory Acquisition of Scheme Account, the Official Receiver, upon being satisfied that that person is entitled to the money, shall authorise payment thereof to be made to him out of that Account or, if it has been paid into the Consolidated Fund, may authorise payment of a like amount to be made to him out of moneys made available by Parliament for the purpose.

(4) Any person dissatisfied with the decision of the Official Receiver in respect of a claim made pursuant to subsection (3) may appeal to a court which may confirm, disallow or vary the decision.

(5) Where any unclaimed moneys paid to a person pursuant to subsection (3) are afterwards claimed by any other person, that other person shall not be entitled to any payment out of the Compulsory Acquisition of Scheme Account or out of the Consolidated Fund but such other person may have recourse against the first-mentioned person to whom the unclaimed moneys have been paid.

(6) Any unclaimed moneys paid to the credit of the Compulsory Acquisition of Scheme Account to the extent to which the unclaimed moneys have not been under this section paid out of that Account shall, upon the lapse of 7 years from the date of the payment of the moneys to the credit of that Account, be paid into the Consolidated Fund.

[2/2009 wef 29/03/2010]

Remedies in cases of oppression or injustice

295C.—(1) Any participant of a real estate investment trust may apply to a court for an order under this section on the ground —

(*a*) that the affairs of the trust are being conducted by the manager or trustee for the trust, or the powers of the directors of the manager or directors of the trustee for the trust are being exercised, in a manner oppressive to one or more of the participants of the trust including himself or in disregard of his or their interests as participants of the trust; or

(*b*) that some act of the manager or trustee for the trust, carried out in its capacity as manager or trustee for the trust, as the case may be, has been done or is threatened or that some resolution of the participants of the trust or any class of them has been passed or is proposed which unfairly discriminates against or is otherwise prejudicial to one or more of the participants of the trust including himself.

(2) If on such application the court is of the opinion that either of the grounds referred to in subsection (1) is established, the court may, with a view to bringing to an end to or remedying the matters complained of, make such order as it thinks fit and, without prejudice to the generality of the foregoing, the order may —

(*a*) direct or prohibit any act or cancel or vary any transaction or resolution;

(*b*) regulate the conduct of the affairs of the manager or trustee for the trust in relation to the trust in future;

(*c*) authorise civil proceedings against the directors of the manager or directors of the trustee for the trust to be brought in the name of or on behalf of all the participants of the trust as a whole by such person or persons and on such terms as the court may direct;

(*d*) provide for the purchase of the units in the trust by other participants of the trust;

(*e*) provide that the trust be wound up; or

(*f*) provide that the costs and expenses of and incidental to the application for the order are to be raised and paid out of the property of the trust or to be borne and paid in such manner and by such persons as the court deems fit.

(3) Where an order under this section makes any alteration in or addition to the trust deed of any trust, then, notwithstanding anything in any other provision of this Act but subject to the provisions of the order, the manager or trustee of the trust concerned shall not have power, without the leave of the court, to make any further alteration in or addition to the trust deed that is inconsistent with the provisions of the order; but subject to the foregoing provisions of this

subsection the alterations or additions made by the order shall have the same effect as if duly made by special resolution of the participants of the trust.

(4) A copy of any order made under this section shall be lodged by the applicant with the Authority within 7 days after the making of the order.

(5) Any person who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 and, in the case of a continuing offence, to a further fine not exceeding $1,000 for every day or part thereof during which the offence continues after conviction.

(6) This section shall apply to a person who is not a participant of a trust but to whom units in the trust have been transmitted by operation of law as it applies to the participants of a trust; and references to a participant or participants shall be construed accordingly.

[2/2009 wef 29/03/2010]

Subdivision (2A) — Voluntary transfer of business of approved trustee

Interpretation of this Subdivision

295D. In this Subdivision, unless the context otherwise requires —

"approved trustee" means a trustee for collective investment schemes which are authorised under section 286 and constituted as unit trusts;

"business" includes affairs, property, right, obligation and liability;

"Court" means the High Court or a Judge thereof;

"debenture" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"property" includes property, right and power of every description;

"Registrar of Companies" means the Registrar of Companies appointed under the Companies Act and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

"transferee" means an approved trustee, or a public company which has applied or will be applying for the Authority's approval under section 289(1) to act as an approved trustee, to which the whole or any part of a transferor's business is, is to be or is proposed to be transferred under this Subdivision;

"transferor" means an approved trustee the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Subdivision.

[Act 10 of 2013 wef 18/04/2013]

Voluntary transfer of business

295E.—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of an approved trustee) to a transferee, if —

(*a*) the Authority has consented to the transfer;

(*b*) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved trustee; and

(*c*) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an approved trustee to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(*a*) if the Authority is satisfied that —

(*a*) the transferee is a fit and proper person; and

(*b*) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Subdivision.

(5) The remuneration and expenses of any person appointed under subsection (4) shall be paid by the transferor and the transferee jointly and severally.

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Subdivision.

(8) Any person who —

(*a*) without reasonable excuse, fails to comply with any requirement under subsection (7); or

(*b*) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

[Act 10 of 2013 wef 18/04/2013]

Approval of transfer

295F.—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Subdivision.

(2) Before making an application under subsection (1) —

(*a*) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(*b*) the transferor shall obtain the consent of the Authority under section 295E(1)(*a*);

(*c*) the transferor and the transferee shall, if they intend to serve on the participants of their respective collective investment schemes a summary of the transfer, obtain the Authority's approval of the summary;

(*d*) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (*a*) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(*e*) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (*a*) for a period of 15 days after the publication of the notice referred to in paragraph (*d*) in the *Gazette*; and

(*f*) unless the Court directs otherwise, the transferor and the transferee shall serve on the participants of their respective collective investment schemes affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (*a*) or a summary of the transfer approved by the Authority under paragraph (*c*).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(*a*) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(*b*) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 295E(1)(*a*) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(*a*) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(*b*) refuse to approve the transfer.

(6) If the transferee does not have the Authority's approval under section 289(1) to act as an approved trustee, the Court may approve the transfer on terms that the transfer shall take effect

only in the event of the transferee obtaining the Authority's approval under section 289(1) to act as an approved trustee.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(*a*) the transfer to the transferee of the whole or any part of the business of the transferor;

(*b*) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(*c*) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(*d*) the dissolution, without winding up, of the transferor;

(*e*) the provisions to be made for persons who are affected by the transfer;

(*f*) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

(*a*) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(*b*) make provision in relation to any property which is held by the transferor as trustee; and

(*c*) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

(12) Where an order is made under this section, the transferor and the transferee shall each lodge within 7 days after the order is made —

(*a*) a copy of the order with the Registrar of Companies and with the Authority; and

(*b*) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

(13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding $2,000 and, in the case of a continuing offence, to a further fine not exceeding $200 for every day or part thereof during which the offence continues after conviction.

[Act 10 of 2013 wef 18/04/2013]

Subdivision (3) — Prospectus requirements

Requirement for prospectus and profile statement, where relevant

296.—(1) No person shall make an offer of units in a collective investment scheme unless the offer —

(*a*) is made in or accompanied by a prospectus in respect of the offer —

(i) that is prepared in accordance with such requirements as may be prescribed by the Authority;

(ii) a copy of which, being one that has been signed in accordance with subsection (2A), is lodged with the Authority; and

(iii) that is registered by the Authority; and

(*b*) complies with such requirements as may be prescribed by the Authority.

[1/2005]

(1A) A person who lodges a preliminary document with the Authority shall be deemed to have lodged a prospectus with the Authority.

[1/2005]

(1B) A preliminary document referred to in subsection (1A) shall contain all information to be included in a prospectus other than such information as may be prescribed by the Authority.

[1/2005]

(2) Notwithstanding subsection (1), an offer of units in a collective investment scheme may be made in or accompanied by an extract from, or an abridged version of, a prospectus (referred to in this Subdivision as a profile statement), instead of a prospectus, if —

(*a*) a prospectus is prepared in accordance with such requirements as may be prescribed under subsection (1)(*a*)(i) and the profile statement is prepared in accordance with such requirements as may be prescribed;

(*b*) a copy of the prospectus and a copy of the profile statement, each of which has been signed in accordance with subsection (2A), are lodged with the Authority, and the prospectus is lodged no later than the profile statement;

(*c*) the prospectus and profile statement are registered by the Authority;

(*d*) sufficient copies of the prospectus are made available for collection at the times and places specified in the profile statement; and

(*e*) the offer complies with such other requirements as may be prescribed.

[1/2005]

(2A) The copy of a prospectus or profile statement lodged with the Authority shall be signed —

(*a*) where the person making the offer of units in a collective investment scheme is the responsible person for the scheme, by every director or equivalent person of the responsible person and every person who is named therein as a proposed director or an equivalent person of the responsible person; and

(*b*) where the person making the offer of units in a collective investment scheme is not the responsible person for the scheme —

(i) where the responsible person is controlled by —

(A) the person making the offer;

(B) one or more of the related parties of the person making the offer; or

(C) the person making the offer and one or more of his related parties,

by the persons referred to in paragraph (*a*) and the persons referred to in sub-paragraph (ii)(A) or (B), as the case may be; and

(ii) in any other case —

(A) where that person is an entity, by every director or equivalent person of that entity; or

(B) where that person is an individual, by the individual or a person authorised by him in writing.

[1/2005]

(2B) A requirement under subsection (2A) for the copy of a prospectus or profile statement to be signed by a director or an equivalent person is satisfied if the copy is signed —

(*a*) by that director or equivalent person; or

(*b*) by a person who is authorised in writing by that director or equivalent person to sign on his behalf.

[1/2005]

(2C) A requirement under subsection (2A) for the copy of a prospectus or profile statement to be signed by a person named therein as a proposed director or an equivalent person is satisfied if the copy is signed —

(*a*) by that proposed director or equivalent person; or

(*b*) by a person who is authorised in writing by that proposed director or equivalent person to sign on his behalf.

[1/2005]

(3) No person shall make an offer of units in a collective investment scheme if that scheme has not been formed or does not exist.

[1/2005]

(4) [*Deleted by Act 1/2005*]

(5) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(6) The Authority may register a prospectus or a profile statement on any day within the period prescribed by the Authority from the date of lodgment thereof with the Authority, unless —

(*a*) the Authority gives to the person making the offer a notice of an opportunity to be heard under subsection (12);

(*b*) the Authority gives a notice to the person making the offer of an extension, in which case, the Authority may, not later than 28 days from the date of lodgment of the prospectus or profile statement —

(i) register the prospectus or profile statement; or

(ii) give the person making the offer a notice of an opportunity to be heard under subsection (12);

(*c*) the person making the offer applies in writing to extend the period during which the prospectus or profile statement may be registered, in which case the Authority may, at any time up to and including the date on which the extended period ends —

(i) register the prospectus or profile statement; or

(ii) give the person making the offer a notice of an opportunity to be heard under subsection (12); or

(*d*) the person making the offer gives a notice in writing to the Authority to withdraw the lodgment of the prospectus or profile statement, in which case the Authority shall not register the prospectus or profile statement.

[1/2005]
[2/2009 wef 29/03/2010]

(6A) Where, after a notice of an opportunity to be heard has been given under subsection (6)(*a*), (*b*)(ii) or (*c*)(ii), the Authority decides not to refuse registration of the prospectus or profile statement, the Authority may proceed with the registration on such date as it considers appropriate, except that that date shall not be earlier than such day from the date of lodgment of the prospectus or profile statement with the Authority as the Authority may prescribe.

[1/2005]
[2/2009 wef 29/03/2010]

(6AA) For the purposes of subsections (6) and (6A), the Authority may prescribe the same period and day for all offers or different periods and days for different offers.

[2/2009 wef 29/03/2010]

(6B) Where a prospectus lodged with the Authority is a preliminary document, the Authority shall not register the prospectus unless a copy of the prospectus which has been signed in accordance with subsection (2A) and which contains the information required to be included in a prospectus as prescribed under subsection (1)(*a*)(i), including such information which could be omitted from the preliminary document by virtue of subsection (1B), has been lodged with the Authority.

[1/2005]

(6C) A person making an offer of units in a collective investment scheme may lodge any amendment to a prospectus or profile statement in respect of that offer at any time before, but not after, the registration of the prospectus or profile statement by the Authority.

[1/2005]

(7) Subject to subsection (8) —

(*a*) where any amendment to a prospectus is lodged, the prospectus and any profile statement which is lodged shall be deemed for the purposes of subsection (6) to have been lodged when such amendment was lodged; and

(*b*) where any amendment to a profile statement is lodged, the profile statement shall be deemed for the purposes of subsection (6) to have been lodged when such amendment was lodged.

[16/2003; 1/2005]

(8) Where an amendment to a prospectus or profile statement is lodged with the consent of the Authority, the prospectus or profile statement as amended shall be deemed, for the purposes of subsection (6), to have been lodged when the original prospectus or profile statement was lodged with the Authority.

[1/2005]

(8A) An amendment to a prospectus or profile statement that is lodged shall be treated as part of the original prospectus or profile statement.

[16/2003]

(9) The Authority may, for public information, publish —

(*a*) a prospectus or profile statement lodged with the Authority under this section; and

(*b*) where applicable, the translation thereof in the English language lodged with the Authority under section 318A(1),

and for the purposes of this subsection, the person making the offer shall provide the Authority with a copy of the prospectus or profile statement and, where applicable, the translation in such form or medium for publication as the Authority may require.

[16/2003; 1/2005]

(10) The Authority shall refuse to register a prospectus if —

(*a*) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(*b*) there is an omission from the prospectus of any information that is required to be included, or an inclusion in the prospectus of any information that is prohibited, by virtue of requirements prescribed under subsection (1)(*a*);

(*c*) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act;

(*d*) the copy of the prospectus that is lodged with the Authority is not signed in accordance with subsection (2A);

(*e*) any written consent of an expert to the issue of the prospectus required under section 249 (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*ea*) any written consent of an issue manager to the issue of the prospectus required under section 249A(1) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*eb*) any written consent of an underwriter to the issue of the prospectus required under section 249A(2) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or

(*f*) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

(11) The Authority shall refuse to register a profile statement if —

(*a*) the Authority is of the opinion that the profile statement contains a false or misleading statement;

(*b*) there is an omission from the profile statement of any information that is required to be included, or an inclusion in the profile statement of any information that is prohibited, by virtue of requirements prescribed under subsection (2)(*a*);

(*c*) the copy of the profile statement that is lodged with the Authority is not signed in accordance with subsection (2A);

(*ca*) any written consent of an expert to the issue of the profile statement required under section 249 (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*cb*) any written consent of an issue manager to the issue of the profile statement required under section 249A(1) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*cc*) any written consent of an underwriter to the issue of the profile statement required under section 249A(2) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

(*d*) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act;

(*e*) the prospectus has not been registered by the Authority; or

(*f*) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

(12) The Authority shall not refuse to register a prospectus under subsection (10) or a profile statement under subsection (11) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to register the prospectus or profile statement on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[1/2005]

(13) Any person making an offer may, within 30 days after he is notified that the Authority has refused to register a prospectus or profile statement to which his offer relates under subsection (10) or (11), appeal to the Minister whose decision shall be final.

[1/2005]

(14) If —

(*a*) a prospectus or profile statement is issued, circulated or distributed before it has been registered by the Authority; or

(*b*) an application to subscribe for or purchase units in a collective investment scheme is accepted, or units in a collective investment scheme are issued or sold, before a prospectus and, where applicable, profile statement, in respect of the units has been registered by the Authority,

the person making the offer and every person who is knowingly a party to —

(i) the issue, circulation or distribution of the prospectus or profile statement;

(ii) the acceptance of the application to subscribe for or purchase the units; or

(iii) the issue or sale of the units,

as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(14A) For the purposes of subsections (10)(*a*) and (11)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(15) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide for penalties not exceeding a fine of $50,000.

[Companies, s. 43; Aust. Corporations 2001, s. 721]

Stop order for prospectus and profile statement

297.—(1) If a prospectus has been registered and —

(*a*) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(*b*) there is an omission from the prospectus of any information that is required to be included, or an inclusion in the prospectus of any information that is prohibited, by virtue of requirements prescribed under section 296;

(*c*) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act; or

(*d*) the Authority is of the opinion that it is in the public interest to do so,

the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of units in a collective investment scheme to which the prospectus relates, direct that no or no further units in the scheme be issued or sold.

[16/2003; 1/2005]

(2) If a profile statement has been registered and —

(*a*) the Authority is of the opinion that the profile statement contains a false or misleading statement;

(*b*) there is an omission from the profile statement of any information that is required to be included, or an inclusion in the profile statement of any information that is prohibited, by virtue of requirements prescribed under section 296;

(*c*) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act; or

(*d*) the Authority is of the opinion that it is in the public interest to do so,

the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of units in a collective investment scheme to which the profile statement relates, direct that no or no further units in the scheme be issued or sold.

[16/2003; 1/2005]

(2A) Notwithstanding subsections (1) and (2), the Authority shall not serve a stop order if any of the units in a collective investment scheme to which the prospectus or profile statement relates has been issued or sold, and listed for quotation on a securities exchange and trading in them has commenced.

[1/2005]

(3) The Authority shall not serve a stop order under subsection (1) or (2) without giving the person making the offer of units in the collective investment scheme an opportunity to be heard, except that an opportunity to be heard need not be given if the stop order is served on the ground that it is in the public interest to do so on the basis of any of the following circumstances:

(*a*) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[16/2003; 1/2005]

(4) Where applications for units in a collective investment scheme have been made prior to the service of a stop order, and —

(*a*) the contributions of the applicants to the scheme have not yet been invested in accordance with the scheme —

(i) where units in the scheme have not been issued to the applicants, the applications shall be deemed to have been withdrawn and cancelled; or

(ii) where units in the scheme have been issued to the applicants, the issue of the units shall be deemed to be void,

and the person making the offer of units in the scheme shall, within 7 days from the date of the stop order, pay to the applicants all moneys which the applicants have paid for the units, including contributions to the scheme and charges the applicants have paid to that person, its agent, or any person through whom the applicant has applied for the units; or

(*b*) the contributions of the applicants to the scheme have been invested in accordance with the scheme, the Authority may by notice in writing issue such directions to the person making the offer of units in the scheme as it deems fit, including a direction that the person provide the applicants with an option, on such terms as the Authority may approve, to obtain from that person a refund of all moneys contributed by the applicants or to redeem their units in accordance with the scheme.

[1/2005]

(5) In determining whether to issue a direction under subsection (4) to the person making the offer of units in the collective investment scheme to refund the contributions of the applicants, the Authority shall consider whether the responsible person for the scheme will be able to liquidate the property of the scheme without material adverse financial effect to the

applicants, and for this purpose, the factors which the Authority may take into account include —

(*a*) whether a significant amount of the contributions of the participants has been invested;

(*b*) the liquidity of the property of the scheme; and

(*c*) the penalties, if any, payable for liquidating the property.

[1/2005]

(6) It shall not be necessary to publish any direction issued under subsection (4) in the *Gazette*.

[Act 34 of 2012 wef 18/03/2013]

(7) If the Authority is of the opinion that any delay in serving a stop order pending the hearing required under subsection (3) is not in the interests of the public, the Authority may, without giving the person making the offer of units in the collective investment scheme an opportunity to be heard, serve an interim stop order on such person directing that no or no further units in a collective investment scheme to which the prospectus or profile statement relates be issued or sold.

[1/2005]

(8) An interim stop order shall, unless revoked, be in force —

(*a*) in a case where —

(i) it is served during a hearing under subsection (3); or

(ii) a hearing under subsection (3) is commenced while it is in force,

until the Authority makes an order under subsection (1) or (2); or

(*b*) in any other case, for a period of 14 days from the day on which the interim stop order is served.

(9) Subsection (4) shall not apply where only an interim stop order has been served.

(10) Any person who fails to comply with a stop order served under subsection (1) or (2) or an interim stop order served under subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(11) Any person who contravenes subsection (4), or any direction issued to him under that subsection, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(12) For the purposes of subsections (1)(*a*) and (2)(*a*), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Aust. Corporations 2001, s. 739]

Lodging supplementary document or replacement document

298.—(1) If, after a prospectus or profile statement is registered but before the close of the offer of units in a collective investment scheme, or the expiration of 12 months from the date of registration of the prospectus by the Authority, whichever is earlier, the person making that offer becomes aware of —

(*a*) a false or misleading statement in the prospectus or profile statement;

(*b*) an omission from the prospectus or profile statement of any information that should have been included in it by requirements prescribed under section 296; or

(*c*) a new circumstance that —

(i) has arisen since the prospectus or profile statement was lodged with the Authority; and

(ii) would have been required under this Act to be included in the prospectus or profile statement,

if it had arisen before the prospectus or the profile statement, as the case may be, was lodged,

and that is materially adverse from the point of view of an investor, the person may lodge a supplementary or replacement prospectus, or a supplementary or replacement profile statement (referred to in this section as a supplementary or replacement document, as the case may be), with the Authority.

[1/2005]

(2) If, after a prospectus or profile statement is registered but before the close of the offer of units in a collective investment scheme, or the expiration of 12 months from the registration of the prospectus by the Authority, whichever is earlier, the person making that offer wishes to update any information in a prospectus or profile statement and he declares in writing to the Authority that none of the situations set out in subsection (1) apply at that time, the person may lodge a supplementary or replacement document with the Authority.

[1/2005]

(3) At the beginning of a supplementary document, there shall be —

(*a*) a statement that it is a supplementary prospectus or a supplementary profile statement, as the case may be;

(*b*) an identification of the prospectus or profile statement it supplements;

(*c*) an identification of any previous supplementary document lodged with the Authority in relation to the offer; and

(*d*) a statement that it is to be read together with the prospectus or profile statement it supplements and any previous supplementary document in relation to the offer.

[1/2005]

(4) At the beginning of a replacement document, there shall be —

(*a*) a statement that it is a replacement prospectus or a replacement profile statement, as the case may be; and

(*b*) an identification of the prospectus or profile statement it replaces.

(5) The supplementary document and the replacement document must be dated with the date on which they are lodged with the Authority.

(6) The person making the offer of units in a collective investment scheme shall take reasonable steps —

(*a*) to inform potential investors of the lodgment of any supplementary document or replacement document under subsection (1); and

(*b*) to make available to them the supplementary document or replacement document.

[1/2005]

(7) For the purposes of the application of this Division to events that occur after the lodgment of a supplementary document —

(*a*) where the supplementary document is a supplementary prospectus, the prospectus in relation to the offer shall be taken to be the original prospectus together with the supplementary prospectus and any previous supplementary prospectus in relation to the offer; and

(*b*) where the supplementary document is a supplementary profile statement, the profile statement in relation to the offer shall be taken to be the original profile statement together with the supplementary profile statement and any previous supplementary profile statement in relation to the offer.

[1/2005]

(8) [*Deleted by Act 1/2005*]

(9) For the purposes of the application of this Division to events that occur after the lodgment of the replacement document —

(*a*) where the replacement document is a replacement prospectus, the prospectus in relation to the offer shall be taken to be the replacement prospectus; and

(*b*) where the replacement document is a replacement profile statement, the profile statement in relation to the offer shall be taken to be the replacement profile statement.

[1/2005]

(10) Where, prior to the lodgment of the supplementary document or replacement document under subsection (1), applications have been made under the original prospectus or profile statement for units in a collective investment scheme, the person making the offer of units in the scheme —

(*a*) shall —

(i) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing on how to obtain, or

arrange to receive, a copy of the supplementary document or replacement document, as the case may be; and

(ii) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document; or

(*b*) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be.

[1/2005]

(11) Any person who contravenes subsection (3), (4), (5) or (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(12) Any person who contravenes subsection (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(13) For the purposes of subsection (1)(*a*), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 50A; Aust Corporations 2001, s. 719]

Duration of validity of prospectus and profile statement

299.—(1) No person shall make an offer of units in a collective investment scheme, or issue or sell any units in a collective investment scheme, on the basis of a prospectus or profile statement after the expiration of 12 months from the date of registration by the Authority of the prospectus in relation to such offer, issue or sale.

[1/2005]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(3) An issue or a sale of units in a collective investment scheme that is made in contravention of subsection (1) shall not, by reason only of that fact, be voidable or void.

[1/2005]

[Companies, s. 113A]

Restrictions on advertisements, etc.

300.—(1) If a prospectus is required for an offer, or intended offer of units in a collective investment scheme or proposed collective investment scheme, a person shall not —

(*a*) advertise the offer or intended offer; or

(*b*) publish a statement that —

(i) directly or indirectly refers to the offer or intended offer; or

(ii) is reasonably likely to induce people to subscribe for or purchase the units,

unless the advertisement or publication is authorised by this section.

[16/2003; 1/2005]

(2) In determining whether a statement —

(*a*) indirectly refers to an offer or intended offer; or

(*b*) is reasonably likely to induce people to subscribe for or purchase units in a collective investment scheme,

regard shall be had to whether the statement —

(i) forms part of the normal advertising of an entity's products or services and is genuinely directed at maintaining its existing customers, or attracting new customers, for those products or services; and

(ii) is likely to encourage investment decisions to be made on the basis of the statement rather than on the basis of information contained in a prospectus or profile statement.

[1/2005]

(2A) Notwithstanding subsection (3A), a person may, before a prospectus or profile statement is registered by the Authority, disseminate a preliminary document which has been lodged with the Authority to institutional investors, relevant persons as defined in section 305(5) and persons to whom an offer referred to in section 305(2) is to be made without contravening subsection (1), if —

(*a*) the front page of the preliminary document contains —

(i) the following statement:

"This is a preliminary document and is subject to further amendments and completion in the prospectus to be registered by the Monetary Authority of Singapore.";

(ii) a statement that a person to whom a copy of the preliminary document has been issued shall not circulate it to any other person; and

(iii) a statement in bold lettering that no offer or agreement shall be made on the basis of the preliminary document to purchase or subscribe for any

units in the collective investment scheme to which the preliminary document relates;

(*b*) the preliminary document does not contain or have attached to it any form of application that will facilitate the making by any person of an offer of units in the collective investment scheme to which the preliminary document relates, or the acceptance of such an offer by any person; and

(*c*) when the prospectus is registered by the Authority, the person takes reasonable steps to notify the persons to whom the preliminary document was issued that the registered prospectus is available for collection.

[1/2005]

(2B) Notwithstanding subsection (3A), a person does not contravene subsection (1) by presenting, before a prospectus or profile statement is registered by the Authority, oral or written material —

(*a*) on matters contained in a preliminary document which has been lodged with the Authority, to institutional investors, relevant persons as defined in section 305(5) or persons to whom an offer referred to in section 305(2) is to be made; or

(*b*) on matters contained in the prospectus or profile statement which has been lodged with the Authority, for the sole purpose of equipping any of the following persons with knowledge of the collective investment scheme to market the scheme under the Financial Advisers Act (Cap. 110):

(i) a person licensed under that Act in respect of marketing of collective investment schemes;

(ii) an exempt financial adviser;

(iii) a person who is a representative in respect of marketing of collective investment schemes under that Act;

[2/2009 wef 26/11/2010]

(iv) a representative of an exempt financial adviser.

[1/2005]

(2C) In subsection (2B), "exempt financial adviser" and "representative" have the same meanings as in section 2(1) of the Financial Advisers Act (Cap. 110).

[2/2009 wef 26/11/2010]

(3) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 296 without contravening subsection (1).

[1/2005]

(3A) Before a prospectus or profile statement is registered, an advertisement or a publication does not contravene subsection (1) if it contains only the following:

(*a*) a statement that identifies the person making the offer, the responsible person for the collective investment scheme and, where the collective investment scheme is not a corporation, the collective investment scheme;

(*b*) a statement that a prospectus or profile statement for the offer will be made available when the offer is made;

(*c*) a statement that anyone wishing to acquire the units in the collective investment scheme will need to make an application in the manner set out in the prospectus or profile statement;

(*d*) a statement on how to obtain, or arrange to receive, a copy of the prospectus or profile statement; and

(*e*) the investment focus of the collective investment scheme.

[1/2005]

(3B) To satisfy subsection (3A), the advertisement or publication shall include all of the statements referred to in paragraphs (*a*), (*b*) and (*c*) of that subsection, and may include the information referred to in paragraphs (*d*) and (*e*).

[1/2005]

(3C) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if it complies with such requirements as may be prescribed by the Authority.

[1/2005]

(4) An advertisement or publication does not contravene subsection (1) if it —

(*a*) consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, made by any person, provided that the disclosure, notice or report complies with such requirements as may be prescribed by the Authority;

[2/2009 wef 29/07/2009]

(*aa*) consists solely of a notice or report of a meeting or proposed meeting of the participants of the collective investment scheme, or a general meeting or proposed general meeting of the person making the offer, the responsible person or any entity, provided that the notice or report complies with such requirements as may be prescribed by the Authority, or a presentation of oral or written material on matters so contained in the notice or report at the meeting or general meeting;

(*b*) consists solely of a report about the collective investment scheme or proposed collective investment scheme that is issued pursuant to this Act and the Code on Collective Investment Schemes;

(*ba*) consists solely of a statement made by the person making the offer or the responsible person that a prospectus or profile statement in respect of the offer or intended offer has been lodged with the Authority;

(*c*) is a news report, or a genuine comment, by a person other than a person referred to in paragraph (*d*)(i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio or television, or any other means of broadcasting or communication, relating to —

(i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;

(ii) a disclosure, notice or report referred to in paragraph (*a*);

(iii) a notice, report, presentation, meeting, proposed meeting, general meeting or proposed general meeting referred to in paragraph (*aa*); or

(iv) a report referred to in paragraph (*b*);

(*d*) is a report about the units in the collective investment scheme which are the subject of the offer or intended offer, published by someone who is not —

(i) the person making the offer, the responsible person for the scheme, its agent or distributor;

(ii) a director or an equivalent person of the person making the offer or the responsible person for the scheme;

(iii) a person who has an interest in the success of the issue or sale of the units; or

(iv) a person acting at the instigation of, or by arrangement with, any person referred to in sub-paragraph (i), (ii) or (iii);

(*e*) is a disclosure, notice, report or publication of a description prescribed by the Authority, and such other conditions as the Authority may prescribe are satisfied; or

[2/2009 wef 01/10/2012]

(*f*) is a publication made by the person making the offer or the responsible person for the scheme solely to correct or provide clarification on any erroneous or inaccurate information or comment contained in —

(i) an earlier news report or a genuine comment referred to in paragraph (*c*); or

(ii) an earlier publication published in the ordinary course of business of publishing a newspaper, periodical or magazine, or of broadcasting by radio, television or any other means of broadcasting or communication, referred to in subsection (5),

provided that the first-mentioned publication does not contain any material information that is not included in the prospectus.

[1/2005]

(5) A person does not contravene subsection (1) if —

(*a*) he publishes an advertisement or publication in the ordinary course of a business of —

(i) publishing a newspaper, periodical or magazine; or

(ii) broadcasting by radio, television, or any other means of broadcasting or communication; and

(*b*) he did not know, and had no reason to suspect, that its publication would constitute a contravention of subsection (1).

(6) Subsection (4)(*c*) and (*d*) shall not apply to an advertisement or statement if any person gives consideration or any other benefit for the publication of the advertisement or statement.

(7) Any person who contravenes subsection (1) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(8) This section does not affect any liability that a person has under any other law.

(9) The Authority may exempt any person or class of persons from this section, subject to such conditions as may be determined by the Authority.

(10) Any person who contravenes any of the conditions under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(11) For the purposes of this section, any reference to publishing a statement shall be construed as including a reference to making a statement, whether oral or written, which is reasonably likely to be published.

[1/2005]

(12) For the purposes of subsections (1) and (2), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 48; Aust. FSR Bill 2001, Clause 1018A]

Issue of units where prospectus indicates application to list on securities exchange

301.—(1) Where a prospectus states or implies that application has been or will be made for permission for the units in a collective investment scheme offered thereby to be listed for quotation on any securities exchange, and —

(*a*) the permission is not applied for in the form required by the securities exchange within 3 days from the date of the issue of the prospectus; or

(*b*) the permission is not granted before the expiration of 6 weeks from the date of the issue of the prospectus or such longer period not exceeding 12 weeks from the date of the issue as is, within those 6 weeks, notified to the applicant by or on behalf of the securities exchange,

then —

(i)

any issue whenever made of units made on an application in pursuance of the prospectus shall be void; and

(ii) any person who continues to issue such units after the period specified in paragraph (*a*) or (*b*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) Where the permission has not been applied for, or has not been granted as mentioned under subsection (1), applications for units in the collective investment scheme have been made and —

(*a*) the contributions of the applicants to the scheme have not yet been invested in accordance with the scheme —

(i) in a case where units in the scheme have not been issued to the applicants, the responsible person for the scheme shall treat such applications as having been withdrawn; or

(ii) in a case where units in the scheme have been issued to the applicants, the issue of the units shall be deemed to be void,

and the responsible person shall within 7 days after the period specified in subsection (1)(*a*) or (*b*), whichever is applicable, pay to the applicants all moneys which the applicants have paid for the units, including contributions to the scheme and charges the applicants have paid to the responsible person, its agent, or any person through whom the applicant has applied for the units; or

(*b*) the contributions of the applicants to the scheme have been invested in accordance with the scheme, the Authority may by notice in writing issue such directions to the responsible person for the scheme as it deems fit, including a direction that the responsible person provide the applicants with an option, on such terms as the Authority may approve, to obtain from the responsible person a refund of all moneys contributed by the applicants or to redeem their units in accordance with the scheme.

(3) In determining whether to issue a direction under subsection (2)(*b*) to the responsible person to refund the contributions of the applicants, the Authority shall consider whether the responsible person for the collective investment scheme will be able to liquidate the property of the scheme without material adverse financial effect to the applicants, and for this purpose, the factors which the Authority may take into account include —

(*a*) whether a significant amount of the contributions of the participants has been invested;

(*b*) the liquidity of the property of the scheme; and

(*c*) the penalties, if any, payable for liquidating the property.

(4) Any responsible person who contravenes subsection (2) or any of the directions issued under that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(5) Any responsible person to whom a notice is given under subsection (2) shall comply with such direction as may be contained in the notice.

(6) It shall not be necessary to publish any direction issued under subsection (2) in the *Gazette*.

[Act 34 of 2012 wef 18/03/2013]

(7) All moneys received from applicants as payment for the units, including contributions to the scheme and charges which the applicants have paid to the responsible person, its agent, or any person through whom the applicant has applied for the units, shall be kept in a separate bank account so long as the responsible person for the collective investment scheme may become liable to repay it under subsection (2).

[16/2003]

(8) Any responsible person for a scheme which is not in compliance with subsection (7) and, where the scheme is a corporation, every officer thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(9) Where the securities exchange has, within the period specified in subsection (1)(*b*), granted permission subject to compliance with such requirements as may be specified by the securities exchange, permission shall be deemed to have been granted by the securities exchange if —

(*a*) in a case where the responsible person for the scheme is a corporation, the directors of the corporation; or

(*b*) in a case where the responsible person for the scheme is not a corporation, such persons as may be required by the securities exchange,

have given to the securities exchange an undertaking in writing to comply with the requirements of the securities exchange.

(10) Any person who fails to comply with any undertaking given to a securities exchange under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(11) A person shall not issue a prospectus inviting persons to subscribe for or purchase units in a collective investment scheme if it includes —

(*a*) a false or misleading statement that permission has been granted for those units to be listed for quotation on, dealt in or quoted on any securities exchange; or

(*b*)

any statement in any way referring to any such permission or to any application or intended application for any such permission, or to listing for quotation on, dealing in or quoting the units on any securities exchange, or to any requirements of a securities exchange, unless that statement is or is to the effect that permission has been granted or that application has been or will be made to the securities exchange within 3 days from the date of issue of the prospectus or the statement has been approved by the Authority for inclusion in the prospectus.

[16/2003; 1/2005]

(12) Any person who contravenes subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(13) Where a prospectus contains a statement to the effect that the constituent documents for the collective investment scheme comply, or have been drawn so as to comply, with the requirements of any securities exchange, the prospectus shall, unless the contrary intention appears from the prospectus, be deemed for the purposes of subsection (11)(*b*) to be a prospectus that includes a statement that application has been, or will be, made for permission for the units to which the prospectus relates, to be listed for quotation on the securities exchange.

[1/2005]

[Companies, s. 53]

Application of provisions relating to securities

302.—(1) Sections 247, 249, 249A, 252, 253, 254 and 255 shall, with the necessary modifications, apply in relation to an offer of units in a collective investment scheme as they apply in relation to an offer of securities in Division 1 of this Part.

[1/2005]

(2) For the purposes of subsection (1), references in those sections to securities and to a person subscribing for, purchasing or acquiring securities shall be read as references to units in a collective investment scheme and to a person subscribing for, purchasing or acquiring such units, respectively.

[1/2005]

(3) For the purposes of subsection (1), references in sections 253 and 254 to an offer referred to in section 280 shall be read as a reference to an offer referred to in section 305C.

[1/2005]

(4) For the purposes of subsection (1), references in sections 249, 249A, 253 and 254 to the issuer shall be read as a reference to the responsible person.

[1/2005]

[Companies, s. 113 (1)]

Subdivision (4) — Exemptions

Issue or transfer for no consideration

302A.—(1) Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme (other than an offer of an option to subscribe for or purchase such units) if no consideration is or will be given for the issue or transfer of the units.

[1/2005]

(2) Subdivisions (2) and (3) of this Division shall not apply to an offer of an option to subscribe for or purchase units in a collective investment scheme if —

(*a*) no consideration is or will be given for the issue or transfer of the option; and

(*b*) no consideration is or will be given for the underlying units on the exercise of the option.

[1/2005]

Small offers

302B.—(1) Subdivisions (2) and (3) of this Division shall not apply to personal offers of units in a collective investment scheme by a person if —

(*a*) the total amount raised by the person from such offers within any period of 12 months does not exceed —

(i) $5 million (or its equivalent in a foreign currency); or

(ii) such other amount as may be prescribed by the Authority in substitution for the amount specified in sub-paragraph (i);

(*b*) in respect of each offer, the person making the offer gives the person to whom he makes the offer —

(i) the following statement in writing:

"This offer is made in reliance on the exemption under section 302B (1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the scheme is not authorised or recognised by the Authority."; and

(ii) a notification in writing that the units to which the offer (referred to in this sub-paragraph as the initial offer) relates shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made —

(A) in compliance with Subdivisions (2) and (3) of this Division;

(B) in reliance on subsection (8)(*c*) or any other exemption under any provision of this Subdivision (other than this subsection); or

(C) where at least 6 months have elapsed from the date the units were acquired under the initial offer, in reliance on the exemption under this subsection;

(*c*)

none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*d*) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the following persons:

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities;

(iii) a person licensed under the Financial Advisers Act (Cap. 110) in respect of marketing of collective investment schemes;

(iv) an exempt financial adviser as defined in section 2(1) of the Financial Advisers Act; or

(v) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or marketing of collective investment schemes, or who is exempted therefrom in respect of such dealing or marketing; and

[1/2005]

(*e*) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 299; or

(ii) the person making the offer has before making the offer informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) For the purposes of subsection (1)(*b*), where any notice, circular, material, publication or other document is issued in connection with the offer, the person making the offer is deemed to have given the statement and notification to the person to whom he makes the offer in accordance with that provision if such statement or notification is contained in the first page of that notice, circular, material, publication or document.

[1/2005]

(3) For the purposes of subsection (1), a personal offer of units in a collective investment scheme is one that —

(*a*) may only be accepted by the person to whom it is made; and

(*b*) is made to a person who is likely to be interested in that offer, having regard to —

(i) any previous contact before the date of the offer between the person making the offer and that person;

(ii) any previous professional or other connection established before that date between the person making the offer and that person; or

(iii) any previous indication (whether through statements made or actions carried out) before that date by that person to the person making the offer or any of the persons specified in subsection (1)(*d*)(i) to (v) that he is interested in offers of that kind.

[1/2005]

(4) In determining the amount raised by an offer of units in a collective investment scheme, the following shall be included:

(*a*) the amount payable for the units at the time when they are issued or sold;

(*b*) if the units are issued partly-paid, any amount payable at a future time if a call is made; and

(*c*) if the units carry a right (by whatever name called) to be converted into other units or to acquire other units in a collective investment scheme, any amount payable on the exercise of the right to convert them into, or to acquire, other units in a collective investment scheme.

[1/2005]

(5) In determining whether the amount raised by a person from offers within a period of 12 months exceeds the applicable amount specified in subsection (1)(*a*), each amount raised —

(*a*) by that person from any offer of units in the same collective investment scheme; or

(*b*) by that person or another person from any offer of securities which is a closely related offer,

if any, within that period in reliance on the exemption under subsection (1), section 272A(1) or 282V(1) shall be included.

[1/2005]

(6) Whether an offer is a closely related offer under subsection (5) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(7) For the purpose of this section, an offer of units in a collective investment scheme made by a person acting as an agent of another person shall be treated as an offer made by that other person.

[1/2005]

(8) Where units acquired through an offer made in reliance on the exemption under subsection (1) (referred to in this subsection as an initial offer) are subsequently sold by the person who acquired the units to another person, Subdivisions (2) and (3) of this Division shall apply to the offer from the first-mentioned person to the second-mentioned person which resulted in that sale, unless —

(*a*) such offer is made in reliance on an exemption under any provision of this Subdivision (other than this section);

(*b*) such offer is made in reliance on an exemption under subsection (1) and at least 6 months have elapsed from the date the units were acquired under the initial offer; or

(*c*) such offer is one —

(i) that may be accepted only by the person to whom it is made;

(ii) that is made to a person who is likely to be interested in the offer having regard to —

(A) any previous contact before the date of the offer between the person making the initial offer and that person;

(B) any previous professional or other connection established before that date between the person making the initial offer and that person; or

(C) any previous indication (whether through statements made or actions carried out) before that date by that person to the person making the initial offer or any of the persons specified in subsection (1)(*d*)(i) to (v) that he is interested in offers of that kind;

(iii) in respect of which the first-mentioned person has given the second-mentioned person —

(A) the following statement in writing:

"This offer is made in reliance on the exemption under section 302B(8)(*c*) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the scheme is not authorised or recognised by the Authority."; and

(B) a notification in writing that the units being offered shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made —

(BA) in compliance with Subdivisions (2) and (3) of this Division;

(BB) in reliance on this subsection or any other exemption under any provision of this Subdivision (other than subsection (1)); or

(BC) where at least 6 months have elapsed from the date the units were acquired under the initial offer, in reliance on the exemption under subsection (1);

(iv) that is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer; and

(v) in respect of which no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the persons specified in subsection (1)(*d*)(i) to (v).

[1/2005]

(9) Subsection (2) shall apply, with the necessary modifications, in relation to the statement and notification referred to in subsection (8)(*c*)(iii).

[1/2005]

(10) In subsections (1)(*c*) and (8)(*c*)(iv), "advertisement" means —

(*a*) a written or printed communication;

(*b*) a communication by radio, television or other medium of communication; or

(*c*) a communication by means of a recorded telephone message,

that is published in connection with an offer of units in a collective investment scheme, but does not include —

(i) a document —

(A) purporting to describe the units in a collective investment scheme being offered; and

(B) purporting to have been prepared for delivery to and review by persons to whom the offer is made so as to assist them in making an investment decision in respect of the units being offered;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

[2/2009 wef 29/07/2009]

(iii) a publication which consists solely of a notice or report of a meeting or proposed meeting of the participants of the collective investment scheme, or a general meeting or proposed general meeting of the person making the offer, the responsible person or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the meeting or general meeting.

[1/2005]

Private placement

302C.—(1) Subdivisions (2) and (3) of this Division shall not apply to offers of units in a collective investment scheme that are made by a person if —

(*a*) the offers are made to no more than 50 persons within any period of 12 months;

(*b*) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*c*) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the persons specified in section 302B(1)(*d*)(i) to (v); and

[1/2005]

(*d*)

no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 299; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(2) The Authority may prescribe such other number of persons in substitution for the number specified in subsection (1)(*a*).

[1/2005]

(3) In determining whether offers of units in a collective investment scheme by a person are made to no more than the applicable number of persons specified in subsection (1)(*a*) within a period of 12 months, each person to whom —

(*a*) an offer of units in the same collective investment scheme is made by the first-mentioned person; or

(*b*) an offer of securities is made by the first-mentioned person or another person where such offer is a closely related offer,

if any, within that period in reliance on the exemption under this section, section 272B or 282W shall be included.

[1/2005]

(4) Whether an offer is a closely related offer under subsection (3) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(5) For the purposes of subsection (1) —

(*a*) an offer of units in a collective investment scheme to an entity or to a trustee shall be treated as an offer to a single person, provided that the entity or trust is not formed primarily for the purpose of acquiring the units which are the subject of the offer;

(*b*) an offer of units in a collective investment scheme to an entity or to a trustee shall be treated as an offer to the equity owners, partners or members of that entity, or to the beneficiaries of the trust, as the case may be, if the entity or trust is formed primarily for the purpose of acquiring the units which are the subject of the offer;

(*c*) an offer of units in a collective investment scheme to 2 or more persons who will own the units acquired as joint owners shall be treated as an offer to a single person;

(*d*)

an offer of units in a collective investment scheme to a person acting on behalf of another person (whether as an agent or otherwise) shall be treated as an offer made to that other person;

(*e*) offers of units in a collective investment scheme made by a person as an agent of another person shall be treated as offers made by that other person;

(*f*) where an offer of units in a collective investment scheme is made to a person with a view to another person acquiring an interest in those units by virtue of section 4, only the second-mentioned person shall be counted for the purposes of determining whether offers of the units are made to no more than the applicable number of persons specified in subsection (1)(*a*); and

(*g*) where —

(i) an offer of units in a collective investment scheme is made to a person in reliance on the exemption under subsection (1) with a view to those units being subsequently offered for sale to another person; and

(ii) that subsequent offer —

(A) is not made in reliance on an exemption under any provision of this Subdivision; or

(B) is made in reliance on an exemption under subsection (1) or section 305C,

both persons shall be counted for the purposes of determining whether offers of the units are made to no more than the applicable number of persons specified in subsection (1)(*a*).

[1/2005]

(6) In subsection (1)(*b*), "advertisement" has the same meaning as in section 302B(10).

[1/2005]

Offer or invitation made under certain circumstances

303.—(1) Subdivision (3) of this Division shall not apply to an offer of units in a collective investment scheme if it is made in relation to units in a collective investment scheme (not being such excluded units in a scheme as may be prescribed by the Authority) that have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange.

[2/2009 wef 29/07/2009]

(2) Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme if it is an offer to enter into an underwriting agreement relating to units in a collective investment scheme.

[1/2005]

[Companies, s. 106B (1) (b)]

Offer made to institutional investors

304. Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme, whether or not they have been previously issued, made to an institutional investor.

[1/2005]

[Companies, s. 106C]

First sale of units acquired pursuant to section 304

304A.—(1) Notwithstanding sections 302B, 302C, 303(1) and 305B but subject to subsection (2), where units in a collective investment scheme acquired pursuant to an offer made in reliance on the exemption under section 304 are first sold to any person other than an institutional investor, then Subdivisions (2) and (3) of this Division shall apply to the offer resulting in that sale.

[1/2005]
[2/2009 wef 29/07/2009]

(2) Subsection (1) shall not apply where the units in a collective investment scheme acquired are of the same class as, or can be converted into units of the same class as, other units in the scheme —

(*a*) an offer of which has previously been made in or accompanied by a prospectus; and

(*b*) which are listed for quotation on a securities exchange.

[2/2009 wef 29/07/2009]

Offer made to accredited investors and certain other persons

305.—(1) Except to such extent and with such modifications as may be prescribed by the Authority, Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme (referred to in this section as a restricted scheme), where the offer is made to a relevant person, if the conditions in subsection (3) are satisfied.

[1/2005]

(2) Except to such extent and with such modifications as may be prescribed by the Authority, Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme (also referred to in this section as a restricted scheme) to a person who acquires the units as principal if the offer is on terms that the units may only be acquired at a consideration of not less than $200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets, and if the conditions in subsection (3) are satisfied.

[1/2005]

(3) The conditions referred to in subsections (1) and (2) are —

(*a*) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(*b*) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the persons specified in section 302B(1)(*d*)(i) to (v); and

(*c*)

no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered —

(i) the prospectus has expired pursuant to section 299; or

(ii) the person making the offer has before making the offer —

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

[2/2009 wef 29/07/2009]

(4) [*Deleted by Act 2/2009 wef 29/07/2009*]

(5) In this section —

"advertisement" means —

(*a*) a written or printed communication;

(*b*) a communication by radio, television or other medium of communication; or

(*c*) a communication by means of a recorded telephone message,

that is published in connection with an offer of units in a collective investment scheme, but does not include —

(i) an information memorandum;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

[2/2009 wef 29/07/2009]

(iii) a publication which consists solely of a notice or report of a meeting or proposed meeting of the participants of the collective investment scheme, or a general meeting or proposed general meeting of the person making the offer, the responsible person or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the meeting or general meeting;

"information memorandum" means a document —

(*a*) purporting to describe the units in a collective investment scheme being offered; and

(*b*) purporting to have been prepared for delivery to and review by relevant persons and persons to whom an offer referred to in subsection (2) is to be made so as to assist them in making an investment decision in respect of the units being offered;

"relevant person" means —

(*a*) an accredited investor;

(*b*) a corporation the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor;

(*c*) a trustee of a trust the sole purpose of which is to hold investments and each beneficiary of which is an individual who is an accredited investor;

(*d*) an officer or equivalent person of the person making the offer (such person being an entity) or a spouse, parent, brother, sister, son or daughter of that officer or equivalent person; or

(*e*) a spouse, parent, brother, sister, son or daughter of the person making the offer (such person being an individual).

[1/2005]

(6) Notwithstanding any requirement under section 99 or any regulations made thereunder that a person has to deal in securities for his own account with or through a person prescribed by the Authority so that he can qualify as an exempt person, a person who acquires units in a collective investment scheme under section 304 or this section for his own account without complying with such requirement shall be considered an exempt person even though he does not comply with that requirement.

[1/2005]

(7) The Authority may, by order published in the *Gazette*, specify an amount in substitution of any amount specified in subsection (2).

[1/2005]

[Companies, s. 106D]

First sale of units acquired pursuant to section 305

305A.—(1) Notwithstanding sections 302B, 302C, 303(1) and 305B but subject to subsection (5), where units in a collective investment scheme acquired pursuant to an offer made in reliance on an exemption under section 305 are first sold to any person other than —

(*a*) an institutional investor;

(*b*) a relevant person as defined in section 305(5); or

(*c*) any person pursuant to an offer referred to in section 305(2),

then Subdivisions (2) and (3) of this Division shall apply to the offer resulting in that sale.

[1/2005]
[2/2009 wef 29/07/2009]

(2) Subject to subsection (5), securities of a corporation (other than a corporation that is an accredited investor) —

(*a*) the sole business of which is to hold investments; and

(*b*) the entire share capital of which is owned by one or more individuals each of whom is an accredited investor,

shall not be transferred within 6 months after the corporation has acquired any units in a collective investment scheme pursuant to an offer made in reliance on an exemption under section 305, unless —

(i) that transfer —

(A) is made only to institutional investors or relevant persons as defined in section 305(5); or

(B) arises from an offer referred to in section 275(1A);

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]
[2/2009 wef 29/07/2009]

(3) Subject to subsection (5), where —

(*a*) the sole purpose of a trust (other than a trust the trustee of which is an accredited investor) is to hold investments; and

(*b*) each beneficiary of the trust is an individual who is an accredited investor,

the beneficiaries' rights and interest (howsoever described) in the trust shall not be transferred within 6 months after units in a collective investment scheme are acquired for the trust pursuant to an offer made in reliance on an exemption under section 305, unless —

(i) that transfer —

(A) is made only to institutional investors or relevant persons as defined in section 305(5); or

(B) arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than $200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]
[2/2009 wef 29/07/2009]

(4) For the avoidance of doubt, the reference to beneficiaries in subsection (3) shall include a reference to unitholders of a business trust and participants of a collective investment scheme.

[1/2005]

(5) Subsections (1), (2) and (3) shall not apply where the units in a collective investment scheme acquired are of the same class as other units in the scheme —

(*a*) an offer of which has previously been made in or accompanied by a prospectus; and

(*b*) which are listed for quotation on a securities exchange.

[2/2009 wef 29/07/2009]

Offer made using offer information statement

305B.—(1) Subject to subsection (2), Subdivision (3) of this Division shall not apply to an offer of units in a collective investment scheme whose units are listed for quotation on a securities exchange, whether by means of a rights issue or otherwise, if —

(*a*) an offer information statement relating to the offer which complies with such form and content requirements as may be prescribed by the Authority is lodged with the Authority; and

(*b*) either —

(i) the offer is made in or accompanied by the offer information statement referred to in paragraph (*a*); or

(ii) all the conditions in subsection (2A) are satisfied.

[1/2005]
[2/2009 wef 01/10/2012]

(2) Subsection (1) shall only apply to an offer of units referred to in that subsection made within a period of 6 months from the date the offer information statement relating to that offer is lodged with the Authority.

[2/2009 wef 01/10/2012]

(2A) The conditions referred to in subsection (1)(*b*)(ii) are —

(*a*) the offer is made using any automated teller machine or such other electronic means as may be prescribed by the Authority;

(*b*) the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer —

(i) how he can obtain, or arrange to receive, a copy of the offer information statement in respect of the offer; and

(ii) that he should read the offer information statement before submitting his application,

before enabling him to submit any application to subscribe for or purchase units in the collective investment scheme; and

(*c*) the person making the offer complies with such other requirements as the Authority may prescribe.

[2/2009 wef 01/10/2012]

(3) The Authority may, on the application of any person interested, modify the prescribed form and content of the offer information statement in such manner as is appropriate, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(4) Sections 249, 249A, 253, 254 and 255 (as applied to this Division by virtue of section 302) and such requirements as may be prescribed by the Authority shall apply in

relation to an offer information statement referred to in subsection (1) as they apply in relation to a prospectus.

[1/2005]

(5) For the purposes of subsection (4) —

(*a*) a reference in sections 249 and 249A to the registration of the prospectus shall be read as a reference to the lodgment of the offer information statement; and

(*b*) a reference in section 253 or 254 to any information or new circumstance required to be included in a prospectus shall be read as a reference to any information prescribed under subsection (1)(*a*).

[1/2005]

(6) Where the written consent of an expert is required to be given under section 249 (as applied in relation to an offer information statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[1/2005]

(7) Where the written consent of an issue manager or underwriter is required to be given under section 249A (as applied in relation to an offer information statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[1/2005]

Making offer using automated teller machine or electronic means

305C.—(1) Subject to subsection (3) and such requirements as may be prescribed by the Authority, a person making an offer of units in a collective investment scheme using —

(*a*) any automated teller machine; or

(*b*) such other electronic means as may be prescribed by the Authority,

is exempted from the requirement under section 296(1)(*a*) that the offer be made in or accompanied by a prospectus in respect of the offer or, where applicable, the requirement under section 296(2) that the offer be made in or accompanied by a profile statement in respect of the offer.

[1/2005]

(2) For the avoidance of doubt, a prospectus which complies with all other requirements of section 296(1)(*a*) or, where applicable, a profile statement which complies with all other requirements of section 296(2) must still be prepared and issued in respect of any offer referred to in subsection (1).

[1/2005]

(3) Subsection (1) shall not apply unless the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer —

(*a*) how he can obtain, or arrange to receive, a copy of the prospectus or, where applicable, profile statement in respect of the offer; and

(*b*) that he should read the prospectus or, where applicable, profile statement before submitting his application,

before enabling him to submit his application to subscribe for or purchase units.

[1/2005]

Power of Authority to exempt

306.—(1) The Authority may exempt any person or class of persons, subject to such conditions as the Authority may determine, from complying with all or any of the provisions of this Division or any regulations made thereunder in relation to an offer in respect of any unit or class of units.

[1/2005]

(2) Any person who contravenes any of the conditions under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(3) This Division shall not apply in the case of the sale of any unit in a collective investment scheme by a personal representative, liquidator, receiver or trustee in bankruptcy in the ordinary course of the realisation of assets for the purposes of the sale.

[Companies, s. 119]

Revocation of exemption

307.—(1) Where the Authority considers that it is necessary in the interest of the public or for the protection of investors, it may revoke any exemption under this Subdivision (including an exemption granted under section 306 (1)), subject to such conditions as it thinks fit.

(2) The Authority may revoke an exemption under subsection (1) without giving the person affected by the revocation an opportunity to be heard, but the person may, within 14 days of the revocation, apply to the Authority for the revocation to be reviewed by the Authority, and the revocation shall remain in effect unless it is withdrawn by the Authority.

(3) A revocation under this section shall be final and conclusive and there shall be no appeal therefrom.

[Companies, s. 119]

Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

308. For the avoidance of doubt, it is hereby declared that in relation to any transaction carried out under an exempted offer under this Part, nothing in this Part shall limit or diminish any liability which any person may incur in respect of any relevant offence under Division 2 of Part XII of the Companies Act (Cap. 50) or Part XII of this Act or any penalty, award of compensation or punishment in respect of any such offence.

[1/2005]

[Companies, s. 106L]

Division 3 — Securities Hawking

Securities hawking prohibited

309.—(1) No person shall make an offer to any person of securities for subscription or purchase, or an invitation to any person to subscribe for or purchase securities, in the course of, or arising from, an unsolicited meeting with that other person.

(2) Subsection (1) shall not apply to any person who makes an offer or invitation in respect of securities that does not need a prospectus by virtue of section 274, 275, 304 or 305.

(3) The Authority may exempt —

(*a*) any person or class of persons; or

(*b*) any class or description of securities,

from compliance with subsection (1), subject to such conditions as may be determined by the Authority.

[16/2003]

(4) Every person who acts, incites, causes or procures any person to act in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent offence, to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) Where any person is convicted of having made an offer or invitation in contravention of subsection (1), the court before which he is convicted may order that any contract made as a result of the offer or invitation shall be void and may give such consequential directions as it thinks proper for the repayment of any money or the retransfer of any securities.

(6) An appeal against any order made under subsection (5) and any consequential directions shall lie to the High Court.

(7) In this section —

(*a*) "securities" has the same meaning as in section 2 and also includes the securities of a corporation, whether the corporation is in existence or is to be formed;

(*b*) a reference to an offer or invitation in respect of securities for subscription or purchase shall be construed as including an offer or invitation in respect of securities by way of barter or exchange.

[16/2003]

[Companies, s. 400; Aust. Corporations 2001, s. 736]

PART XIV

APPEALS

Appeals to Minister

310.—(1) Where an appeal is made to the Minister under this Act, the Minister may confirm, vary or reverse the decision of the Authority on appeal, or give such directions in the matter as he thinks fit, and the decision of the Minister shall be final.

(2) Except for an appeal under Part II, IIA, III or IIIA, where an appeal is made to the Minister under this Act, the Minister shall, within 28 days of his receipt of the appeal, constitute an Appeal Advisory Committee comprising not less than 3 members of the Appeal Advisory Panel and refer that appeal to the Appeal Advisory Committee.

[16/2003; 42/2005]
[Act 34 of 2012 wef 01/08/2013]

(3) The Appeal Advisory Committee shall submit to the Minister a written report on the appeal referred to it under subsection (2), and may make such recommendations as it thinks fit.

(4) The Minister shall consider the report submitted under subsection (3) in making his decision under this section but he shall not be bound by the recommendations in the report.

Appeal Advisory Committees

311.—(1) For the purpose of enabling Appeal Advisory Committees to be constituted under section 310, the Minister shall appoint a panel (referred to in this Part as the Appeal Advisory Panel) comprising such members from the financial services industry, and the public and private sectors, as the Minister may appoint.

(2) A member of the Appeal Advisory Panel shall be appointed for a term of not more than 2 years and shall be eligible for re-appointment.

[16/2003]

(3) An Appeal Advisory Committee shall have the power, in the exercise of its functions, to inquire into any matter or thing relating to the securities, futures or derivatives industry and may, for this purpose, summon any person to give evidence on oath or affirmation or produce any document or material necessary for the purpose of the inquiry.

[Act 34 of 2012 wef 01/08/2013]

(4) Nothing in subsection (3) shall compel the production by an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), of a document or material containing a privileged communication made by or to him in that capacity or authorise the taking of possession of any such document or material which is in his possession.

[Act 34 of 2012 wef 18/03/2013]

(5) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act, who refuses to produce any document or other material referred to in subsection (4) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made.

[Act 34 of 2012 wef 18/03/2013]

(6) For the purposes of this Act, every member of an Appeal Advisory Committee —

(*a*) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224); and

(*b*) in case of any suit or legal proceedings brought against him for any act done or omitted to be done in the execution of his duty under the provisions of this Act, shall have the like protection and privileges as are by law given to a Judge in the execution of his office.

(7) Every Appeal Advisory Committee shall have regard to the interest of the public, the protection of investors and the safeguarding of sources of information.

(8) Subject to the provisions of this Part, an Appeal Advisory Committee may regulate its own procedure and shall not be bound by the rules of evidence.

Disclosure of information

312. Nothing in this Act shall require the Minister or any public servant to disclose facts which he considers to be against the interest of the public to disclose.

[16/2003]

Regulations for purposes of this Part

313.—(1) The Minister may make regulations for the purposes and provisions of this Part and for the due administration thereof.

[16/2003]

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to —

(*a*) the appointment of members to, and procedures of, the Appeal Advisory Panel and Appeal Advisory Committees;

(*b*) the form and manner in which an appeal to the Minister under this Act shall be made;

(*c*) the fees to be paid in respect of any appeal made to the Minister under this Act, including the refund or remission, whether in whole or in part, of such fees;

(*d*) the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees; and

(*e*) all matters and things which by this Part are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to any provision of this Part.

[16/2003]

PART XV

MISCELLANEOUS

314. [*Repealed by Act 1/2005*]

315. [*Repealed by Act 1/2005*]

Opportunity to be heard

316. Where this Act provides for a person to be given an opportunity to be heard by the Authority, the Authority may prescribe the manner in which the person shall be given an opportunity to be heard.

Records

317.—(1) Without prejudice to sections 94, 99C and 101A(7) and (8), the Authority shall keep such records as it considers necessary, in such form as it thinks fit.

[2/2009 wef 01/10/2012]
[Act 34 of 2012 wef 18/03/2013]

(2) Any person may, on payment of the prescribed fee —

(*a*) inspect any records kept by the Authority under section 94 or 99C, any records kept or published by the Authority under section 101A(7) and (8) or any prospectus or profile statement lodged with the Authority under Part XIII; or

[Act 34 of 2012 wef 18/03/2013]
[2/2009 wef 01/10/2012]

(*b*) require a copy of or extract from any such record to be given or certified by the Authority.

(3) A copy of or extract from any record lodged with or kept by the Authority certified to be a true copy or extract by the Authority shall in any proceedings be admissible as evidence of equal validity as the original record.

(4) In any legal proceedings a certificate by the Authority that a requirement of this Act specified in the certificate —

(*a*) had or had not been complied with at a date or within a period specified in the certificate; or

(*b*) had been complied with upon a date specified in the certificate but not before that date,

shall be received as prima facie evidence of the matters specified in the certificate.

(5) If the Authority is of the opinion that any record submitted to it —

(*a*) contains any matter contrary to law;

(*b*) by reason of any omission or misdescription has not been duly completed;

(*c*) does not comply with the requirements of this Act; or

(*d*) contains any error, alteration or erasure,

the Authority may refuse to register or receive the record and request that the record be appropriately amended or completed and resubmitted or that a fresh record be submitted in its place.

(6) Any party that is aggrieved by the refusal of the Authority to register or receive any record under subsection (5) may, within 30 days after it is notified of the decision of the Authority, appeal to the Minister whose decision shall be final.

(7) The Authority may, if it is of the opinion that it is no longer necessary or desirable to retain any record which has been microfilmed or converted to electronic form, destroy such record or otherwise arrange for such record to be disposed of in such manner as the Authority thinks fit.

Size, durability and legibility of records delivered to Authority

318.—(1) For the purposes of securing that the records furnished to or lodged with the Authority under this Act are of a standard size, durable and easily legible, the Authority may prescribe such requirements (whether as to size, weight, quality or colour of paper, size, type or colour of lettering, or otherwise) as it considers appropriate; and different requirements may be so prescribed for different documents or classes of documents.

(2) Where the Authority is of the opinion that any record (whether an original or copy thereof) delivered to the Authority does not comply with such requirements prescribed under this section, the Authority may serve on any person by whom under that provision the record was required to be delivered (or if there are 2 or more such persons, may serve on any of them) a notice —

(*a*) stating its opinion to that effect; and

(*b*) indicating the requirements so prescribed with which the record has failed to comply.

(3) Where the Authority serves a notice under subsection (2) with respect to a record delivered under this Act, then, for the purposes of any provision of this Act which enables a penalty to be imposed in respect of any omission to deliver to the Authority such record (and, in particular, for the purposes of any such provision whereby a penalty may be imposed by reference to each day during which the omission continues) —

(*a*) any duty imposed by that provision to deliver the record to the Authority shall be treated as not having been discharged; but

(*b*) no account shall be taken of any days falling within the period referred to in subsection (4).

(4) The period referred to in subsection (3)(*b*) is the period beginning on the day on which the record was delivered to the Authority as mentioned in subsection (2) and ending on the 14th day after the date of service of the notice under subsection (2).

(5) For the purposes of this section, any reference to delivering a record shall be construed as including a reference to sending, forwarding, producing, furnishing, lodging or (in the case of a notice) giving the record.
[Companies, s. 15]

Translation of instruments

318A.—(1) Where a person submits or furnishes to or lodges with the Authority any book, application, return, report, prospectus, statement or other information or document under this Act (other than Subdivision (3) of Division 3 of Part IX) which is not in the English language, the person shall, at the same time or at such other time as may be permitted by the Authority, submit or furnish to or lodge with the Authority, as the case may be, an accurate translation thereof in the English language.

[16/2003]

(2) Where a person is required to make available for inspection by the public, or any section thereof, any document, report, or other book under this Act which is not in the English

language, the person shall, at the same time or at such other time as may be permitted by the Authority, make available for such inspection an accurate translation thereof in the English language.

[16/2003]

(3) Where a person is required to maintain or keep any book under this Act and the book or any part thereof is not maintained or kept in the English language, the person shall —

(*a*) cause an accurate translation of that book or that part of the book in the English language to be made from time to time at intervals of not more than 7 days; and

(*b*) maintain or keep the translation with the book for so long as the book is required under this Act to be maintained or kept.

[16/2003]

(4) Subsections (1), (2) and (3) are subject to any express provision to the contrary in this Act or any regulations made thereunder.

[16/2003]

(5) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000.

[16/2003]

(6) Where a person is charged with an offence under subsection (5), it shall be a defence for the person to prove that —

(*a*) he had taken all reasonable steps to ensure that the translation that was submitted or furnished to or lodged with the Authority, made available for inspection, or maintained or kept, as the case may be, was accurate in the circumstances; and

(*b*) he had believed on reasonable grounds that the translation was accurate.

[16/2003]

(7) In subsections (1), (2) and (3), "Act" includes any direction made by the Authority under this Act.

[16/2003]

Supply of magnetic tapes — exclusion of liability for errors or omissions

319. Where the Authority furnishes information, whether in bulk or otherwise, to any person by way of magnetic tapes or by any electronic means, neither the Authority nor any of its officers or authorised agents involved in the furnishing of such information shall be liable for any loss or damage suffered by that person by reason of any error or omission of whatever nature appearing therein or however caused if made in good faith and in the ordinary course of the discharge of the duties of such officers or authorised agents.
[Companies, s. 16A]

Appointment of assistants

320.—(1) Subject to subsection (1A), the Authority may appoint any person to exercise any of its powers or perform any of its functions or duties under this Act, either generally or in any particular case, except the power to make subsidiary legislation.

[16/2003]

(1A) The Authority may, by notification published in the *Gazette*, appoint one or more of its officers to exercise the power to grant an exemption to any person or in respect of any capital markets product, matter or transaction (not being an exemption granted to a class of persons or in respect of a class of capital markets products, matters or transactions) under a provision of this Act specified in the Fourth Schedule, or to revoke any such exemption.

[16/2003]

(2) Any person appointed by the Authority under subsection (1) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

[Insurance Intermediaries, s. 34]

Codes, guidelines, etc., by Authority

321.—(1) The Authority may issue, in such manner as it considers appropriate, such codes, guidelines, policy statements, practice notes and no-action letters as it considers appropriate for providing guidance —

(*a*) in furtherance of its regulatory objectives;

(*b*) in relation to any matter relating to any of the functions of the Authority under any of the provisions of this Act; or

(*c*) in relation to the operation of any of the provisions of this Act.

(2) The Authority may publish any such code, guideline, policy statement, practice note or no-action letter, and in such manner as it thinks fit.

(3) The Authority may revoke, vary, revise or amend the whole or any part of any code, guideline, policy statement, practice note or no-action letter issued under this section in such manner as it thinks fit.

(4) Where amendments are made under subsection (3) —

(*a*) the other provisions of this section shall apply, with the necessary modifications, to such amendments as they apply to the code, guideline, policy statement, practice note or no-action letter; and

(*b*) any reference in this Act or any other written law to the code, guideline, policy statement, practice note or no-action letter however expressed shall, unless the context otherwise requires, be a reference to the code, guideline, policy statement, practice note or no-action letter as so amended.

(5) Any person who fails to comply with any of the provisions of a code, guideline, policy statement or practice note issued under this section that applies to him shall not of itself render that person liable to criminal proceedings but any such failure may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

(6) The issue by the Authority of a no-action letter shall not of itself prevent the institution of any criminal proceedings against any person for a contravention of any provision of this Act.

(7) Any code, guideline, policy statement or practice note issued under this section —

(*a*) may be of general or specific application; and

(*b*) may specify that different provisions thereof apply to different circumstances or provide for different cases or classes of cases.

(8) For the avoidance of doubt, any code, guideline, policy statement, practice note or no-action letter issued under this section shall be deemed not to be subsidiary legislation.

(9) In this section, a "no-action" letter means a letter written by the Authority to an applicant for such a letter to the effect that, if the facts are as represented by the applicant, the Authority will not institute proceedings against the applicant in respect of a particular state of affairs or particular conduct.

Power of Authority to publish information

322.—(1) The Authority may, where it thinks it necessary or expedient in the interest of the public or section of the public or for the protection of investors and in such form or manner as it thinks fit, publish —

(*a*) any information relating to an approved exchange, a recognised market operator, an exempt market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house, an approved holding company, a holder of a capital markets services licence, an exempt person, a representative, or an approved trustee for a collective investment scheme as defined in section 289; or

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[2/2009 wef 01/10/2012]

(*b*) any other information which the Authority has acquired in the exercise of its functions or the performance of its duties under this Act.

[1/2005]

(2) Without prejudice to the generality of subsection (1), the Authority may publish information relating to —

(*a*) the lapsing, revocation or suspension of the approval, licence or exemption granted to any person referred to in subsection (1);

(*b*) the making of a prohibition order against any person referred to in subsection (1);

(*c*) the reprimand of any relevant person under section 334;

(*d*) the removal of an officer of any person referred to in subsection (1);

(*e*) the composition of any offence —

(i) under this Act committed by any person; or

(ii) under any other law (whether of Singapore or any territory or country outside Singapore) involving a person referred to in subsection (1);

(*f*) any civil or criminal proceedings brought —

(i)

under this Act against any person and the outcome of such proceedings, including any settlement, whether in or out of court; or

(ii) under any other law, whether of Singapore or any territory or country outside Singapore, against any person referred to in subsection (1) and the outcome of such proceedings, including any settlement, whether in or out of court;

(*g*) any disciplinary proceedings brought against any person referred to in subsection (1), by the Authority, a securities exchange, a futures exchange, a licensed trade repository, a licensed foreign trade repository, an approved clearing house or a recognised clearing house and the outcome of such proceedings; and

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(*h*) any other action as may have been taken by the Minister, the Authority, a securities exchange, a futures exchange, a licensed trade repository, a licensed foreign trade repository, an approved clearing house or a recognised clearing house against any person referred to in subsection (1).

[1/2005]
[Act 34 of 2012 wef 01/08/2013]

323. [*Repealed by Act 24/2003*]

Power of court to prohibit payment or transfer of moneys, securities, etc.

324.—(1) A court may, on an application by the Authority, make one or more of the orders referred to in subsection (1A), where —

(*a*) an investigation is being carried out under this Act in relation to any act or omission by a person, being an act or omission that constitutes or may constitute a contravention of this Act;

(*b*) a criminal proceeding has been instituted against a person for an offence under this Act; or

(*c*) a civil proceeding has been instituted against a person under this Act, and the court considers it necessary or desirable to do so for the purpose of protecting the interests of any person to whom the person referred to in paragraph (*a*) or (*b*) or this paragraph (referred to in this section as the relevant person) is liable or may become liable to pay any moneys, whether in respect of a debt, or by way of penalties, damages or compensation or otherwise, or to account for any securities, futures contracts, contracts in connection with leveraged foreign exchange trading, or other property.

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(1A) The orders of court that may be made under subsection (1) are as follows:

(*a*) an order prohibiting, either absolutely or subject to conditions, a person who is indebted to the relevant person or any person associated with the relevant person from making a payment in total or partial discharge of such debt that is due or

accruing due to the relevant person, or to another person at the direction or request of the relevant person;

(*b*) an order prohibiting, either absolutely or subject to conditions, a person holding moneys, securities, futures contracts, contracts in connection with leveraged foreign exchange trading, or other property, on behalf of the relevant person or on behalf of any person associated with the relevant person, from paying, transferring or otherwise parting with possession of all or any of the moneys, securities, futures contracts, contracts in connection with leveraged foreign exchange trading, or other property, to the relevant person, or to another person at the direction or request of the relevant person;

(*c*) an order prohibiting, either absolutely or subject to conditions, the taking or sending out of Singapore of moneys of the relevant person or of any person associated with the relevant person;

(*d*) an order prohibiting, either absolutely or subject to conditions, the taking, sending or transfer of securities, or documents of title to securities, futures contracts, contracts in connection with leveraged foreign exchange trading, or other property of the relevant person or of any person who is associated with the relevant person, from a place or person in Singapore to a place or person outside Singapore (including the transfer of securities from a register in Singapore to a register outside Singapore);

(*e*) an order appointing —

(i) where the relevant person is an individual, a receiver, having such powers as the court orders, of the property or part of the property of the relevant person; or

(ii) where the relevant person is a corporation, a receiver or receiver and manager, having such powers as the court orders, of the property or part of the property of the relevant person;

(*f*) where the relevant person is an individual, an order requiring the relevant person to deliver up to the court his passport and such other documents as the court thinks fit;

(*g*) where the relevant person is an individual, an order prohibiting the relevant person from leaving Singapore without the consent of the court.

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(2) Where an application is made to the court for any order referred to in subsection (1A), the court may, if the court is of the opinion that it is desirable to do so, before considering the application, make any interim order as it thinks fit pending the determination of the application.

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(3) Where the Authority makes an application to the court for the making of an order or interim order under this section, the court shall not require the Authority or any other person, as a condition of granting the order or interim order, to give any undertaking as to damages.

(4) Where the court has made an order or interim order under this section, the court may, on application by the Authority or by any person affected by the order or interim order, rescind or vary the order or interim order.

(5) An order or interim order made under this section may be expressed to operate for a period specified in the order or interim order or until the order or interim order is rescinded.

(6) Any person who contravenes an order or interim order made by the court under this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(7) Subsection (6) shall not affect the powers of the court in relation to the punishment for contempt of court.

[Aust. Corporations 2001, s. 1323 (modified)]

Power of court to make certain orders

325.—(1) Where —

(*a*) on the application of the Authority, it appears to the court that a person —

(i) has committed an offence under this Act;

(ii) has contravened any condition or restriction of a licence, or the business rules of a securities exchange, a futures exchange, a licensed trade repository or an approved clearing house, or the listing rules of a securities exchange; or

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(iii) is about to do an act with respect to dealing in securities or trading in futures contracts that, if done, would be such an offence or contravention;

(*b*) on the application of a securities exchange, it appears to the court that a person has contravened the business rules or listing rules of the securities exchange;

(*c*) on the application of a futures exchange, it appears to the court that a person has contravened the business rules of the futures exchange;

(*d*) on the application of an approved clearing house, it appears to the court that a person has contravened the business rules of the approved clearing house; or

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(*e*) on the application of a licensed trade repository, it appears to the court that a person has contravened the business rules of the licensed trade repository,

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the court may, without prejudice to any orders it would be entitled to make otherwise than under this section, make one or more of the following orders:

(i) in the case of a persistent or continuing breach of this Act, or of any condition or restriction of a licence, or of any business rule of a securities exchange, a futures exchange, a licensed trade repository or an approved clearing house, or any listing

rule of a securities exchange an order restraining a person from carrying on business to deal in securities or trade in futures contracts, or acting as a representative of such a person, or from holding himself out as so carrying on business or so acting;

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(ii) an order restraining a person from acquiring, disposing of or otherwise dealing with any securities or trading in any futures contracts that are specified in the order;

(iii) an order appointing a receiver of the property of the holder of a capital markets services licence to deal in securities or trade in futures contracts or of property that is held by such a holder for or on behalf of another person whether on trust or otherwise;

(iv) an order declaring a contract relating to any dealing in securities or trading in futures contracts to be void or voidable;

(v) for the purpose of securing compliance with any other order under this section, an order directing a person to do or refrain from doing a specified act;

(vi) any ancillary order deemed to be desirable in consequence of the making of any of these orders.

[1/2005]

(2) The court may, before making an order under subsection (1), direct that notice of the application be given to such person as it thinks fit or that notice of the application be published in such manner as it thinks fit, or both.

(3) A person appointed by order of the court under subsection (1) as a receiver of the property of the holder of a capital markets services licence to deal in securities or trade in futures contracts —

(*a*) may require the holder to deliver to the receiver any property of which he has been appointed receiver or to give to the receiver all information concerning that property that may reasonably be required;

(*b*) may acquire and take possession of any property of which he has been appointed receiver;

(*c*) may deal with any property that he has acquired or of which he has taken possession in any manner in which the holder might lawfully have dealt with the property; and

(*d*) has such other powers in respect of the property as the court may specify in the order.

(4) For the purposes of subsections (1) and (3), "property", in relation to the holder of a capital markets services licence to deal in securities or trade in futures contracts, includes moneys, securities, futures contracts and documents of title to securities or other property entrusted to or received on behalf of any other person by the holder or another person in the course of or in connection with a business of dealing in securities or trading in futures contracts carried on by the holder.

(5) Any person who, without reasonable excuse, contravenes —

(*a*) an order made under subsection (1); or

(*b*) a requirement of a receiver appointed by order of the court under subsection (1),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(6) Subsection (5) shall not affect the powers of the court in relation to the punishment for contempt of court.

(7) The court may, on the application of an affected person or of its own motion, rescind, vary or discharge an order made by it under this section or suspend the operation of such an order.

Injunctions

326.—(1) Where a person has engaged, is engaging or is likely to engage in any conduct that constitutes or would constitute a contravention of this Act, the court may, on the application of —

(*a*) the Authority; or

(*b*) any person whose interests have been, are or would be affected by the conduct,

grant an injunction restraining the first-mentioned person from engaging in the conduct and, if the court is of the opinion that it is desirable to do so, requiring that person to do any act or thing.

(2) Where a person has refused or failed, is refusing or failing, or is likely to refuse or fail, to do an act or thing that he is required by this Act to do, the court may, on the application of —

(*a*) the Authority; or

(*b*) any person whose interests have been, are or would be affected by the refusal or failure to do that act or thing,

make an order requiring the first-mentioned person to do that act or thing.

(3) Where an application is made to the court for an injunction under subsection (1) or an order under subsection (2), the court may, if the court is of the opinion that it is desirable to do so, before considering the application, grant an interim injunction restraining a person from engaging in conduct of the kind referred to in subsection (1) or make an interim order requiring a person to do any act or thing, pending the determination of the application.

(4) Where the court has power under this section to grant an injunction or interim injunction or make an order or interim order restraining a person from engaging in conduct of a particular kind, or requiring a person to do a particular act or thing, the court may, either in addition to or in substitution for the injunction, order, interim injunction or interim order, order that person to pay damages to any other person.

(5) Where the court has granted an injunction or interim injunction or made an order or interim order under this section, the court may, on application by any party referred to in

subsection (1) or (2) or by any person affected by the injunction, order, interim injunction or interim order, rescind or vary the injunction, order, interim injunction or interim order.

(6) An injunction, order, interim injunction or interim order granted or made under this section may be expressed to operate for a period specified in the injunction, order, interim injunction or interim order or until the injunction, order, interim injunction or interim order is rescinded.

(7) Any person who contravenes an injunction, order, interim injunction or interim order by the court under this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(8) Where an application is made to the court for the grant of an injunction under subsection (1), the power of the court to grant the injunction may be exercised —

(*a*) if the court is satisfied that the person has engaged in conduct of that kind, whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; or

(*b*) if it appears to the court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind, whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

(9) Where an application is made to the court for the making of an order under subsection (2), the power of the court to make the order may be exercised —

(*a*) if the court is satisfied that the person has refused or failed to do that act or thing, whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or

(*b*) if it appears to the court that, in the event that an order is not made, it is likely the person will refuse or fail to do that act or thing, whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(10) Where the Authority or any person referred to in subsection (1)(*b*) or (2)(*b*) makes an application to the court for the grant of an injunction or interim injunction or for the making of an order or interim order under this section, the court shall not require the Authority or that person, as the case may be, or any other person, as a condition of granting the injunction, interim injunction, order or interim order, to give any undertaking as to damages.

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(11) Subsection (7) shall not affect the powers of the court in relation to the punishment for contempt of court.

[Aust. Corporations 2001, s. 1324 (modified)]

Criminal jurisdiction of District Court

327. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of any offence under this Act.
[Insurance Intermediaries, s. 39]

Falsification of records by officer, employee or agent of relevant person

328.—(1) Any officer, auditor, employee or agent of any relevant person who —

(*a*) wilfully makes, or causes to be made, a false entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of that relevant person;

(*b*) wilfully omits to make, or causes to be omitted, an entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of that relevant person; or

(*c*) wilfully alters, extracts, conceals or destroys, or causes to be altered, extracted, concealed or destroyed, an entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of that relevant person,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) In subsection (1) —

"officer" includes a person purporting to act in the capacity of an officer;

"relevant person" means any approved exchange, recognised market operator, exempt market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, approved holding company, holder of a capital markets services licence to carry on business in any regulated activity, exempt person, representative, or approved trustee for a collective investment scheme as defined in section 289.

[1/2005]
[2/2009 wef 01/10/2012]
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[SIA, s. 108]

Duty not to furnish false information to Authority

329.—(1) Any person who furnishes the Authority with any information under this Act shall use due care to ensure that the information is not false or misleading in any material particular.

(2) Subsection (1) shall apply only to a requirement in relation to which no other provision of this Act creates an offence in connection with the furnishing of information.

(3) Any person who —

(*a*) signs any document lodged with the Authority; or

(*b*)

lodges with the Authority any document by electronic means using any identification or identifying code, password or other authentication method or procedure assigned to him by the Authority,

shall use due care to ensure that the document is not false or misleading in any material particular.

[2/2009 wef 26/11/2010]

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

[Insurance Intermediaries, s. 37 (modified)]

Duty not to furnish false statements to securities exchange, futures exchange, licensed trade repository, approved clearing house, recognised clearing house and Securities Industry Council

330.—(1) Any person who, with intent to deceive, makes or furnishes, or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to any securities exchange, futures exchange, licensed trade repository, approved clearing house or recognised clearing house or any officers thereof relating to —

(*a*) dealing in securities, trading in futures contracts, foreign exchange trading or leveraged foreign exchange trading;

(*b*) the enforcement of the business rules of a securities exchange, a futures exchange, a licensed trade repository or an approved clearing house or the listing rules of a securities exchange;

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(*c*) the affairs of an entity or a business trust;

(*d*) a collective investment scheme;

(*e*) the affairs of the trustee-manager of a registered business trust; or

(*f*) a registered business trust which is managed and operated by the trustee-manager of the registered business trust,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

[31/2004; 1/2005]
[Act 34 of 2012 wef 01/08/2013]

(2) Any person who, with intent to deceive, makes or furnishes or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to the Securities Industry Council or any of its officers, relating to any matter or thing required by the Securities Industry Council in the exercise of its functions under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) In subsection (1)(*c*), the reference to affairs of an entity or a business trust shall —

(*a*)

in the case of an entity which is a corporation, be construed as including a reference to the matters referred to in section 2(2); and

(*b*) in the case of —

(i) an entity which is not a corporation; or

(ii) a business trust,

be construed as a reference to such matters as may be prescribed by the Authority.

[1/2005]

[SIA, s. 109; FTA, s. 55]

Corporate offenders and unincorporated associations

331.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of an officer of the body corporate, the officer as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3A) Where an offence under this Act committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner or manager of the limited liability partnership, the partner or manager (as the case may be) as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

[5/2005]

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association or a member of its governing body, the officer or member as well as the association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

"body corporate" and "partnership" exclude a limited liability partnership within the meaning of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);

"officer" —

(*a*) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, and includes a person purporting to act in any such capacity; or

(*b*) in relation to an unincorporated association (other than a partnership) means the president, the secretary, or a member of the committee of the association or a person holding a position analogous to that of president, secretary or member of a committee, and includes a person purporting to act in any such capacity;

"partner", in relation to a partnership, includes a person purporting to act as a partner.

[16/2003; 1/2005; 5/2005]

(6) Regulations may provide for the application of any provision of this section, with such modifications as the Authority considers appropriate, to a body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

[UK FSMA 2000, s. 400 (modified)]

Offences by officers

332.—(1) Any person, being an officer of an approved holding company, a securities exchange, a futures exchange, a recognised market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house or a holder of a capital markets services licence to carry on business in any regulated activity, who fails to take all reasonable steps to secure —

(*a*) compliance with any provision of this Act; or

(*b*) the accuracy and correctness of any statement submitted under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 2 years or to both.

[1/2005]
[Act 34 of 2012 wef 01/08/2013]

(2) In any proceedings against an officer under subsection (1), it shall be a defence for the defendant to prove that he had reasonable grounds for believing that another person was charged with the duty of securing compliance with the requirements of this Act, or with the duty of ensuring that those statements were accurate, as the case may be, and that that person was competent, and in a position, to discharge that duty.

(3) An officer shall not be sentenced to imprisonment for any offence under subsection (1) unless, in the opinion of the court, he committed the offence wilfully.

[SIA, s. 107]

Penalties for corporations

333.—(1) Subject to subsections (2) and (3), where a corporation is convicted of an offence under this Act, the penalty that the court may impose is a fine not exceeding 2 times the maximum amount that, but for this subsection, the court could impose as a fine for that offence.

(2) Subsection (1) shall not apply to —

(*a*) offences under sections 6(4) and (5), 8(12), 14(11), 16A(3) and (4), 22, 23(4), 27(11), 28(12), 29(3), 30(4), 32(7), 34(9), 43, 44(10), 46(2), 49(7) and (8), 50(2), 51(2), 52(2), 54(9), 56(2), 61(3), 70, 75(11) and (12), 76(12), 77(4), 78(4), 79(2), 80

(14) and (15), 81(9), 81A(10), 81U(2), 81W(8), 81ZA(3), 81ZB(2), 81ZC(2), 81ZD (3), 81ZE(11) and (12), 81ZF(13), 81ZG(4), 81ZJ(10), 81ZL(2), 103, 105, 107(3) and (4), 289(7), 290(4) and 295(6); or

[2/2009 wef 26/11/2010]

(*b*) offences under any subsidiary legislation made under this Act where it is expressly provided in the subsidiary legislation that subsection (1) shall not apply to those offences.

[16/2003; 42/2005]

(3) Where an individual is convicted of an offence under this Act by virtue of section 331, he shall be liable to the fine or imprisonment or both as prescribed for that offence and subsection (1) shall not apply.

Power of Authority to reprimand for misconduct

334.—(1) Where the Authority is satisfied that a relevant person is guilty of misconduct, the Authority may, if it thinks it necessary in the interest of the public, or a section of the public or for the protection of investors, reprimand the relevant person.

(2) In this section —

"misconduct" means —

(*a*) the contravention of —

(i) any provision of this Act;

(ii) any condition or restriction imposed under this Act;

(ii*a*) any direction made by the Authority under this Act;

(iii) any code, guideline, policy statement or practice note issued under section 321; or

(iv) any business rules of a securities exchange, a futures exchange, a licensed trade repository or an approved clearing house, or the listing rules of a securities exchange;

[Act 34 of 2012 wef 01/08/2013]

(*b*) the failure by an officer of a relevant person to discharge any duty or function of his office; or

(*c*) the commission of an offence under section 331 or 332(1);

"officer" —

(*a*) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, and includes a person purporting to act in any such capacity; or

(*b*) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or a member of the committee of the association or a person holding a position analogous to that of president, secretary or

member of a committee, and includes a person purporting to act in any such capacity;

"partner" includes a person purporting to act as a partner;

"relevant person" means an approved exchange, a recognised market operator, an exempt market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house, an approved holding company, a holder of a capital markets services licence, an exempt person, an approved trustee for a collective investment scheme as defined in section 289, or any employee, officer, partner or representative thereof.

[16/2003; 1/2005]
[2/2009 wef 01/10/2012]
[34/2012 wef 01/08/2013]

General penalty

335. Any person who contravenes any provision of this Act shall be guilty of an offence and, where no penalty is expressly provided, shall be liable on conviction to a fine not exceeding $50,000.

Proceedings with consent of Public Prosecutor and power to compound offences

336.—(1) Proceedings for an offence against any provisions of Part XII may be taken only with the consent of the Public Prosecutor.

[15/2010 wef 02/01/2011]

(2) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence.

[SIA, s. 117; FTA, s. 66]

[Act 34 of 2012 wef 18/03/2013]

(3) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision that has been repealed) which —

(*a*) was compoundable under this section at the time the offence was committed; but

(*b*) has ceased to be so compoundable,

by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.

[Act 34 of 2012 wef 18/03/2013]

(4) All sums collected by the Authority under subsection (2) or (3) shall be paid into the Consolidated Fund.

[Act 34 of 2012 wef 18/03/2013]

Exemption

337.—(1) The Authority may, by regulations, exempt any person, capital markets product, matter or transaction, or any class thereof, from all or any of the provisions of this Act, subject to such conditions or restrictions as may be prescribed.

(2) Subject to any express provision to the contrary in this Act, an exemption granted to a person or in respect of any capital markets product, matter or transaction (other than an exemption granted to a class of persons, capital markets products, matters or transactions) under any provision of this Act other than subsection (1), or a revocation thereof, may be notified in writing to the person concerned, and need not be published in the *Gazette*.

[16/2003]

(3) The Authority may, on the application of any person, by notice in writing exempt the person from all or any of the requirements specified in any direction made by the Authority under this Act.

[16/2003]

(4) An exemption granted under subsection (3) —

(*a*) may be granted subject to such conditions or restrictions as the Authority may specify by notice in writing; and

(*b*) for the avoidance of doubt, need not be published in the *Gazette* and may be revoked at any time by the Authority.

[16/2003]

(4A) The Authority may at any time add to, vary or revoke any condition or restriction imposed under this section.

[2/2009 wef 26/11/2010]

(5) Any person who contravenes any condition or restriction imposed under subsection (1) or (4)(*a*) (including any condition or restriction added or varied under subsection (4A)) shall be guilty of an offence.

[2/2009 wef 26/11/2010]
[16/2003]

Power to make regulations giving effect to treaty, etc., relating to securities or futures

338.—(1) Without prejudice to the generality of section 341, the Authority may make regulations prescribing the matters necessary or expedient to give effect in Singapore to the provisions of any treaty, convention, arrangement, memorandum of understanding, exchange of letters or other similar instrument relating to the securities, futures or derivatives industry, to which Singapore or the Authority is a party.

[Act 34 of 2012 wef 01/08/2013]

(2) Without prejudice to the generality of subsection (1), such regulations may provide for —

(*a*) exemptions from the requirements relating to licensing, approval or registration of any person, the recognition of recognised market operators or the lodgment or registration of any document under this Act;

(*b*) exemptions from any requirement in Part XIII;

(*c*) the application of this Act with such modifications as may be necessary;

(*d*) the revocation or withdrawal of any exemption granted; and

(*e*) the variation of any condition or restriction imposed in connection with the granting of any exemption under this Act.

[1/2005]

Extra-territoriality of Act

339.—(1) Where a person does an act partly in and partly outside Singapore which, if done wholly in Singapore, would constitute an offence against any provision of this Act, that person shall be guilty of that offence as if the act were carried out by that person wholly in Singapore, and may be dealt with as if the offence were committed wholly in Singapore.

(2) Where —

(*a*) a person does an act outside Singapore which has a substantial and reasonably foreseeable effect in Singapore; and

(*b*) that act would, if carried out in Singapore, constitute an offence under any provision of Part II, IIA, III, IV, VIII, XII, XIII or XV,

[Act 34 of 2012 wef 01/08/2013]

that person shall be guilty of that offence as if the act were carried out by that person in Singapore, and may be dealt with as if the offence were committed in Singapore.

(2A) For the purposes of an action under section 232 or 234, where a person —

(*a*) does an act partly in and partly outside Singapore which, if done wholly in Singapore, would constitute a contravention of any provision of Part XII; or

(*b*) does an act outside Singapore which has a substantial and reasonably foreseeable effect in Singapore and that act, if carried out in Singapore, would constitute a contravention of any provision of Part XII,

the act shall be treated as being carried out by that person in Singapore.

[16/2003]

(3) The Authority may, by regulations, specify the circumstances under which subsection (2) or (2A)(*b*) does not apply.

[16/2003]

Amendment of Schedules

340.—(1) The Minister may by order published in the *Gazette*, amend, add to or vary the First, Second, Third or Fourth Schedule.

[16/2003]

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions to the Act as may be necessary or expedient.

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

(4) The Authority may, by regulations, provide that the definitions in the Second Schedule shall not apply to such person, capital markets product or class of persons or capital markets products as may be prescribed.

Regulations

341.—(1) The Authority may make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Authority may make regulations for or with respect to —

(*a*) the criteria for authorisation or recognition of collective investment schemes and the constitution, operation, management and offer of such schemes including but not limited to the powers and duties of the managers, trustees or representatives and the rights and obligations of the participants of the schemes;

(*b*) the financial requirements and other criteria that a public company must fulfill for it to be considered for approval as a trustee;

(*c*) applications for capital markets services licences to carry on business in any regulated activity and matters incidental thereto;

[2/2009 wef 26/11/2010]

(*d*) the activities of, and standards to be maintained by persons holding a capital markets services licence to carry on business in any regulated activity and their representatives, including the manner, method and place of soliciting business by the holder of the licence and their representatives and the conduct of such solicitation;

(*e*) [*Deleted by Act 16/2003*]

(*f*) the conditions for the conduct of business on any securities exchange, futures exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house or recognised clearing house;

[Act 34 of 2012 wef 01/08/2013]

(*g*) the form, content distribution and publication of written, printed or visual material and advertisements that may be distributed or used by a person in respect of any regulated activity, including advertisements offering the services of persons holding a capital markets services licence or offering capital markets products for sale;

(*h*) the particulars to be recorded in the profit and loss accounts and balance-sheets and the information to be contained in auditor's reports required to be lodged under this Act on the annual accounts of persons holding a capital markets services licence to carry on business in any regulated activity;

(*i*) the remuneration of an auditor appointed under this Act and for the costs of an audit carried out under this Act;

(*j*) the manner in which persons holding a capital markets services licence to carry on a business in any regulated activity conduct their dealings with their customers,

conflicts of interest involving the holder of the licence and its customers, and the duties of the holder of a licence to its customers when making recommendations in respect of capital markets products;

(*k*) the purchase or sale of capital markets products for their own accounts, directly or indirectly by holders of capital markets services licences to carry on business in any regulated activity and their representatives;

(*l*) the disclosure by a holder of a capital markets services licence of any material interest that such person might have in a proposed transaction relating to trading in capital markets products;

(*la*) the maintenance by the holder of a capital markets services licence, and a representative of such a holder, of registers of their interests in securities and their duties relating to the registers, and matters relating thereto;

[2/2009 wef 19/11/2012]

(*m*) the specification of manipulative and deceptive devices and contrivances in connection with the purchase or sale of securities, futures contracts or leveraged foreign exchange trading;

(*n*) the regulation or prohibition of trading on the floor of a securities exchange, futures exchange or recognised market operator by members of a securities exchange, futures exchange or recognised market operator, as the case may be, or their representatives directly or indirectly for their own accounts and the prevention of such excessive trading on a securities exchange, futures exchange or recognised market operator but off the floor of a securities exchange, futures exchange or recognised market operator by members of a securities exchange, futures exchange or recognised market operator, as the case may be, or their representatives directly or indirectly for their own accounts as the Authority may consider is detrimental to the maintenance of a fair and orderly market; and the exemption of such transactions as the Authority may decide to be necessary in the interest of the public, or a section of the public or for the protection of investors;

(*o*) the borrowing in the ordinary course of business by persons holding a capital markets services licence as the Authority may consider necessary or appropriate in the interest of the public, or a section of the public or for the protection of investors;

(*p*) the prohibition or regulation of dealing in securities in circumstances where the person who deals in the securities does not hold or have an interest in the securities which are being or are proposed to be dealt with;

(*q*) the prohibition or restriction of forward contracts in securities of corporations that are admitted to the official list of a securities exchange;

(*r*) the forms for the purposes of this Act;

(*s*) the fees to be paid in respect of any matter or thing required for the purposes of this Act, including licences required under this Act and the refund and remission, whether in whole or in part, of such fees;

(*t*) the collection by or on behalf of the Authority, at such intervals or on such occasions as may be prescribed, of statistical information as to such matters relevant to capital markets products as may be prescribed and for the collection and use of such information for any purpose, whether or not connected with the prescribed capital markets products; and

(*u*) all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.

[16/2003; 1/2005]

(3) Except as otherwise expressly provided in this Act, the regulations made under this Act —

(*a*) may be of general or specific application;

(*aa*) may contain provisions of a savings or transitional nature;

[Act 34 of 2012 wef 01/08/2013]

(*b*) may provide that a contravention of any specified provision thereof shall be an offence; and

(*c*) may provide for penalties not exceeding a fine of $50,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

(3A) For the purposes of paragraphs (*a*)(iv) and (*b*) of the definition of "derivatives contract" in section 2(1), the Authority may prescribe different contracts, arrangements, transactions and classes of contracts, arrangements or transactions for different purposes.

[Act 34 of 2012 wef 01/08/2013]

(3B) For the purposes of the definition of "financial instrument" in section 2(1), the Authority may prescribe different things for different purposes.

[Act 34 of 2012 wef 01/08/2013]

(3C) For the purposes of paragraphs (*a*)(iii) and (*b*) of the definition of "underlying thing" in section 2(1), the Authority may prescribe different arrangements, events, indices, intangible properties, tangible properties, transactions and classes of arrangements, events, indices, intangible properties, tangible properties or transactions for different purposes.

[Act 34 of 2012 wef 01/08/2013]

(4) Where a person is charged with an offence for contravening a regulation made under subsection (2)(*la*), it shall be a defence for the person to prove —

(*a*) that his contravention was due to his not being aware of a fact or occurrence, the existence of which was necessary to constitute the offence; and

(*b*) that —

(i) he was not so aware on the date of the summons issued for the charge; or

(ii)

he became so aware before the date of the summons and complied with the regulation within 14 days after becoming so aware.

[2/2009 wef 19/11/2012]

(5) For the purposes of subsection (4), a person shall, in the absence of proof to the contrary, be conclusively presumed to have been aware of a fact or occurrence at a particular time which an employee or agent of the person, being an employee or agent having duties or acting in relation to his employer's or principal's interest or interests in the securities concerned, was aware of at that time.

[16/2003]
[2/2009 wef 19/11/2012]

Regulations to apply Act to persons and matters previously regulated under Commodity Trading Act

342.—(1) The Authority may by regulations prescribe such provisions as it may consider necessary or expedient for the purpose of applying this Act in relation to commodity futures contracts, trading in futures contracts, commodity futures brokers, commodity futures broker's representatives, Commodity Futures Exchanges, commodity futures markets, commodity futures pool operators and commodity futures pool operator's representatives; and for this purpose this Act shall apply with such modifications as may be prescribed.

(2) In subsection (1), "commodity futures contract", "trading in futures contract", "commodity futures broker", "commodity futures broker's representative", "Commodity Futures Exchange", "commodity futures market", "commodity futures pool operator" and "commodity futures pool operator's representative" have the meanings given to those expressions in the Commodity Trading Act (Cap. 48A) in force immediately before the commencement of this provision.

[35/2007 wef 27/08/2007]

FIRST SCHEDULE

Section 2

PART I

MARKET

Definition of market

1. In this Act, "market" means a securities market or futures market.

Definition of futures market

2.—(1) In this Act, "futures market" means a place at which, or a facility (whether electronic or otherwise) by means of which, offers or invitations to sell, purchase or exchange futures contracts are regularly made on a centralised basis, being offers or invitations that are intended or may reasonably be expected to result, whether directly or indirectly, in the acceptance or making, respectively, of offers to sell, purchase or exchange futures contracts (whether through that place or facility or otherwise).

(2) For the purposes of this Act, "futures market" does not include —

(*a*) a place or facility used by only one person —

(i) to regularly make offers or invitations to sell, purchase or exchange futures contracts; or

(ii) to regularly accept offers to sell, purchase or exchange futures contracts; or

(*b*) a place or facility that enables persons to negotiate material terms (in addition to the price) of, and enter into transactions in, futures contracts, where the material terms (in addition to the price) of futures contracts are discretionary and not predetermined by the rules or practices of the place or facility.

Definition of securities market

3.—(1) In this Act, "securities market" means a place at which, or a facility (whether electronic or otherwise) by means of which, offers or invitations to sell, purchase or exchange issued securities or such other securities as the Authority may prescribe are regularly made on a centralised basis, being offers or invitations that are intended or may reasonably be expected, to result, whether directly or indirectly, in the acceptance or making, respectively, of offers to sell, purchase or exchange issued securities or prescribed securities (whether through that place or facility or otherwise).

(2) For the purposes of this Act, "securities market" does not include a place or facility used by only one person —

(*a*) to regularly make offers or invitations to sell, purchase or exchange securities; or

(*b*) to regularly accept offers to sell, purchase or exchange securities.

PART II

CLEARING FACILITY

Definition of clearing facility

4.—(1) In this Act —

"clearing facility" means —

(*a*) a facility for the clearing or settlement of —

(i) transactions in securities;

(ii) futures contracts; or

(iii) derivatives contracts; or

[Act 34 of 2012 wef 01/08/2013]

(*b*) such other facility or class of facilities for the clearing or settlement of transactions as the Authority may, by order, prescribe;

[2/2009 wef 01/10/2012]

"clearing or settlement", in relation to a clearing facility, means any arrangement, process, mechanism or service provided by a person in respect of transactions, by which —

(*a*) information relating to the terms of those transactions are verified by such person with a view to confirming the transactions;

(*b*) parties to those transactions substitute, through novation or otherwise, the credit of such person for the credit of the parties;

(*c*) the obligations of parties under those transactions are calculated, whether or not such calculations include multilateral netting arrangements; or

(*d*) parties to those transactions meet their obligations under such transactions, including the obligation to deliver, the transfer of funds or the transfer of title to securities between the parties.

(2) For the purposes of this Act, "clearing or settlement" does not include —

(*a*) the back office operations of a party to the transactions referred to in sub-paragraph (1);

(*b*) the services provided by a person who has, under an arrangement with another person (referred to in this sub-paragraph as the customer), possession or control of securities of the customer, where those services are solely incidental to the settlement of transactions relating to the securities; or

(*c*) any other arrangement, process, mechanism or service which the Authority may prescribe.

SECOND SCHEDULE

Sections 2 and 340(4)

REGULATED ACTIVITIES

PART I

TYPES OF REGULATED ACTIVITIES

The following are regulated activities for the purposes of this Act:

(*a*) dealing in securities;

(*b*) trading in futures contracts;

(*c*) leveraged foreign exchange trading;

(*d*) advising on corporate finance;

(*e*) fund management;

(*ea*) real estate investment trust management;

[S 376/2008 wef 01/08/2008]

(*f*) securities financing;

(*fa*) providing credit rating services;

[S 20/2012 wef 17/01/2012]

(*g*) providing custodial services for securities.

PART II

INTERPRETATION

In this Schedule —

"agreement" includes arrangement;

"advising on corporate finance" means giving advice —

(*a*) to any person (whether as principal or agent, or as trustee of a trust) concerning compliance with or in respect of laws or regulatory requirements (including the listing rules of a securities exchange) relating to the raising of funds by any entity, trustee of a trust on behalf of the trust or responsible person of a collective investment scheme on behalf of the collective investment scheme;

(*b*) to a person making an offer —

(i) to subscribe for or purchase securities; or

(ii) to sell or otherwise dispose of securities,

concerning that offer;

(*c*) concerning the arrangement, reconstruction or take-over of a corporation or any of its assets or liabilities; or

(*d*) concerning the take-over of a business trust or any of its assets or liabilities held by the trustee-manager on behalf of the business trust;

"credit rating" means an opinion expressed using an established and defined ranking system of rating categories, primarily regarding the creditworthiness of a rating target;

[S 20/2012 wef 17/01/2012]

"dealing in securities" means (whether as principal or agent) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to acquiring, disposing of, subscribing for, or underwriting securities;

"financial institution" means —

(*a*) any bank licensed under the Banking Act (Cap. 19);

(*b*) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186); or

(*c*) any finance company licensed under the Finance Companies Act (Cap. 108);

"foreign exchange trading" means the act of entering into or offering to enter into, or inducing or attempting to induce a person to enter into or offer to enter into, a contract or an arrangement the effect of which is that —

(*a*) a party agrees to exchange currency at an agreed rate of exchange with another party whether the currency exchange is effected at the same time or at a specified future time and whether by way of delivery of an amount of currency for another currency, by way of crediting the account of the other party with an amount of another currency, by way of settlement or set-off between 2 or more persons or otherwise; or

(*b*) a party agrees to settle in any manner with another party the difference between the value of any currency index agreed at the time of the making of the contract or arrangement and at a specified future time,

but does not include any act performed for or in connection with a contract or an arrangement which is a futures contract or such a proposed contract or proposed arrangement;

"fund management" means undertaking on behalf of a customer (whether on a discretionary authority granted by the customer or otherwise) —

(*a*) the management of a portfolio of securities or futures contracts; or

(*b*) foreign exchange trading or leveraged foreign exchange trading for the purpose of managing the customer's funds,

but does not include real estate investment trust management;

[S 376/2008 wef 01/08/2008]

"leveraged foreign exchange trading" means —

(*a*) foreign exchange trading on a margin basis whereby a person undertakes, as determined by the terms and conditions of the foreign exchange trading contract or arrangement —

(i) to make an adjustment between himself and another person according to whether a currency is worth more or less, as the case may be, in relation to another currency, or according to whether a currency index rises or falls in value, as the case may be, in relation to an agreed value;

(ii) to pay an amount of money determined or to be determined by reference to the change in value of a currency in relation to another currency, or by reference to the change in value of a currency index in relation to an agreed value; or

(iii) to deliver to another person at an agreed future time an agreed amount of currency at an agreed price;

(*b*) the provision by any person referred to in paragraph (*a*) of any advance, credit facility or loan, directly or indirectly, to facilitate an act of the description referred to in that paragraph; or

(*c*) the act of entering into or offering to enter into, or inducing or attempting to induce a person to enter into, an arrangement with another person (whether on a discretionary basis or otherwise) to enter into any contract to facilitate an act of the description mentioned in paragraph (*a*) or (*b*),

but does not include any act performed for or in connection with a contract or an arrangement —

(i) arranged by a bank that is licensed under the Banking Act (Cap. 19) or a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(ii) by any person belonging to such class of persons, or carrying on such class or description of business, as may be prescribed by the Authority; or

(iii) which is a futures contract,

or such a proposed contract or arrangement;

"offer" or "offering" includes invitation to treat;

"on a margin basis", in relation to the definition of "leveraged foreign exchange trading", means the first-mentioned person referred to in the definition of "leveraged foreign exchange trading" entering into the contract or arrangement referred to therein by providing to the offeror or his agent money, securities, property or other collateral which represents only a part of the value of the contract or arrangement to be entered into by him;

"providing credit rating services" means preparing, whether wholly or partly in Singapore, credit ratings in relation to activities in the securities and futures industry for —

(*a*) dissemination, whether in Singapore or elsewhere, or with a reasonable expectation that they will be so disseminated; or

(*b*) distribution by subscription, whether in Singapore or elsewhere, or with a reasonable expectation that they will be so distributed,

but does not include —

(i) preparing a private credit rating pursuant to an individual order which is intended to be provided exclusively to the person who placed the order and not intended for public disclosure or distribution by subscription; or

(ii) preparing credit scores, credit scoring systems or similar assessments related to obligations arising from consumer, commercial or industrial relationships;

[S 20/2012 wef 17/01/2012]

"providing custodial services for securities" means providing or agreeing to provide any service where the person providing the service has, under an arrangement with another person (the customer), possession or control of securities of the customer and carries out one or more of the following functions for the customer:

(*a*) settlement of transactions relating to the securities;

(*b*) collecting or distributing dividends or other pecuniary benefits derived from ownership or possession of the securities;

(*c*) paying tax or other costs associated with the securities;

(*d*) exercising rights, including without limitation voting rights, attached to or derived from the securities;

(*e*) any other function necessary or incidental to the safeguarding or administration of the securities,

but does not include —

(i) the activities of a corporation which is a Depository as defined in Division 7A of Part IV of the Companies Act (Cap. 50);

(ii) the provision of services to a related corporation or connected person, so long as none of the securities is —

(A) held on trust for another person by the related corporation or connected person;

(B) held as a result of any custodial services provided by the related corporation or connected person to another person; or

(C) beneficially owned by any person other than the related corporation or connected person;

(iii) the provision of services by a nominee corporation which are solely incidental to the business of a nominee corporation; or

(iv) any other conduct as the Authority may prescribe;

"rating category" means a rating symbol, such as a letter or numerical symbol which might be accompanied by appending identifying characters, used in a credit rating to provide a relative measure of risk to distinguish the different risk characteristics of the types of rating targets;

[S 20/2012 wef 17/01/2012]

"rating target" means the subject of a credit rating which may be —

(*a*) a person other than an individual;

(*b*) the government of a sovereign country, including the Government of Singapore; or

(*c*) securities;

[S 20/2012 wef 17/01/2012]

"real estate investment trust management" means managing or operating a collective investment scheme —

(*a*) that is a trust;

(*b*) that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and

[2/2009 wef 29/07/2009]

(*c*) all or any units of which are listed for quotation on a securities exchange;

[S 376/2008 wef 01/08/2008]

"securities financing" means to directly or indirectly facilitate, by providing any credit facility, advance or loan —

(*a*) the subscription for securities, or the purchase of securities listed or to be listed on a securities market or such other securities as the Authority may prescribe; and

(*b*) where applicable, the continued holding of those securities,

whether or not those securities are pledged as security for the credit facility, advance or loan, but does not include the provision of any credit facility, advance or loan —

(i) that forms part of an arrangement to underwrite or sub-underwrite securities;

(ii) [*Deleted by Act 16/2003*]

(iii) to a holder of a capital markets services licence to deal in securities or provide securities financing, or a financial institution, to facilitate acquisitions or holdings of securities;

(iv) by a company to its directors or employees to facilitate acquisitions or holdings of its own securities;

(v) by a member of a group of companies to another member of the group to facilitate acquisitions or holdings of securities by that other member; or

(vi) by an individual to a company in which he holds 10% or more of its issued share capital to facilitate acquisitions or holdings of securities;

"trading in futures contracts" means (whether as principal or agent) —

(*a*) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to the purchase or sale of a futures contract; or

(*b*) soliciting or accepting any order for, or otherwise dealing in, a futures contract.

[16/2003; 1/2005]

THIRD SCHEDULE

Sections 82(2) and 286(3)

SPECIFIED PERSONS

1. Any company licensed under the Trust Companies Act 2005 (Act 11 of 2005) whose carrying on of the business in that regulated activity is solely incidental to its carrying on of the business for which it is registered under that Act.

2. Any public statutory corporation established under any Act in Singapore.

3. Any —

(*a*) advocate and solicitor, law corporation, Formal Law Alliance or Joint Law Venture which is approved or registered under the Legal Profession Act (Cap. 161); or

(*b*) public accountant who is registered under the Accountants Act (Cap. 2) or accounting corporation which is approved under that Act,

whose carrying on of the business in that regulated activity is solely incidental to the practice of law or accounting, as the case may be.

4. The Official Assignee in exercising his powers under the Bankruptcy Act (Cap. 20).

5. The Public Trustee in exercising his powers under the Public Trustee Act (Cap. 260).

6. A person acting in relation to a company as its liquidator, provisional liquidator, receiver, receiver and manager or judicial manager.

7. Any approved trustee for a collective investment scheme as defined in section 289 whose carrying on of business in a regulated activity is solely incidental to its carrying on of activities as such approved trustee.

8. (*Deleted by Act 1/2005*)

9. A foreign company whose carrying on of any regulated activity is effected under an arrangement between the foreign company (on the one hand) and its related corporation which is licensed under this Act or exempted under section 99(1)(*a*), (*b*), (*c*) or (*d*) (on the other hand), where such arrangement is approved by the Authority.

[16/2003; 1/2005; 11/2005]

FOURTH SCHEDULE

Section 320(1A)

SPECIFIED PROVISIONS

1. Section 14(2) and (8)

2. Section 15(1)

3. Section 35

4. Section 49(7)

[Act 34 of 2012 wef 01/08/2013]

5. Section 57(3)

[Act 34 of 2012 wef 01/08/2013]

5A. Section 75(3)

[Act 34 of 2012 wef 01/08/2013]

5B. Section 81SB(2)

[Act 34 of 2012 wef 01/08/2013]

6. Section 81ZI

7. [*Deleted by Act 2/2009 wef 01/10/2012*]

8. Section 99(1)(*h*)

8A. Section 99B(2)

[Act 34 of 2012 wef 18/03/2013]

8B. Section 99I(1)

[Act 34 of 2012 wef 18/03/2013]

9. [*Deleted by Act 2/2009 wef 01/10/2012*]

10. Section 247(1)

11. Section 248(2) and (5)

12. Section 249(3)

13. Section 251(14)

14. Section 259(3)

15. Section 262(2)

16. Section 277(2)

17. Section 282H(1)

18. Section 282I(5)

19. Section 282L(14)

20. Section 282S(3)

21. Section 282ZB(3)

22. Section 300(9)

23. Section 302 (when applying section 247(1) or 249(3))

24. Section 305B(3)

25. Section 306(1)

26. Section 309(3)(*a*)

27. Section 337(3).

[1/2005]

LEGISLATIVE SOURCE KEY

SECURITIES AND FUTURES ACT (CHAPTER 289)

Notes:—Unless otherwise stated, the abbreviations used in the references to other Acts and statutory provisions are references to the following Acts and statutory provisions. The references are provided for the convenience of users and are not part of the Act:

Aust. Corporations 2001	:	Australia, Corporations Act 2001 (No. 50, 2001)
Aust. FSR Bill 2001	:	Australia, Financial Services Reform Bill 2001
ASIC 1989	:	Australia, Australian Securities and Investment Commission Act 1989
HK SF Bill	:	Hong Kong, Securities and Futures Bill (*Gazette* published on 24 November 2000, Legal Supplement No. 3)
HK CUTMF	:	Hong Kong, Code on Unit Trusts and Mutual Funds
Malaysia SIA	:	Malaysia, Securities Industry Act 1983
UK FSMA 2000	:	

		United Kingdom, Financial Services and Markets Act 2000 (Chapter c. 8)
Companies	:	Singapore, Companies Act (Chapter 50, 1994 Revised Edition)
E(DM)A	:	Singapore, Exchange (Demutualisation and Merger) Act (Chapter 88, 2000 Revised Edition)
FTA	:	Singapore, Futures Trading Act (Chapter 116, 1996 Revised Edition — *repealed*)
Insurance Intermediaries	:	Singapore, Insurance Intermediaries Act (Chapter 142A, 2000 Revised Edition — *repealed*)
SFA	:	Singapore, Securities and Futures Act (Chapter 289, 2002 Revised Edition)
SIA	:	Singapore, Securities Industry Act (Chapter 289, 1985 Revised Edition — *repealed*)

LEGISLATIVE HISTORY

SECURITIES AND FUTURES ACT (CHAPTER 289)

This Legislative History is provided for the convenience of users of the Securities and Futures Act. It is not part of the Act.

1. Act 42 of 2001—Securities and Futures Act 2001

Date of First Reading	:	25 September 2001 (Bill No. 33/2001 published on 26 September 2001)
Date of Second and Third Readings	:	5 October 2001
Date of commencement	:	1 January 2002

2. G. N. No. S 674/2001—Securities and Futures Act (Amendment of Second Schedule) Order 2001

Date of commencement	:	1 January 2002

3. Act 42 of 2001—Securities and Futures Act 2001

Date of First Reading	:	25 September 2001 (Bill No. 33/2001 published on 26 September 2001)
Date of Second and Third Readings	:	5 October 2001
Date of commencement	:	1 July 2002

4. Act 42 of 2001—Securities and Futures Act 2001

Date of First Reading	:	25 September 2001

(Bill No. 33/2001 published on 26 September 2001)

Date of Second and Third Readings : 5 October 2001

Date of commencement : 1 October 2002

5. Act 39 of 2002—Payments and Settlement Systems (Finality and Netting) Act 2002
(Consequential amendments made to Act by)

Date of First Reading : 31 October 2002

(Bill No. 41/2002 published on 1 November 2002)

Date of Second and Third Readings : 25 November 2002

Date of commencement : 9 December 2002

6. 2002 Revised Edition—Securities and Futures Act

Date of operation : 31 December 2002

7. Act 16 of 2003—Securities and Futures (Amendment) Act 2003

Date of First Reading : 14 August 2003

(Bill No. 15/2003 published on 15 August 2003)

Date of Second and Third Readings : 2 September 2003

Date of commencement : 22 December 2003

8. Act 24 of 2003—Monetary Authority of Singapore (Amendment) Act 2003
(Consequential amendments made to Act by)

Date of First Reading : 16 October 2003

(Bill No. 21/2003 published on 17 October 2003)

Date of Second and Third Readings : 10 November 2003

Date of commencement : 1 January 2004

9. Act 5 of 2004—Companies (Amendment) Act 2004
(Consequential amendments made to Act by)

Date of First Reading : 5 January 2004

(Bill No. 3/2004 published on 6 January 2004)

Date of Second and Third Readings : 6 February 2004

Date of commencement : 1 April 2004

10. Act 31 of 2004—Securities and Futures (Amendment) Act 2004

Date of First Reading : 20 July 2004

(Bill No. 29/2004 published on 21 July 2004)

Date of Second and Third Readings : 1 September 2004

Date of commencement : 12 October 2004

11. Act 5 of 2005—Limited Liability Partnerships Act 2005
(Consequential amendments made to Act by)

Date of First Reading : 19 October 2004

(Bill No. 64/2004 published on 20 October 2004)

Date of Second and Third Readings : 25 January 2005

Date of commencement : 11 April 2005

12. Act 1 of 2005—Securities and Futures (Amendment) Act 2005

Date of First Reading : 19 October 2004

(Bill No. 46/2004 published on 20 October 2004)

Date of Second and Third Readings : 25 January 2005

Date of commencement : 1 July 2005

13. Act 42 of 2005—Statutes (Miscellaneous Amendment No. 2) Act 2005

Date of First Reading : 17 October 2005

(Bill No. 30/2005 published on 18 October 2005)

Date of Second and Third Readings : 21 November 2005

Date of commencement : 1 July 2005

14. Act 1 of 2005—Securities and Futures (Amendment) Act 2005

Date of First Reading : 19 October 2004

(Bill No. 46/2004 published on 20 October 2004)

Date of Second and Third Readings : 25 January 2005

Date of commencement : 15 October 2005

15. Act 42 of 2005—Statutes (Miscellaneous Amendment No. 2) Act 2005

Date of First Reading : 17 October 2005

(Bill No. 30/2005 published on 18 October 2005)

Date of Second and Third Readings : 21 November 2005

Date of commencement : 1 January 2006

16. Act 42 of 2005—Statutes (Miscellaneous Amendment No. 2) Act 2005

Date of First Reading	:	17 October 2005
		(Bill No. 30/2005 published on 18 October 2005)
Date of Second and Third Readings	:	21 November 2005
Date of commencement	:	30 January 2006

17. Act 11 of 2005—Trust Companies Act 2005
(Consequential amendments made to Act by)

Date of First Reading	:	25 January 2005
		(Bill No. 1/2005 published on 26 January 2005)
Date of Second and Third Readings	:	18 February 2005
Date of commencement	:	1 February 2006

18. Act 42 of 2005—Statutes (Miscellaneous Amendment No. 2) Act 2005

Date of First Reading	:	17 October 2005
		(Bill No. 30/2005 published on 18 October 2005)
Date of Second and Third Readings	:	21 November 2005
Date of commencement	:	1 April 2006

19. 2006 Revised Edition—Securities and Futures Act

Date of operation	:	1 April 2006

20. Act 2 of 2007—Statutes (Miscellaneous Amendments) Act 2007

Date of First Reading	:	8 November 2006
		(Bill No. 14/2006 published on 9 November 2006)
Date of Second and Third Readings	:	22 January 2007
Date of commencement	:	1 March 2007

21. Act 35 of 2007—Commodity Trading (Amendment) Act 2007
(Consequential amendments made to Act by)

Date of First Reading	:	21 May 2007
		(Bill No. 23/2007 published on 22 May 2007)
Date of Second and Third Readings	:	17 July 2007
Date of commencement	:	27 August 2007

22. Act 35 of 2007—Commodity Trading (Amendment) Act 2007
(Consequential amendments made to Act by)

Date of First Reading	:	21 May 2007
		(Bill No. 23/2007 published on 22 May 2007)
Date of Second and Third Readings	:	17 July 2007
Date of commencement	:	27 February 2008

23. G. N. No. S 376/2008—Securities and Futures Act (Amendment of Second Schedule and Other Provisions to Act for REIT Management) Order 2008

Date of commencement	:	1 August 2008

24. Act 2 of 2009—Securities and Futures (Amendment) Act 2009

Date of First Reading	:	15 September 2008
		(Bill No. 23/2008 published on 16 September 2008)
Date of Second and Third Readings	:	19 January 2009
Date of commencement	:	20 April 2009

25. Act 2 of 2009—Securities and Futures (Amendment) Act 2009

Date of First Reading	:	15 September 2008
		(Bill No. 23/2008 published on 16 September 2008)
Date of Second and Third Readings	:	19 January 2009
Date of commencement	:	29 July 2009

26. Act 2 of 2009—Securities and Futures (Amendment) Act 2009

Date of First Reading	:	15 September 2008
		(Bill No. 23/2008 published on 16 September 2008)
Date of Second and Third Readings	:	19 January 2009
Date of commencement	:	29 March 2010

27. Act 2 of 2009—Securities and Futures (Amendment) Act 2009

Date of First Reading	:	15 September 2008
		(Bill No. 23/2008 published on 16 September 2008)
Date of Second and Third Readings	:	19 January 2009
Date of commencement	:	26 November 2010

28. Act 15 of 2010—Criminal Procedure Code 2010

(Consequential amendments made to Act by)

Date of First Reading : 26 April 2010

(Bill No. 11/2010 published on 26 April 2010)

Date of Second and Third Readings : 19 May 2010

Date of commencement : 2 January 2011

29. G. N. No. S 20/2012—Securities and Futures Act (Amendment of Second Schedule and Other Provisions for Provision of Credit Rating Services) Order 2012

Date of commencement : 17 January 2012

30. Act 2 of 2009—Securities and Futures (Amendment) Act 2009

Date of First Reading : 15 September 2008

(Bill No. 23/2008 published on 16 September 2008)

Date of Second and Third Readings : 19 January 2009

Date of commencement : 1 October 2012

31. Act 2 of 2009—Securities and Futures (Amendment) Act 2009

Date of First Reading : 15 September 2008

(Bill No. 23/2008 published on 16 September 2008)

Date of Second and Third Readings : 19 January 2009

Date of commencement : 19 November 2012

32. Act 34 of 2012—Securities and Futures (Amendment) Act 2012

Date of First Reading : 15 October 2012

(Bill No. 31/2012 published on 15 October 2012)

Date of Second and Third Readings : 15 November 2012

Date of commencement : 18 March 2013

33. Act 10 of 2013—Financial Institutions (Miscellaneous Amendments) Act 2013

Date of First Reading : 4 February 2013

(Bill No. 4/2013 published on 4 February 2013)

Date of Second and Third Readings : 15 March 2013

Date of commencement : 18 April 2013

34. Act 11 of 2013—Insurance (Amendment) Act 2013

(Consequential amendments made to Act by)

Date of First Reading : 4 February 2013

(Bill No. 5/2013 published on 4 February 2013)

Date of Second and Third Readings : 15 March 2013

Date of commencement : 18 April 2013

35. **Act 34 of 2012—Securities and Futures (Amendment) Act 2012**

Date of First Reading : 15 October 2012

(Bill No. 31/2012 published on 15 October 2012)

Date of Second and Third Readings : 15 November 2012

Date of commencement : 1 August 2013

36. **Act 10 of 2013—Financial Institutions (Miscellaneous Amendments) Act 2013**

Date of First Reading : 4 February 2013

(Bill No. 4/2013 published on 4 February 2013)

Date of Second and Third Readings : 15 March 2013

Date of commencement : 2 August 2013

37. **Act 34 of 2012—Securities and Futures (Amendment) Act 2012**

Date of First Reading : 15 October 2012

(Bill No. 31/2012 published on 15 October 2012)

Date of Second and Third Readings : 15 November 2012

Date of commencement : 31 October 2013

38. **Act 10 of 2013—Financial Institutions (Miscellaneous Amendments) Act 2013**

Date of First Reading : 4 February 2013

(Bill No. 4/2013 published on 4 February 2013)

Date of Second and Third Readings : 15 March 2013

Date of commencement : 1 November 2013

39. **Act 34 of 2012—Securities and Futures (Amendment) Act 2012**

Date of First Reading : 15 October 2012

(Bill No. 31/2012 published on 15 October 2012)

Date of Second and Third Readings : 15 November 2012

Date of commencement :

1 May 2014

COMPARATIVE TABLE

SECURITIES AND FUTURES ACT
(CHAPTER 289)

The following provisions in the 2002 Revised Edition of the Securities and Futures Act have been omitted by the Law Revision Commissioners in this 2006 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Securities and Futures Act.

2006 Ed.	**2002 Ed.**
—	**88**—(4) (*Deleted by Act 1/2005*)
—	**96**—(6) (*Deleted by Act 1/2005*)
—	**104**—(3) (*Deleted by Act 16/2003*)
—	**203**—(4) (*Deleted by Act 1/2005*)
—	**247**—(6) (*Deleted by Act 16/2003*)
—	**257**—(6) (*Deleted by Act 1/2005*)
—	**268**—(14) (*Deleted by Act 1/2005*)
—	**287**—(3)(*b*)(iv) to (vi) (*Deleted by Act 16/2003*)
—	(3)(*c*) (*Deleted by Act 1/2005*)
—	(5)(*d*) (*Deleted by Act 16/2003*)
Omitted (spent)	**342** (Consequential amendments to other written laws)
Omitted (spent)	**343** (Transitional provisions)

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-5(2)

Securities and Futures (Markets) Regulations 2005

Enacting Formula

Part I PRELIMINARY

Part II APPROVAL, RECOGNITION AND EXEMPTION

Part III REGULATION OF APPROVED EXCHANGES

Division 1 — Obligations and matters relating to approved exchanges

Division 2 — Rules of approved exchanges

Division 3 — Matters requiring approval of Authority

Part IV REGULATION OF RECOGNISED MARKET OPERATORS

No. S 367

SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES (MARKETS) REGULATIONS 2005

In exercise of the powers conferred by sections 7(2), 9, 10(1), 11(2) and (3), 14(1) and (3), 17(1), 19, 21(2), 23(1) and (2), 28(3) and (4), 38, 40, 44(2), 45, 186(10) and (11) and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Markets) Regulations 2005 and shall come into operation on 1st July 2005.

Definitions

2. In these Regulations, unless the context otherwise requires —

"annual report" means the audited profit and loss accounts, audited balance-sheet and auditors' report, by whatever name called, of an approved exchange or a recognised market operator;

"position", in relation to a futures contract, means a futures contract which is outstanding and which has not been liquidated —

(*a*) by an off-setting transaction;

(*b*) by delivery of the commodity underlying the futures contract;

(*c*) through settlement of the futures contract in accordance with the business rules or practices of a futures market, as the case may be; or

(*d*) by substituting the futures contract for a cash commodity.

Forms

3.—(1) The forms to be used for the purposes of Part II of the Act and these Regulations are those set out at the Authority's Internet website at http://www.mas.gov.sg (under "Legislation and Notices", "Securities and Futures"), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website.

(2) Any document required to be lodged with the Authority under any provision of Part II of the Act or these Regulations shall be lodged in the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of Part II of the Act and these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if —

(*a*) it is not completed in accordance with this regulation; or

(*b*) it is not accompanied by the relevant fee referred to in regulation 4.

(5) Where strict compliance with any form is not possible, the Authority may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the Authority thinks fit.

Fees

4.—(1) The fees specified in the First Schedule shall be payable to the Authority for the purposes specified therein and, subject to section 10(2) of the Act, shall not be refundable.

(2) Payment of fees may be made through such electronic funds transfer system as the Authority may designate from time to time, whereby payment may be effected by directing the transfer of funds electronically from the bank account of the payer to a bank account designated by the Authority.

Keeping of books and other information

5. Every approved exchange, recognised market operator or exempt market operator shall ensure that all relevant books and other information as may be required by the Authority for the purposes of the Act are kept for a minimum of 5 years.

[S 61/2007 wef 01/03/2007]

PART II

APPROVAL, RECOGNITION AND EXEMPTION

Application for approval, recognition or exemption

6.—(1) For the purposes of section 7(2) of the Act, an application for approval as an approved exchange or recognition as a recognised market operator under section 7(1) of the Act shall be made in Form 1 and shall be lodged with the Authority together with —

(*a*) Forms 2 and 3; and

(*b*) any relevant annex and information specified in those Forms.

(2) For the purposes of section 14(1) of the Act, an application for exemption under that section shall be made in Form 4.

Criteria for deciding whether an applicant should be an approved exchange or recognised market operator

7.—(1) For the purposes of section 9 of the Act and without prejudice to section 8(7) of the Act, the Authority may approve a corporation as an approved exchange under section 8(1) of the Act if —

(*a*) the Authority is satisfied that a disruption in the operations of a market to be operated by the corporation could trigger, cause or transmit further systemic disruptions to the capital markets or financial system of Singapore;

(*b*) the Authority is satisfied that a disruption in the operations of a market to be operated by the corporation could affect public confidence in the capital markets, financial institutions or financial system of Singapore; or

(*c*) in any other case, the Authority is satisfied that the corporation, having applied to be an approved exchange under section 7(1)(*a*) of the Act, is able to comply with the obligations or requirements imposed on approved exchanges under the Act.

(2) For the purposes of section 9 of the Act and without prejudice to section 8(7) of the Act, the Authority may recognise a corporation as a recognised market operator under section 8(2) of the Act unless —

(*a*) the Authority is satisfied that the criteria referred to in paragraph (1)(*a*) or (*b*) is satisfied; or

(*b*) the corporation is one referred to in paragraph (1)(*c*).

(3) The Authority may have regard to the following matters in determining whether it is satisfied of the criteria referred to in paragraph (1)(*a*) or (*b*):

(*a*) the size and structure, or proposed size and structure, of the market to be operated by the corporation;

(*b*) the nature of the services provided, or to be provided, by the market to be operated by the corporation;

(*c*) the nature of the securities or futures contracts traded, or to be traded, on the market to be operated by the corporation;

(*d*) the nature of the investors or participants, or proposed investors or participants, who may use or have an interest in the market to be operated by the corporation;

(*e*) whether the corporation is regulated by the Authority under the Act or any other written law;

(*f*) the persons who may be affected in the event that the corporation, or the market to be operated by the corporation, runs into difficulties;

(*g*) where the head office or principal place of business of the corporation is outside Singapore, whether the corporation, in the country or territory in which the head office or principal place of business of the corporation is situated, is subject to requirements and supervision comparable, in the degree to which the objectives referred to in section 5 of the Act are

achieved, to the requirements and supervision to which market operators are subject under the Act;

(*h*) the interests of the public; and

(*i*) any other circumstances that the Authority may consider relevant.

Application for change in status

8. For the purposes of section 11(2) of the Act, an application by an approved exchange or a recognised market operator to change its status under section 11(1) of the Act shall be made in Form 5.

PART III

REGULATION OF APPROVED EXCHANGES

Division 1 — Obligations and matters relating to approved exchanges

Obligation to notify Authority of certain matters

9.—(1) For the purposes of section 17(1) of the Act, an approved exchange shall, as soon as practicable after the occurrence of any of the following circumstances, notify the Authority of such circumstance:

(*a*) any civil or criminal legal proceeding instituted against the approved exchange, whether in Singapore or elsewhere;

(*b*) any disciplinary action taken against the approved exchange by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*c*) any significant change to the regulatory requirements imposed on the approved exchange by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*d*) [*Deleted by S 178/2010 wef 29/03/2010*]

(*e*) any disruption of, delay in, or suspension or termination of any trading procedure or trading practice of the approved exchange including those resulting from any system failure.

[S 178/2010 wef 29/03/2010]

(2) Where a circumstance referred to in paragraph (1)(*a*), (*b*) or (*e*) has occurred, the approved exchange shall, in addition to the notification required under paragraph (1), within 14 days of the occurrence of the circumstance or such longer period as the Authority may permit, submit a report to the Authority of the circumstances relating to the occurrence, the remedial actions taken at the time of the occurrence, and the subsequent follow-up actions that the approved exchange has taken or intends to take.

[S 178/2010 wef 29/03/2010]

(3) An approved exchange shall, within a reasonable period of time prior to entering into negotiations to establish a trading linkage, clearing arrangement or co-operative arrangement with the person establishing or operating an overseas market or clearing facility, notify the Authority of such intent to enter into negotiations.

(4) In paragraph (3), "co-operative arrangement" shall not include —

(*a*) any joint development of products and services;

(*b*) any joint marketing efforts between the approved exchange and the person operating an overseas market or clearing facility in promoting the services of either entity; or

(*c*) any memoranda of understanding for the exchange of information.

Obligation to submit periodic reports

10.—(1) For the purposes of section 19 of the Act, an approved exchange shall submit to the Authority —

(*a*) within 3 months after the end of its financial year or such longer period as the Authority may permit, a copy of its —

(i) annual report and directors' report prepared in accordance with the provisions of the Companies Act (Cap. 50); and

(ii) auditors' long form report;

(*b*) within 45 days after the end of each of the first 3 quarters of its financial year or such longer period as the Authority may permit, a copy of its —

(i) profit and loss accounts; and

(ii) balance-sheet,

for the preceding quarter, in such form as may be approved by the Authority;

(*c*) within 3 months after the end of its financial year or such longer period as the Authority may permit, a report on how the approved exchange has discharged its responsibilities under the Act and these Regulations during that financial year;

(*d*) within 5 months after the end of its financial year or such longer period as the Authority may permit, a copy of the balance-sheet of the fidelity fund of the approved exchange prepared in accordance with section 180 of the Act;

(*e*) where the approved exchange is operating a securities market —

(i) Form 6 within 10 business days from the end of each month;

(ii) Form 7 within 10 business days from the end of each quarter of a year;

(*f*) where the approved exchange is operating a futures market, Form 8 within 10 business days from the end of each month;

(*g*) a report relating to the business of the approved exchange, at such time or on such periodic basis as may be specified by the Authority; and

(*h*) such other report as the Authority may require for the proper administration of the Act, at such time or on such periodic basis as may be required by the Authority.

(2) The auditors' long form report referred to in paragraph (1)(*a*)(ii) shall include the findings and recommendations of the auditors, if any, on —

(*a*) the internal controls of the approved exchange; and

(*b*) the non-compliance with —

(i) any provision of the Act;

(ii) any direction issued by the Authority under the Act; or

(iii) any other relevant laws or regulations.

Exceptions to obligation to maintain confidentiality

11.—(1) For the purposes of section 21(2) of the Act, section 21(1) of the Act shall not apply to the disclosure of user information by an approved exchange or its officers or employees for the following purposes or in the following circumstances:

(*a*) the disclosure of user information is necessary for the making of a complaint or report under any written law for an offence alleged or suspected to have been committed under such written law;

(*b*) the disclosure of user information is permitted for such purpose specified in writing by the user or, where the user is deceased, by his appointed personal representative;

(*c*) the user information is disclosed to the approved holding company of the approved exchange;

(*d*) the disclosure of user information is necessary for the execution by the approved exchange of a transaction in any securities or futures contracts or clearing or settlement of a transaction and such disclosure is made only to another user which is —

(i) a party to the transaction; or

(ii) a member of an approved exchange or a designated clearing house through which that transaction is executed, cleared or settled;

(*e*) the disclosure of user information is necessary —

(i) in any disciplinary proceedings of the approved exchange, provided that reasonable steps are taken to ensure that user information disclosed to any third person is used strictly for the purpose for which the user information is disclosed; or

(ii) for the publication, in any form or manner, of the disciplinary proceedings and the outcome thereof;

(*f*) the user information disclosed is already in the public domain;

(*g*) the disclosure of user information is made in connection with —

(i) the outsourcing or proposed outsourcing of any function of the approved exchange to a third party;

(ii) the engagement or potential engagement of a third party by the approved exchange to create, install or maintain systems of the approved exchange; or

(iii) the appointment or engagement of an auditor, a lawyer, a consultant or other professional by the approved exchange under a contract for service;

(*h*) the disclosure of user information is necessary in —

(i) an application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased user; or

(ii) the administration of the estate of a deceased user,

including such disclosure as may be required by the Public Trustee or the Commissioner of Estate Duties; or

(*i*) the disclosure of user information is made in connection with —

(i) in the case where the user is an individual, the bankruptcy of a user; or

(ii) in the case where the user is a body corporate, the winding up or receivership of a user.

(2) Where user information is disclosed under sub-paragraph (*g*) of paragraph (1), the approved exchange shall —

(*a*) maintain a record of —

(i) the circumstances relating to the disclosure of user information referred to in that sub-paragraph; and

(ii) the particulars of —

(A) in the case of the disclosure of information under sub-paragraph (*g*)(i), the outsourcing of the function of the approved exchange;

(B) in the case of the disclosure of information under sub-paragraph (*g*)(ii), the engagement of the third party; and

(C) in the case of the disclosure of information under sub-paragraph (*g*)(iii), the appointment or engagement of the auditor, lawyer, consultant or other professional,

and make that record available for inspection by the Authority;

(*b*) disclose the user information only insofar as this is necessary for the relevant purpose; and

(*c*) take reasonable steps to ensure that the user information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose, and that the user information is not disclosed by that person to any other person except with the consent of the approved exchange.

(3) Where disclosure of user information is permitted to be made for any purpose or in any circumstance under paragraph (1) to a body corporate, the user information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

(4) In paragraphs (2) and (3), "relevant purpose" means —

(*a*) in the case of the disclosure of information under paragraph (1)(*g*)(i), facilitating the outsourcing of the function of the approved exchange;

(*b*) in the case of the disclosure of information under paragraph (1)(*g*)(ii), facilitating the engagement of the third party; and

(*c*) in the case of the disclosure of information under paragraph (1)(*g*)(iii), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.

Business continuity plan

12.—(1) An approved exchange shall maintain at all times a plan of action (referred to in this regulation as a business continuity plan) setting out the procedures and establishing the systems necessary to restore fair, orderly and transparent operations of any market it operates, in the event of any disruption to the operations of the market.

(2) An approved exchange shall review the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the business continuity plan.

(3) An approved exchange shall immediately notify the Authority of any activation of its business continuity plan and of any action taken or intended to be taken to restore fair, orderly and transparent operations of any market it operates.

(4) An approved exchange shall, within 14 days or such longer period as the Authority may permit, inform the Authority of any material change to the business continuity plan, and shall submit, at the request of the Authority, a copy of the new plan to the Authority.

Provision of information to investors

13.—(1) An approved exchange shall —

(*a*) make available upon request by; or

(*b*) publish in a manner that is accessible to,

any investor who accesses, or potential investor who may access, any market that the approved exchange operates, information on —

(i) all services of the approved exchange;

(ii) all products available on the market operated by the approved exchange;

(iii) applicable fees and charges;

(iv) applicable margin requirements; and

(v) any arrangement that may be in place to compensate an investor who suffers pecuniary loss as a result of the actions or insolvency of a participant of the approved exchange.

(2) In this regulation, "investor" means —

(*a*) in the case where the approved exchange is incorporated in Singapore, any investor, whether in Singapore or elsewhere; and

(*b*) in the case where the approved exchange is not incorporated in Singapore but operates a market in Singapore, any investor in Singapore.

Transmission and storage of user information

14. An approved exchange shall take all reasonable measures to maintain the integrity and security of the transmission and storage of its user information.

Determination of position limits

15.—(1) For the purposes of determining whether a person has exceeded any position limit established or varied by an approved exchange under section 16A of the Act in respect of a futures contract, the approved exchange shall reckon —

(*a*) any position held by any other person directly or indirectly controlled by the first-mentioned person;

(*b*) any position held by any other person acting, pursuant to an express or implied agreement or understanding, as if such position were held by the first-mentioned person; and

(*c*) any position held in respect of options on the futures contract, calculated on a futures equivalent basis.

(2) An approved exchange shall require —

(*a*) a person who has exceeded any position limit established or varied by the approved exchange; or

(*b*) any other person whose position has been reckoned under paragraph (1)(*a*) or (*b*) in determining that the limit has been exceeded,

or both, to trade under such conditions and restrictions as the approved exchange considers necessary to ensure compliance with that position limit, including (if it considers it necessary for that purpose) requiring him or them to take one or more of the following actions:

(i) cease any further increase in his or their positions;

(ii) liquidate his or their positions to comply with the position limit within such time as may be determined by the exchange;

(iii) be subject to higher margin requirements in respect of his or their positions.

(3) In paragraph (1)(*c*), "futures equivalent basis" means the basis by which an option is adjusted by the risk factor or delta coefficient of that option, such risk factor or delta coefficient being calculated at the close of trading on the last day on which that option was traded or at such other time as the approved exchange may determine.

[S 178/2010 wef 29/03/2010]

Requirements to register trading personnel

16. An approved exchange shall not allow any person —

(*a*) in or around any pit or other place provided by the approved exchange for trading of futures contracts, to purchase or sell for another person or for his own account any futures contract; or

(*b*) to use any electronic system provided by the approved exchange through which trading in futures contracts is carried out —

(i) to purchase or sell any futures contract in his capacity as an employee or agent of a member of the approved exchange; or

(ii) to purchase or sell any futures contract, directly without any intermediary, for another person or for his own account,

unless that person is registered with the approved exchange and such registration has not expired or been suspended or revoked by the approved exchange.

Amounts to be paid out of fidelity funds

17.—(1) For the purposes of section 186(10) of the Act, the prescribed amount shall be $2 million.

(2) For the purposes of section 186(11) of the Act, the prescribed amount shall be $50,000.

Division 2 — Rules of approved exchanges

Content of rules of approved exchanges

18. For the purposes of section 23(1) of the Act, an approved exchange shall in its business rules or in its listing rules, as the case may be, make provision to the satisfaction of the Authority for —

(*a*) the criteria that it would use to determine the admission, or denial of admission, of persons to or from membership;

(*b*) continuing requirements for each member, including requirements —

(i) that prohibit or prevent the member from engaging in improper conduct when dealing as an agent for the customers of the member on any market operated by the approved exchange;

(ii) that prohibit or prevent the member from engaging in improper conduct when participating in any market operated by the approved exchange;

(iii) on the financial condition of the member such as to provide reasonable assurance that all obligations arising out of the activities of the member in any market operated by the approved exchange will be met;

(iv) that facilitate the monitoring by the approved exchange of the compliance of the member with the business rules of the approved exchange; and

(v) that provide for the expulsion, suspension or disciplining of members for conduct inconsistent with just and equitable principles in the transaction of business, or for a contravention of the business rules of the approved exchange;

(*c*) the class or classes of securities or futures contracts that may be traded on any market operated by the approved exchange;

(*d*) the terms and conditions under which securities may be listed for quotation by the approved exchange;

(*e*) the terms and conditions relating to the calculation of the final settlement price, the daily price limits and the accumulation of positions of futures contracts traded on any market operated by the approved exchange;

(*f*) the manner in which trades in securities or futures contracts are effected on any market operated by the approved exchange;

(*g*) where the approved exchange operates a trading floor, fair and properly supervised floor trading practices;

(*h*) the measures to prevent and deal with manipulation, market rigging and artificial market conditions in any market operated by the approved exchange;

(*i*) the arrangements for the safe and efficient clearing and settlement of trades concluded on any market operated by the approved exchange;

(*j*) the establishment of any compensation arrangement, or any other scheme or system accepted by the Authority, which would compensate any customer who suffers pecuniary loss through the defalcation of a member, or any of its directors, officers, employees or representatives, in respect of any money or other property —

(i) that was entrusted to or received by a member, or any of its directors, officers, employees or representatives, for or on behalf of the customer; or

(ii) in respect of which the member was a trustee;

(*k*) the dissemination of announcements by companies listed on any market operated by the approved exchange through a single and central facility; and

(*l*) the carrying on of business of the approved exchange with due regard to the interests and protection of the investing public.

Amendment of business rules and listing rules

19.—(1) For the purposes of section 23(2) of the Act, an approved exchange which intends to amend its business rules or listing rules shall, prior to making the amendment, notify the Authority of —

(*a*) the proposed amendment;

(*b*) the purpose of the proposed amendment; and

(*c*) the date on which the proposed amendment is intended to come into force.

(2) The approved exchange shall, prior to notifying the Authority under paragraph (1), consult its participants on the proposed amendment, unless the proposed amendment would have limited impact on its participants.

(3) Subject to paragraphs (4) and (6), an amendment shall not come into force unless the notification referred to in paragraph (1) is submitted at least 21 days before the date on which the amendment is proposed to come into force.

(4) The Authority may, on its own initiative or on the application of the approved exchange, by notice in writing to the approved exchange, allow an amendment to come into force before the expiry of the period of 21 days referred to in paragraph (3).

(5) The Authority may, subject to paragraph (6), within 21 days after the receipt of the notification referred to in paragraph (1), by notice in writing to the approved exchange, disallow, alter or supplement the whole or any part of the proposed amendment and, thereupon, such whole or part of the proposed amendment, as the case may be —

(*a*) where it is disallowed, shall not come into force; or

(*b*) where it is altered or supplemented, shall come into force as altered or supplemented accordingly.

(6) The Authority, may on its own initiative, by notice in writing to the approved exchange, vary the period specified in paragraph (5), and where the period in that paragraph is extended, the amendment shall not come into force before the expiry of the extended period.

Division 3 — Matters requiring approval of Authority

Application and criteria for approval to acquire substantial shareholding

20.—(1) Any person applying for approval under section 27(1) or (2) of the Act shall submit to the Authority a written application that sets out —

(*a*) the name of the applicant;

(*b*) in the case where the applicant is a corporation —

(i) its place of incorporation;

(ii) its substantial shareholders;

(iii) its directors and chief executive officer; and

(iv) its principal business;

(*c*) in the case where the applicant is a natural person —

(i) his nationality;

(ii) his principal occupation; and

(iii) his directorships;

(*d*) all the corporations in which the applicant has a substantial shareholding;

(*e*) the percentage of shareholding and voting power that the applicant has in the approved exchange;

(*f*) the percentage of shareholding and voting power the applicant is seeking to have in the approved exchange;

(*g*) the reasons for making the application;

(*h*) the mode and structure, as appropriate, under which the increase in shareholding would be carried out;

(*i*) whether the applicant will seek representation on the board of directors of the approved exchange; and

(*j*) any other information that may facilitate the determination of the Authority as to whether the applicant is a fit and proper person for the purposes of paragraph (3)(*a*).

(2) The Authority may require the applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application and the applicant shall furnish such information or documents as required by the Authority.

(3) The Authority may approve an application made under section 27(1) or (2) of the Act if the Authority is satisfied that —

(*a*) the applicant is a fit and proper person to be a substantial shareholder, or a 12% controller or 20% controller within the meaning of section 27(3) of the Act (as the case may be) of the approved exchange;

(*b*) having regard to the applicant's likely influence, the approved exchange will or will continue to conduct its business prudently and in compliance with the provisions of the Act; and

(*c*) it would not be contrary to the interests of the public to do so.

Application for approval of chairman, chief executive officer, director and key persons

21.—(1) For the purposes of section 28(3) of the Act, an approved exchange may apply for approval under section 28(1) or (2) of the Act by submitting Form 9 to the Authority.

(2) The Authority may require the approved exchange to furnish it with such information or documents as the Authority considers necessary in relation to the application referred to in paragraph (1) and the approved exchange shall furnish such information or documents as required by the Authority.

Criteria for approval of chairman, chief executive officer, director and key persons

22. For the purposes of section 28(4) of the Act, the Authority may have regard to the following matters in determining whether to approve or refuse to approve the appointment of a person under section 28(1) or (2) of the Act:

(*a*) whether the person is fit and proper to be so appointed;

(*b*) whether the appointment of the person would be consistent with any applicable written law relating to the qualifications for the position or the requirements for the composition of the board of directors or any committee of the approved exchange;

(*c*) whether it would be contrary to the interests of the public to approve the appointment of the person.

Prescribed instruments, contracts and transactions

22A. For the purposes of section 29(1)(*d*) of the Act, the listing or de-listing by an approved exchange of, or the permitting by an approved exchange of the trading of, any right, option or derivative —

(*a*) which is in respect of an index of —

(i) debentures or stocks issued or proposed to be issued by a government; or

(ii) debentures, stocks or shares issued or proposed to be issued by a corporation or body unincorporate; and

(*b*) which is issued by the approved exchange on any market operated by the approved exchange,

shall be subject to the approval of the Authority.

[S 176/2012 wef 04/06/2012]

PART IV

REGULATION OF RECOGNISED MARKET OPERATORS

Obligation to notify Authority of certain matters

23.—(1) For the purposes of section 38 of the Act, a recognised market operator shall, as soon as practicable after the occurrence of any of the following circumstances, notify the Authority of such circumstance:

(*a*) any civil or criminal legal proceeding instituted against the recognised market operator, whether in Singapore or elsewhere, which may have a material impact on the operations or finances of the recognised market operator;

(*b*) any disciplinary action taken against the recognised market operator by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*c*) any material change to the regulatory requirements imposed on the recognised market operator by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*d*) [*Deleted by S 168/2013 wef 28/03/2013*]

(*e*) any material disruption of, delay in, or suspension or termination of any trading procedure or trading practice of the recognised market operator, including those resulting from any system failure;

[S 178/2010 wef 29/03/2010]

(*f*) the recognised market operator becoming aware of any acquisition or disposal by any person of a substantial shareholding in the recognised market operator.

[S 178/2010 wef 29/03/2010]

(*g*) [*Deleted by S 178/2010 wef 29/03/2010*]

(2) [*Deleted by S 178/2010 wef 29/03/2010*]

Prescribed instruments, contracts and transactions requiring approval of Authority

23A. For the purposes of section 42(1)(*d*) of the Act, the listing or de-listing by a recognised market operator of, or the permitting by a recognised market operator of the trading of, any right, option or derivative —

(*a*) which is in respect of an index of

(i) debentures or stocks issued or proposed to be issued by a government; or

(ii) debentures, stocks or shares issued or proposed to be issued by a corporation or body unincorporate; and

(*b*) which is a right, option or derivative issued by the recognised market operator on any market operated by the recognised market operator,

shall be subject to the approval of the Authority.

[S 176/2012 wef 04/06/2012]

Obligation to submit periodic reports

24. For the purposes of section 40 of the Act, a recognised market operator shall submit to the Authority —

(*a*) within 3 months after the end of its financial year or such longer period as the Authority may permit, a copy of its annual report;

(*b*) a report relating to the business of the recognised market operator, and any dealing in securities or trading in futures contracts that the recognised market operator may conduct, at such time or on such periodic basis as may be required by the Authority; and

(*c*) such other report as the Authority may require for the proper administration of the Act, at such time or on such periodic basis as may be specified by the Authority.

Business continuity plan

25.—(1) A recognised market operator shall maintain at all times a plan of action (referred to in this regulation as a business continuity plan) setting out the procedures and establishing the systems necessary to restore fair, orderly and transparent operations of any market it operates, in the event of any disruption to the operations of the market.

(2) A recognised market operator shall review the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the business continuity plan.

(3) [*Deleted by S 178/2010 wef 29/03/2010*]

(4) [*Deleted by S 178/2010 wef 29/03/2010*]

Provision of information to investors

26.—(1) A recognised market operator shall —

(*a*) make available upon request by; or

(*b*) publish in a manner that is accessible to,

any investor accessing, or potential investor that may access, any market that it operates, information on —

(i) all services of the recognised market operator;

(ii) all products available on the markets that the recognised market operator operates;

(iii) applicable fees and charges;

(iv) applicable margin requirements; and

(v) any arrangement that may be in place to compensate an investor who suffers pecuniary loss as a result of the actions or insolvency of a participant of the recognised market operator.

(2) In this regulation, "investor" means —

(*a*) in the case where the recognised market operator is incorporated in Singapore, any investor, whether in Singapore or elsewhere; and

(*b*) in the case where the recognised market operator is not incorporated in Singapore but operates a market in Singapore, any investor in Singapore.

Transmission and storage of user information

27.—(1) A recognised market operator shall take all reasonable measures to maintain the integrity and security of the transmission and storage of its user information.

(2) In this regulation —

"user", in relation to a recognised market operator, means a person who is —

(*a*) a participant; or

(*b*) a customer of a participant,

of the recognised market operator;

"user information" means transaction information that is referable to —

(*a*) a named user; or

(*b*) a group of users, from which the name of a user can be directly inferred.

Supervision of participants

28. A recognised market operator specified in the Second Schedule shall —

(*a*) have in place measures to ensure that its participants in Singapore comply with the rules of the recognised market operator;

(*b*) have in place measures to monitor the compliance of participants in Singapore with Part XII of the Act;

(*c*) take immediate action to terminate, suspend or restrict the access to any market it operates of a participant in Singapore —

(i) where the participant, being an entity licensed or authorised by the Authority, has had its licence or authorisation revoked by the Authority; or

(ii) upon the direction of the Authority; and

(*d*) notify the Authority, within 14 days or such longer period as the Authority may permit, of any disciplinary action taken by the recognised market operator against any participant in Singapore.

PART V

MISCELLANEOUS

Criteria to determine failure to discharge duties or functions by officers

29. For the purposes of section 44(2) of the Act, the Authority may, in determining whether —

(*a*) in the case of an approved exchange, its chairman, chief executive officer, director, or any of its officers who is a person stated in a notice referred to in section 28(2) of the Act; or

(*b*) in the case of a recognised market operator, its chief executive officer or director,

has failed to discharge the duties or functions of his office, take into consideration whether that person has taken reasonable steps to discharge the following duties:

(i) ensure the proper functioning of the approved exchange or the recognised market operator, as the case may be;

(ii) ensure the compliance of the approved exchange or the recognised market operator, as the case may be, with any relevant laws or regulations of any jurisdiction in which it is incorporated or in which it operates;

(iii) set out and ensure compliance with written policies on all operational areas of the approved exchange or the recognised market operator, as the case may be, including its financial policies, accounting and internal controls, internal auditing and compliance with all laws and rules governing the operations of the approved exchange or the recognised market operator;

(iv) identify, monitor and address the risks associated with the business activities of the approved exchange or the recognised market operator, as the case may be;

(v) ensure that the business activities of the approved exchange or the recognised market operator, as the case may be, are subject to adequate internal audit;

(vi) oversee the financial undertakings or exposure of the approved exchange or the recognised market operator, as the case may be, to risks of any nature, by setting out proper delegation limits and risk management controls; and

(vii) ensure —

(A) that the approved exchange or the recognised market operator, as the case may be, maintains written records of the steps taken by it to monitor compliance with its policies, the limits on discretionary powers and its accounting and operating procedures; and

(B) that every report, return or statement submitted by the approved exchange or the recognised market operator, as the case may be, to the Authority is complete and accurate.

Offences

30.—(1) Unless otherwise provided in these Regulations, any corporation which contravenes regulation 5, 9(2), 11(2), 12, 13(1), 14, 15(1) or (2), 16, 21(2), 25, 26(1), 27(1) or 28 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

[S 178/2010 wef 29/03/2010]

(2) Section 333(1) of the Act shall not apply to any offence referred to in paragraph (1).

PART VI

REVOCATION

Revocation

31. The Securities and Futures (Markets) Regulations (Rg 8) are revoked.

FIRST SCHEDULE

Regulation 4

FEES

1.	For every application for approval as an approved exchange or recognition as a recognised market operator under section 7(2) of the Act	$4,000
2.	Annual fee under section 10(1) of the Act —	
	(*a*) for every recognised market operator	$10,000
	(*b*) for Singapore Exchange Securities Trading Limited	$350,000
	(*c*) for Singapore Exchange Derivatives Trading Limited	$200,000
	(*d*) for ICE Futures Singapore Pte. Ltd. (formerly known as "Singapore Mercantile Exchange Pte Ltd")	$110,000
3.	For every application by an approved exchange or recognised market operator for change in status under section 11(3) of the Act	$1,000
4.	For every application for exemption as an exempt market operator under section 14(3) of the Act	$2,000
5.	For every application for approval to acquire substantial shareholding in an approved exchange under section 27(1) or (2) of the Act	$500.

[S 294/2014 wef 22/04/2014]
[S 445/2010 wef 31/08/2011]

SECOND SCHEDULE

Regulations 23 (1) and 28

RECOGNISED MARKET OPERATORS

1. Chicago Mercantile Exchange Inc.
2. Euronext Paris S.A.
3. LIFFE Administration and Management
4. New York Mercantile Exchange, Inc.
5. ICE Futures Europe (formerly known as "ICE Futures")
6. Eurex Deutschland
7. Board of Trade of the City of Chicago, Inc.
8. Australian Securities Exchange Limited (formerly known as "Sydney Futures Exchange Limited")

8A. Australian Stock Exchange Limited

8B. Dubai Gold and Commodities Exchange DMCC

9. [*Deleted by S 452/2011 wef 05/08/2011*]
10. The London Metal Exchange (formerly known as "The London Metal Exchange Limited")
11. Dubai Mercantile Exchange Limited
12. ICE Futures U.S., Inc.
13. Tokyo Financial Exchange, Inc.
14. [*Deleted by S 486/2012 wef 28/09/2012*]
15. Cleartrade Exchange Pte. Limited.
16. Tokyo Commodity Exchange, Inc.

[S 437/2014 wef 01/07/2014]
[S 639/2012 wef 14/12/2012]
[S 486/2012 wef 28/09/2012]
[S 117/2011 wef 07/03/2011]

Made this 8th day of June 2005.

HENG SWEE KEAT
Managing Director,
Monetary Authority of Singapore.

[SFD-MCH 028/2001 Pt 1 Vol. 4; AG/LEG/SL/289/2005/5 Vol. 1]

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-5(3)

Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations

Part I PRELIMINARY

Part II BASE CAPITAL REQUIREMENT

Part III FINANCIAL RESOURCES REQUIREMENT

Division 2 — Repealed

Division 3 — Repealed

Part IV AGGREGATE INDEBTEDNESS

Part V RESERVE FUND AND OTHER FINANCIAL REQUIREMENTS

Part VI MARGIN REQUIREMENTS

Part VII LODGEMENT OF DOCUMENTS

SECURITIES AND FUTURES ACT
(CHAPTER 289, SECTIONS 86(3), 95(1)(*c*), 100, 337, 341 AND 343)

SECURITIES AND FUTURES (FINANCIAL AND MARGIN REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS SERVICES LICENCES) REGULATIONS

Rg 13

G.N. No. S 498/2002

REVISED EDITION 2004

(29th February 2004)

[1st October 2002]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

"adjusted net head office funds", in relation to the holder of a licence, means its net head office funds after deducting the applicable items specified in —

(*a*) an MAS notice that applies to the holder; and

(*b*) if a notice referred to in regulation 2C is given to the holder, that notice;

[S 192/2013 wef 03/04/2013]

"aggregate indebtedness", in relation to the holder of a licence, means the total liabilities of the holder, but does not include any contingent liability of the holder or any of the following liabilities of the holder:

(*a*) any amount payable on open contracts;

(*b*) any amount payable to a customer of the holder in connection with moneys or assets received on account of the customer and maintained in a trust account;

(*c*) any deferred income tax payable;

(*d*) any liability that is fully secured by assets that are not included as the financial resources of the holder, if the sole recourse of the creditor for non-payment of such liability is to such assets only;

[S 192/2013 wef 03/04/2013]

(*e*) any qualifying subordinated loan; and

[S 192/2013 wef 03/04/2013]

(*f*) any financial liability that has been included in the computation of financial resources;

[S 192/2013 wef 03/04/2013]

"aggregate resources" means —

(*a*) in relation to the holder of a licence incorporated in Singapore, the sum of the financial resources of the holder and qualifying letters of credit less the total risk requirement of the holder; and

(*b*) in relation to the holder of a licence that is a foreign company, the sum of the adjusted net head office funds of the holder and qualifying letters of credit less the total risk requirement of the holder;

"base capital", in relation to a corporation or the holder of a licence, means the sum of —

(*a*) the following items in the latest account of the corporation or the holder (as the case may be):

(i) paid-up ordinary share capital;

(ii) paid-up irredeemable and non-cumulative preference share capital; and

[S 192/2013 wef 03/04/2013]

(iii) reserve fund maintained under regulation 19; and

(*b*) any unappropriated profit or loss in the latest audited accounts of the corporation or the holder (as the case may be),

less any interim loss in the latest accounts of the corporation or the holder (as the case may be) and any dividend that has been declared since the latest audited accounts of the corporation or the holder (as the case may be);

"broad-based index" means an index that satisfies the following conditions:

(*a*) the index shall contain shares of at least 20 corporations;

(*b*) the weighting of the largest constituent share is not greater than 20% of the index; and

(*c*) the total weighting of the largest 5 constituent shares is not greater than 60% of the index;

[*Deleted by S 192/2013 wef 03/04/2013*]

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[*Deleted by S 192/2013 wef 03/04/2013*]

"customer" means a person —

(*a*) on whose behalf the holder of a licence carries on or will carry on any regulated activity; or

(*b*) with whom the holder of a licence enters or will enter into a transaction as principal —

(i) for the sale or purchase of securities;

(ii) for the sale or purchase of futures contracts; or

(iii) in connection with leveraged foreign exchange trading;

[S 192/2013 wef 03/04/2013]

"debt security" includes any debenture stock, bond and note;

[*Deleted by S 192/2013 wef 03/04/2013*]

[*Deleted by S 192/2013 wef 03/04/2013*]

"financial resources" has the meaning given to that expression in regulation 2A;

[S 192/2013 wef 03/04/2013]

[*Deleted by S 192/2013 wef 03/04/2013*]

"futures contract" means a contract the effect of which is that —

(*a*) one party to the contract agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party to the contract at a specified future time and at a specified price payable at that time under the terms and conditions set out in the business rules or practices of the futures exchange, recognised market operator, or overseas futures exchange at which the contract is made; or

(*b*) the parties to the contract will discharge their obligations under the contract by settling the difference between the value of a specified quantity of a specified commodity at the time of the making of the contract and at a specified future time, such difference being determined in accordance with the business rules or practices of the futures exchange, recognised market operator, or overseas futures exchange at which the contract is made,

and includes an option on a futures contract;

[*Deleted by S 192/2013 wef 03/04/2013*]

[*Deleted by S 192/2013 wef 03/04/2013*]

"irredeemable and non-cumulative preference share capital" means preference share capital consisting of preference shares that satisfy all of the following requirements:

(*a*) the principal of the shares is perpetual;

(*b*) the shares are not callable at the initiative of the issuer of the shares or the shareholders, and the principal of the shares is never repaid outside of liquidation of the issuer, except in the case of a repurchase or other manner of reduction of share capital that is initiated by the issuer and permitted under written law; and

(*c*) the issuer has full discretion to cancel dividend payments, and —

(i) the cancellation of dividend payments is not an event of default of the issuer under any agreement;

(ii) the issuer has full access to cancelled dividend payments to meet its obligations as they fall due; and

(iii) the cancellation of dividend payments does not result in any restriction being imposed on the issuer under any agreement, except in relation to dividend payments to ordinary shareholders;

[S 192/2013 wef 03/04/2013]

[*Deleted by S 192/2013 wef 03/04/2013*]

"licence" means a capital markets services licence granted under the Act;

"market index of a recognised group A exchange" means a broad-based index of shares listed on the recognised group A exchange;

[*Deleted by S 192/2013 wef 03/04/2013*]

[*Deleted by S 192/2013 wef 03/04/2013*]

"MAS notice" means a notice issued by the Authority under regulation 2B;

[S 192/2013 wef 03/04/2013]

"net head office funds", in relation to a foreign company, means the net liability of the Singapore branch of that foreign company to its head office and any other branches outside of Singapore;

"open contract" means any open purchase contract or open sale contract;

"open purchase contract" means any contract to purchase securities which is not yet due for payment in accordance with the business rules of a securities exchange, a recognised market operator or an overseas securities exchange, or the terms of the contract (as the case may be);

"open sale contract" means any contract to sell securities which is not yet due for delivery in accordance with the business rules of a securities exchange, a recognised market operator or an overseas securities exchange, or the terms of the contract (as the case may be);

[*Deleted by S 192/2013 wef 03/04/2013*]

"public authority" means any body corporate constituted under any Act or under the law of any other country or territory;

"qualifying letter of credit" means any legally enforceable and irrevocable letter of credit that is —

(*a*) made in favour of the approved exchange or approved clearing house (as the case may be) of which the holder of the licence concerned is a member;

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(*b*) issued by a bank approved by, and in a form acceptable to, the approved exchange or approved clearing house; and

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(*c*) subject to such conditions or restrictions as the Authority, or the approved exchange or approved clearing house, may impose on the holder,

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but does not include any letter of credit provided by the holder to the approved exchange or approved clearing house to satisfy the business rules or other requirements of the approved exchange or approved clearing house;

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"qualifying subordinated loan" means a subordinated loan the terms of which are evidenced by a subordinated loan agreement between the holder of the licence concerned and a lender (referred to in this definition as the subordinated creditor) which expressly provides all of the following:

(*a*) the subordinated loan has not less than 2 years to maturity at the time the loan is first drawn down;

(*b*) that the subordinated creditor shall not claim or receive from the holder, by way of set-off or in any other manner, any subordinated loan repayment until after every senior debt has been paid or unless the holder has obtained the prior written approval of the Authority;

(*c*) that the claims of the subordinated creditor are fully subordinated to the claims of all senior creditors;

(*d*) an option for the holder to defer interest payment on the principal amount of the subordinated loan;

(*e*) that the subordinated loan shall automatically be converted into capital to provide a cushion for losses to creditors if an appropriate reconstruction of the capital of the holder which is acceptable to the Authority has not been undertaken;

(*f*) that, in the event of any payment or distribution of assets of the holder, whether in cash, in kind or in securities (referred to in this definition as a distribution), upon any dissolution, winding-up, liquidation or reorganisation of the holder —

(i) the senior creditors shall first be entitled to receive payment in full of the senior debts before the subordinated creditor receives any payment in respect of the subordinated debt; and

(ii) any distribution to which the subordinated creditor would be entitled but for the provisions of the subordinated loan agreement shall be made by the liquidator, Official Assignee in bankruptcy or any other person making the distribution directly to the senior creditors rateably according to their senior debts until they have been paid in full (taking into account other distributions to the senior creditors);

(*g*) a term that if, notwithstanding paragraphs (*b*) to (*f*), any distribution is received by the subordinated creditor in respect of the subordinated debt, the distribution shall be paid over to the senior creditors for application rateably according to their senior debts until

they have been paid in full (taking into account other distributions to the senior creditors) and, until such payment has been made in full, the distribution shall be held in trust for the senior creditors;

(*h*) such terms as may be specified in the business rules of an approved exchange or approved clearing house of which the holder is a member;

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(*i*) that no subordinated creditor may demand the early or accelerated repayment of the subordinated loan;

(*j*) that the subordinated loan agreement is not subject to any cross-default or negative pledge;

(*k*) such other criteria as may be specified in or imposed by —

(i) an MAS notice applicable to the holder;

(ii) any notice given to the holder by the Authority; and

(iii) an approved exchange or approved clearing house of which the holder is a member;

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"recognised group A exchange" means an overseas securities exchange or an overseas futures exchange regulated by a financial services regulatory authority of a country or territory specified in Table 4 of the Fourth Schedule, or the corporation known as Singapore Commodity Exchange Ltd;

"recognised group B exchange" means an overseas securities exchange or an overseas futures exchange regulated by a financial services regulatory authority of a country or territory specified in Table 4 of the Fourth Schedule;

"senior creditor", in relation to a qualifying subordinated loan, means a creditor to whom a senior debt is owed;

[S 192/2013 wef 03/04/2013]

"senior debt", in relation to a qualifying subordinated loan, means a debt of the holder of the licence concerned that is outstanding at any time during the period in which the qualifying subordinated loan is outstanding;

[S 192/2013 wef 03/04/2013]

[*Deleted by S 192/2013 wef 03/04/2013*]

"total risk requirement" means the amount required to address risks arising from the activities of the holder of a licence, being —

(*a*) such amount as specified in or computed in accordance with an MAS notice that applies to the holder;

(*b*) if a notice referred to in regulation 2C is given to the holder to substitute the amount referred to in paragraph (*a*) with another amount specified in or computed in accordance with that notice, the second-mentioned amount; or

(*c*)

if a notice referred to in regulation 2C is given to the holder to supplement the amount referred to in paragraph (*a*) with another amount specified in or computed in accordance with that notice, the aggregate of both those amounts.

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[S 192/2013 wef 03/04/2013]

(2) For the purposes of regulations 16, 17, 21(2)(*b*)(ii), 22(2)(*b*)(ii) and 23(*a*)(iii) and (*b*)(iii), where the total amount payable under qualifying letters of credit exceeds 50% of the total risk requirement of the holder, the amount in excess shall not be taken into account for determining the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

Financial resources

2A.—(1) In these Regulations, a reference to the financial resources of the holder of a licence is a reference to the sum of the following items in the latest available accounts of the holder, after deducting from those items such other items as may be specified in the MAS notice that applies to the holder and, if a notice referred to in regulation 2C is given to the holder, in that notice:

(*a*) base capital;

(*b*) paid-up irredeemable and cumulative preference share capital;

(*c*) paid-up redeemable preference share capital;

(*d*) revaluation reserves;

(*e*) other reserves;

(*f*) interim unappropriated profit; and

(*g*) collective impairment allowances.

(2) Without prejudice to the definition of any of those items in regulation 2, the items in paragraph (1)(*a*) to (*g*) are those items in the latest available accounts of the holder that meet such criteria as may be specified in the MAS notice that applies to the holder.

(3) If the sum of the items in paragraph (1)(*b*) and (*c*) is more than the item in paragraph (1)(*a*), the excess amount shall be disregarded in determining the financial resources of the holder for any purpose under these Regulations.

(4) Notwithstanding paragraphs (1) and (3) and subject to paragraph (5), the total of the excess amount referred to in paragraph (3), and the amounts of all qualifying subordinated loans of the holder that remain outstanding during a temporary period (referred to in this regulation as the total amount) may be included in the financial resources of the holder for that temporary period for any purpose under these Regulations, if (and only if) —

(*a*) each temporary period in which the inclusion is made, and the aggregate of all the temporary periods in each calendar year in which the inclusion is made, do not exceed 90 days; and

(*b*) immediately after the inclusion, the holder notifies the Authority and the approved exchange or approved clearing house of which the holder is a member (if applicable) of that fact.

[S 463/2013 wef 01/08/2013]

(5) For the purposes of paragraph (4), where the total amount exceeds the amount of the item in paragraph (1)(*a*), the total amount shall be deemed to be the amount of the item in paragraph (1)(*a*).

[S 192/2013 wef 03/04/2013]

MAS notices

2B. The Authority may from time to time issue notices for the purposes of these Regulations, which shall be published on the Authority's Internet website at http://www.mas.gov.sg (under "Regulations and Financial Stability", "Regulations, Guidance and Licensing", "Securities, Futures and Fund Management").

[S 192/2013 wef 03/04/2013]

Variation of adjusted net head office funds, financial resources or total risk requirement

2C. The Authority may, for the purpose of addressing the risks applicable to a particular holder of a licence, by notice in writing to the holder —

(*a*) specify an amount of or a formula for computing the total risk requirement that is in substitution for or that supplements the amount specified in or computed in accordance with the MAS notice applicable to the holder;

(*b*) specify items to be deducted from the items referred to in regulation 2A(1)(*a*) to (*g*) that are additional to those set out in the MAS notice applicable to the holder; or

(*c*) specify items to be deducted from the adjusted net head office funds of the holder that are additional to those set out in the MAS notice applicable to the holder.

[S 192/2013 wef 03/04/2013]

PART II

BASE CAPITAL REQUIREMENT

Grant of licence

3. For the purposes of section 86(3) of the Act, the Authority shall not grant a licence to a corporation unless at the time of such grant —

(*a*) where the corporation is incorporated in Singapore, its base capital; or

(*b*) where the corporation is a foreign company, its net head office funds,

is not less than —

(i) the base capital requirement applicable to the corporation under the First Schedule; or

(ii) such other requirement as the Authority may approve as appropriate having regard to the operations of the corporation.

Where base capital of holder of licence falls below base capital requirement

4.—(1) The holder of a licence shall not cause or permit —

(*a*) where it is incorporated in Singapore, its base capital; or

(*b*) where it is a foreign company, its net head office funds,

to fall below the base capital requirement applicable to the holder under regulation 3 or paragraph (1A), as the case may be.

(1A) If a holder of a licence, at any time during the period of its licence, intends to commence or cease business in any regulated activity, or change the scope of its business in a regulated activity, such that a different base capital requirement shall apply to it, it shall obtain the prior written approval of the Authority to comply with the new base capital requirement applicable to it.

(2) If the holder of a licence fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

(*a*) the Authority; and

(*b*) the approved exchange or approved clearing house of which the holder is a member (if applicable).

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(3) If the Authority is notified by the holder of a licence under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may —

(*a*) direct the holder to immediately do one or more of the following:

(i) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(ii) transfer all or part of any customer's positions, securities margins, collateral, assets and accounts to one or more other holders of licences;

(iii) operate its business in such manner and on such conditions as the Authority may impose;

(iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time the holder complies with paragraph (1), except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority; or

(*b*) revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]

(4) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (3)(*a*).

[S 714/2010 wef 26/11/2010]

PART III

FINANCIAL RESOURCES REQUIREMENT

Holder of licence

5. In this Part, unless the context otherwise requires, a reference to the holder of a licence excludes one who only holds a licence to provide credit rating services.

[S 192/2013 wef 03/04/2013]

Written directions to maintain financial resources in Singapore

5A.—(1) The Authority may, from time to time, issue written directions to any holder of a licence or class of such holders, to require the holder or each holder of that class to maintain and hold such of its financial resources as the written direction may specify in Singapore, and the holder shall comply with such written direction.

[S 192/2013 wef 03/04/2013]

(2) The written direction referred to in paragraph (1) may specify, in respect of the financial resources of any holder or class of holders —

(*a*) the items that are to be maintained and held in Singapore;

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(*b*) the minimum value of any such items to be maintained and held in Singapore; and

(*c*) the method of valuation of such items maintained and held in Singapore, including any deductions to be made in respect of those items.

Financial resources of holder of licence not to fall below total risk requirement

6.—(1) The holder of a licence shall not cause or permit —

(*a*) where it is incorporated in Singapore, its financial resources; or

(*b*) where it is a foreign company, its adjusted net head office funds,

to fall below its total risk requirement.

(2) The holder of a licence shall compute its financial resources (if applicable) in accordance with regulation 2A and its total risk requirement in accordance with paragraph (2B) —

(*a*) at such time and frequency as may be specified by the Authority by notice in writing; or

(*b*) where the Authority does not so specify, at such time and frequency as may be necessary for determining whether at any time its financial resources falls below its total risk requirement.

[S 192/2013 wef 03/04/2013]

(2A) The holder of a licence shall compute its adjusted net head office funds (if applicable) in accordance with the definition of "adjusted net head office funds" in regulation 2(1) and its total risk requirement in accordance with paragraph (2B) —

(*a*) at such time and frequency as may be specified by the Authority by notice in writing; or

(*b*) where the Authority does not so specify, at such time and frequency as may be necessary for determining whether at any time its adjusted net head office funds falls below its total risk requirement.

[S 192/2013 wef 03/04/2013]

(2B) The holder of a licence shall compute its total risk requirement in accordance with the MAS notice that applies to him, any notice referred to in regulation 2C given to the holder, or both (whichever is applicable).

[S 192/2013 wef 03/04/2013]

(3) If the holder of a licence fails to comply with paragraph (1), (2) or (2A) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

(*a*) the Authority; and

(*b*)

the approved exchange or approved clearing house of which the holder is a member (if applicable).

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[S 463/2013 wef 01/08/2013]
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(4) If the Authority is notified by the holder of a licence under paragraph (3) or becomes aware that the holder has failed to comply with paragraph (1), (2) or (2A), the Authority may revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]
[S 192/2013 wef 03/04/2013]

(5) The licence of the holder of a licence shall lapse when its financial resources or adjusted net head office funds (as the case may be) have fallen below its total risk requirement for 4 consecutive weeks.

Where financial resources of holder of licence fall below 120% of total risk requirement

7.—(1) The holder of a licence shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), if —

(*a*) in the case where the holder is incorporated in Singapore, its financial resources; or

(*b*) in the case where the holder is a foreign company, its adjusted net head office funds,

fall below 120% of its total risk requirement.

[S 463/2013 wef 01/08/2013]

(2) If the Authority is notified by the holder under paragraph (1) or becomes aware that the financial resources or adjusted net head office funds (as the case may be) of the holder have fallen below 120% of its total risk requirement, the Authority may —

(*a*) direct the holder to immediately do one or more of the following:

(i) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(ii) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;

(iii) operate its business in such manner and on such conditions as the Authority may impose;

(iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources or adjusted net head office funds (as the case may be) are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority; or

(*b*) revoke the licence of the holder under section 95(2) of the Act.

[S 192/2013 wef 03/04/2013]

(3) Subject to paragraph (4), if an approved exchange or approved clearing house is notified by the holder of a licence under paragraph (1) or becomes aware that the financial resources or adjusted net head office funds (as the case may be) of the holder have fallen below 120% of the total risk requirement of

the holder for 5 consecutive business days or more, the approved exchange or approved clearing house (as the case may be) may direct the holder to immediately do one or more of the following, and shall immediately notify the Authority of such direction:

(*a*) submit the statements referred to in regulation 27(1) to the approved exchange or approved clearing house (as the case may be) on a weekly basis or at such other interval as may be determined by the approved exchange or approved clearing house, until the financial resources or adjusted net head office funds of the holder are not less than 120% of the total risk requirement of the holder for 8 consecutive weeks or such other period as may be determined by the approved exchange or approved clearing house;

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(*b*) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(*c*) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;

(*d*) operate its business in such manner and on such conditions as the approved exchange or approved clearing house (as the case may be) may impose.

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[S 463/2013 wef 01/08/2013]

(4) The Authority may —

(*a*) review, affirm, modify or set aside any direction issued by an approved exchange or approved clearing house to the holder of a licence under paragraph (3); or

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(*b*) direct the holder to cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources or adjusted net head office funds (as the case may be) are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority.

(4A) Where an approved exchange or approved clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (3), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.

[S 463/2013 wef 01/08/2013]

(5) Any statement required to be submitted under paragraph (3)(*a*) shall be —

(*a*) signed by a director of the holder of a licence or such other person as the Authority may allow; and

(*b*) lodged with the approved exchange or approved clearing house of which the holder is a member not later than one business day after the end of the week or other interval referred to in paragraph (3)(*a*).

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(6) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (2)(*a*), (3), (4)(*b*) or (4A).

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Division 2

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Division 3

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PART IV

AGGREGATE INDEBTEDNESS

Holder of licence

15. In this Part, unless the context otherwise requires, "holder of a licence" means a corporation which is one or more of the following:

(*a*) the holder of a licence to deal in securities which is a member of a securities exchange, not including the holder of a licence —

(i) which does not carry any customer's position, margin or account in its own books; and

(ii) which either —

(A) deals in securities only with accredited investors; or

(B) carries on the business of soliciting or accepting orders for the purchase or sale of any securities from any customer, and no other business;

(*b*) the holder of a licence to trade in futures contracts which is a member of a futures exchange, not including the holder of a licence —

(i) which does not carry any customer's position, margin or account in its own books; and

(ii) which either —

(A) trades in futures contracts only with accredited investors; or

(B) carries on the business of soliciting or accepting orders for the purchase or sale of any futures contract from any customer, and no other business;

(*c*) the holder of a licence which is a member of an approved clearing house,

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whether or not the corporation is also permitted to carry on business in any other regulated activity.

[S 192/2013 wef 03/04/2013]

Where aggregate indebtedness exceeds 1,200% of aggregate resources

16.—(1) The holder of a licence shall not cause or permit its aggregate indebtedness to exceed 1,200% of its aggregate resources.

(2) If the holder fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

(*a*) the Authority; and

(*b*) the approved exchange or approved clearing house of which the holder is a member.

[S 677/2006 wef 20/12/2006]
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(3) If the Authority is notified by the holder under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may revoke the licence of the holder under section 95 (2) of the Act.

[S 714/2010 wef 26/11/2010]

(4) The licence of the holder of a licence shall lapse when the aggregate indebtedness of the holder has exceeded 1,200% of the aggregate resources of the holder for 4 consecutive weeks.

Where aggregate indebtedness exceeds 600% of aggregate resources

17.—(1) The holder of a licence shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member, if the aggregate indebtedness of the holder exceeds 600% of its aggregate resources.

[S 677/2006 wef 20/12/2006]
[S 463/2013 wef 01/08/2013]

(2) Subject to paragraph (3), if an approved exchange or approved clearing house is notified by the holder under paragraph (1) or becomes aware that the aggregate indebtedness of the holder has exceeded 600% of the aggregate resources of the holder for 5 consecutive business days or more, the approved exchange or approved clearing house (as the case may be) may direct the holder to immediately do one or more of the following, and shall immediately notify the Authority of such direction:

(*a*) submit the statements referred to in regulation 27(1) to the approved exchange or approved clearing house on a weekly basis or at such other interval as may be determined by the approved exchange or approved clearing house, until the aggregate indebtedness of the holder is equal to or less than 600% of the aggregate resources of the holder for 8 consecutive weeks or such other period as may be determined by the approved exchange or approved clearing house;

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(*b*) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(*c*) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;

(*d*) operate its business in such manner and on such conditions as the approved exchange or approved clearing house (as the case may be) may impose.

[S 677/2006 wef 20/12/2006]
[S 463/2013 wef 01/08/2013]

(3) The Authority may —

(*a*)

review, affirm, modify or set aside any direction issued by an approved exchange or approved clearing house to the holder under paragraph (2); or

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(*b*) direct the holder to cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its aggregate indebtedness is equal to or less than 600% of the aggregate resources of the holder, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority.

(3A) Where an approved exchange or approved clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (2), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.

[S 463/2013 wef 01/08/2013]

(4) Any statement required to be submitted under paragraph (2)(*a*) shall be —

(*a*) signed by a director of the holder or such other person as the Authority may allow; and

(*b*) lodged with the approved exchange or approved clearing house of which the holder is a member not later than one business day after the end of the week or other interval referred to in paragraph (2)(*a*).

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(5) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (2), (3)(*b*) or (3A).

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PART V

RESERVE FUND AND OTHER FINANCIAL REQUIREMENTS

18. [*Deleted by S 192/2013 wef 03/04/2013*]

Maintenance of reserve fund by holder of licence which is member of approved clearing house

19.—(1) The holder of a licence to deal in securities or trade in futures contracts, or both, which is a member of an approved clearing house shall maintain a reserve fund to which a sum of not less than 30% of the audited net profits of each year shall be transferred out of the net profits after due provision has been made for taxation, so long as —

(*a*) where it is incorporated in Singapore, the base capital less unappropriated profits in the latest audited accounts of the holder; or

(*b*) where it is a foreign company, the net head office funds of the holder,

is less than $5 million.

[S 463/2013 wef 01/08/2013]

(2) Subject to regulation 23, if the Authority is satisfied that the reserve fund of the holder of a licence referred to in paragraph (1) is adequate for its business, the Authority may, by order in writing and on

such conditions or restrictions as the Authority may impose, allow such amount in the reserve fund of that holder as the Authority may specify to be available for distribution as dividends.

Reduction in paid-up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital

20. The holder of a licence that is incorporated in Singapore shall not reduce its paid-up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital without the prior written approval of the Authority.

[S 192/2013 wef 03/04/2013]

Preference share

21.—(1) Where the holder of a licence which is incorporated in Singapore issues any preference share, the holder shall, prior to the date of issue of the preference share, notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable).

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(2) The holder of a licence referred to in regulation 5 which is incorporated in Singapore shall not repay the principal of any preference share (other than any paid-up irredeemable and non-cumulative preference share capital) that is computed as part of the holder's financial resources, through repurchase or redemption —

(*a*) unless the holder notifies the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), at least 3 months before the proposed date of repurchase or redemption;

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(*b*) if, at the date of repurchase or redemption —

(i) the sum of financial resources of the holder is less than 120% of the total risk requirement of the holder; or

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(ii) in a case of a holder to which regulation 17 applies, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder;

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(*c*) if such a repurchase or redemption will cause an event in paragraph (*b*) to occur; or

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(*d*) if the Authority, or the approved exchange or approved clearing house of which the holder is a member (if applicable), has prohibited in writing such a repurchase or redemption.

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[S 192/2013 wef 03/04/2013]

Qualifying subordinated loan

22.—(1) Where the holder of a licence referred to in regulation 5 draws down a qualifying subordinated loan, the holder shall notify, no later than the date of draw down of the qualifying

subordinated loan, the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable).

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[S 463/2013 wef 01/08/2013]

(2) The holder of a licence referred to in regulation 5 —

(*a*) shall not repay, whether in part or in full, any subordinated loan principal before the maturity date set out in the subordination loan agreement —

(i) without the prior approval of the approved exchange or approved clearing house of which the holder is a member (if applicable); and

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(ii) without providing prior notification to the Authority; and

(*b*) shall not repay, whether in part or in full, any subordinated loan principal that has matured —

(i) unless the holder notifies the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), at least one business day before the date of repayment;

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(ii) if the sum of financial resources and of the holder is less than 120% of the total risk requirement of the holder;

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(iii) in a case of a holder to which regulation 17 applies, if the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder;

(iv) if such a repayment will cause an event in sub-paragraph (ii) or (iii) to occur; or

(v) if the Authority, or the approved exchange or approved clearing house of which the holder is a member (if applicable), has prohibited in writing such a repayment.

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[S 463/2013 wef 01/08/2013]

Making of unsecured loan or advance, payment of dividend or director's fees or increase in director's remuneration

23. The holder of a licence to deal in securities or trade in futures contracts which is a member of an approved exchange or approved clearing house shall not, without the prior written approval of the Authority, and the approved exchange or approved clearing house of which the holder is a member, make any unsecured loan or advance, pay any dividend or director's fees or increase any director's remuneration if —

(*a*) in the case where the holder is incorporated in Singapore —

(i) the base capital of the holder is less than the base capital requirement applicable to the holder under regulation 3;

(ii) the financial resources of the holder is less than 120% of the total risk requirement of the holder; or

[S 192/2013 wef 03/04/2013]

(iii) in a case of a holder to which regulation 17 applies, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder; or

(iv) [*Deleted by S 192/2013 wef 03/04/2013*]

(*b*) in the case where the holder is a foreign company —

(i) the net head office funds of the holder is below the base capital requirement applicable to the holder under regulation 3;

(ii) the adjusted net head office funds of the holder is less than 120% of the total risk requirement of the holder; or

[S 192/2013 wef 03/04/2013]

(iii) if regulation 17 applies to the holder, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

(iv) [*Deleted by S 192/2013 wef 03/04/2013*]

[S 463/2013 wef 01/08/2013]

PART VI

MARGIN REQUIREMENTS

Margin requirement for securities financing

24.—(1) Subject to regulation 24B, the holder of a licence for securities financing —

(*a*) shall obtain margin from each customer in respect of any provision of securities financing to the customer; and

(*b*) shall not cause or permit the equity in the customer's margin account to be 110% of the debit balance in that customer's margin account or less.

(2) Where the equity in a customer's margin account is 110% of the debit balance in that customer's margin account or less, the holder of a licence shall immediately require the customer to provide additional margin within 2 business days to increase the equity in the customer's margin account to more than 110% of the debit balance in that customer's margin account.

(3) The holder of a licence shall not cause or permit —

(*a*) the aggregate of the margin exposures in the margin accounts of all customers to exceed 300%, or such other percentage as the Authority may allow, of its free financial resources;

[S 372/2005 wef 01/07/2005]
[S 192/2013 wef 03/04/2013]

(*b*) the aggregate of the margin exposures in the margin accounts of all customers in respect of securities, other than securities quoted on a securities exchange, to exceed 100%, or such other percentage as the Authority may allow, of its free financial resources; and

[S 372/2005 wef 01/07/2005]
[S 192/2013 wef 03/04/2013]

(*c*) the debit balance in each customer's margin account to exceed 20%, or such other percentage as the Authority may allow, of its free financial resources.

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

(*d*) [*Deleted by S 372/2005 wef 01/07/2005*]

(4) [*Deleted by S 372/2005 wef 01/07/2005*]

(5) For the purpose of this regulation, margins deposited by customers with the holder in accordance with this regulation shall be in the form of acceptable collateral or such other instrument as may be specified in an MAS notice that applies to the holder or by a notice given to the holder by the Authority.

[S 507/2006 wef 28/08/2006]
[S 192/2013 wef 03/04/2013]

(6) In this regulation, unless the context otherwise requires —

"acceptable collateral", in relation to securities financing, means —

(*a*) cash;

(*b*) a share or convertible bond listed on the Singapore Exchange Securities Trading Limited;

(*c*) a share or convertible bond listed on a recognised group A exchange and that is —

(i) in the case of a share, included in a market index of that recognised group A exchange; or

(ii) issued by a corporation with shareholders' funds of not less than $200 million or its equivalent in any foreign currency;

(*d*) a debt security —

(i) issued by a government or public authority of any country or territory, or a recognised multilateral agency specified in Table 3 of the Fourth Schedule, with a long-term rating of —

(A) not less than BB-minus by Fitch Ratings;
(B) not less than Ba3 by Moody's Investor Services; or
(C) not less than BB-minus by Standard & Poor's;

(ii) issued by any other entity with a long-term rating of —

(A) not less than BBB-minus by Fitch Ratings;
(B) not less than Baa3 by Moody's Investor Services; or
(C) not less than BBB-minus by Standard & Poor's;

(iii) being a short-term debt instrument with a rating of —

(A) not less than F3 by Fitch Ratings;
(B) not less than P3 by Moody's Investor Services; or
(C) not less than A3 by Standard & Poor's; or

(iv) listed on the Singapore Exchange Securities Trading Limited or a recognised group A exchange if, and only if, the issuer's shares are listed on that exchange and qualify as a share referred to in paragraph (*b*) or (*c*);

(*e*) a collective investment scheme —

(i) authorised by the Authority under section 286 of the Act (other than exchange traded funds and property funds); or

(ii) recognised by the Authority under section 287 of the Act (other than exchange traded funds and property funds) —

(A) for which prices are published daily; and

(B) which invests at least 90% of the deposited property of the collective investment scheme in instruments being any or all of the instruments specified in paragraphs (*a*) to (*k*) (including this paragraph);

(*f*) an exchange traded fund quoted on the Singapore Exchange Securities Trading Limited or a recognised group A exchange, which tracks an index of, or basket of, stocks quoted on —

(i) the Singapore Exchange Securities Trading Limited; or

(ii) a recognised group A exchange;

(*g*) a property fund listed on the Singapore Exchange Securities Trading Limited or a recognised group A exchange;

(*h*) any contract traded on —

(i) the Singapore Exchange Securities Trading Limited; or

(ii) a recognised group A exchange, where the shares of the issuer of the contract, and the shares of the issuer of the underlying security, qualify as a share referred to in paragraph (*b*) or (*c*);

(*i*) in the case of an initial public offer, securities to be listed for quotation or quoted on the Singapore Exchange Securities Trading Limited which have been fully paid for by a customer of the holder of a licence;

(*j*) securities quoted on the Central Limit Order Book (CLOB) International; or

(*k*) such other securities or financial instruments as the Authority may specify in an MAS notice applicable to the holder;

[S 192/2013 wef 03/04/2013]

[*Deleted by S 192/2013 wef 03/04/2013*]

"debit balance", in relation to a customer's margin account, means the amount owing by the customer in the margin account and includes —

(*a*) amounts to be financed by the holder of a licence in respect of outstanding purchases made in the margin account of the customer, net of —

(i) cash collateral;

(ii) cash dividends declared and payable into the margin account of the customer; and

(iii) sales proceeds receivable from open sale contracts made in the margin account of the customer; and

(*b*) all commission charges, interest expenses and other related expenses;

"equity", in relation to a customer's margin account, means the current market value of acceptable collateral bought and carried, or deposited as collateral, by a customer in the margin account;

"exchange traded fund" means a collective investment scheme concerned with the acquisition, holding, management or disposal of a portfolio of predetermined constituent assets in predetermined proportions, which constituent assets principally comprise securities listed for quotation on any securities exchange or overseas securities exchange;

[*Deleted by S 192/2013 wef 03/04/2013*]

"free financial resources" means the financial resources of the holder less the total risk requirement of the holder;

"margin account", in relation to a customer, means an account of the customer through which the relevant holder of a licence extends or has extended securities financing to the customer;

"margin exposure", in respect of a margin account, means —

(*a*) where the securities bought or carried, or deposited as collateral, in the margin account comprise a single securities, the debit balance in the margin account; or

(*b*) where the securities bought or carried, or deposited as collateral, in the margin account comprise 2 or more securities, an amount computed by the following formula:

$$\text{Debit balance} \times \frac{A}{B}$$

where —

A is the current market value of each securities bought or carried, or deposited as collateral, in the margin account; and

B is the aggregate of the current market value of all securities bought or carried in the margin account, and the current market value of all securities deposited as collateral in the margin account;

"property fund" has the same meaning as in the Code on Collective Investment Schemes issued by the Authority under section 321 of the Act;

"share", in relation to acceptable collateral in a customer's margin account, includes —

(*a*) a bonus share that has yet to be credited to the margin account if, and only if, the holder of a licence is legally entitled to the receipt and deposit of such bonus share into the margin account; and

(*b*) a depository receipt.

(7) Any reference to financial resources in this regulation in relation to the holder of a licence referred to in regulation 5 which is a foreign company shall be read as adjusted net head office funds.

Margin requirements for contracts for differences

24A.—(1) The holder of a licence who enters into a contract for differences with its customers shall obtain margin from each customer, in the form of acceptable collateral, for the purpose of trading in contracts for differences.

(2) For the purposes of this regulation, margins deposited by customers with the holder of a licence in accordance with this regulation shall be determined in accordance with Table 18 of the Fourth Schedule and such other requirements as the Authority may from time to time specify by notice in writing.

(3) Where the current market value of acceptable collateral deposited in the customer's margin account for the purpose of trading in contracts for differences falls below the margin requirements referred to in paragraph (2), the holder of the licence shall immediately require the customer to provide additional margin within 2 business days.

(4) In this regulation, "acceptable collateral" has the same meaning as in regulation 24(6).

Share financing

24B.—(1) Subject to its compliance with the conditions under paragraph (2), the holder of a licence for securities financing need not comply with regulation 24 in respect of its provision to a customer of any securities financing to facilitate his subscription for or purchase of any shares —

(*a*) pursuant to an initial public offer;

(*b*) in exercise of an option given under an employee share option scheme; or

(*c*) pursuant to a rights issue,

where the securities financing is provided before the allotment of those shares to the customer (referred to in this regulation as the subject securities financing).

(2) The holder under paragraph (1) shall —

(*a*) take reasonable steps to ensure that the aggregate of —

(i) the amount of the credit facility, advance or loan provided to the customer under the subject securities financing to facilitate his subscription for or purchase of shares in any of the respective circumstances referred to in paragraph (1)(*a*), (*b*) or (*c*); and

(ii) the amount of every other credit facility, advance or loan under any securities financing provided by another financial institution to the customer to facilitate his subscription for or purchase of those shares in the same respective circumstances,

together with all discounts, rebates and other benefits given to the customer for his subscription for or purchase of those shares in those same respective circumstances by the holder and other persons, does not exceed 80% of the amount to be paid by the customer for those shares, including obtaining a written declaration from the customer on whether —

(A) he has received any discount, rebate or other benefit from any person for his subscription for or purchase of those shares in those same respective circumstances, and the amount and other details of each such discount, rebate or benefit; and

(B) he has been provided with securities financing by any other financial institution for his subscription for or purchase of those shares in those same respective

circumstances, and the amount of the credit facility, advance or loan and other details of each such financing; and

(*b*) ensure that the aggregate of —

(i) the amount of the credit facility, advance or loan provided under the subject securities financing; and

(ii) the amount of all credit facilities, advances and loans under all subject securities financing that it has previously provided to its customers,

does not exceed 20% of its free financial resources within the meaning of regulation 24(6).

[S 192/2013 wef 03/04/2013]

Reporting of under-margined accounts by holder of licence

25.—(1) The holder of a licence under regulation 5 shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), when any account which the holder is carrying for any customer is under-margined by an amount which exceeds the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]
[S 463/2013 wef 01/08/2013]

(2) [*Deleted by S 192/2013 wef 03/04/2013*]

(3) [*Deleted by S 192/2013 wef 03/04/2013*]

(4) Where the holder of a licence which is a member of an approved exchange or approved clearing house has, within one business day, failed to meet a margin call or to make other deposits as required by the approved exchange or approved clearing house (as the case may be), the approved exchange or approved clearing house shall immediately —

(*a*) inform the Authority of such failure by the member; and

(*b*) inform the Authority as to whether any action has been taken, and if so, the action taken, by the approved exchange or approved clearing house (as the case may be) in respect of such failure by the member.

[S 463/2013 wef 01/08/2013]

(5) The approved exchange or approved clearing house may, in consultation with the Authority, exempt the holder of a licence from the provisions of paragraph (4) with respect to any particular account on a continuous basis, but the approved exchange or approved clearing house shall continue to monitor that account.

[S 677/2006 wef 20/12/2006]
[S 463/2013 wef 01/08/2013]

PART VII

LODGEMENT OF DOCUMENTS

Forms

26.—(1) The forms to be used for the purposes of these Regulations are those set out at the Authority's Internet website at http://www.mas.gov.sg (under "Regulations and Financial Stability", "Regulations, Guidance and Licensing", "Securities, Futures and Fund Management"), and any reference

in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website.

[S 384/2012 wef 07/08/2012]

(2) Except as otherwise provided in regulation 27(8), any document required to be lodged with the Authority under any provision of the Act or these Regulations, shall be lodged using the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if it is not completed or lodged in accordance with this regulation.

[S 372/2005 wef 01/07/2005]

Statement to be lodged in respect of regulated activities

27.—(1) The holder of a licence referred to in regulation 5 shall prepare —

(*a*) a statement of assets and liabilities in Form 1; and

(*b*) a statement of financial resources, total risk requirement and aggregate indebtedness, where applicable, in Form 2,

[S 192/2013 wef 03/04/2013]

in respect of each quarter of a year or such longer period as the Authority may allow.

(2) [*Deleted by S 192/2013 wef 03/04/2013*]

(3) [*Deleted by S 192/2013 wef 03/04/2013*]

(4) The holder of a licence referred to in paragraph (1), shall, in preparing any statement referred to in that paragraph, describe the assets and liabilities of its business in a manner that will give a true and fair view of the state of affairs of the business as at the end of the period for which the statement is prepared.

[S 192/2013 wef 03/04/2013]

(5) The holder of a licence for securities financing shall prepare statements in Forms 7, 8 and 9 relating to the carrying on of its business in securities financing in respect of each quarter of a year.

[S 192/2013 wef 03/04/2013]

(6) Every statement referred to in paragraph (1) or (5) shall be lodged with the Authority no later than 14 days, or such longer period as the Authority may allow, after the end of the period for which the statement is prepared.

[S 192/2013 wef 03/04/2013]

(7) Any holder of a licence which fails to lodge any of the statements with the Authority within the period stipulated in paragraph (6), or such longer period as may be allowed by the Authority under that paragraph, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(8) For the purposes of section 107 of the Act, the holder of a licence shall prepare and lodge with the Authority, by personal delivery or by pre-paid post, a true and fair profit and loss account and a balance-sheet made up to the last day of each financial year in accordance with the provisions of the Companies Act (Cap. 50), together with an auditor's report in Form 5.

[S 192/2013 wef 03/04/2013]

(9) The documents referred to in paragraph (8) shall be accompanied by an auditor's certification in Form 6 and a copy of each of the following documents duly lodged in accordance with regulation 26:

(*a*) a statement relating to the accounts of the holder in Form 3 and a statement relating to further information of the accounts of the holder in Form 4; and

[S 192/2013 wef 03/04/2013]

(*b*) where the holder is a person referred to in regulation 5, a statement of assets and liabilities in Form 1 and a statement of financial resources, total risk requirement and aggregate indebtedness in Form 2.

[S 192/2013 wef 03/04/2013]

(*c*) [*Deleted by S 192/2013 wef 03/04/2013*]

(*d*) [*Deleted by S 192/2013 wef 03/04/2013*]

(*e*) [*Deleted by S 192/2013 wef 03/04/2013*]

[S 192/2013 wef 03/04/2013]

(10) Any holder of a licence which contravenes paragraph (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

PART VIII

[*Deleted by S 192/2013 wef 03/04/2013*]

PART VIIIA

MISCELLANEOUS

Offences

28A. Any person who contravenes —

(*a*) regulation 4(1), (1A) or (2), 6(1), (2), (2A) or (3), 7(1), (3) or (5)(*a*) or (*b*), 16(1) or (2), 17(1), (2) or (4)(*a*) or (b), 19(1), 20, 21(1) or (2), 22(1) or (2), 23, 24(1), (2) or (3), 24A(1) or (3), 25(1) or (4) or 26(2) or (3); or

[S 192/2013 wef 03/04/2013]

(*b*) any direction issued by the Authority under regulation 4(3)(*a*), 5A(1), 7(2)(*a*), (4)(*b*) or (4A) or 17(3)(*b*) or (3A),

[S 192/2013 wef 03/04/2013]

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

PART IX

29. [*to 36. [Deleted by S 677/2006 wef 20/12/2006 wef 20/12/2006]*]

FIRST SCHEDULE

Regulation 3

BASE CAPITAL REQUIREMENT FOR A CORPORATION TO BE GRANTED A CAPITAL MARKETS SERVICES LICENCE

1. Subject to paragraph 2, the base capital requirement applicable to a corporation to be granted a capital markets services licence in respect of a regulated activity in the first column of the table below shall be that set out opposite thereto in the second column of the table.

[S 714/2010 wef 26/11/2010]

2. Except in the circumstances referred to in paragraph 3, where more than one base capital requirement is applicable to the corporation or holder referred to in paragraph 1, the base capital requirement applicable to the corporation or holder (referred to hereinafter as the applicant) shall be the higher or, as the case may be, highest of the applicable base capital requirements.

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
(1) Dealing in securities and —	
(*a*) the applicant is a member of an approved clearing house authorised to operate a clearing facility for securities;	$5 million
(*b*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is a member of a securities exchange;	$1 million
(*c*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is not a member of a securities exchange;	$1 million
(*d*) the applicant does not carry any customer's positions in securities, margins or accounts in its own books, and either —	$500,000
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any securities from any customer (not being an applicant to which paragraph (*e*) applies); or	
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer; or	
(*e*) the applicant —	$250,000
(i) does not carry any customer's positions in securities, margins or accounts in its own books;	
(ii) deals in securities only with accredited investors; and	
(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer.	
(2) Trading in futures contracts and —	
(*a*) the applicant is a member of an approved clearing house authorised to operate a clearing facility for futures contracts, where the applicant's membership is not limited to specified commodity futures contracts;	$5 million
(*aa*)	$1 million

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
the applicant is a member of an approved clearing house authorised to operate a clearing facility for futures contracts, where the applicant's membership is limited to specified commodity futures contracts;	
(*b*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is a member of a futures exchange;	$ 1 million
(*c*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is not a member of a futures exchange;	$1 million
(*d*) the applicant does not carry any customer's positions in futures contracts, margins or accounts in its own books, and either —	$500,000
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any futures contract from any customer (not being an applicant to which paragraph (*e*) applies); or	
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer; or	
(*e*) the applicant —	$250,000
(i) does not carry any customer's positions in futures contracts, margins or accounts in its own books;	
(ii) trades in futures contracts only with accredited investors; and	
(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer.	
(2A) Trading in specified commodity futures contracts only and —	
(*a*) the applicant is a member of a clearing house authorised to operate a clearing facility for futures contracts, where the applicant's membership is limited to specified commodity futures contracts;	$1 million
(*b*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is a member of a futures exchange;	$500,000
(*c*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is not a member of a futures exchange;	$500,000
(*d*) the applicant does not carry any customer's positions in specified commodity futures contracts, margins or accounts in its own books, and either —	$250,000
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any specified commodity futures contracts from any customer (not being an applicant to which paragraph (*e*) applies); or	

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of specified commodity futures contracts by that customer; or	
(*e*) the applicant —	$250,000
(i) does not carry any customer's positions in specified commodity futures contracts, margins or accounts in its own books;	
(ii) trades in specified commodity futures contracts only with accredited investors; and	
(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of specified commodity futures contract by that customer.	
(3) Carrying out leveraged foreign exchange trading.	$1 million
(4) Advising on corporate finance.	$250,000
(5) Carrying out fund management —	
(*a*) of any collective investment scheme offered to any investor other than an accredited investor or institutional investor;	$1 million
(*b*) on behalf of any customer other than an accredited investor or institutional investor, whether on a discretionary authority granted by the customer or otherwise; or	$500,000
(*c*) in any other case.	$250,000
(5A) Real estate investment trust management	$1 million
(6) Carrying out securities financing.	$1 million
(6A) Providing credit rating services.	$250,000
(7) Providing custodial services for securities.	$1 million.

[S 463/2013 wef 01/08/2013]
[S 384/2012 wef 07/08/2012]
[S 19/2012 wef 17/01/2012]

3. Where an applicant trades only in futures contracts in respect of one or more of the following commodities (referred to hereinafter as specified commodity futures contracts), the applicant may opt for the applicable base capital requirement corresponding to either item (2) or (2A) in the table below:

(*a*) gold;

(*b*) any produce, item, goods or article, including an index, right or interest in any produce, item, goods or article.

SECOND SCHEDULE

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

THIRD SCHEDULE

[*Deleted by S 192/2013 wef 03/04/2013* *wef 03/04/2013*]

FOURTH SCHEDULE

Regulation 2 and Third Schedule

Table 1

[*Deleted by S 192/2013 wef 03/04/2013* *wef 03/04/2013*]

Table 2

[*Deleted by S 192/2013 wef 03/04/2013* *wef 03/04/2013*]

TABLE 3 — RECOGNISED MULTILATERAL AGENCIES

Regulation 24(6)

For the purposes of regulation 24(6), a recognised multilateral agency is an agency specified in the table below or such other entity as may be specified in an MAS notice.

Name of Multilateral Agency

(1) The African Development Bank

(2) The Asian Development Bank

(3) The Bank for International Settlements

(4) The European Bank for Reconstruction and Development

(5) The European Union

(6) The European Investment Bank

(7) The Inter-American Development Bank

(8) The International Bank for Reconstruction and Development (The World Bank)

(9) The International Finance Corporation

(10) The International Monetary Fund.

[S 192/2013 wef 03/04/2013]

TABLE 4 — RECOGNISED GROUP A AND RECOGNISED GROUP B EXCHANGES

Regulation 24

For the purposes of regulation 24, a recognised exchange is an overseas securities exchange or an overseas futures exchange regulated by a financial services regulatory authority of a country or territory specified in the table below or such other country or territory as may be specified in an MAS notice.

Country or Territory of Group A Exchanges	*Country or Territory of Group B Exchanges*
(1) Australia	(1) China

(2) Austria
(3) Belgium
(4) Canada
(5) France
(6) Germany
(7) Hong Kong
(8) Italy
(9) Japan
(10) Malaysia (except Labuan)
(11) Netherlands
(12) New Zealand
(13) South Korea
(14) Spain
(15) Sweden
(16) Switzerland
(17) Taiwan
(18) Thailand
(19) United Kingdom
(20) United States of America.

(2) Greece
(3) Finland
(4) India
(5) Indonesia
(6) Ireland
(7) Luxembourg
(8) Norway
(9) Philippines
(10) Portugal.

[S 192/2013 wef 03/04/2013]

Table 5

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Table 6

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Table 7

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Table 8

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Table 9

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Table 10

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Table 11

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Table 12

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Table 14

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Table 15

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Table 16

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Table 17

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TABLE 18 — MINIMUM MARGIN REQUIRMENTS FOR CONTRACTS FOR DIFFERENCES

Regulation 24A(2)

CONTRACT FOR DIFFERENCES	MINIMUM MARGIN REQUIREMENTS
Equity CFDs	(*a*) 10% for index stocks; and (*b*) 20% for non-index stocks.
Index CFDs	5%
Foreign Exchange CFDs	2%
CFDs with non-guaranteed stop-loss	Lesser of — (*a*) the sum of the amount at risk and 30% of the standard margin; or (*b*) the standard margin
CFDs with guaranteed stop-loss	Lesser of — (*a*) the amount at risk, and if the CFD is subject to any adjustment for dividend, interest or commission, to add an additional 10%; or (*b*) the standard margin
Any other CFD	20%

In this Table —

"amount at risk" means the maximum loss a customer may incur based on the difference between the contract price and stop-loss price;

"CFD" means a contract for differences;

"index" means the Straits Times Index, MSCI Singapore Index or a market index of a recognised group A exchange;

"standard margin" means the minimum margin for the CFDs without stop-loss features;

"stop-loss" means a feature attached to an open CFD position to close the CFD if the price reaches a specified level.

FIFTH SCHEDULE

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SIXTH SCHEDULE

[*Deleted by S 192/2013 wef 03/04/2013* *wef 03/04/2013*]

SEVENTH SCHEDULE

Deleted by S 372/2005, wef 01/07/2005.

LEGISLATIVE HISTORY

SECURITIES AND FUTURES (FINANCIAL AND MARGIN REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS SERVICES LICENCES) REGULATIONS (CHAPTER 289, RG 13)

This Legislative History is provided for the convenience of users of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations. It is not part of these Regulations.

1. **G. N. No. S 498/2002—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations 2002**

   Date of commencement : 1 October 2002

2. **G. N. No. S 332/2003—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2003**

   Date of commencement : 10 July 2003

3. **G. N. No. S 521/2003—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2003**

   Date of commencement : 6 November 2003

4. **2004 Revised Edition—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations**

   Date of operation : 29 February 2004

5. **G. N. No. S 372/2005—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2005**

   Date of commencement : 1 July 2005

6. **G. N. No. S 78/2006—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2006**

   Date of commencement : 1 March 2006

7. **G. N. No. S 507/2006—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2006**

   Date of commencement : 28 August 2006

8. **G. N. No. S 677/2006—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 3) Regulations 2006**

Date of commencement : 20 December 2006

9. **G. N. No. S 445/2007—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2007**

Date of commencement : 27 February 2008

10. **G. N. No. S 101/2008—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2008**

Date of commencement : 27 February 2008

11. **G. N. No. S 375/2008—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2008**

Date of commencement : 1 August 2008

12. **G. N. No. S 77/2009—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2009**

Date of commencement : 1 March 2009

13. **G. N. No. S 714/2010—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2010**

Date of commencement : 26 November 2010

14. **G.N. No. S 19/2012—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2012**

Date of commencement : 17 January 2012

15. **G.N. No. S 384/2012—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2012**

Date of commencement : 7 August 2012

16. **G.N. No. S 192/2013—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2013**

Date of commencement : 3 April 2013

17. **G.N. No. S 463/2013—Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2013**

Date of commencement : 1 August 2013

SECURITIES AND FUTURES ACT (CHAPTER 289, SECTIONS 86(3), 95(1)(*c*), 100, 337, 341 AND 343)

SECURITIES AND FUTURES (FINANCIAL AND MARGIN REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS SERVICES LICENCES) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART IV

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Regulation

PART V

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[1st October 2002]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

"adjusted net head office funds", in relation to the holder of a licence, means its net head office funds after deducting the applicable items specified in —

(*a*) an MAS notice that applies to the holder; and

(*b*) if a notice referred to in regulation 2C is given to the holder, that notice;

[S 192/2013 wef 03/04/2013]

"aggregate indebtedness", in relation to the holder of a licence, means the total liabilities of the holder, but does not include any contingent liability of the holder or any of the following liabilities of the holder:

(*a*) any amount payable on open contracts;

(*b*) any amount payable to a customer of the holder in connection with moneys or assets received on account of the customer and maintained in a trust account;

(*c*) any deferred income tax payable;

(*d*) any liability that is fully secured by assets that are not included as the financial resources of the holder, if the sole recourse of the creditor for non-payment of such liability is to such assets only;

[S 192/2013 wef 03/04/2013]

(*e*) any qualifying subordinated loan; and

[S 192/2013 wef 03/04/2013]

(*f*) any financial liability that has been included in the computation of financial resources;

[S 192/2013 wef 03/04/2013]

"aggregate resources" means —

(*a*) in relation to the holder of a licence incorporated in Singapore, the sum of the financial resources of the holder and qualifying letters of credit less the total risk requirement of the holder; and

(*b*) in relation to the holder of a licence that is a foreign company, the sum of the adjusted net head office funds of the holder and qualifying letters of credit less the total risk requirement of the holder;

"base capital", in relation to a corporation or the holder of a licence, means the sum of —

(*a*) the following items in the latest account of the corporation or the holder (as the case may be):

(i) paid-up ordinary share capital;

(ii) paid-up irredeemable and non-cumulative preference share capital; and

[S 192/2013 wef 03/04/2013]

(iii) reserve fund maintained under regulation 19; and

(*b*) any unappropriated profit or loss in the latest audited accounts of the corporation or the holder (as the case may be),

less any interim loss in the latest accounts of the corporation or the holder (as the case may be) and any dividend that has been declared since the latest audited accounts of the corporation or the holder (as the case may be);

"broad-based index" means an index that satisfies the following conditions:

(*a*) the index shall contain shares of at least 20 corporations;

(*b*) the weighting of the largest constituent share is not greater than 20% of the index; and

(*c*) the total weighting of the largest 5 constituent shares is not greater than 60% of the index;

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"customer" means a person —

(*a*) on whose behalf the holder of a licence carries on or will carry on any regulated activity; or

(*b*) with whom the holder of a licence enters or will enter into a transaction as principal —

(i) for the sale or purchase of securities;

(ii) for the sale or purchase of futures contracts; or

(iii) in connection with leveraged foreign exchange trading;

[S 192/2013 wef 03/04/2013]

"debt security" includes any debenture stock, bond and note;

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"financial resources" has the meaning given to that expression in regulation 2A;

[S 192/2013 wef 03/04/2013]

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"futures contract" means a contract the effect of which is that —

(*a*) one party to the contract agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party to the contract at a specified future time and at a specified price payable at that time under the terms and conditions set out in the business rules or practices of the futures exchange, recognised market operator, or overseas futures exchange at which the contract is made; or

(*b*) the parties to the contract will discharge their obligations under the contract by settling the difference between the value of a specified quantity of a specified commodity at the time of the making of the contract and at a specified future time, such difference being determined in accordance with the business rules or practices of the futures exchange, recognised market operator, or overseas futures exchange at which the contract is made,

and includes an option on a futures contract;

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"irredeemable and non-cumulative preference share capital" means preference share capital consisting of preference shares that satisfy all of the following requirements:

(*a*) the principal of the shares is perpetual;

(*b*) the shares are not callable at the initiative of the issuer of the shares or the shareholders, and the principal of the shares is never repaid outside of liquidation of the issuer, except in the case of a repurchase or other manner of reduction of share capital that is initiated by the issuer and permitted under written law; and

(*c*) the issuer has full discretion to cancel dividend payments, and —

(i) the cancellation of dividend payments is not an event of default of the issuer under any agreement;

(ii) the issuer has full access to cancelled dividend payments to meet its obligations as they fall due; and

(iii) the cancellation of dividend payments does not result in any restriction being imposed on the issuer under any agreement, except in relation to dividend payments to ordinary shareholders;

[S 192/2013 wef 03/04/2013]

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"licence" means a capital markets services licence granted under the Act;

"market index of a recognised group A exchange" means a broad-based index of shares listed on the recognised group A exchange;

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"MAS notice" means a notice issued by the Authority under regulation 2B;

[S 192/2013 wef 03/04/2013]

"net head office funds", in relation to a foreign company, means the net liability of the Singapore branch of that foreign company to its head office and any other branches outside of Singapore;

"open contract" means any open purchase contract or open sale contract;

"open purchase contract" means any contract to purchase securities which is not yet due for payment in accordance with the business rules of a securities exchange, a recognised market operator or an overseas securities exchange, or the terms of the contract (as the case may be);

"open sale contract" means any contract to sell securities which is not yet due for delivery in accordance with the business rules of a securities exchange, a recognised market operator or an overseas securities exchange, or the terms of the contract (as the case may be);

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"public authority" means any body corporate constituted under any Act or under the law of any other country or territory;

"qualifying letter of credit" means any legally enforceable and irrevocable letter of credit that is —

(*a*) made in favour of the approved exchange or approved clearing house (as the case may be) of which the holder of the licence concerned is a member;

[S 463/2013 wef 01/08/2013]

(*b*) issued by a bank approved by, and in a form acceptable to, the approved exchange or approved clearing house; and

[S 463/2013 wef 01/08/2013]

(*c*) subject to such conditions or restrictions as the Authority, or the approved exchange or approved clearing house, may impose on the holder,

[S 463/2013 wef 01/08/2013]

but does not include any letter of credit provided by the holder to the approved exchange or approved clearing house to satisfy the business rules or other requirements of the approved exchange or approved clearing house;

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

"qualifying subordinated loan" means a subordinated loan the terms of which are evidenced by a subordinated loan agreement between the holder of the licence concerned and a lender (referred to in this definition as the subordinated creditor) which expressly provides all of the following:

(*a*) the subordinated loan has not less than 2 years to maturity at the time the loan is first drawn down;

(*b*) that the subordinated creditor shall not claim or receive from the holder, by way of set-off or in any other manner, any subordinated loan repayment until after every senior debt has been paid or unless the holder has obtained the prior written approval of the Authority;

(*c*) that the claims of the subordinated creditor are fully subordinated to the claims of all senior creditors;

(*d*) an option for the holder to defer interest payment on the principal amount of the subordinated loan;

(*e*) that the subordinated loan shall automatically be converted into capital to provide a cushion for losses to creditors if an appropriate reconstruction of the capital of the holder which is acceptable to the Authority has not been undertaken;

(*f*) that, in the event of any payment or distribution of assets of the holder, whether in cash, in kind or in securities (referred to in this definition as a distribution), upon any

dissolution, winding-up, liquidation or reorganisation of the holder —

(i) the senior creditors shall first be entitled to receive payment in full of the senior debts before the subordinated creditor receives any payment in respect of the subordinated debt; and

(ii) any distribution to which the subordinated creditor would be entitled but for the provisions of the subordinated loan agreement shall be made by the liquidator, Official Assignee in bankruptcy or any other person making the distribution directly to the senior creditors rateably according to their senior debts until they have been paid in full (taking into account other distributions to the senior creditors);

(*g*) a term that if, notwithstanding paragraphs (*b*) to (*f*), any distribution is received by the subordinated creditor in respect of the subordinated debt, the distribution shall be paid over to the senior creditors for application rateably according to their senior debts until they have been paid in full (taking into account other distributions to the senior creditors) and, until such payment has been made in full, the distribution shall be held in trust for the senior creditors;

(*h*) such terms as may be specified in the business rules of an approved exchange or approved clearing house of which the holder is a member;

[S 463/2013 wef 01/08/2013]

(*i*) that no subordinated creditor may demand the early or accelerated repayment of the subordinated loan;

(*j*) that the subordinated loan agreement is not subject to any cross-default or negative pledge;

(*k*) such other criteria as may be specified in or imposed by —

(i) an MAS notice applicable to the holder;

(ii) any notice given to the holder by the Authority; and

(iii) an approved exchange or approved clearing house of which the holder is a member;

[S 463/2013 wef 01/08/2013]

[S 192/2013 wef 03/04/2013]

"recognised group A exchange" means an overseas securities exchange or an overseas futures exchange regulated by a financial services regulatory authority of a country or territory specified in Table 4 of the Fourth Schedule, or the corporation known as Singapore Commodity Exchange Ltd;

"recognised group B exchange" means an overseas securities exchange or an overseas futures exchange regulated by a financial services regulatory authority of a country or territory specified in Table 4 of the Fourth Schedule;

"senior creditor", in relation to a qualifying subordinated loan, means a creditor to whom a senior debt is owed;

[S 192/2013 wef 03/04/2013]

"senior debt", in relation to a qualifying subordinated loan, means a debt of the holder of the licence concerned that is outstanding at any time during the period in which the qualifying subordinated loan is outstanding;

[S 192/2013 wef 03/04/2013]

[*Deleted by S 192/2013 wef 03/04/2013]*

"total risk requirement" means the amount required to address risks arising from the activities of the holder of a licence, being —

(*a*) such amount as specified in or computed in accordance with an MAS notice that applies to the holder;

(*b*) if a notice referred to in regulation 2C is given to the holder to substitute the amount referred to in paragraph (*a*) with another amount specified in or computed in accordance with that notice, the second-mentioned amount; or

(*c*) if a notice referred to in regulation 2C is given to the holder to supplement the amount referred to in paragraph (*a*) with another amount specified in or computed in accordance with that notice, the aggregate of both those amounts.

[S 192/2013 wef 03/04/2013]

[S 192/2013 wef 03/04/2013]

(2) For the purposes of regulations 16, 17, 21(2)(*b*)(ii), 22(2)(*b*)(ii) and 23(*a*)(iii) and (*b*)(iii), where the total amount payable under qualifying letters of credit exceeds 50% of the total risk requirement of the holder, the amount in excess shall not be taken into account for determining the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

Financial resources

2A.—(1) In these Regulations, a reference to the financial resources of the holder of a licence is a reference to the sum of the following items in the latest available accounts of the holder, after deducting from those items such other items as may be specified in the MAS notice that applies to the holder and, if a notice referred to in regulation 2C is given to the holder, in that notice:

(*a*) base capital;

(*b*) paid-up irredeemable and cumulative preference share capital;

(*c*) paid-up redeemable preference share capital;

(*d*) revaluation reserves;

(*e*) other reserves;

(*f*) interim unappropriated profit; and

(*g*) collective impairment allowances.

(2) Without prejudice to the definition of any of those items in regulation 2, the items in paragraph (1)(*a*) to (*g*) are those items in the latest available accounts of the holder that meet such criteria as may be specified in the MAS notice that applies to the holder.

(3) If the sum of the items in paragraph (1)(*b*) and (*c*) is more than the item in paragraph (1)(*a*), the excess amount shall be disregarded in determining the financial resources of the holder for any purpose under these Regulations.

(4) Notwithstanding paragraphs (1) and (3) and subject to paragraph (5), the total of the excess amount referred to in paragraph (3), and the amounts of all qualifying subordinated loans of the holder that remain outstanding during a temporary period (referred to in this regulation as the total amount) may be included in the financial resources of the holder for that temporary period for any purpose under these Regulations, if (and only if) —

(*a*) each temporary period in which the inclusion is made, and the aggregate of all the temporary periods in each calendar year in which the inclusion is made, do not exceed 90 days; and

(*b*) immediately after the inclusion, the holder notifies the Authority and the approved exchange or approved clearing house of which the holder is a member (if applicable) of that fact.

[S 463/2013 wef 01/08/2013]

(5) For the purposes of paragraph (4), where the total amount exceeds the amount of the item in paragraph (1)(*a*), the total amount shall be deemed to be the amount of the item in paragraph (1)(*a*).

[S 192/2013 wef 03/04/2013]

MAS notices

2B. The Authority may from time to time issue notices for the purposes of these Regulations, which shall be published on the Authority's Internet website at http://www.mas.gov.sg (under "Regulations and Financial Stability", "Regulations, Guidance and Licensing", "Securities, Futures and Fund Management").

[S 192/2013 wef 03/04/2013]

Variation of adjusted net head office funds, financial resources or total risk requirement

2C. The Authority may, for the purpose of addressing the risks applicable to a particular holder of a licence, by notice in writing to the holder —

(*a*) specify an amount of or a formula for computing the total risk requirement that is in substitution for or that supplements the amount specified in or computed in accordance with the MAS notice applicable to the holder;

(*b*) specify items to be deducted from the items referred to in regulation 2A(1)(*a*) to (*g*) that are additional to those set out in the MAS notice applicable to the holder; or

(*c*) specify items to be deducted from the adjusted net head office funds of the holder that are additional to those set out in the MAS notice applicable to the holder.

[S 192/2013 wef 03/04/2013]

PART II

BASE CAPITAL REQUIREMENT

Grant of licence

3. For the purposes of section 86(3) of the Act, the Authority shall not grant a licence to a corporation unless at the time of such grant —

(*a*) where the corporation is incorporated in Singapore, its base capital; or

(*b*) where the corporation is a foreign company, its net head office funds,

is not less than —

(i) the base capital requirement applicable to the corporation under the First Schedule; or

(ii) such other requirement as the Authority may approve as appropriate having regard to the operations of the corporation.

Where base capital of holder of licence falls below base capital requirement

4.—(1) The holder of a licence shall not cause or permit —

(*a*) where it is incorporated in Singapore, its base capital; or

(*b*) where it is a foreign company, its net head office funds,

to fall below the base capital requirement applicable to the holder under regulation 3 or paragraph (1A), as the case may be.

(1A) If a holder of a licence, at any time during the period of its licence, intends to commence or cease business in any regulated activity, or change the scope of its business in a regulated activity, such that a different base capital requirement shall apply to it, it shall obtain the prior written approval of the Authority to comply with the new base capital requirement applicable to it.

(2) If the holder of a licence fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

(*a*) the Authority; and

(*b*) the approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(3) If the Authority is notified by the holder of a licence under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may —

(*a*) direct the holder to immediately do one or more of the following:

(i) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(ii) transfer all or part of any customer's positions, securities margins, collateral, assets and accounts to one or more other holders of licences;

(iii) operate its business in such manner and on such conditions as the Authority may impose;

(iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time the holder complies with paragraph (1), except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority; or

(*b*) revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]

(4) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (3)(*a*).

[S 714/2010 wef 26/11/2010]

PART III

FINANCIAL RESOURCES REQUIREMENT

Holder of licence

5. In this Part, unless the context otherwise requires, a reference to the holder of a licence excludes one who only holds a licence to provide credit rating services.

[S 192/2013 wef 03/04/2013]

Written directions to maintain financial resources in Singapore

5A.—(1) The Authority may, from time to time, issue written directions to any holder of a licence or class of such holders, to require the holder or each holder of that class to maintain and hold such of its financial resources as the written direction may specify in Singapore, and the holder shall comply with such written direction.

[S 192/2013 wef 03/04/2013]

(2) The written direction referred to in paragraph (1) may specify, in respect of the financial resources of any holder or class of holders —

(*a*) the items that are to be maintained and held in Singapore;

[S 192/2013 wef 03/04/2013]

(*b*) the minimum value of any such items to be maintained and held in Singapore; and

(*c*) the method of valuation of such items maintained and held in Singapore, including any deductions to be made in respect of those items.

Financial resources of holder of licence not to fall below total risk requirement

6.—(1) The holder of a licence shall not cause or permit —

(*a*) where it is incorporated in Singapore, its financial resources; or

(*b*) where it is a foreign company, its adjusted net head office funds,

to fall below its total risk requirement.

(2) The holder of a licence shall compute its financial resources (if applicable) in accordance with regulation 2A and its total risk requirement in accordance with paragraph (2B) —

(*a*) at such time and frequency as may be specified by the Authority by notice in writing; or

(*b*) where the Authority does not so specify, at such time and frequency as may be necessary for determining whether at any time its financial resources falls below its total risk requirement.

[S 192/2013 wef 03/04/2013]

(2A) The holder of a licence shall compute its adjusted net head office funds (if applicable) in accordance with the definition of "adjusted net head office funds" in regulation 2(1) and its total risk requirement in accordance with paragraph (2B) —

(*a*) at such time and frequency as may be specified by the Authority by notice in writing; or

(*b*) where the Authority does not so specify, at such time and frequency as may be necessary for determining whether at any time its adjusted net head office funds falls below its total risk requirement.

[S 192/2013 wef 03/04/2013]

(2B) The holder of a licence shall compute its total risk requirement in accordance with the MAS notice that applies to him, any notice referred to in regulation 2C given to the holder, or both (whichever is applicable).

[S 192/2013 wef 03/04/2013]

(3) If the holder of a licence fails to comply with paragraph (1), (2) or (2A) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

(*a*) the Authority; and

(*b*) the approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

[S 192/2013 wef 03/04/2013]

(4) If the Authority is notified by the holder of a licence under paragraph (3) or becomes aware that the holder has failed to comply with paragraph (1), (2) or (2A), the Authority may revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]

[S 192/2013 wef 03/04/2013]

(5) The licence of the holder of a licence shall lapse when its financial resources or adjusted net head office funds (as the case may be) have fallen below its total risk requirement for 4 consecutive weeks.

Where financial resources of holder of licence fall below 120% of total risk requirement

7.—(1) The holder of a licence shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), if —

(*a*) in the case where the holder is incorporated in Singapore, its financial resources; or

(*b*) in the case where the holder is a foreign company, its adjusted net head office funds,

fall below 120% of its total risk requirement.

[S 463/2013 wef 01/08/2013]

(2) If the Authority is notified by the holder under paragraph (1) or becomes aware that the financial resources or adjusted net head office funds (as the case may be) of the holder have fallen below 120% of its total risk requirement, the Authority may —

(*a*) direct the holder to immediately do one or more of the following:

(i) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(ii) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;

(iii) operate its business in such manner and on such conditions as the Authority may impose;

(iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources or adjusted net head office funds (as the case may be) are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority; or

(*b*) revoke the licence of the holder under section 95(2) of the Act.

[S 192/2013 wef 03/04/2013]

(3) Subject to paragraph (4), if an approved exchange or approved clearing house is notified by the holder of a licence under paragraph (1) or becomes aware that the financial resources or

adjusted net head office funds (as the case may be) of the holder have fallen below 120% of the total risk requirement of the holder for 5 consecutive business days or more, the approved exchange or approved clearing house (as the case may be) may direct the holder to immediately do one or more of the following, and shall immediately notify the Authority of such direction:

(*a*) submit the statements referred to in regulation 27(1) to the approved exchange or approved clearing house (as the case may be) on a weekly basis or at such other interval as may be determined by the approved exchange or approved clearing house, until the financial resources or adjusted net head office funds of the holder are not less than 120% of the total risk requirement of the holder for 8 consecutive weeks or such other period as may be determined by the approved exchange or approved clearing house;

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(*b*) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(*c*) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;

(*d*) operate its business in such manner and on such conditions as the approved exchange or approved clearing house (as the case may be) may impose.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

[S 463/2013 wef 01/08/2013]

(4) The Authority may —

(*a*) review, affirm, modify or set aside any direction issued by an approved exchange or approved clearing house to the holder of a licence under paragraph (3); or

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(*b*) direct the holder to cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources or adjusted net head office funds (as the case may be) are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority.

(4A) Where an approved exchange or approved clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (3), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.

[S 463/2013 wef 01/08/2013]

(5) Any statement required to be submitted under paragraph (3)(*a*) shall be —

(*a*) signed by a director of the holder of a licence or such other person as the Authority may allow; and

(*b*) lodged with the approved exchange or approved clearing house of which the holder is a member not later than one business day after the end of the week or other interval referred to in paragraph (3)(*a*).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(6) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (2)(*a*), (3), (4)(*b*) or (4A).

[S 677/2006 wef 20/12/2006]

[S 714/2010 wef 26/11/2010]

[S 192/2013 wef 03/04/2013]

[*Deleted by S 192/2013 wef 03/04/2013]*

[*Deleted by S 192/2013 wef 03/04/2013]*

PART IV

AGGREGATE INDEBTEDNESS

Holder of licence

15. In this Part, unless the context otherwise requires, "holder of a licence" means a corporation which is one or more of the following:

(*a*) the holder of a licence to deal in securities which is a member of a securities exchange, not including the holder of a licence —

(i) which does not carry any customer's position, margin or account in its own books; and

(ii) which either —

(A) deals in securities only with accredited investors; or

(B) carries on the business of soliciting or accepting orders for the purchase or sale of any securities from any customer, and no other business;

(*b*) the holder of a licence to trade in futures contracts which is a member of a futures exchange, not including the holder of a licence —

(i) which does not carry any customer's position, margin or account in its own books; and

(ii) which either —

(A) trades in futures contracts only with accredited investors; or

(B) carries on the business of soliciting or accepting orders for the purchase or sale of any futures contract from any customer, and no other business;

(*c*) the holder of a licence which is a member of an approved clearing house,

[S 463/2013 wef 01/08/2013]

whether or not the corporation is also permitted to carry on business in any other regulated activity.

[S 192/2013 wef 03/04/2013]

Where aggregate indebtedness exceeds 1,200% of aggregate resources

16.—(1) The holder of a licence shall not cause or permit its aggregate indebtedness to exceed 1,200% of its aggregate resources.

(2) If the holder fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

(*a*) the Authority; and

(*b*) the approved exchange or approved clearing house of which the holder is a member.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(3) If the Authority is notified by the holder under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]

(4) The licence of the holder of a licence shall lapse when the aggregate indebtedness of the holder has exceeded 1,200% of the aggregate resources of the holder for 4 consecutive weeks.

Where aggregate indebtedness exceeds 600% of aggregate resources

17.—(1) The holder of a licence shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member, if the aggregate indebtedness of the holder exceeds 600% of its aggregate resources.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(2) Subject to paragraph (3), if an approved exchange or approved clearing house is notified by the holder under paragraph (1) or

becomes aware that the aggregate indebtedness of the holder has exceeded 600% of the aggregate resources of the holder for 5 consecutive business days or more, the approved exchange or approved clearing house (as the case may be) may direct the holder to immediately do one or more of the following, and shall immediately notify the Authority of such direction:

(*a*) submit the statements referred to in regulation 27(1) to the approved exchange or approved clearing house on a weekly basis or at such other interval as may be determined by the approved exchange or approved clearing house, until the aggregate indebtedness of the holder is equal to or less than 600% of the aggregate resources of the holder for 8 consecutive weeks or such other period as may be determined by the approved exchange or approved clearing house;

[S 677/2006 wef 20/12/2006]

(*b*) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

(*c*) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;

(*d*) operate its business in such manner and on such conditions as the approved exchange or approved clearing house (as the case may be) may impose.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(3) The Authority may —

(*a*) review, affirm, modify or set aside any direction issued by an approved exchange or approved clearing house to the holder under paragraph (2); or

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(*b*) direct the holder to cease carrying on business in any or all of the regulated activities permitted under its licence until such

time that the holder has demonstrated that its aggregate indebtedness is equal to or less than 600% of the aggregate resources of the holder, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority.

(3A) Where an approved exchange or approved clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (2), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.

[S 463/2013 wef 01/08/2013]

(4) Any statement required to be submitted under paragraph (2)(*a*) shall be —

(*a*) signed by a director of the holder or such other person as the Authority may allow; and

(*b*) lodged with the approved exchange or approved clearing house of which the holder is a member not later than one business day after the end of the week or other interval referred to in paragraph (2)(*a*).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(5) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (2), (3)(*b*) or (3A).

[S 677/2006 wef 20/12/2006]

[S 714/2010 wef 26/11/2010]

PART V

RESERVE FUND AND OTHER FINANCIAL REQUIREMENTS

18. [*Deleted by S 192/2013 wef 03/04/2013]*

Maintenance of reserve fund by holder of licence which is member of approved clearing house

19.—(1) The holder of a licence to deal in securities or trade in futures contracts, or both, which is a member of an approved clearing house shall maintain a reserve fund to which a sum of not less than 30% of the audited net profits of each year shall be transferred out of the net profits after due provision has been made for taxation, so long as —

(*a*) where it is incorporated in Singapore, the base capital less unappropriated profits in the latest audited accounts of the holder; or

(*b*) where it is a foreign company, the net head office funds of the holder,

is less than $5 million.

[S 463/2013 wef 01/08/2013]

(2) Subject to regulation 23, if the Authority is satisfied that the reserve fund of the holder of a licence referred to in paragraph (1) is adequate for its business, the Authority may, by order in writing and on such conditions or restrictions as the Authority may impose, allow such amount in the reserve fund of that holder as the Authority may specify to be available for distribution as dividends.

Reduction in paid-up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital

20. The holder of a licence that is incorporated in Singapore shall not reduce its paid-up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital without the prior written approval of the Authority.

[S 192/2013 wef 03/04/2013]

Preference share

21.—(1) Where the holder of a licence which is incorporated in Singapore issues any preference share, the holder shall, prior to the date of issue of the preference share, notify the Authority, and the

approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

(2) The holder of a licence referred to in regulation 5 which is incorporated in Singapore shall not repay the principal of any preference share (other than any paid-up irredeemable and non-cumulative preference share capital) that is computed as part of the holder's financial resources, through repurchase or redemption —

(*a*) unless the holder notifies the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), at least 3 months before the proposed date of repurchase or redemption;

[S 677/2006 wef 20/12/2006]

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

(*b*) if, at the date of repurchase or redemption —

(i) the sum of financial resources of the holder is less than 120% of the total risk requirement of the holder; or

[S 192/2013 wef 03/04/2013]

(ii) in a case of a holder to which regulation 17 applies, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder;

[S 192/2013 wef 03/04/2013]

(*c*) if such a repurchase or redemption will cause an event in paragraph (*b*) to occur; or

[S 192/2013 wef 03/04/2013]

(*d*) if the Authority, or the approved exchange or approved clearing house of which the holder is a member (if

applicable), has prohibited in writing such a repurchase or redemption.

[S 677/2006 wef 20/12/2006]

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

[S 192/2013 wef 03/04/2013]

Qualifying subordinated loan

22.—(1) Where the holder of a licence referred to in regulation 5 draws down a qualifying subordinated loan, the holder shall notify, no later than the date of draw down of the qualifying subordinated loan, the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(2) The holder of a licence referred to in regulation 5 —

(*a*) shall not repay, whether in part or in full, any subordinated loan principal before the maturity date set out in the subordination loan agreement —

(i) without the prior approval of the approved exchange or approved clearing house of which the holder is a member (if applicable); and

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(ii) without providing prior notification to the Authority; and

(*b*) shall not repay, whether in part or in full, any subordinated loan principal that has matured —

(i) unless the holder notifies the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), at least one business day before the date of repayment;

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(ii) if the sum of financial resources and of the holder is less than 120% of the total risk requirement of the holder;

[S 192/2013 wef 03/04/2013]

(iii) in a case of a holder to which regulation 17 applies, if the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder;

(iv) if such a repayment will cause an event in sub-paragraph (ii) or (iii) to occur; or

(v) if the Authority, or the approved exchange or approved clearing house of which the holder is a member (if applicable), has prohibited in writing such a repayment.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

Making of unsecured loan or advance, payment of dividend or director's fees or increase in director's remuneration

23. The holder of a licence to deal in securities or trade in futures contracts which is a member of an approved exchange or approved clearing house shall not, without the prior written approval of the Authority, and the approved exchange or approved clearing house of which the holder is a member, make any unsecured loan or advance, pay any dividend or director's fees or increase any director's remuneration if —

(*a*) in the case where the holder is incorporated in Singapore —

(i) the base capital of the holder is less than the base capital requirement applicable to the holder under regulation 3;

(ii) the financial resources of the holder is less than 120% of the total risk requirement of the holder; or

[S 192/2013 wef 03/04/2013]

(iii) in a case of a holder to which regulation 17 applies, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder; or

(iv) [*Deleted by S 192/2013 wef 03/04/2013]*

(*b*) in the case where the holder is a foreign company —

(i) the net head office funds of the holder is below the base capital requirement applicable to the holder under regulation 3;

(ii) the adjusted net head office funds of the holder is less than 120% of the total risk requirement of the holder; or

[S 192/2013 wef 03/04/2013]

(iii) if regulation 17 applies to the holder, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

(iv) [*Deleted by S 192/2013 wef 03/04/2013]*

[[S 463/2013 wef 01/08/2013]

PART VI

MARGIN REQUIREMENTS

Margin requirement for securities financing

24.—(1) Subject to regulation 24B, the holder of a licence for securities financing —

(*a*) shall obtain margin from each customer in respect of any provision of securities financing to the customer; and

(*b*) shall not cause or permit the equity in the customer's margin account to be 110% of the debit balance in that customer's margin account or less.

(2) Where the equity in a customer's margin account is 110% of the debit balance in that customer's margin account or less, the holder of a licence shall immediately require the customer to provide additional margin within 2 business days to increase the equity in the customer's margin account to more than 110% of the debit balance in that customer's margin account.

(3) The holder of a licence shall not cause or permit —

(*a*) the aggregate of the margin exposures in the margin accounts of all customers to exceed 300%, or such other percentage as the Authority may allow, of its free financial resources;

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

(*b*) the aggregate of the margin exposures in the margin accounts of all customers in respect of securities, other than securities quoted on a securities exchange, to exceed 100%, or such other percentage as the Authority may allow, of its free financial resources; and

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

(*c*) the debit balance in each customer's margin account to exceed 20%, or such other percentage as the Authority may allow, of its free financial resources.

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

(*d*) [*Deleted by S 372/2005 wef 01/07/2005*]

(4) [*Deleted by S 372/2005 wef 01/07/2005*]

(5) For the purpose of this regulation, margins deposited by customers with the holder in accordance with this regulation shall be in the form of acceptable collateral or such other instrument as may be specified in an MAS notice that applies to the holder or by a notice given to the holder by the Authority.

[S 507/2006 wef 28/08/2006]

[S 192/2013 wef 03/04/2013]

(6) In this regulation, unless the context otherwise requires —

"acceptable collateral", in relation to securities financing, means —

(*a*) cash;

(*b*) a share or convertible bond listed on the Singapore Exchange Securities Trading Limited;

(*c*) a share or convertible bond listed on a recognised group A exchange and that is —

(i) in the case of a share, included in a market index of that recognised group A exchange; or

(ii) issued by a corporation with shareholders' funds of not less than $200 million or its equivalent in any foreign currency;

(*d*) a debt security —

(i) issued by a government or public authority of any country or territory, or a recognised multilateral agency specified in Table 3 of the Fourth Schedule, with a long-term rating of —

(A) not less than BB-minus by Fitch Ratings;

(B) not less than Ba3 by Moody's Investor Services; or

(C) not less than BB-minus by Standard & Poor's;

(ii) issued by any other entity with a long-term rating of —

(A) not less than BBB-minus by Fitch Ratings;

(B) not less than Baa3 by Moody's Investor Services; or

(C) not less than BBB-minus by Standard & Poor's;

(iii) being a short-term debt instrument with a rating of —

(A) not less than F3 by Fitch Ratings;

(B) not less than P3 by Moody's Investor Services; or

(C) not less than A3 by Standard & Poor's; or

(iv) listed on the Singapore Exchange Securities Trading Limited or a recognised group A

exchange if, and only if, the issuer's shares are listed on that exchange and qualify as a share referred to in paragraph (*b*) or (*c*);

(*e*) a collective investment scheme —

(i) authorised by the Authority under section 286 of the Act (other than exchange traded funds and property funds); or

(ii) recognised by the Authority under section 287 of the Act (other than exchange traded funds and property funds) —

(A) for which prices are published daily; and

(B) which invests at least 90% of the deposited property of the collective investment scheme in instruments being any or all of the instruments specified in paragraphs (*a*) to (*k*) (including this paragraph);

(*f*) an exchange traded fund quoted on the Singapore Exchange Securities Trading Limited or a recognised group A exchange, which tracks an index of, or basket of, stocks quoted on —

(i) the Singapore Exchange Securities Trading Limited; or

(ii) a recognised group A exchange;

(*g*) a property fund listed on the Singapore Exchange Securities Trading Limited or a recognised group A exchange;

(*h*) any contract traded on —

(i) the Singapore Exchange Securities Trading Limited; or

(ii) a recognised group A exchange, where the shares of the issuer of the contract, and the shares of the issuer of the underlying security, qualify as a share referred to in paragraph (*b*) or (*c*);

(*i*) in the case of an initial public offer, securities to be listed for quotation or quoted on the Singapore Exchange Securities Trading Limited which have been fully paid for by a customer of the holder of a licence;

(*j*) securities quoted on the Central Limit Order Book (CLOB) International; or

(*k*) such other securities or financial instruments as the Authority may specify in an MAS notice applicable to the holder;

[S 192/2013 wef 03/04/2013]

[*Deleted by S 192/2013 wef 03/04/2013]*

"debit balance", in relation to a customer's margin account, means the amount owing by the customer in the margin account and includes —

(*a*) amounts to be financed by the holder of a licence in respect of outstanding purchases made in the margin account of the customer, net of —

(i) cash collateral;

(ii) cash dividends declared and payable into the margin account of the customer; and

(iii) sales proceeds receivable from open sale contracts made in the margin account of the customer; and

(*b*) all commission charges, interest expenses and other related expenses;

"equity", in relation to a customer's margin account, means the current market value of acceptable collateral bought and carried, or deposited as collateral, by a customer in the margin account;

"exchange traded fund" means a collective investment scheme concerned with the acquisition, holding, management or disposal of a portfolio of predetermined constituent assets in predetermined proportions, which constituent assets

principally comprise securities listed for quotation on any securities exchange or overseas securities exchange;

[*Deleted by S 192/2013 wef 03/04/2013]*

"free financial resources" means the financial resources of the holder less the total risk requirement of the holder;

"margin account", in relation to a customer, means an account of the customer through which the relevant holder of a licence extends or has extended securities financing to the customer;

"margin exposure", in respect of a margin account, means —

(*a*) where the securities bought or carried, or deposited as collateral, in the margin account comprise a single securities, the debit balance in the margin account; or

(*b*) where the securities bought or carried, or deposited as collateral, in the margin account comprise 2 or more securities, an amount computed by the following formula:

$$\text{Debit balance} \times \frac{A}{B}$$

where —

A is the current market value of each securities bought or carried, or deposited as collateral, in the margin account; and

B is the aggregate of the current market value of all securities bought or carried in the margin account, and the current market value of all securities deposited as collateral in the margin account;

"property fund" has the same meaning as in the Code on Collective Investment Schemes issued by the Authority under section 321 of the Act;

"share", in relation to acceptable collateral in a customer's margin account, includes —

(*a*) a bonus share that has yet to be credited to the margin account if, and only if, the holder of a licence is legally entitled to the receipt and deposit of such bonus share into the margin account; and

(*b*) a depository receipt.

(7) Any reference to financial resources in this regulation in relation to the holder of a licence referred to in regulation 5 which is a foreign company shall be read as adjusted net head office funds.

Margin requirements for contracts for differences

24A.—(1) The holder of a licence who enters into a contract for differences with its customers shall obtain margin from each customer, in the form of acceptable collateral, for the purpose of trading in contracts for differences.

(2) For the purposes of this regulation, margins deposited by customers with the holder of a licence in accordance with this regulation shall be determined in accordance with Table 18 of the Fourth Schedule and such other requirements as the Authority may from time to time specify by notice in writing.

(3) Where the current market value of acceptable collateral deposited in the customer's margin account for the purpose of trading in contracts for differences falls below the margin requirements referred to in paragraph (2), the holder of the licence shall immediately require the customer to provide additional margin within 2 business days.

(4) In this regulation, "acceptable collateral" has the same meaning as in regulation 24(6).

Share financing

24B.—(1) Subject to its compliance with the conditions under paragraph (2), the holder of a licence for securities financing need not comply with regulation 24 in respect of its provision to a customer of any securities financing to facilitate his subscription for or purchase of any shares —

(*a*) pursuant to an initial public offer;

(*b*) in exercise of an option given under an employee share option scheme; or

(*c*) pursuant to a rights issue,

where the securities financing is provided before the allotment of those shares to the customer (referred to in this regulation as the subject securities financing).

(2) The holder under paragraph (1) shall —

(*a*) take reasonable steps to ensure that the aggregate of —

(i) the amount of the credit facility, advance or loan provided to the customer under the subject securities financing to facilitate his subscription for or purchase of shares in any of the respective circumstances referred to in paragraph (1)(*a*), (*b*) or (*c*); and

(ii) the amount of every other credit facility, advance or loan under any securities financing provided by another financial institution to the customer to facilitate his subscription for or purchase of those shares in the same respective circumstances,

together with all discounts, rebates and other benefits given to the customer for his subscription for or purchase of those shares in those same respective circumstances by the holder and other persons, does not exceed 80% of the amount to be paid by the customer for those shares, including obtaining a written declaration from the customer on whether —

(A) he has received any discount, rebate or other benefit from any person for his subscription for or purchase of those shares in those same respective circumstances, and the amount and other details of each such discount, rebate or benefit; and

(B) he has been provided with securities financing by any other financial institution for his subscription for or purchase of those shares in those same respective circumstances, and the amount of the credit facility,

advance or loan and other details of each such financing; and

(*b*) ensure that the aggregate of —

(i) the amount of the credit facility, advance or loan provided under the subject securities financing; and

(ii) the amount of all credit facilities, advances and loans under all subject securities financing that it has previously provided to its customers,

does not exceed 20% of its free financial resources within the meaning of regulation 24(6).

[S 192/2013 wef 03/04/2013]

Reporting of under-margined accounts by holder of licence

25.—(1) The holder of a licence under regulation 5 shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), when any account which the holder is carrying for any customer is under-margined by an amount which exceeds the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

(2) [*Deleted by S 192/2013 wef 03/04/2013]*

(3) [*Deleted by S 192/2013 wef 03/04/2013]*

(4) Where the holder of a licence which is a member of an approved exchange or approved clearing house has, within one business day, failed to meet a margin call or to make other deposits as required by the approved exchange or approved clearing house (as the case may be), the approved exchange or approved clearing house shall immediately —

(*a*) inform the Authority of such failure by the member; and

(*b*) inform the Authority as to whether any action has been taken, and if so, the action taken, by the approved exchange or

approved clearing house (as the case may be) in respect of such failure by the member.

[S 463/2013 wef 01/08/2013]

(5) The approved exchange or approved clearing house may, in consultation with the Authority, exempt the holder of a licence from the provisions of paragraph (4) with respect to any particular account on a continuous basis, but the approved exchange or approved clearing house shall continue to monitor that account.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

PART VII

LODGEMENT OF DOCUMENTS

Forms

26.—(1) The forms to be used for the purposes of these Regulations are those set out at the Authority's Internet website at http://www.mas.gov.sg (under "Regulations and Financial Stability", "Regulations, Guidance and Licensing", "Securities, Futures and Fund Management"), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website.

[S 384/2012 wef 07/08/2012]

(2) Except as otherwise provided in regulation 27(8), any document required to be lodged with the Authority under any provision of the Act or these Regulations, shall be lodged using the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if it is not completed or lodged in accordance with this regulation.

[S 372/2005 wef 01/07/2005]

Statement to be lodged in respect of regulated activities

27.—(1) The holder of a licence referred to in regulation 5 shall prepare —

(*a*) a statement of assets and liabilities in Form 1; and

(*b*) a statement of financial resources, total risk requirement and aggregate indebtedness, where applicable, in Form 2,

[S 192/2013 wef 03/04/2013]

in respect of each quarter of a year or such longer period as the Authority may allow.

(2) [*Deleted by S 192/2013 wef 03/04/2013]*

(3) [*Deleted by S 192/2013 wef 03/04/2013]*

(4) The holder of a licence referred to in paragraph (1), shall, in preparing any statement referred to in that paragraph, describe the assets and liabilities of its business in a manner that will give a true and fair view of the state of affairs of the business as at the end of the period for which the statement is prepared.

[S 192/2013 wef 03/04/2013]

(5) The holder of a licence for securities financing shall prepare statements in Forms 7, 8 and 9 relating to the carrying on of its business in securities financing in respect of each quarter of a year.

[S 192/2013 wef 03/04/2013]

(6) Every statement referred to in paragraph (1) or (5) shall be lodged with the Authority no later than 14 days, or such longer period as the Authority may allow, after the end of the period for which the statement is prepared.

[S 192/2013 wef 03/04/2013]

(7) Any holder of a licence which fails to lodge any of the statements with the Authority within the period stipulated in paragraph (6), or such longer period as may be allowed by the Authority under that paragraph, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

(8) For the purposes of section 107 of the Act, the holder of a licence shall prepare and lodge with the Authority, by personal delivery or by pre-paid post, a true and fair profit and loss account and a balance-sheet made up to the last day of each financial year in accordance with the provisions of the Companies Act (Cap. 50), together with an auditor's report in Form 5.

[S 192/2013 wef 03/04/2013]

(9) The documents referred to in paragraph (8) shall be accompanied by an auditor's certification in Form 6 and a copy of each of the following documents duly lodged in accordance with regulation 26:

(*a*) a statement relating to the accounts of the holder in Form 3 and a statement relating to further information of the accounts of the holder in Form 4; and

[S 192/2013 wef 03/04/2013]

(*b*) where the holder is a person referred to in regulation 5, a statement of assets and liabilities in Form 1 and a statement of financial resources, total risk requirement and aggregate indebtedness in Form 2.

[S 192/2013 wef 03/04/2013]

(*c*) [*Deleted by S 192/2013 wef 03/04/2013]*

(*d*) [*Deleted by S 192/2013 wef 03/04/2013]*

(*e*) [*Deleted by S 192/2013 wef 03/04/2013]*

[[S 192/2013 wef 03/04/2013]

(10) Any holder of a licence which contravenes paragraph (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

[*Deleted by S 192/2013 wef 03/04/2013]*

PART VIIIA

MISCELLANEOUS

Offences

28A. Any person who contravenes —

(*a*) regulation 4(1), (1A) or (2), 6(1), (2), (2A) or (3), 7(1), (3) or (5)(*a*) or (*b*), 16(1) or (2), 17(1), (2) or (4)(*a*) or (b), 19(1), 20, 21(1) or (2), 22(1) or (2), 23, 24(1), (2) or (3), 24A(1) or (3), 25(1) or (4) or 26(2) or (3); or

[S 192/2013 wef 03/04/2013]

(*b*) any direction issued by the Authority under regulation 4(3)(*a*), 5A(1), 7(2)(*a*), (4)(*b*) or (4A) or 17(3)(*b*) or (3A),

[S 192/2013 wef 03/04/2013]

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

29. [*to 36. [Deleted by S 677/2006 wef 20/12/2006]]*

FIRST SCHEDULE

Regulation 3

BASE CAPITAL REQUIREMENT FOR A CORPORATION TO BE GRANTED A CAPITAL MARKETS SERVICES LICENCE

1. Subject to paragraph 2, the base capital requirement applicable to a corporation to be granted a capital markets services licence in respect of a regulated activity in the first column of the table below shall be that set out opposite thereto in the second column of the table.

[S 714/2010 wef 26/11/2010]

2. Except in the circumstances referred to in paragraph 3, where more than one base capital requirement is applicable to the corporation or holder referred to in paragraph 1, the base capital requirement applicable to the corporation or holder (referred to hereinafter as the applicant) shall be the higher or, as the case may be, highest of the applicable base capital requirements.

FIRST SCHEDULE — *continued*

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
(1) Dealing in securities and —	
(*a*) the applicant is a member of an approved clearing house authorised to operate a clearing facility for securities;	$5 million
(*b*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is a member of a securities exchange;	$1 million
(*c*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is not a member of a securities exchange;	$1 million
(*d*) the applicant does not carry any customer's positions in securities, margins or accounts in its own books, and either —	$500,000
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any securities from any customer (not being an applicant to which paragraph (*e*) applies); or	
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer; or	
(*e*) the applicant —	$250,000
(i) does not carry any customer's positions in securities, margins or accounts in its own books;	
(ii) deals in securities only with accredited investors; and	

FIRST SCHEDULE — *continued*

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer.	
(2) Trading in futures contracts and —	
(*a*) the applicant is a member of an approved clearing house authorised to operate a clearing facility for futures contracts, where the applicant's membership is not limited to specified commodity futures contracts;	$5 million
(*aa*) the applicant is a member of an approved clearing house authorised to operate a clearing facility for futures contracts, where the applicant's membership is limited to specified commodity futures contracts;	$1 million
(*b*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is a member of a futures exchange;	$ 1 million
(*c*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is not a member of a futures exchange;	$1 million
(*d*) the applicant does not carry any customer's positions in futures contracts, margins or accounts in its own books, and either —	$500,000
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any futures contract from any customer (not being an applicant to which paragraph (*e*) applies); or	

FIRST SCHEDULE — *continued*

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer; or	
(*e*) the applicant —	$250,000
(i) does not carry any customer's positions in futures contracts, margins or accounts in its own books;	
(ii) trades in futures contracts only with accredited investors; and	
(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer.	
(2A) Trading in specified commodity futures contracts only and —	
(*a*) the applicant is a member of a clearing house authorised to operate a clearing facility for futures contracts, where the applicant's membership is limited to specified commodity futures contracts;	$1 million
(*b*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is a member of a futures exchange;	$500,000
(*c*) the applicant (not being an applicant to which paragraph (*d*) or (*e*) applies) is not a member of a futures exchange;	$500,000
(*d*) the applicant does not carry any customer's positions in specified commodity futures	$250,000

FIRST SCHEDULE — *continued*

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
contracts, margins or accounts in its own books, and either —	
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any specified commodity futures contracts from any customer (not being an applicant to which paragraph (*e*) applies); or	
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of specified commodity futures contracts by that customer; or	
(*e*) the applicant —	$250,000
(i) does not carry any customer's positions in specified commodity futures contracts, margins or accounts in its own books;	
(ii) trades in specified commodity futures contracts only with accredited investors; and	
(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of specified commodity futures contract by that customer.	
(3) Carrying out leveraged foreign exchange trading.	$1 million
(4) Advising on corporate finance.	$250,000
(5) Carrying out fund management —	

FIRST SCHEDULE — *continued*

First column	*Second column*
Regulated Activity	*Base Capital Requirement Applicable*
(*a*) of any collective investment scheme offered to any investor other than an accredited investor or institutional investor;	$1 million
(*b*) on behalf of any customer other than an accredited investor or institutional investor, whether on a discretionary authority granted by the customer or otherwise; or	$500,000
(*c*) in any other case.	$250,000
(5A) Real estate investment trust management	$1 million
(6) Carrying out securities financing.	$1 million
(6A) Providing credit rating services.	$250,000
(7) Providing custodial services for securities.	$1 million.

[S 463/2013 wef 01/08/2013]

S 384/2012 wef 07/08/2012]

S 19/2012 wef 17/01/2012]

3. Where an applicant trades only in futures contracts in respect of one or more of the following commodities (referred to hereinafter as specified commodity futures contracts), the applicant may opt for the applicable base capital requirement corresponding to either item (2) or (2A) in the table below:

(*a*) gold;

(*b*) any produce, item, goods or article, including an index, right or interest in any produce, item, goods or article.

SECOND SCHEDULE

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SECOND SCHEDULE — *continued*

THIRD SCHEDULE

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

FOURTH SCHEDULE

Regulation 2 and Third Schedule

Table 1

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

Table 2

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

TABLE 3 — RECOGNISED MULTILATERAL AGENCIES

Regulation 24(6)

For the purposes of regulation 24(6), a recognised multilateral agency is an agency specified in the table below or such other entity as may be specified in an MAS notice.

Name of Multilateral Agency

(1) The African Development Bank

(2) The Asian Development Bank

(3) The Bank for International Settlements

(4) The European Bank for Reconstruction and Development

(5) The European Union

(6) The European Investment Bank

(7) The Inter-American Development Bank

(8) The International Bank for Reconstruction and Development (The World Bank)

(9) The International Finance Corporation

(10) The International Monetary Fund.

[S 192/2013 wef 03/04/2013]

FOURTH SCHEDULE — *continued*

TABLE 4 — RECOGNISED GROUP A AND RECOGNISED GROUP B EXCHANGES

Regulation 24

For the purposes of regulation 24, a recognised exchange is an overseas securities exchange or an overseas futures exchange regulated by a financial services regulatory authority of a country or territory specified in the table below or such other country or territory as may be specified in an MAS notice.

Country or Territory of Group A Exchanges	*Country or Territory of Group B Exchanges*
(1) Australia	(1) China
(2) Austria	(2) Greece
(3) Belgium	(3) Finland
(4) Canada	(4) India
(5) France	(5) Indonesia
(6) Germany	(6) Ireland
(7) Hong Kong	(7) Luxembourg
(8) Italy	(8) Norway
(9) Japan	(9) Philippines
(10) Malaysia (except Labuan)	(10) Portugal.
(11) Netherlands	
(12) New Zealand	
(13) South Korea	
(14) Spain	
(15) Sweden	
(16) Switzerland	
(17) Taiwan	
(18) Thailand	
(19) United Kingdom	
(20) United States of America.	

[S 192/2013 wef 03/04/2013]

FOURTH SCHEDULE — *continued*

Table 5

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Table 6

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Table 7

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Table 8

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Table 9

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Table 10

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Table 11

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Table 12

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Table 13

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FOURTH SCHEDULE — *continued*

Table 14

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Table 15

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Table 16

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

Table 17

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

TABLE 18 — MINIMUM MARGIN REQUIRMENTS FOR CONTRACTS FOR DIFFERENCES

Regulation 24A(2)

CONTRACT FOR DIFFERENCES	MINIMUM MARGIN REQUIREMENTS
Equity CFDs	(*a*) 10% for index stocks; and (*b*) 20% for non-index stocks.
Index CFDs	5%
Foreign Exchange CFDs	2%
CFDs with non-guaranteed stop-loss	Lesser of — (*a*) the sum of the amount at risk and 30% of the standard margin; or (*b*) the standard margin
CFDs with guaranteed stop-loss	Lesser of — (*a*) the amount at risk, and if the CFD is subject to any adjustment for dividend, interest or commission, to add an additional 10%; or

FOURTH SCHEDULE — *continued*

	(*b*) the standard margin
Any other CFD	20%

In this Table —

"amount at risk" means the maximum loss a customer may incur based on the difference between the contract price and stop-loss price;

"CFD" means a contract for differences;

"index" means the Straits Times Index, MSCI Singapore Index or a market index of a recognised group A exchange;

"standard margin" means the minimum margin for the CFDs without stop-loss features;

"stop-loss" means a feature attached to an open CFD position to close the CFD if the price reaches a specified level.

FIFTH SCHEDULE

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

SIXTH SCHEDULE

[*Deleted by S 192/2013 wef 03/04/2013 wef 03/04/2013*]

SEVENTH SCHEDULE

Deleted by S 372/2005, wef 01/07/2005.

LEGISLATIVE HISTORY

SECURITIES AND FUTURES (FINANCIAL AND MARGIN REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS SERVICES LICENCES) REGULATIONS (CHAPTER 289, RG 13)

This Legislative History is provided for the convenience of users of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations. It is not part of these Regulations.

1. **G. N. No. S 498/2002 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations 2002**

Date of commencement : 1 October 2002

2. **G. N. No. S 332/2003 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2003**

Date of commencement : 10 July 2003

3. **G. N. No. S 521/2003 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2003**

Date of commencement : 6 November 2003

4. **2004 Revised Edition — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations**

Date of operation : 29 February 2004

5. **G. N. No. S 372/2005 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2005**

Date of commencement : 1 July 2005

6. **G. N. No. S 78/2006 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2006**

Date of commencement : 1 March 2006

7. **G. N. No. S 507/2006 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2006**

Date of commencement : 28 August 2006

8. **G. N. No. S 677/2006 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 3) Regulations 2006**

Date of commencement : 20 December 2006

9. **G. N. No. S 445/2007 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2007**

Date of commencement : 27 February 2008

10. **G. N. No. S 101/2008 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2008**

Date of commencement : 27 February 2008

11. **G. N. No. S 375/2008 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2008**

Date of commencement : 1 August 2008

12. **G. N. No. S 77/2009 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2009**

Date of commencement : 1 March 2009

13. **G. N. No. S 714/2010 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2010**

Date of commencement : 26 November 2010

14. **G.N. No. S 19/2012 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets**

Services Licences) (Amendment) Regulations 2012

Date of commencement : 17 January 2012

15. G.N. No. S 384/2012 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2012

Date of commencement : 7 August 2012

16. G.N. No. S 192/2013 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2013

Date of commencement : 3 April 2013

17. G.N. No. S 463/2013 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2013

Date of commencement : 1 August 2013

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-5(4)

Securities and Futures (Corporate Governance of Approved Exchanges, Approved Clearing Houses and Approved Holding Companies) Regulations 2005

No. S 742

SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES (CORPORATE GOVERNANCE OF APPROVED EXCHANGES, APPROVED CLEARING HOUSES AND APPROVED HOLDING COMPANIES) REGULATIONS 2005

In exercise of the powers conferred by sections 45, 81S and 81ZK of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Corporate Governance of Approved Exchanges, Approved Clearing Houses and Approved Holding Companies) Regulations 2005 and shall come into operation on 29th November 2005.

[S 462/2013 wef 01/08/2013]

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

"associated corporation", in relation to a corporation, means —

(*a*) any corporation in which the first-mentioned corporation or its subsidiary has, or the first-mentioned corporation and its subsidiary together have, an interest in shares entitling the beneficial owners thereof the right to cast, whether by proxy or in person, not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the second-mentioned corporation; or

(*b*) any corporation, other than a subsidiary of the first-mentioned corporation or a corporation which is an associated corporation by virtue of paragraph (*a*), the policies of which the first-mentioned corporation or its subsidiary is, or the first-mentioned corporation together with its subsidiary are, able to control or influence materially;

"Audit Committee" means an Audit Committee referred to in regulation 14;

"Conflicts Committee" means a Conflicts Committee referred to in regulation 15;

"executive director" means a director who is concurrently an executive officer and "non-executive director" shall be construed accordingly;

"executive officer", in relation to a corporation, means any person, by whatever name described, who —

(*a*) is in the direct employment of, or acting for or by arrangement with, the corporation; and

(*b*) is concerned with, or takes part in, the management of the corporation on a day-to-day basis;

"immediate family", in relation to an individual, means the individual's spouse, child, adopted child, step-child, brother, sister, parent or step-parent;

"independent director", in relation to a regulated institution, means a director who is —

(*a*) independent from any management and business relationship with the regulated institution; and

(*b*) independent from any substantial shareholder of the regulated institution;

"member" —

(*a*) in relation to an approved exchange or an approved clearing house, has the same meaning as in section 2 of the Act; and

[S 462/2013 wef 01/08/2013]

(*b*) in relation to an approved holding company, means a person who holds membership of any class or description in an approved exchange or an approved clearing house of which the approved holding company is the holding company;

[S 462/2013 wef 01/08/2013]

"Nominating Committee" means a Nominating Committee referred to in regulation 9;

"regulated institution" means an approved exchange, an approved clearing house or an approved holding company;

[S 462/2013 wef 01/08/2013]

"Remuneration Committee" means a Remuneration Committee referred to in regulation 13.

(2) In these Regulations, in relation to a company which may dispense with the holding of annual general meetings under section 175A of the Companies Act (Cap. 50) —

(*a*) a reference to the doing of anything at an annual general meeting of the company shall be read as a reference to the doing of that thing by way of a resolution by written means in accordance with the Companies Act; and

(*b*) a reference to the date of an annual general meeting of the company shall, unless the meeting is held, be read as a reference to the date of expiry of the period within which the meeting is required by law to be held.

PART II

GOVERNANCE OF REGULATED INSTITUTIONS

Independence from management and business relationships

3.—(1) In these Regulations, subject to regulation 5, a director shall be considered to be independent from management and business relationships with a regulated institution if —

(*a*) the director has no management relationship with the regulated institution or any of its subsidiaries; and

(*b*) the director has no business relationship with the regulated institution or any of its subsidiaries, or with any officer of the regulated institution,

that could interfere, or be reasonably regarded as interfering, with the exercise of the director's independent business judgment with regard to the interest of the regulated institution.

(2) Without prejudice to paragraph (1)(*a*), a director shall not be considered to be independent from management relationships with a regulated institution or any of its subsidiaries if —

(*a*) he is employed by the regulated institution or any of its subsidiaries, or has been so employed at any time during the current financial year or any of the preceding 3 financial years of the regulated institution or any of its subsidiaries;

(*b*) any member of his immediate family —

(i) is employed by the regulated institution or any of its subsidiaries as an executive officer whose compensation is determined by the Remuneration Committee of the regulated institution or any of its subsidiaries; or

(ii) has been so employed at any time during the current financial year or any of the preceding 3 financial years of the regulated institution or any of its subsidiaries; or

(*c*) he is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the management of the regulated institution or any of its subsidiaries.

(3) Without prejudice to paragraph (1)(*b*) but subject to regulation 5, a director shall not be considered to be independent from business relationships with a regulated institution or any of its subsidiaries if —

(*a*) he is a director, a substantial shareholder or an executive officer of any corporation, or a partner of a firm or a limited liability partnership or a sole proprietor, where such corporation, firm, limited liability partnership or sole proprietor carries on business for purposes of profit to which the regulated institution or any of its subsidiaries has made, or from which the regulated institution or any of its subsidiaries has received, substantial payments in the current or immediately preceding financial year;

(*b*) he is receiving or has received, any compensation from the regulated institution or from any of its subsidiaries, other than compensation received for his services as a director or as an employee, at any time during the current or immediately preceding financial year of the regulated institution;

(*c*) he is a director or a substantial shareholder of a corporation which is —

(i) a member of; or

(ii) a related corporation of a member of,

the regulated institution or any of its subsidiaries;

(*d*) he is employed by, is receiving or has, at any time during the current or immediately preceding financial year of the regulated institution, received any compensation from a corporation which is —

(i) a member of the regulated institution;

(ii) a related corporation of a member of the regulated institution;

(iii) a member of a subsidiary of the regulated institution; or

(iv) a related corporation of a member of a subsidiary of the regulated institution,

and, in the case referred to in sub-paragraph (ii) or (iv), he is responsible for or engages in the activities of the member; or

(*e*) any member of his immediate family is —

(i) a director or a substantial shareholder of a corporation which is a member of —

(A) the regulated institution; or

(B) any of the subsidiaries of the regulated institution; or

(ii) employed by a corporation which is a member of —

(A) the regulated institution; or

(B) any of the subsidiaries of the regulated institution,

as an executive officer whose compensation is determined by the Remuneration Committee of that corporation.

(4) For the purposes of paragraph (3)(*a*), "payments" does not include payments for transactions involving standard services with published rates, or for routine or retail transactions or relationships, unless special or favourable treatment is accorded.

Independence from substantial shareholder

4.—(1) In these Regulations, subject to regulation 5, a director of a regulated institution shall be considered to be independent from a substantial shareholder of the regulated institution if he is not that substantial shareholder and is not connected to that substantial shareholder.

(2) For the purposes of paragraph (1), a person is connected to a substantial shareholder if he is —

(*a*) in the case where the substantial shareholder is an individual —

(i) a member of the immediate family of the substantial shareholder;

(ii) employed by the substantial shareholder;

(iii) a partner of a firm or a limited liability partnership of which the substantial shareholder is also a partner; or

(iv) accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the substantial shareholder; or

(*b*) in the case where the substantial shareholder is a corporation —

(i) employed by the substantial shareholder;

(ii) employed by a subsidiary or an associated corporation of the substantial shareholder;

(iii) a director of the substantial shareholder;

(iv) a director of a subsidiary or an associated corporation of the substantial shareholder;

(v) a partner of a firm or a limited liability partnership of which the substantial shareholder is also a partner; or

(vi) accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the substantial shareholder.

Determination by Nominating Committee

5.—(1) The Nominating Committee of a regulated institution may determine that a director of the regulated institution who is —

(*a*) not considered independent from management or business relationships with the regulated institution under regulation 3(2) or (3), respectively; or

(*b*) not considered independent from a substantial shareholder of the regulated institution because of any relationship specified in regulation 4(2),

shall nonetheless be considered independent from management and business relationships with the regulated institution, or independent from a substantial shareholder of the regulated institution, as the case may be, if the Nominating Committee is satisfied that the director's independent business judgment and ability to act in the interest of the regulated institution will not be impeded, despite the relationships specified in that regulation.

(2) If —

(*a*) at any time, the Authority is not satisfied that a director is independent notwithstanding any determination of the Nominating Committee made under paragraph (1); and

(*b*) the lack of independence of that director would result in a failure to comply with any of the requirements under regulation 6(1), 7, 9(1), 13(1), 14(1) or 15(1),

the Authority shall direct the regulated institution to rectify the composition of the board of directors or any relevant committee in accordance with the requirements under regulation 6(1), 7, 9(1), 13(1), 14(1) or 15(1), as the case may be, within such time, and subject to such conditions or restrictions, as the Authority may specify.

(3) Where the Authority has given a direction to a regulated institution under paragraph (2), the requirements under regulation 6(1), 7, 9(1), 13(1), 14(1) or 15(1), as the case may be, shall not apply to the regulated institution during the period between the time the Authority makes the direction and the time by which the regulated institution is required to rectify the composition of the board of directors or any relevant committee in accordance with the direction.

Board of directors

6.—(1) Subject to paragraphs (2), (3) and (4) and regulations 5(3) and 18, a regulated institution shall have a board of directors comprising —

(*a*) at least a majority of directors who are independent from management and business relationships with the regulated institution;

(*b*) at least one-third of directors who are independent directors; and

(*c*) at least a majority of directors who are independent from any single substantial shareholder of the regulated institution.

(2) Where a single substantial shareholder holds 50% or more of the share capital or the voting power in a regulated institution, paragraph (1)(*c*) shall not apply to the regulated institution in respect of the independence of its directors from that substantial shareholder.

(3) If a member of the board of directors resigns or ceases to be a member of the board of directors for any other reason, the regulated institution shall —

(*a*) notify the Authority of the event within 14 days of the occurrence of the event; and

(*b*) on or before its next annual general meeting, appoint such number of new directors as may be necessary to rectify the composition of the board of directors in accordance with the requirements prescribed under paragraph (1).

(4) Notwithstanding paragraph (3), the Authority may, upon being notified under paragraph (3)(*a*), direct the regulated institution to rectify the composition of the board of directors in accordance with the requirements under paragraph (1) within such time before the next annual general meeting of the regulated institution and subject to such conditions or restrictions as the Authority may specify, and the regulated institution shall comply with that direction.

(5) The board of directors shall maintain records of all its meetings.

Executive Committee

7. Where the board of directors of a regulated institution has delegated any of its powers for the oversight of the regulated institution to an executive committee or any other committee by whatever name described (referred to in these Regulations as an Executive Committee), consisting of such directors as the board of directors thinks fit, regulation 6 (other than regulation 6(1)(*a*)) shall apply, with the necessary modifications, to the regulated institution in respect of the Executive Committee as if the Executive Committee were a board of directors.

Committees of board of directors

8. A regulated institution shall have —

(*a*) a Nominating Committee;

(*b*) a Remuneration Committee;

(*c*) an Audit Committee; and

(*d*) a Conflicts Committee.

Nominating Committee

9.—(1) Subject to paragraphs (2) and (5) and regulations 5(3) and 18, a regulated institution shall have a Nominating Committee comprising —

(*a*) at least 5 members of the board of directors of the regulated institution;

(*b*) at least a majority of directors (including the chairman of the Nominating Committee) who are independent from management and business relationships with the regulated institution;

(*c*) at least one-third of directors who are independent directors; and

(*d*) at least a majority of directors who are independent from any single substantial shareholder of the regulated institution.

(2) Where a single substantial shareholder holds 50% or more of the share capital or the voting power in a regulated institution, paragraph (1)(*d*) shall not apply to the regulated institution in respect of the independence of its directors from that substantial shareholder.

(3) A regulated institution shall obtain the prior approval of the Authority for the appointment of the chairman and members of the Nominating Committee.

(4) Every member of the Nominating Committee shall be appointed to hold office until the next annual general meeting following that member's appointment, and shall be eligible for re-appointment.

(5) If a member of the Nominating Committee resigns, ceases to be a director or for any other reason ceases to be a member of the Nominating Committee and this results in a breach of any requirement prescribed under paragraph (1), the board of directors shall, within 3 months of that event, appoint such number of new members as may be necessary to rectify the composition of the Nominating Committee in accordance with that requirement.

Responsibilities of Nominating Committee

10.—(1) The Nominating Committee of a regulated institution shall identify the candidates and review all nominations for the appointment of —

(*a*) each director;

(*b*) each member of each board committee (including the Executive Committee, if any); and

(*c*) the chief executive officer, deputy chief executive officer and chief financial officer,

of the regulated institution.

(2) Subject to paragraph (3), the Nominating Committee shall determine the criteria to be applied in identifying a candidate or reviewing a nomination for the purposes of these Regulations.

(3) The criteria to be applied in identifying a candidate or reviewing a nomination for the purposes of these Regulations shall include the following:

(*a*) the appointment of the candidate or nominee will not result in non-compliance with the requirements under regulations 6(1), 7, 9(1), 13(1), 14(1) and 15(1); and

(*b*) the candidate or nominee is a fit and proper person for the office and is qualified for the office, taking into account the candidate's or nominee's track record, age, experience, capabilities and such other relevant factors as may be determined by the Nominating Committee.

(4) The Nominating Committee shall maintain records of all its meetings.

Determination of independence of directors

11.—(1) Where a person is proposed to be appointed as a director, prior to his appointment, the Nominating Committee —

(*a*) shall determine —

(i) whether he is independent from management and business relationships with the regulated institution; and

(ii) whether he is independent from any substantial shareholder of the regulated institution,

using the criteria set out in regulation 3 or 4, as the case may be, and, where applicable, in accordance with regulation 5; and

(*b*) shall maintain a record of its determination.

(2) Prior to every annual general meeting of a regulated institution, the Nominating Committee —

(*a*) shall determine —

(i) whether each existing director is independent from management and business relationships with the regulated institution; and

(ii) whether each existing director is independent from any substantial shareholder of the regulated institution,

using the criteria set out in regulation 3 or 4, as the case may be, and, where applicable, in accordance with regulation 5; and

(*b*) shall maintain a record of its determination.

Furnishing information to Authority

12. A regulated institution shall, after its Nominating Committee has concluded its deliberations in respect of the matters under regulations 10 and 11 and the board of directors has concurred with the Nominating Committee —

(*a*) notify the Authority in writing of the particulars of the persons proposed to be appointed to the Remuneration Committee, Audit Committee or Executive Committee, as the case may be, including whether the requirements for independence in regulations 3 and 4 are satisfied;

(*b*) in the case where the Nominating Committee has made a determination under regulation 5, provide the Authority with the Nominating Committee's explanation of its decision as to why the director should be considered independent; and

(*c*) furnish to the Authority such other information as the Authority may require.

Remuneration Committee

13.—(1) Subject to paragraphs (3), (6) and (7) and regulations 5(3) and 18, a regulated institution shall have a Remuneration Committee comprising —

(*a*) at least 3 members of the board of directors of the regulated institution, all of whom satisfy the requirements set out in paragraph (2);

(*b*) at least a majority of directors (including the chairman of the Remuneration Committee) who are independent from management and business relationships with the regulated institution;

(*c*) at least one-third of directors who are independent directors; and

(*d*) at least a majority of directors who are independent from any single substantial shareholder.

(2) The requirements referred to in paragraph (1)(*a*) to be satisfied by a director are that —

(*a*) the matters referred to in regulation 3(3)(*c*), (*d*) and (*e*) do not apply to him; or

(*b*) if any matter referred to in regulation 3(3)(*c*), (*d*) or (*e*) applies to him —

(i) the Nominating Committee of the regulated institution has determined under regulation 5(1) that he shall nonetheless be considered independent from management and business relationships with the regulated institution; and

(ii) the Authority has not given a direction under regulation 5(2) in relation to his appointment to the Remuneration Committee.

(3) Where a single substantial shareholder holds 50% or more of the share capital or the voting power in a regulated institution, paragraph (1)(*d*) shall not apply to the regulated institution in respect of the independence of its directors from that substantial shareholder.

(4) In addition to such other responsibilities as may be determined by the board of directors of a regulated institution, the Remuneration Committee of the regulated institution shall be responsible for recommending —

(*a*) a framework for determining the remuneration of directors and executive officers of the regulated institution; and

(*b*) the remuneration of each executive director and the chief executive officer of the regulated institution.

(5) The Remuneration Committee shall maintain records of all its meetings.

(6) If a member of the Remuneration Committee resigns, ceases to be a director or for any other reason ceases to be a member of the Remuneration Committee and this results in a breach of any requirement under paragraph (1), the board of directors shall, within 3 months of that event, appoint such number of new members as may be necessary to rectify the composition of the Remuneration Committee in accordance with that requirement.

(7) Where before 29th November 2005, a regulated institution has appointed, as the chairman of its Remuneration Committee, any person who is not independent from management and business relationships with the regulated institution, the regulated institution shall not be prohibited from re-appointing that person as chairman of its Remuneration Committee immediately upon the expiry of the earlier term of appointment.

Audit Committee

14.—(1) Subject to paragraph (4) and regulations 5(3) and 18, a regulated institution shall have an Audit Committee comprising —

(*a*) at least 3 members of the board of directors of the regulated institution, all of whom are independent from management and business relationships with the regulated institution; and

(*b*) at least a majority of directors (including the chairman of the Audit Committee) who are independent directors.

(2) The Audit Committee shall, in addition to such other responsibilities as may be determined by the board of directors or provided under written law, be responsible for the adequacy of the external and internal audit functions of the regulated institution, including reviewing the scope and results of audits carried out in respect of the operations of the regulated institution and the independence and objectivity of the regulated institution's external auditors.

(3) The Audit Committee shall maintain records of all its meetings.

(4) If a member of the Audit Committee resigns, ceases to be a director or for any other reason ceases to be a member of the Audit Committee and this results in a breach of paragraph (1), the board of directors shall, within 3 months of that event, appoint such number of new members as may be necessary to rectify the composition of the Audit Committee in accordance with that requirement.

Conflicts Committee

15.—(1) Subject to paragraph (4) and regulations 5(3) and 18, a regulated institution shall have a Conflicts Committee comprising —

(*a*) at least 3 members of the board of directors of the regulated institution, all of whom are independent from management and business relationships with the regulated institution; and

(*b*) at least a majority of directors (including the chairman of the Conflicts Committee) who are independent from any substantial shareholder.

(2) A regulated institution shall obtain the prior approval of the Authority for the appointment of the chairman and members of the Conflicts Committee.

(3) In addition to such other responsibilities as may be determined by the board of directors of a regulated institution, the Conflicts Committee shall be responsible for —

(*a*) reviewing the adequacy of the arrangements within the regulated institution and its subsidiaries for dealing with any perceived or actual conflict between any of the following:

(i) the interests arising from the regulation and supervision of —

(A) the members of the regulated institution and its subsidiaries; and

(B) the relevant corporations of the regulated institution;

(ii) the commercial interests of the regulated institution or any of its subsidiaries,

including any conflict of interests or potential conflict of interests arising as a result of the listing of the shares of the regulated institution on any market operated by the regulated institution or any of its subsidiaries; and

(*b*) carrying out regular reviews of the adequacy of the plans, budget and resources of the regulated institution and its subsidiaries in relation to the regulation and supervision of —

(i) the members of the regulated institution and its subsidiaries; and

(ii) the relevant corporations of the regulated institution,

and reporting to the board of directors if it is of the view that insufficient funding and resources are being devoted by the regulated institution or its subsidiary, as the case may be, to the supervision of the members, their subsidiaries and the relevant corporations.

(4) If a member of the Conflicts Committee resigns, ceases to be a director or for any other reason ceases to be a member of the Conflicts Committee and this results in a breach of any requirement under paragraph (1), the board of directors shall, within 3 months of that event, appoint such number of new members as may be necessary to rectify the composition of the Conflicts Committee in accordance with that requirement.

(5) In paragraph (3), "relevant corporations" —

(*a*) in relation to a regulated institution which is an approved exchange, means corporations whose securities are listed for quotation on a securities market operated by the approved exchange or any of its related corporations; and

(*b*) in relation to a regulated institution which is an approved clearing house or an approved holding company, means corporations whose securities are listed for quotation on a securities market operated by any of the related corporations of the approved clearing house or approved holding company, as the case may be.

[S 462/2013 wef 01/08/2013]

Separation of roles

16.—(1) Subject to paragraph (2), a regulated institution shall not appoint any of its executive directors as the chairman of the board of directors.

(2) Where before 29th November 2005, a regulated institution has appointed as the chairman of its board of directors, any person who is an executive director of the regulated institution, and that person holds both the appointments of chairman and executive director concurrently immediately before that date, the regulated institution —

(*a*) shall not be required to revoke that person's appointment as chairman or as executive director; and

(*b*) shall not be prohibited from re-appointing that person as chairman or as executive director for so long as that person does not cease to hold both the appointments of chairman and executive director concurrently.

Exemption

17.—(1) The Authority may, on the application of a regulated institution, by notice in writing exempt the regulated institution from all or any of the provisions of these Regulations, subject to such conditions or restrictions as the Authority may determine, if the Authority considers it appropriate to do so in the circumstances of the case.

(2) In the case where the holding company of any regulated institution is itself an approved holding company which complies with all requirements under these Regulations, the Authority may exempt the regulated institution from all or any of the requirements under these Regulations, subject to such conditions or restrictions as the Authority may determine.

(3) The regulated institution shall comply with the conditions and restrictions imposed on it under paragraph (1) or (2).

Exceptions

18.—(1) Subject to paragraphs (2) and (3), the requirements under regulations 6(1), 7, 9(1), 13(1), 14(1) and 15(1) shall not apply in relation to a regulated institution —

(*a*) where —

(i) there is a change in status of a director under regulation 3 or 4 during the period between the date immediately after the date of the director's appointment and the date immediately before the next annual general meeting of the regulated institution; and

(ii) the regulated institution could not reasonably have known of that change on or before the date of the director's appointment; or

(*b*) where —

(i) there is a change in status of a director under regulation 3 or 4 during the period between the date immediately after an annual general meeting of the regulated

institution and the date immediately before the next annual general meeting of the regulated institution (other than the period referred to in sub-paragraph (*a*)(i)); and

(ii) the regulated institution could not reasonably have known of that change on or before the date of the first-mentioned annual general meeting.

(2) Paragraph (1) shall not apply unless, in the circumstances referred to in paragraph (1)(*a*)(i) and (*b*)(i), the regulated institution, within 14 days of becoming aware of the change in status of the director, notifies the Authority of the change and, subject to paragraph (3) —

(*a*) in respect of any requirement under regulation 6(1), at the next annual general meeting, appoints such number of new directors as may be necessary to rectify the composition of the board of directors in accordance with that requirement; or

(*b*) in respect of any requirement under regulation 7, 9(1), 13(1), 14(1) or 15(1), within 3 months of notifying the Authority of the change of status of the director, appoints such number of new members as may be necessary to rectify the composition of the relevant committee in accordance with that requirement.

(3) Notwithstanding paragraph (2), the Authority may, upon being notified of a change in status of a director under paragraph (2), direct the regulated institution —

(*a*) to appoint such number of new directors as may be necessary to rectify the composition of the board of directors in accordance with the requirements under regulation 6(1) within such time before the next annual general meeting of the regulated institution and subject to such conditions or restrictions as the Authority may specify; or

(*b*) to appoint such number of new members as may be necessary to rectify the composition of the relevant committee in accordance with the requirements under regulation 7, 9(1), 13(1), 14(1) or 15(1), as the case may be, within such time before the expiration of 3 months from the date the regulated institution notifies the Authority of the change and subject to such conditions or restrictions as the Authority may specify.

(4) The regulated institution shall comply with the direction under paragraph (3).

Offences

19.—(1) Any regulated institution which contravenes regulation 6(1) or (4), 8, 9(1), 12, 13(1), 14(1), 15(1), 16(1), 17(3) or 18(3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(2) Section 333(1) of the Act shall not apply to any offence referred to in paragraph (1).

PART III

SAVINGS AND TRANSITIONAL PROVISION

Savings and transitional provision

20. These Regulations shall not apply to any regulated institution for the period from 29th November 2005 to the date on which the annual general meeting of the regulated institution is held in 2007.

Made this 17th day of November 2005.

HENG SWEE KEAT
Managing Director,
Monetary Authority of Singapore.

[MCH 014/2005 Vol. 1; AG/LEG/SL/289/2005/16 Vol. 1]

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-5(5)

Securities and Futures (Licensing and Conduct of Business) Regulations

Part I PRELIMINARY

Part II Licensing, representative notification and related Matters

Part III CUSTOMER'S MONEYS AND ASSETS

Division 1 — Definitions

Division 2 — Customer's Moneys

Division 3 — Customer's Assets

Division 4 — Miscellaneous

Part IV CONDUCT OF BUSINESS

Part V DEALING IN GOVERNMENT SECURITIES

Part VI MISCELLANEOUS

SECURITIES AND FUTURES ACT
(CHAPTER 289, SECTIONS 2(1), 84, 85, 87, 90, 91, 93 TO 97, 99, 100, 102, 104, 118, 120, 123, 128, 337, 339(3) AND 341)

SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS) REGULATIONS

Rg 10

G.N. No. S 457/2002

REVISED EDITION 2004

(29th February 2004)

[1st October 2002;
1st April 2003: – regulation 54]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Securities and Futures (Licensing and Conduct of Business) Regulations.

Definitions

2. In these Regulations, unless the context otherwise requires —

"advertisement", in relation to a holder of a capital markets services licence, means a dissemination or conveyance of information, or an invitation or solicitation, in respect of any regulated activity that the holder is licensed to carry on business in, by any means or in any form, including by means of —

(*a*) publication in a newspaper, magazine, journal or other periodical;

(*b*) display of posters or notices;

(*c*) circulars, handbills, brochures, pamphlets, books or other documents;

(*d*) letters addressed to individuals or bodies;

(*e*) photographs or cinematograph films; or

(*f*) sound broadcasting, television, the Internet or other media;

[S 373/2005 wef 01/07/2005]

"bond" includes —

(*a*) any note, bond or Treasury Bill;

(*b*) an option in respect of any note, bond or Treasury Bill; and

(*c*) such other securities or class of securities as the Authority may from time to time, by a guideline issued by the Authority, determine;

"electronic record" has the same meaning as in section 2 of the Electronic Transactions Act (Cap. 88);

"Government securities" means securities issued or proposed to be issued by the Government, and includes —

(*a*) any debenture, stock or bond issued or proposed to be issued by the Government;

(*b*) any right or option in respect of any debenture, stock or bond referred to in paragraph (*a*);

(*c*) book-entry Government securities as defined in section 2 of the Development Loan (1987) Act (Cap. 81A) or section 2 of the Government Securities Act (Cap. 121A); and

(*d*) book-entry Treasury Bills as defined in section 2 of the Local Treasury Bills Act (Cap. 167);

"guideline issued by the Authority" means a guideline issued by the Authority under section 321 of the Act;

"Internet-based trading platform" means an order management system for the purpose of dealing in securities, trading in futures contracts or carrying out leveraged foreign exchange trading, offered by a holder of a capital markets services licence or a person who is exempt from holding a capital markets services licence pursuant to section 99(1)(*a*), (*b*) or (*c*) of the Act,

which is accessible through the Internet, and is not limited to accredited investors, expert investors and institutional investors;

[S 170/2013 wef 28/03/2014]

"position" means a futures contract or a leveraged foreign exchange transaction which is still outstanding, and which has not been liquidated —

(*a*) against any transaction for purposes of set-off;

(*b*) by delivery of the commodity underlying the futures contract or leveraged foreign exchange transaction;

(*c*) by settlement of the futures contract or leveraged foreign exchange transaction in accordance with the rules of a futures exchange or a clearing house or the practices of a futures market, a foreign exchange market or a recognised trading system provider, as the case may be;

(*d*) in the case of a futures contract, by substituting the futures contract with cash commodity; or

(*e*) in the case of a leveraged foreign exchange transaction, by substituting the leveraged foreign exchange transaction for a futures contract;

"quarter", in relation to a calendar year, means a period of 3 months ending on the last day of March, June, September or December in that calendar year;

"Registered Fund Management Company" means a corporation which is exempted from holding a capital markets services licence under paragraph 5(1)(*i*) of the Second Schedule;

[S 385/2012 wef 07/08/2012]

"Rules and Market Practices" means the Rules and Market Practices (including any amendment and modification thereto) of the Singapore Government Securities Market as promulgated from time to time by the Singapore Government Securities Market Committee of the Singapore Government Securities Market.

PART II

LICENSING, REPRESENTATIVE NOTIFICATION AND RELATED MATTERS

Forms

3.—(1) The forms to be used for the purposes of these Regulations are those set out at the Authority's Internet website at http://www.mas.gov.sg (under "Regulations and Financial Stability", "Regulations, Guidance and Licensing", "Securities, Futures and Fund Management"), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website.

[S 385/2012 wef 07/08/2012]

(2) Any document required to be lodged with the Authority under any provision of Parts IV to VI of the Act or these Regulations shall be lodged in the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

[S 503/2012 wef 19/11/2012]

(3) All forms used for the purposes of these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if —

(*a*) it is not completed or lodged in accordance with this regulation; or

(*b*) it is not accompanied by the relevant fee referred to in regulation 6.

(5) Where strict compliance with any form is not possible, the Authority may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the Authority thinks fit.

[S 373/2005 wef 01/07/2005]

Lodgment of documents and undertaking of responsibilities for representative

3A.—(1) A notice of intent under section 99H(1)(*a*) of the Act by a principal to appoint an individual as an appointed representative in respect of a type of regulated activity and a certificate under section 99H(1)(*b*) of the Act by the principal as to the fitness and propriety of the individual to be so appointed shall be in Form 3A.

(2) A notice of intent under section 99H(1)(*a*) of the Act by a principal to appoint an individual as a provisional representative in respect of a type of regulated activity and a certificate under section 99H(1)(*b*) of the Act by the principal as to the fitness and propriety of the individual to be so appointed shall be in Form 3B.

(3) A notice of intent under section 99H(1)(*a*) of the Act by a principal to appoint an individual as a temporary representative in respect of a type of regulated activity and a certificate under section 99H(1)(*b*) of the Act by the principal as to the fitness and propriety of the individual to be so appointed shall be in Form 3C.

(4) A principal who lodges with the Authority the certificate under section 99H(1)(*b*) of the Act shall retain copies of all information and documents which it relied on in giving the certificate for a period of 5 years from the date of lodgment.

(5) For the purposes of section 99H(1)(*c*) of the Act, a principal shall undertake all of the following responsibilities in relation to its representative:

(*a*) to put in place measures to properly supervise the activities and conduct of the representative, including measures to ensure that all obligations assumed and liabilities incurred by him are properly fulfilled, whether actual or contingent and howsoever arising, in relation to carrying out any regulated activity;

(*b*) to put in place measures, including proper training, to ensure that the representative understands and complies with all Singapore laws that are relevant to the regulated activity carried out by him;

(*c*) to ensure that the representative is accompanied at all times by any of the persons referred to in paragraph (6) when meeting any client or member of the public in the course of carrying on business in any regulated activity;

(*d*) to ensure that the representative sends concurrently to any of the persons referred to in paragraph (6) all electronic mail that he sends to any client or member of the public in the course of carrying on business in any regulated activity;

(*e*) to ensure that the representative does not communicate by telephone with any client or member of the public in the course of carrying on business in any regulated activity, other than by telephone conference in the presence of any of the persons referred to in paragraph (6).

(6) The persons referred to in paragraph (5)(*c*), (*d*) and (*e*) are —

(*a*) an appointed representative of the principal;

(*b*) a director of the principal approved under section 96 of the Act;

(*c*) an officer of the principal whose primary function is to ensure that the carrying on of business in the regulated activity in question complies with the laws and requirements of the Authority applicable to the regulated activity in question;

(*d*) an officer of the principal appointed by the principal to supervise the representative in carrying on of business in the regulated activity in question.

(7) In paragraph (5)(*c*), (*d*) and (*e*), "client or member of the public" excludes one who is an accredited investor, an expert investor or an institutional investor.

[S 709/2010 wef 26/11/2010]

Provisional representative

3B.—(1) The period which the Authority may specify in the public register of representatives under section 99E(2) of the Act as the period which any named individual can be a provisional representative in respect of any type of regulated activity shall not exceed 3 months from the date his name is entered in the register as a provisional representative.

(2) For the purpose of section 99E(5) of the Act, where a provisional representative in respect of a type of regulated activity has satisfied the examination requirements specified for that type of regulated activity, his principal shall inform the Authority of that fact —

(*a*) by serving on the Authority a duly completed Form 3D; and

(*b*) before the expiry of the period specified against his name in the public register of representatives under section 99E(2) of the Act.

(3) For the purposes of section 99M(1)(*t*)(i) and (ii) of the Act, the Authority may refuse to enter the name and other particulars of an individual in the public register of representatives as a provisional representative in respect of a type of regulated activity, if —

(*a*) he is not or was not previously licensed, authorised or otherwise regulated as a representative in relation to a comparable type of regulated activity in a foreign jurisdiction for a continuous period of at least 12 months; or

(*b*) the period between the date of his ceasing to be so licensed, authorised or regulated in a foreign jurisdiction and the date of his proposed appointment as a provisional representative exceeds 12 months.

[S 709/2010 wef 26/11/2010]

Temporary representative

3C.—(1) For the purpose of section 99M(1)(*s*)(iii) of the Act, the Authority may refuse to enter the name and other particulars of an individual in the public register of representatives as a temporary

representative in respect of a type of regulated activity, if the period of his proposed appointment, together with the period of any past appointment (or part thereof) that falls within the period of 24 months before the date of expiry of his proposed appointment, exceeds 6 months.

(2) The period which the Authority may specify in the public register of representatives under section 99F(2) of the Act as the period which any named individual can be a temporary representative in respect of any type of regulated activity shall not exceed 3 months from the date his name is entered in the register as a temporary representative.

[S 709/2010 wef 26/11/2010]

3D. [*Deleted by S 503/2012 wef 19/11/2012*]

Register of interests in securities

4.—(1) Each of the following persons (referred to in this regulation and regulation 4A as a relevant person), namely:

(*a*) a holder of a capital markets services licence to deal in securities;

(*b*) a holder of a capital markets services licence to advise on corporate finance;

(*c*) a holder of a capital markets services licence for fund management;

(*d*) a holder of a capital markets services licence for real estate investment trust management;

(*e*) a holder of a capital markets services licence for providing credit rating services;

(*f*) a representative of a holder of a capital markets services licence referred to in sub-paragraph (*a*), (*b*), (*c*), (*d*) or (*e*),

shall —

(i) maintain in Form 15 a register of his interests in securities;

(ii) enter into the register, within 7 days after the date that he acquires any interest in securities, particulars of the securities in which he has an interest and particulars of his interests in those securities;

(iii) retain that entry in an easily accessible form for a period of not less than 5 years after the date on which such entry was first made; and

(iv) ensure that a copy of the register is kept in Singapore.

(2) Where there is a change in any interest in securities of a relevant person, the relevant person shall —

(*a*) enter in the register, within 7 days after the date of the change, particulars of the change including the date of the change and the circumstances by reason of which the change has occurred; and

(*b*) retain that entry in an easily accessible form for a period of not less than 5 years after the date on which such entry was first made.

(3) A relevant person shall, upon the Authority's request —

(*a*) produce for the Authority's inspection the register of his interests in securities; and

(*b*) allow the Authority to make a copy of, or take extracts from, the register.

(4) The Authority may provide a copy of an extract of a register obtained under paragraph (3) to any person who, in the opinion of the Authority, should in the public interest be informed of the dealing in securities disclosed in the register.

(5) In this regulation and regulation 4A, "securities" means securities which are listed for quotation, or quoted on a securities exchange or a recognised market operator.

[S 503/2012 wef 19/11/2012]

Place at which register is kept

4A.—(1) A relevant person shall keep the register of his interests in securities referred to in regulation 4 —

(*a*) in the case of an individual, at his principal place of business; or

(*b*) in the case of a corporation, at any of its places of business.

(2) The register of interests in securities may be kept in electronic form if the relevant person ensures that full access to such register may be gained by the Authority at the place referred to in paragraph (1)(*a*) or (*b*), as the case may be.

(3) An applicant for a capital markets services licence to carry on business in dealing in securities, advising on corporate finance, fund management, real estate investment trust management or providing credit rating services shall, when applying for the licence, give notice to the Authority in Form 1 or Form 1A, or both, whichever is applicable, of —

(*a*) the place at which it intends to keep the register of his interests in securities or, if the register is in electronic form, the place at which full access to the register may be gained; and

(*b*) such other particulars as are set out in the Form.

[S 170/2013 wef 28/03/2013]

(4) A holder of a capital markets services licence shall, when applying under section 90 of the Act to have its licence varied by adding any regulated activity in respect of dealing in securities, advising on corporate finance, fund management, real estate investment trust management or providing credit rating services, give notice to the Authority in Form 10 of —

(*a*) the place at which it intends to keep the register of its interests in securities or, if the register is in electronic form, the place at which full access to the register may be gained; and

(*b*) such other particulars as are set out in the Form.

(5) The person who gives the notice under paragraph (3) or (4) shall, within 14 days from the date of every subsequent change of the place for keeping the register referred to in paragraph (3)(*a*) or (4)(*a*), as the case may be, lodge with the Authority a notice of the change of place in Form 10.

(6) A relevant person who is a holder of a capital markets services licence shall maintain records of the place at which its representatives keep their registers of their interests in securities and the places at which copies of those registers are kept in Singapore under regulation 4(1)(iv).

(7) A relevant person who is a holder of a capital markets services licence shall, upon the Authority's request —

(*a*) produce for the Authority's inspection such records referred to in paragraph (6); and

(*b*) allow the Authority to make a copy of, or take extracts from, such records.

[S 503/2012 wef 19/11/2012]

Change of particulars and additional regulated activity of representative

5.—(1) An appointed representative shall notify his principal of any change in any of his particulars, being particulars set out in Form 3A, within 7 days after the occurrence of such change.

(2) A provisional representative shall notify his principal of any change in any of his particulars, being particulars set out in Form 3B, within 7 days after the occurrence of such change.

(3) A temporary representative shall notify his principal of any change in any of his particulars, being particulars set out in Form 3C, within 7 days after the occurrence of such change.

(4) An individual who is deemed to be an appointed representative under regulation 5(1)(*a*) or (*c*) or (3) of the Securities and Futures (Representatives) (Transitional and Savings Provisions) Regulations 2010 (G.N. No. S 712/2010) shall notify his principal of any change in any of his particulars, being particulars set out in Form 3A, within 7 days after the occurrence of such change.

(5) Where an individual has applied for the renewal of a representative's licence under section 87 of the Act in force immediately before 26th November 2010 and the application is still pending on that date, he shall notify his principal of any change in any of his particulars, being particulars set out in Form 3A, within 7 days after the occurrence of such change.

(6) An individual who is deemed to be a temporary representative under regulation 5(2) or (3) of the Securities and Futures (Representatives) (Transitional and Savings Provisions) Regulations 2010 shall notify his principal of any change in any of his particulars, being particulars set out in Form 3C, within 7 days after the occurrence of such change.

(7) The principal of an individual referred to in paragraph (4), (5) or (6) shall, no later than 7 days after the principal is notified or becomes aware of any change in the individual's particulars which has been or ought to have been notified under that paragraph, furnish particulars of such change to the Authority in Form 16.

(8) For the purposes of section 99H(5) of the Act, the principal of an appointed, a provisional or a temporary representative shall notify the Authority of a change in the particulars of the representative in Form 16.

(9) A notice under section 99L(2) of the Act by a principal of its intention to appoint an appointed representative in respect of a type of regulated activity in addition to that indicated against the appointed representative's name in the public register of representatives shall be in Form 6.

[S 709/2010 wef 26/11/2010]

Fees

6.—(1) Subject to this regulation, the fees specified in the Third Schedule are payable to the Authority for the purposes, in the manner and at the times specified therein.

(2) Where —

(*a*) the name of a person is entered in the public register of representatives as a provisional representative;

(*b*) he pays the annual fee referred to in section 99K(2) of the Act for the retention of his name in the public register of representatives as a provisional representative for a period of time; and

(*c*) his name is subsequently entered in the register as an appointed representative at any time during that period or on the business day immediately following the expiry of that period,

then the person is deemed to have paid the annual fee for the continuing retention of his name in the register as an appointed representative, in respect of the regulated activity conducted by the person while he was a provisional representative.

(3) For the purposes of sections 85(4) and 99K(6) of the Act, the late payment fee is $100 for every day or part thereof that the payment is late subject to a maximum of $3,000.

(4) Payment of fees may be made through such electronic funds transfer system as the Authority may designate from time to time, whereby payment is effected by directing the transfer of funds electronically from the bank account of the payer to a bank account designated by the Authority.

(4A) For the purposes of section 99A(4) of the Act, where the annual fee referred to in paragraph 5(7) of the Second Schedule or item 9 of the Third Schedule is not paid, a late payment fee of $100 for every day or part thereof that the payment is late, subject to a maximum of $3,000, shall also be payable.

[S 385/2012 wef 01/04/2013]

(5) The Authority may, as it thinks fit, waive the whole or any part of the fee payable under section 84, 85, 90, 99A or 99K of the Act.

(6) Where the holder of a capital markets services licence is licensed to carry on business in more than one regulated activity, the amount of the licence fee payable to the Authority shall be the sum of the fees specified in the Third Schedule for the regulated activities that the holder is licensed to carry out.

[S 709/2010 wef 26/11/2010]

Manner of application for capital markets services licence

6A.—(1) An application for the grant of a capital markets services licence for any regulated activity other than fund management shall be in Form 1 and shall be lodged with the Authority together with any relevant annex and information as may be specified in the Form or by the Authority from time to time.

[S 385/2012 wef 07/08/2012]

(2) An application for the grant of a capital markets services licence for the regulated activity of fund management shall be in Form 1A and shall be lodged with the Authority together with any relevant annex and information as may be specified in the Form or by the Authority from time to time.

[S 385/2012 wef 07/08/2012]

Deposit to be lodged in respect of capital markets services licence to deal in securities

7.—(1) The Authority shall not grant a capital markets services licence to a person (other than a member of a securities exchange) to carry on business in dealing in securities unless, at the time of the application for such grant, the person has lodged with the Authority, in such manner as the Authority may determine, a deposit of $100,000.

[S 709/2010 wef 26/11/2010]

(2) The deposit referred to in paragraph (1) shall be lodged with the Authority in cash or in the form of a banker's guarantee issued by a bank licensed under the Banking Act (Cap. 19).

(2A) The person referred to in paragraph (1) shall maintain the deposit of $100,000 for the entire duration of its licence.

[S 709/2010 wef 26/11/2010]

(3) The deposit lodged by the holder of a capital markets services licence under paragraph (1) shall be applied by the Authority for the purpose of compensating any person (other than an accredited investor) who suffers pecuniary loss as a result of any defalcation committed by the holder or by any of its agents in relation to any money or other property which, in the course of or in connection with its business in dealing in securities, was —

(*a*) entrusted to or received by the holder or agent for or on behalf of any other person; or

(*b*) entrusted to or received by —

(i) the holder, as trustee (whether or not with any other person) of that money or property; or

(ii) the agent as trustee of, or on behalf of the trustee of, that money or property.

(4) Subject to these Regulations, every person who suffers pecuniary loss as provided in paragraph (3) shall be entitled to claim compensation in relation to the relevant deposit lodged with the Authority.

(5) The amount which any claimant shall be entitled to claim as compensation shall be the amount of actual pecuniary loss suffered by him (including the reasonable cost of and disbursements incidental to the making and proof of his claim) less the amount or value of all moneys or other benefits received or receivable by him from any source, other than the Authority, in reduction of the loss.

(6) The Authority may cause to be published in a daily newspaper published and circulating generally in Singapore a notice in Form 17 specifying a date, not being earlier than 3 months after the date of publication, on or before which claims for compensation in relation to the deposit lodged by the person specified in the notice may be made.

(7) A claim for compensation in respect of a defalcation shall be made in writing to the Authority —

(*a*) where a notice under paragraph (6) has been published, on or before the date specified in the notice; or

(*b*) where no such notice has been published, within 6 months after the claimant becomes aware of the defalcation,

and any claim which is not so made shall be barred unless the Authority otherwise determines.

(8) The Authority may, subject to these Regulations and after such enquiry as it thinks fit —

(*a*) allow and settle any proper claim made in accordance with paragraph (7) and determine the amount payable as compensation; or

(*b*) disallow any improper claim.

(9) For the purposes of paragraph (3), where the Authority is satisfied that the defalcation on which a claim is founded was actually committed, it may allow the claim and act accordingly notwithstanding that the person who committed the defalcation has not been convicted or prosecuted therefor or that the evidence on which the Authority acts would not be sufficient to establish the guilt of that person upon a criminal trial in respect of the defalcation.

(10) Nothing in these Regulations shall require the Authority to settle a claim in full or in part where the relevant deposit lodged with the Authority is insufficient to meet the aggregate amount of the claims for compensation.

Return of deposit

8.—(1) Where —

(*a*) the holder of a capital markets services licence to deal in securities, which has lodged with the Authority a deposit under regulation 7, ceases to carry on business in dealing in securities;

(*b*) a capital markets services licence to deal in securities has lapsed or has been revoked by the Authority; or

(*c*) the holder of a capital markets services licence to deal in securities is admitted as a member of a securities exchange after it has been granted the licence,

the Authority may release to the holder the deposit or, where any part thereof has previously been paid to a judgment creditor or liquidator or where any claim in respect thereof has previously been allowed, the balance (if any) of the deposit so lodged —

(i) in the case of sub-paragraph (*a*), on the expiration of 3 months after service on the Authority of a notice in writing duly signed by or on behalf of the holder stating that it has ceased to carry on such business in Singapore and on the Authority being satisfied that the holder has not, from the date of cessation of business indicated on the notice, carried on such business in Singapore; and

(ii) in every case, on the Authority being satisfied that all the liabilities in Singapore of the holder in respect of its dealing in securities are fully liquidated or provided for.

(2) The Authority may cause every notice served on it under paragraph (1)(i) and its decision with regard to the proposed release of the deposit or the balance thereof to be published at the cost of the holder in such manner as the Authority thinks fit.

Lapsing of capital markets services licence

9. For the purposes of section 95(1)(*b*) of the Act, where the Authority has not revoked a capital markets services licence under section 95(2) of the Act, or suspended the capital markets services licence under section 95(3) of the Act, the licence shall lapse —

(*a*) if the holder has not commenced business in at least one of the regulated activities to which the licence relates within 6 months (or such longer period as the Authority may allow) from the date of the grant of the licence, immediately upon the expiry of that period; or

(*b*) if the holder —

(i) has ceased to carry on business in all of the regulated activities to which the licence relates;

(ii) has not resumed business in any of those regulated activities for a continuous period of 2 months from the date of cessation of business; and

(iii) has not notified the Authority of such cessation of business at any time during the period of 2 months,

immediately upon the expiry of that period of 2 months.

[S 709/2010 wef 26/11/2010]

Cessation of status of appointed representative

9A. For the purpose of section 99D(4)(*e*) of the Act, unless the Authority has revoked the status of an individual as an appointed representative under section 99M(1) of the Act, or suspended that status under section 99M(2)(*a*) of the Act, the individual shall cease to be an appointed representative in respect of all types of regulated activity if —

(*a*) before the end of the period of 6 months (or such longer period as the Authority may allow in any particular case) from —

(i) the date his name was entered in the public register of representatives as an appointed representative; or

(ii) if he was an appointed representative by virtue of the Securities and Futures (Representatives) (Transitional and Savings Provisions) Regulations 2010 (G.N. No. S 712/2010), the date when he was granted a representative's licence under section 87 of the Act in force immediately before 26th November 2010,

the appointed representative has not commenced to act as a representative in at least one of the regulated activities that he was appointed to carry out as a representative; or

(*b*) the appointed representative —

(i) has ceased to act as a representative in respect of all of the regulated activities he was appointed to carry out as a representative; and

(ii) has not resumed acting as such a representative in respect of any of those regulated activities for a continuous period of one month from the date of cessation,

and his principal has not notified the Authority of such cessation at any time during that period of one month.

[S 709/2010 wef 26/11/2010]

10. [*Deleted by S 709/2010 wef 26/11/2010*]

Cessation of business by holder

11.—(1) Where the holder of a capital markets services licence ceases to carry on business in every type of the regulated activities to which its licence relates, it shall, within 14 days from the date of cessation, return its licence to the Authority and lodge with the Authority a notice in Form 7.

(2) Where the holder of a capital markets services licence ceases to carry on business in any type of regulated activity to which its licence relates but has not ceased to carry on business in the remaining types of regulated activities, it shall, within 14 days from the date of cessation, return its licence to the Authority and lodge with the Authority a notice in Form 7.

(3) Where the holder of a capital markets services licence has, by the end of the period of 6 months (or such longer period as the Authority may allow in any particular case) from the date of the grant of the licence, commenced business in one or more but not all the types of regulated activity to which the licence relates, it shall immediately return its licence to the Authority and lodge with the Authority a notice in Form 7.

(4) Where the holder of a capital markets services licence has not commenced business in every type of regulated activity to which the licence relates by the end of the period of 6 months (or such longer

period as the Authority may allow in any particular case) from the date of the grant of the licence, it shall immediately return its licence to the Authority and lodge with the Authority a notice in Form 7.

(5) Upon receipt of the notice and licence referred to in paragraph (1), (2), (3) or (4), the Authority shall cancel the licence and, in the case referred to in paragraphs (2) and (3), issue to the holder a new licence in respect of the remaining type or types of regulated activities.

[S 709/2010 wef 26/11/2010]

Variation of capital markets services licence

11A.—(1) An application for the variation of a capital markets services licence under section 90 of the Act shall be in Form 5 and shall be lodged with the Authority together with any relevant annex and information as may be specified in the Form or by the Authority from time to time.

(2) Where the Authority adds to, varies or revokes any condition or restriction of a capital markets services licence or imposes further conditions or restrictions on such a licence, the Authority may require the holder to return its licence to the Authority for cancellation and issuance of a new licence, and the holder shall comply with such a requirement.

(3) Where the Authority has approved an application of the holder of a capital markets services licence under section 90(1) of the Act to add to its licence one or more types of regulated activity, the holder shall immediately return its licence to the Authority for cancellation and issuance of a new licence.

[S 709/2010 wef 26/11/2010]

Lodgment of particulars of cessation

11B.—(1) For the purposes of sections 99D(8), 99E(4) read with 99D(8) of the Act and section 99F (4) read with 99D(8) of the Act, particulars that an individual has ceased to be a representative of a principal, or has ceased to carry on business in any type of regulated activity which he is appointed to carry on business in, shall be furnished to the Authority in Form 8.

(2) Where an appointed representative has ceased to be a representative under regulation 9A(*a*), his principal shall immediately lodge with the Authority a notice of such cessation in Form 8.

[S 709/2010 wef 26/11/2010]

Application for appointment of chief executive officer and director

12.—(1) For the purposes of section 96(1) of the Act, the holder of a capital markets services licence shall submit to the Authority an application for approval of the appointment of a person (referred to in this regulation as the appointee) as its chief executive officer or director, or to change the nature of the appointment of a person as a director from one that is non-executive to one that is executive, in Form 11.

(2) For the purposes of section 96(2) of the Act, the criteria to which the Authority may have regard in determining whether to grant its approval in respect of an application made under paragraph (1) are —

(*a*) whether the holder has provided the Authority with such information relating to the appointee or director as the Authority may require;

(*aa*) whether the appointee or director has had a prohibition order under section 101A of the Act made by the Authority against him that still remains in force;

[S 709/2010 wef 26/11/2010]

(*b*) whether the appointee or director is an undischarged bankrupt in Singapore or elsewhere;

(*c*)

whether execution against the appointee or director in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*d*) whether the appointee or director has, in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

(*e*) whether the appointee or director —

(i) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(ii) has been convicted of an offence under the Act;

(*f*) the educational or other qualification, experience or expertise of the appointee or director, having regard to the nature of the duties he is to perform as a chief executive officer, director or executive director, as the case may be, of the holder;

(*g*) whether the appointee or director is a fit and proper person to be a chief executive officer, director or executive director, as the case may be, of the holder;

(*h*) the financial standing of the appointee or director;

(*i*) the past performance of the appointee or director, having regard to the nature of the duties he is to perform as a chief executive officer, director or executive director, as the case may be, of the holder; and

(*j*) whether there is reason to believe that the appointee or director will not conduct himself professionally or act in an ethical manner in discharging the duties he is to perform as a chief executive officer, director or executive director, as the case may be, of the holder.

Duties of holder of capital markets services licence

13. The holder of a capital markets services licence shall —

(*a*) comply with all laws and rules governing the holder's operations; and

(*b*) in a manner that is commensurate with the nature, scale and complexity of the business of the holder —

(i) implement, and ensure compliance with, effective written policies on all operational areas of the holder, including the holder's financial policies, accounting and internal controls, and internal auditing;

(ii) put in place compliance function and arrangements including specifying the roles and responsibilities of officers and employees of the holder in helping to ensure its compliance with all applicable laws, codes of conduct and standards of good practice in order to protect investors and reduce the holder's risk of incurring legal or regulatory sanctions that may be imposed by the Authority or any other public authority, financial loss, and reputational damage;

(iii) identify, address and monitor the risks associated with the trading or business activities of the holder;

(iv) ensure that the business activities of the holder are subject to adequate internal audit;

(v) ensure that the internal audit of the holder or the holder's holding company (if any) includes inquiring into the holder's compliance with all relevant laws and all relevant business rules of any securities exchange, futures exchange and clearing house;

(vi) set out in writing the limits of the discretionary powers of each officer, committee, sub-committee or other group of persons of the holder empowered to commit the holder to any financial undertaking or to expose the holder to any business risk (including any financial, operational or reputational risk);

(vii) keep a written record of the steps taken by the holder to monitor compliance with its policies, its accounting and operating procedures, and the limits on discretionary powers;

(viii) ensure the accuracy, correctness and completeness of any report, book or statement submitted by the holder to its head office (if any) or to the Authority; and

(ix) ensure effective controls and segregation of duties to mitigate potential conflicts of interest that may arise from the operations of the holder.

[S 170/2013 wef 28/03/2013]

Criteria for determining if chief executive officer or director of holder of capital markets services licence has breached duties

13A. For the purposes of section 97(2) of the Act and without prejudice to any other matter that the Authority may consider relevant, the Authority shall, in determining whether a chief executive officer or a director of the holder of a capital markets services licence has failed to discharge the duties or functions of his office, have regard to whether the chief executive officer or director has ensured compliance by the holder with each of the duties specified in regulation 13.

[S 170/2013 wef 28/03/2013]

Duties of holder of capital markets services licence for regulated activity of fund management

13B.—(1) Without prejudice to regulation 13, the holder of a capital markets services licence for fund management shall —

(*a*) put in place a risk management framework (that identifies, addresses and monitors the risks associated with assets under its management) which is appropriate to the nature, scale and complexity of the assets;

(*b*) subject assets under its management to independent valuation for the purpose of determining their respective net asset values, and ensure that a party independent of the holder conveys such values to the customers to which the assets relate or, if the assets are in the form of units in a closed-end fund or collective investment scheme, to the unitholders of the fund or scheme;

(*c*)

segregate assets under its management, other than assets which are already subject to regulation 17 or 27 (as the case may be), from the proprietary assets of the holder or the holder's related corporations or connected persons, and maintain them in —

(i) a trust account with any financial institution referred to in regulation 17(1)(*a*), (*b*) or (*c*), or with a custodian outside Singapore which is licensed, registered or authorised to conduct banking business in the country or territory where the account is maintained; or

(ii) a custody account with any financial institution or other person referred to in regulation 27(1)(*a*) to (*f*), or with a custodian outside Singapore which is licensed, registered or authorised to act as a custodian in the country or territory where the account is maintained;

(*d*) accord priority to transactions for the purchase or sale of securities or futures contracts, or to investments, made on behalf of its customers, over those made for any of the following persons:

(i) the holder;

(ii) the holder's associated persons;

(iii) the holder's officers;

(iv) the holder's employees;

(v) the holder's representatives;

(vi) any person whom the holder knows to be an associated person of any person referred to in sub-paragraph (iii), (iv) or (v); and

(*e*) mitigate conflicts of interest arising from the management of assets and, where appropriate, disclose such conflicts of interest to the customer concerned.

(2) A transaction made for any person referred to in sub-paragraphs (i) to (vi) of paragraph (1)(*d*) excludes any transaction for the purchase or sale of securities or futures contracts which are, or are to be, beneficially owned by a person who is not referred to in sub-paragraphs (i) to (vi) of paragraph (1)(*d*).

(3) In paragraph (1)(*d*), a person is an associated person of another person if the first-mentioned person is —

(*a*) a related corporation of the second-mentioned person;

(*b*) a connected person of the second-mentioned person;

(*c*) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to a transaction or investment referred to in paragraph (1)(*d*); or

(*d*) a corporation which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to a transaction or investment referred to in paragraph (1)(*d*).

(4) Paragraph (1)(*c*) does not apply to the following assets under the management of the holder:

(*a*) securities which are not listed for quotation or quoted on a securities market;

(*b*) interests in a closed-end fund, where —

(i) the closed-end fund is to be used for private equity or venture capital investments; and

(ii) interests in the closed-end fund are offered only to accredited investors or institutional investors or both,

and the holder has —

(A) disclosed the fact that the assets are not maintained in a trust account or custody account in accordance with paragraph (1)(*c*) to the customer and obtained the customer's acknowledgement of the custody arrangement; and

(B) arranged for an auditor to audit the assets on an annual basis and furnish a report on the audit to the customer.

(5) For the purposes of this regulation, assets are under the management of the holder of a licence if they are the subject of fund management carried out directly by the holder, or indirectly by the holder through another entity.

[S 170/2013 wef 28/03/2013]

Criteria for determining if chief executive officer or director of holder of capital markets services licence for fund management has breached duties

13C. For the purposes of section 97(2) of the Act and without prejudice to regulation 13A and any other matter that the Authority may consider relevant, the Authority shall, in determining whether a chief executive officer or a director of the holder of a capital markets services licence for fund management has failed to discharge the duties or functions of his office, have regard to whether the chief executive officer or director has ensured compliance by the holder with each of the duties specified in regulation 13B.

[S 170/2013 wef 28/03/2013]

Exemptions

14.—(1) Each person specified in the Second Schedule is exempted from section 82(1) or section 99B (1) (as the case may be) of the Act, in the circumstances specified in that Schedule.

(2) Where a person acts as a representative of any person specified in paragraphs 1 to 7 of the Third Schedule to the Act (referred to in this paragraph as the principal), he shall be exempted from section 99B(1) of the Act, in so far as —

(*a*) the type and scope of the regulated activity carried out by the person acting as a representative are within or the same as the type and scope of the regulated activity carried out by the principal in his capacity as specified in the relevant paragraph of the Third Schedule to the Act; and

(*b*) the manner in which the person acting as a representative carries out the regulated activity is the same as the manner in which the principal carries out the regulated activity in his capacity as specified in the relevant paragraph of the Third Schedule to the Act.

(3) Where a person acts as a representative of a foreign company specified in paragraph 9 of the Third Schedule to the Act, the person acting as a representative shall be exempted from section 99B(1) of

the Act, in so far as he complies with every condition or restriction imposed on the foreign company pursuant to an approval granted for the arrangement between the foreign company and its related corporation under that paragraph, where such condition or restriction is applicable to him.

(4) A person who is exempted from holding a capital markets services licence under section 99(1)(*a*), (*b*), (*c*) or (*d*) of the Act shall lodge with the Authority —

(*a*) where the person commences business in any regulated activity or any additional regulated activity, a notice of such commencement in Form 26 not later than 14 days prior to the commencement or such later date as the Authority may allow in any particular case;

(*b*) where the person ceases business in any or all of the regulated activities for which notice has been given in —

(i) Form 26 under sub-paragraph (*a*);

(ii) Form 26 under regulation 14(4)(*a*) in force immediately before 26th November 2010; or

(iii) Form 27 under regulation 14(4)(*b*) in force immediately before 26th November 2010,

a notice of cessation in Form 29, not later than 14 days after the cessation or such later date as the Authority may allow;

(*c*) where there is any change in any particulars required to be notified in —

(i) Form 26 under sub-paragraph (*a*);

(ii) Form 26 under regulation 14(4)(*a*) in force immediately before 26th November 2010; or

(iii) Form 27 under regulation 14(4)(*b*) in force immediately before 26th November 2010,

a notice of such change in Form 27, not later than 14 days after the date of change or such later date as the Authority may allow in any particular case; and

(*d*) a declaration by the person in Form 28 within 14 days or such longer period as the Authority may allow after the end of the financial year of the person.

[S 709/2010 wef 26/11/2010]

Holders of capital markets services licences and representatives, etc., to be fit and proper persons

14A.—(1) The holder of a capital markets services licence shall ensure that —

(*a*) it is a fit and proper person to carry on business in the regulated activity for which it is licensed;

(*b*) its representatives are fit and proper persons to carry out that regulated activity as its representatives;

(*c*) its chief executive officer, directors or equivalent persons are fit and proper persons for office; and

(*d*) its substantial shareholders or equivalent persons are fit and proper persons in their capacity as such.

(2) For the purposes of section 99(4) of the Act —

(*a*) a person who is exempted from holding a capital markets services licence under section 99(1)(*a*), (*b*), (*c*), (*d*), (*f*) or (*g*) of the Act shall ensure that —

(i) he is a fit and proper person to carry on business in the regulated activity for which he is exempted; and

(ii) his representatives are fit and proper persons to carry out that regulated activity as his representatives; and

(*b*) a Registered Fund Management Company or a person who is exempted from holding a capital markets services licence under paragraph 7(1)(*b*) of the Second Schedule shall ensure that —

(i) he is a fit and proper person to carry on business in the regulated activity for which he is exempted;

(ii) his representatives are fit and proper persons to carry out that regulated activity as his representatives; and

(iii) where the person is an entity —

(A) its directors or equivalent persons are fit and proper persons for office;

(B) its substantial shareholders or equivalent persons are fit and proper persons to be in such capacity; and

(C) persons (other than a person referred to in sub-paragraph (A) or (B)) alone or acting together with any connected person, who —

(CA) control, directly or indirectly, not less than 20% of the voting power or such equivalent decision-making power in the entity; or

(CB) acquire or hold, directly or indirectly, not less than 20% of the issued shares or such equivalent share of ownership of the entity,

[S 385/2012 wef 07/08/2012]

are fit and proper persons to control such power or hold such shares or share of ownership.

[S 709/2010 wef 26/11/2010]

PART III

CUSTOMER'S MONEYS AND ASSETS

Division 1 — Definitions

Definitions of this Part

15.—(1) In Part V of the Act and this Part, "customer", in relation to the holder of a capital markets services licence, does not include —

(*a*) the holder in carrying out any regulated activity for its own account;

(*b*) an officer, an employee or a representative of the holder; or

(*c*) a related corporation of the holder with respect to an account belonging to and maintained wholly for the benefit of that related corporation.

(2) For the purposes of this Part, a reference to money received on account of a customer of the holder of a capital markets services licence includes —

(*a*) money received from, or on account of, the customer in respect of a sale or purchase of futures contract or a transaction connected with leveraged foreign exchange trading;

(*b*) money received from, or on account of, the customer for the purchase of or holding of securities, or the maintenance of a securities trading account by the customer;

(*c*) money received for the account of the customer in respect of a sale of securities;

(*d*) money received from, or on account of, the customer, where the holder provides securities financing to such customer;

(*e*) money received from, or on account of, the customer for the purpose of managing the customer's funds; and

(*f*) money received from, or on account of, the customer in the course of the business of the holder,

but does not include —

(i) money which is to be used to reduce the amount owed by the customer to the holder;

(ii) money which is to be paid to the customer or in accordance with the customer's written direction;

(iii) money which is to be used to defray the holder's brokerage and other proper charges; and

(iv) money which is to be paid to any other person entitled to the money.

(3) In this Part, "customer's assets", in relation to the holder of a capital markets services licence, means securities and assets (other than money), including Government securities and certificates of deposits, that are beneficially owned by a customer of the holder.

Division 2 — Customer's Moneys

Money received on account of customer

16.—(1) The holder of a capital markets services licence —

(*a*) shall treat and deal with all moneys received on account of its customer as belonging to that customer;

(*b*) shall deposit all moneys received on account of its customer in a trust account or in any other account directed by the customer; and

(*c*) shall not commingle moneys received on account of its customer with other funds, or use the moneys as margin or guarantee for, or to secure any transaction of, or to extend the credit of, any person other than the customer.

(2) The holder shall deposit the money received on account of its customer in the trust account no later than the business day immediately following the day on which the holder receives such money or is notified of the receipt of such money, whichever is the later, unless the money has in the meantime been paid to the customer or deposited in an account directed by the customer or unless it is deposited in accordance with regulation 19 or invested in accordance with regulation 20.

(3) In paragraph (2), "business day" means the business day of the holder or, if the custodian with whom the trust account is maintained is closed for business on that day and the holder is unable to deposit the money in the account, the next business day of the custodian.

(4) Moneys received by the holder on account of its customers may be commingled and deposited in the same trust account.

Maintenance of trust account with specified financial institutions

17.—(1) The holder of a capital markets services licence shall maintain a trust account in which it deposits moneys received on account of its customer with —

(*a*) a bank licensed under the Banking Act (Cap. 19);

(*b*) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186); or

(*c*) a finance company licensed under the Finance Companies Act (Cap. 108).

(2) Without prejudice to paragraph (1) and subject to the customer's prior written consent, the holder may, for the purpose of depositing moneys received on account of its customer which are denominated in a foreign currency in a trust account, maintain the trust account with a custodian outside Singapore which is licensed, registered or authorised to conduct banking business in the country or territory where the account is maintained.

Notification and acknowledgment from specified financial institutions

18. Where the holder of a capital markets services licence opens a trust account with a financial institution specified in regulation 17(1), the holder shall, before depositing moneys received on account of its customer in the account, give written notice to the financial institution and obtain an acknowledgment from the financial institution that —

(*a*) all moneys deposited in the trust account are held on trust by the holder for its customer and the financial institution cannot exercise any right of set-off against the moneys for any debt owed by the holder to the financial institution; and

(*b*) the account is designated as a trust account, or a customer's or customers' account, which shall be distinguished and maintained separately from any other account in which the holder deposits its own moneys.

Customer's money held with a clearing house, etc.

19. Notwithstanding regulations 16 and 17 —

(*a*) the holder of a capital markets services licence to trade in futures contracts may deposit moneys received on account of its customer with a clearing house, a member of a futures exchange or a member of an overseas futures exchange —

(i) for the purpose of facilitating the continued holding of a futures position or facilitating a transaction in a futures contract to be entered into for the customer;

(ii) for the settlement of a transaction in a futures contract for the customer; or

(iii) for any other purpose specified under the business rules and practices of the clearing house, futures exchange or overseas futures exchange, as the case may be; and

(*b*) the holder of a capital markets services licence to deal in securities may deposit moneys received on account of its customer with a clearing house or a member of a securities exchange for a purpose specified under the business rules and practices of the clearing house or securities exchange, as the case may be.

Investment of moneys received on account of customers

20.—(1) Notwithstanding regulations 16 and 17, the holder of a capital markets services licence may hold moneys received on account of its customer on trust for the customer, including moneys which the holder may from time to time advance to the customer's trust account in accordance with regulation 23, in any of the following forms of investment:

(*a*) any Government securities;

(*b*) any debt instrument of the government of the country of the securities market or futures market, or securities exchange or futures exchange, on which the holder normally transacts its business; or

(*c*) any other securities or instrument as the Authority may from time to time, by a guideline issued by the Authority, determine.

(2) The holder of a capital markets services licence maintaining any moneys received on account of its customer in any of the forms of investment specified in paragraph (1) shall keep a record of all transactions relating to such moneys, including —

(*a*) the date on which the transaction was made;

(*b*) where applicable, the name of the person through whom the transaction was made;

(*c*) the amount of money invested in the transaction;

(*d*) a description of the transaction;

(*e*) the place, if any, where the moneys and assets are kept;

(*f*) where applicable, the date on which the subject-matter of the transaction was realised or otherwise disposed of and the amount of money received from the realisation or disposal, if any; and

(*g*) where applicable, the name of the person, if any, to whom or through whom the subject-matter of the transaction was disposed of.

Withdrawal of money from trust account

21. The holder of a capital markets services licence shall not withdraw any money from a customer's trust account except for the purpose of —

(*a*) making a payment to any person entitled thereto;

(*b*) making a payment to meet an obligation of a customer whose money is deposited in that account, being an obligation that arises from any dealing in securities, trading in futures contracts or leveraged foreign exchange trading, as the case may be, by the holder for the customer;

(*c*) defraying its brokerage and other proper charges;

(*d*) making a payment to any other person or account in accordance with the written direction of the customer;

(*e*) reimbursing the holder any moneys that it has advanced to the account and any interest and returns that it is entitled to by virtue of regulation 23, so long as such withdrawal does not result in the account becoming under-margined or under-funded;

(*f*) making a deposit in accordance with regulation 19 or an investment in accordance with regulation 20; or

(*g*) making a payment or withdrawal that is authorised by law.

Interest arising from trust account, etc.

22.—(1) Subject to any agreement between the holder of a capital markets services licence and its customer, all interest earned from the maintenance of the moneys received on account of the customer in a trust account, and all returns from the investment of moneys received on account of the customer in accordance with regulation 20, shall accrue to the customer.

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(2) The holder of a capital markets services licence shall take all reasonable steps to ensure that the interest and returns accrued to the customer under paragraph (1) are paid to or held for the benefit of the customer, as the case may be.

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Placement of licensee's own money in trust account

23.—(1) Notwithstanding regulation 16(1), the holder of a capital markets services licence may from time to time advance sufficient money to a customer's trust account from its own funds —

(*a*) to prevent the customer's trust account from being under-margined or under-funded; or

(*b*) to ensure the continued maintenance of that account in a case where it is maintained with —

(i) a financial institution specified in regulation 17(1); or

(ii) a custodian specified in regulation 17(2).

(2) The holder may retain any interest earned and return arising on the moneys which it has so advanced to the account.

(3) Subject to regulation 21(*e*), any money belonging to the holder that is deposited into a customer's trust account may be used for the purpose of payment to the customer.

No effect on lawful claims or liens

24. Nothing in this Division shall be construed as avoiding or affecting any lawful claim or lien which any person has in respect of any money held in a trust account in accordance with this Division or any money belonging to a customer before the money is paid into a trust account.

Division 3 — Customer's Assets

Application of this Division

25.—(1) This Division shall apply to customer's assets received by the holder of a capital markets services licence to be held on account of the customer or as collateral for any amount owed by the customer to the holder.

(2) In this Division, "custodian" means a person referred to in regulation 27(1), (2) or (3), as the case may be.

Duties of holder on receipt of customer's assets

26.—(1) The holder of a capital markets services licence shall —

(*a*) deposit a customer's assets in a custody account held on trust for the customer;

(*b*) ensure that the customer's assets are not commingled with any other assets; and

(*c*) make arrangements for a custodian to maintain the custody account.

(2) The holder shall deposit the customer's assets in the custody account no later than the business day immediately following the day on which the holder receives such assets or is notified of the receipt of such assets, whichever is the later, unless the assets have in the meantime been returned to the customer or deposited in an account directed by the customer or unless it is deposited in accordance with regulation 30.

(3) In paragraph (2), "business day" means the business day of the holder or, if the custodian with whom the custody account is maintained is closed for business on that day and the holder is unable to deposit the assets in the account, the next business day of the custodian.

(4) A customer's assets may be commingled with the assets of another customer and deposited in the same custody account.

Maintenance of custody account with specified custodians

27.—(1) Subject to regulation 30, the holder of a capital markets services licence shall maintain a custody account in which it deposits a customer's assets with —

(*a*) a bank licensed under the Banking Act (Cap. 19);

(*b*) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(*c*) a finance company licensed under the Finance Companies Act (Cap. 108);

(*d*) a depository agent within the meaning of section 130A of the Companies Act (Cap. 50) for the custody of securities listed for quotation or quoted on the Singapore Exchange Securities Trading Limited or deposited with the Central Depository (Pte) Ltd;

(*e*)

an approved trustee for a collective investment scheme within the meaning of section 289 of the Act; or

(*f*) any person licensed under the Act to provide custodial services for securities.

(2) Without prejudice to paragraph (1), the holder may maintain the custody account itself where it is licensed under the Act to provide custodial services for securities.

(3) Without prejudice to paragraph (1) and subject to the customer's prior written consent, the holder may, for the purpose of the safe custody of the customer's assets denominated in a foreign currency, maintain the custody account with a custodian outside Singapore which is licensed, registered or authorised to act as a custodian in the country or territory where the account is maintained.

Notification and acknowledgment from specified custodians

28. Where the holder of a capital markets services licence opens a custody account with a custodian specified in regulation 27(1), the holder shall, before depositing a customer's assets in the account, give written notice to the custodian, and obtain an acknowledgment from the custodian that —

(*a*) all assets deposited in the custody account are held on trust by the holder for its customer; and

(*b*) the account is designated as a trust account, or a customer's or customers' account, which shall be distinguished and maintained separately from any other account in which the holder deposits its own assets.

Suitability of custodian

29. The holder of a capital markets services licence which maintains its customer's assets in a custody account under regulation 27 shall —

(*a*) before opening the custody account, conduct due diligence as to the custodian's suitability for the holder's customer or class of customers; and

(*b*) maintain records of the grounds on which it has satisfied itself of the suitability of the custodian.

Customer's assets held with clearing house, etc.

30. Notwithstanding regulations 26 and 27 —

(*a*) the holder of a capital markets services licence to trade in futures contracts may deposit its customer's assets with a clearing house, a member of a futures exchange or a member of an overseas futures exchange —

(i) for the purpose of facilitating the continued holding of a futures position or facilitating a transaction in a futures contract to be entered into for the customer;

(ii) for the settlement of a transaction in a futures contract for the customer; or

(iii) for any other purpose specified under the business rules and practices of the clearing house, futures exchange or overseas futures exchange, as the case may be; and

(*b*) the holder of a capital markets services licence to deal in securities may deposit its customer's assets with a clearing house or a member of a securities exchange for a purpose specified under the business rules and practices of the clearing house or securities exchange, as the case may be.

Customer agreement

31.—(1) Where the holder of a capital markets services licence is licensed to provide custodial services for securities, the holder shall, before providing custodial services for its customer's assets, notify the customer of the terms and conditions that would apply to the safe custody of the customer's assets.

(2) The terms and conditions that apply to the provision of custodial services for securities by such a holder to its customer shall include —

(*a*) the arrangements for the giving and receiving of instructions by or on behalf of the customer in respect of the services to be provided including, where applicable, the arrangements for the giving of authority by the customer to another person and the extent of that authority and any limitation thereto;

(*b*) any lien over or security interest in the assets by the holder or a third party;

(*c*) the circumstances under which the holder may realise the assets held as collateral to meet the customer's liabilities to the holder;

(*d*) where the customer's assets are to be held with a custodian other than the holder, the liability of the holder in the event of default by the custodian;

(*e*) where the holder intends to commingle the customer's assets with those of other customers and maintain such assets with a custodian other than itself, a statement that the customer's interest in the assets may not be identifiable by separate certificates, or other physical documents or equivalent electronic records, and a condition that the holder shall maintain records of the customer's interest in the assets that have been commingled;

(*f*) the person in whose name the assets are registered;

(*g*) the arrangements in relation to claiming and receiving dividends, interest payments and other entitlements accruing to the customer, and the exercise of any right and power arising from ownership of the assets;

(*h*) the arrangements for the provision of information relating to the custody of the asset to the customer; and

(*i*) all applicable fees and costs for the custody of the assets.

Custody agreement

32.—(1) Subject to paragraph (3), before placing its customer's assets in a custody account with a custodian, the holder of a capital markets services licence shall agree with the custodian, in writing, to the following:

(*a*) that the account shall be designated as that of the customer or customers;

(*b*)

that the custodian shall hold and record the assets in accordance with the holder's instructions; and the records shall identify the assets as belonging to the holder's customer and the assets shall be kept separate from any asset belonging to the holder or to the custodian;

(*c*) that the custodian shall not claim any lien, right of retention or sale over any asset standing to the credit of the custody account, except —

(i) where the holder has obtained the customer's written consent and notified the custodian in writing of the written consent; or

(ii) in respect of any charges as agreed upon in the terms and conditions relating to the administration or custody of the asset;

(*d*) that the custodian shall provide sufficient information to the holder in order that the holder may comply with its record-keeping obligations under the Act or these Regulations or under any other law;

(*e*) the person in whose name the assets are registered;

(*f*) that the custodian shall not permit any withdrawal of the assets from the custody account, except for delivery of the assets to the holder or on the holder's written instructions;

(*g*) the arrangements for dealing with any entitlement arising from the assets in the custody account, such as coupon or interest payment;

(*h*) the extent of the custodian's liability in the event of any loss of the assets maintained in the custody account caused by fraud or negligence on the part of the custodian or any of the custodian's agents; and

(*i*) the applicable fees and costs for the custody of the assets.

(2) The holder of a capital markets services licence referred to in paragraph (1) shall, before depositing its customer's assets in a custody account, disclose to the customer the terms and conditions agreed with the custodian.

(3) Paragraph (1) shall not apply to the holder of a capital markets services licence who is licensed to provide custodial services in relation to its provision of such services for its customer's assets.

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Lending of customer's securities

33.—(1) Notwithstanding regulations 26 and 27, the holder of a capital markets services licence may, subject to the other provisions of this regulation, lend or arrange for a custodian to lend its customer's assets which are securities.

(2) The holder of a capital markets services licence shall not lend or arrange for a custodian to lend the securities of a customer, unless it has —

(*a*) explained the risks involved to the customer; and

(*b*) obtained the customer's written consent to do so.

(3) Paragraph (2)(*a*) shall not apply to a holder of a capital markets services licence which lends or arranges for a custodian to lend the securities of a customer who is an accredited investor.

(4) The holder of a capital markets services licence which lends its customer's securities shall, before the commencement of such lending, enter into an agreement with that customer setting out the terms and conditions for such lending with the customer whose securities are to be lent.

(5) The holder of a capital markets services licence which arranges for a custodian to lend securities of the holder's customer shall, before the commencement of such lending —

(*a*) enter into an agreement with the custodian setting out the terms and conditions for the lending; and

(*b*) disclose these terms and conditions to the customer.

Mortgage of customer's assets

34.—(1) Notwithstanding regulations 26 and 27, the holder of a capital markets services licence may, in the circumstances specified in paragraphs (2) and (4) (but not in any other circumstances), mortgage, charge, pledge or hypothecate its customer's assets.

(2) Subject to paragraph (3) and any agreement between the holder of a capital markets services licence and its customer, where the holder is owed money by the customer, the holder may mortgage, charge, pledge or hypothecate the customer's assets but only for a sum not exceeding the amount owed by the customer to it.

(3) The holder of a capital markets services licence does not contravene paragraph (2) by reason only of an excess arising on any day through the reduction of the amount owed by the customer to the holder on that day, but only if the holder pays or transfers to the mortgagee, chargee or pledgee concerned money or assets of an amount sufficient to reduce such excess as promptly as practicable after the excess occurs and, in any event, no later than the next business day.

(4) The holder of a capital markets services licence may mortgage, charge, pledge or hypothecate the customers' assets together if and only if —

(*a*) the sum of the claims to which such customers' assets are subject as a result of such mortgage, charge, pledge or hypothecation does not exceed the aggregate amounts owed by the customers to the holder; and

(*b*) the claim to which each customer's assets are subject as a result of such mortgage, charge, pledge or hypothecation does not exceed the amount owed by the customer to the holder.

Withdrawal of customer's assets

35. The holder of a capital markets services licence shall not withdraw any of its customer's assets from a custody account except for the purpose of —

(*a*) transferring the asset to any person entitled thereto;

(*b*) meeting the customer's obligation arising from any dealing in securities, trading in futures contracts or leveraged foreign exchange trading, as the case may be, by the holder for the customer;

(*c*) transferring the asset to any person or account in accordance with the customer's written directions;

(*d*) securities lending in accordance with regulation 33;

(*e*) mortgaging, charging, pledging or hypothecating the assets in accordance with regulation 34;

(*f*) making a deposit in accordance with regulation 30; or

(*g*) making a transfer that is authorised by law.

No effect on lawful claims or liens

36. Nothing in this Division shall be construed as avoiding or affecting any lawful claim or lien which any person has in respect of any asset held in a custody account in accordance with this Division or any asset belonging to a customer before the asset is paid into a custody account.

Division 4 — Miscellaneous

Daily computation for trust accounts and custody accounts

37.—(1) For the purposes of Divisions 2 and 3, the holder of a capital markets services licence to trade in futures contract or carry out leveraged foreign exchange trading shall, at such intervals as it determines to be appropriate but no less frequently than at the close of every business day, compute —

(*a*) the total amount of moneys and assets deposited in its customers' trust accounts and custody accounts respectively;

(*b*) the total amount of its customers' moneys and its customers' assets required under Part V of the Act and these Regulations to be deposited in trust accounts and custody accounts respectively; and

(*c*) the respective amounts of the holder's residual interest in the trust accounts and custody accounts,

as at the end of such interval.

(2) The holder shall complete the computation referred to in paragraph (1) before noon of the next business day and such computation with all supporting data shall be kept by the holder for the period specified in section 102(3) of the Act.

Customer's moneys and assets held by clearing house

38.—(1) The holder of a capital markets services licence which is a member of a clearing house shall, in respect of such market contracts as may be specified by the clearing house, inform the clearing house in the manner determined by the clearing house —

(*a*) whether a market contract that is being cleared by the clearing house is a customer's contract; and

(*b*) whether any money or asset being deposited with or paid to the clearing house is deposited or paid in respect of or in relation to the customer's contract.

(2) In this regulation —

"customer's contract" means —

(*a*) a contract to which a customer of the holder is a party; or

(*b*)

a contract to which any other holder of a capital markets services licence to deal in securities or trade in futures contracts is a party and which is cleared through the first-mentioned holder;

"market contract" has the same meaning as in section 48(1) of the Act.

PART IV

CONDUCT OF BUSINESS

Books of holder of capital markets services licence

39.—(1) For the purposes of Division 1 of Part V of the Act, the holder of a capital markets services licence shall keep books in the English language which contain the following, where applicable:

(*a*) particulars of every customer, including particulars that satisfy such notices and guidelines as may be issued by the Authority under the Act;

(*b*) the name of any person —

(i) guaranteeing the settlement of any amount owed in a customer's account in respect of which a regulated activity is carried out by the holder;

(ii) who can give instructions to the holder on the carrying out of a regulated activity with respect to a customer's account; or

(iii) who has trading authority or exercises any control with respect to a customer's account;

(*c*) [*Deleted by S 543/2003*]

(*d*) particulars of every transaction carried out on behalf of customers, including —

(i) a description and the quantity of the assets that are the subject of the transaction;

(ii) the price and fee arising from the transaction;

(iii) the name of the customer on whose behalf the transaction is entered into;

(iv) the name of the counterparty to the transaction; and

(v) the transaction date and settlement or delivery date;

(*e*) a separate record maintained for each customer stating, where applicable —

(i) the amount and description of each asset paid or deposited in the trust account and custody account as required by regulations 16 and 26 respectively and the date of such payment or deposit;

(ii) the date and quantity of each transfer of assets from or to the trust account and custody account arising from any asset borrowing or lending activity or otherwise;

(iii) the date, amount and purpose of each withdrawal from the trust account or custody account; and

(iv)

the date and amount of, and the reason for, each disposal of collateral from the trust account or custody account;

(*f*) particulars of each asset that is not the property of the holder and for which the holder or any nominee controlled by the holder is accountable, indicating by whom and for whom the asset or the document of title to the asset is held and the extent to which it is held for safe custody by a third party or mortgaged, charged, pledged or hypothecated in accordance with regulation 34;

(*g*) particulars of every underwriting and placement transaction entered into by the holder including, where applicable —

(i) the amount which the holder committed to underwrite;

(ii) the amount underwritten due to under-subscription;

(iii) the amount allotted to each subscriber;

(iv) the amount placed with each placee; and

(v) the amount subscribed by each subscriber or placee (including any related company);

(*h*) particulars of every proprietary transaction of the holder including, where applicable —

(i) the description and quantity of the assets concerned;

(ii) the price and fee arising from the transaction;

(iii) the transaction date and settlement or delivery date;

(iv) the name of the counterparty to the transaction; and

(v) the realised or unrealised gain or loss;

(*i*) particulars of all income and expenses of the holder; and

(*j*) particulars of all assets and liabilities (including contingent liabilities) of the holder and, in the case of assets, showing by whom these assets or the documents of title to these assets are held and, where they are held by some other person, whether or not they are held as security against loans or advances.

(2) The holder shall also keep books in the English language which contain the following documents, where applicable:

(*a*) for each customer, other than one who is an accredited investor, every power of attorney or other document authorising the holder or its representative to operate the account of the customer on a discretionary basis;

(*b*) every written agreement, or copy thereof, entered into by the holder with its customer;

(*c*) every acknowledgment of a customer received under regulation 47E(1)(*b*) which shall be in Form 13;

(*d*) every acknowledgment of a customer received under regulation 47E(2) which shall be in Form 14;

(*e*) every statement acknowledging receipt of assets from a customer indicating the person in whose name the assets are registered;

(*f*) every order, whether filled, unfilled, amended or cancelled, which has been prepared or received in the course of the business of the holder;

(*g*) every report, letter, circular, memorandum, publication, advertisement and other literature or advice distributed by the holder to any existing or prospective customer, indicating the date of publication;

(*h*) every report, statement, submission, letter, journal, ledger, invoice, and other record, data or memoranda, which has been prepared or received in the course of business of the holder;

(*i*) written confirmation of every securities transaction, futures transaction or transaction in connection with leveraged foreign exchange trading and every purchase and sale contract note and statement of account in respect of such transaction, being a transaction to which any of the following is a party:

(i) the holder;

(ii) except where the holder is one referred to in sub-paragraph (iii), an executive director of the holder, if the transaction is a personal transaction of such executive director; and

(iii) where the holder is a branch or subsidiary of a foreign company with its head office located outside Singapore, an executive director of the holder who is directly involved in its operations and business, if the transaction is a personal transaction of such executive director;

(*j*) written confirmation of every transaction referred to in paragraph (1)(*d*) prepared by the holder as principal or as agent of a customer, and every purchase and sale contract note and statement of account in respect of such transaction prepared by the holder as principal or as agent of the customer, as the case may be, or received from any other party, whether licensed in Singapore or elsewhere; and

(*k*) in respect of every underwriting and placement transaction entered into by the holder, documentation stating the basis of allotment to each subscriber or placee, as the case may be.

(3) Subject to paragraph (4), the holder of a capital markets services licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading shall —

(*a*) as soon as practicable upon the receipt of a customer's order for —

(i) securities quoted on a securities exchange, an overseas securities exchange or a recognised trading system provider;

(ii) futures contracts; or

(iii) foreign exchange in connection with leveraged foreign exchange trading,

or the receipt of any amendment or cancellation of such an order, prepare and keep a written record of —

(A) the particulars of the customer's instruction in the order;

(B) the date and time of receipt of the order, amendment or cancellation;

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(BA) where the instruction in respect of the order, amendment or cancellation is placed through an Internet-based trading platform, the Internet protocol address from which the instruction is received; and

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(C) where the order, amendment or cancellation is transmitted to a member of a securities exchange, a futures exchange, an overseas securities exchange or an overseas futures exchange, or to the trading floor of such exchange, the date and time the order, amendment or cancellation is transmitted;

(*b*) as soon as practicable upon the receipt of a customer's order for other securities, or the receipt of any amendment or cancellation of such an order, prepare and keep a written record of —

(i) the particulars of the customer's instruction in the order;

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(ii) the date of receipt of the order or of any amendment or cancellation of the order; and

(iii) where the instruction in respect of the order, amendment or cancellation is placed through an Internet based trading platform, the Internet protocol address from which the instruction is received; and

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(*c*) as soon as practicable upon the execution of a customer's order for securities, futures contracts or foreign exchange in connection with leveraged foreign exchange trading, prepare and keep a written record of the particulars of the transaction and —

(i) in the case of an order for —

(A) securities quoted on a securities exchange, an overseas securities exchange or a recognised trading system provider;

(B) futures contracts; or

(C) foreign exchange in connection with leveraged foreign exchange trading,

the date and time of execution of the order or amended order, if any; or

(ii) in the case of an order for other securities, the date of execution of the order or amended order, if any.

(4) Paragraph (3) shall not apply to the holder of a capital markets services licence to trade in futures contracts in respect of a transaction by an arbitrageur or a market-maker for the purchase or sale of futures contracts specified by a futures exchange if —

(*a*) the arbitrageur or market-maker, as the case may be, has given prior written consent for the holder not to prepare and keep the records as required in paragraph (3);

(*b*) the transaction is executed on the trading floor; and

(*c*)

the transaction is entered into in accordance with the business rules or practices of the futures exchange.

(5) In this regulation —

"arbitrageur" means a person who —

(*a*) is appointed, approved or registered by a futures exchange as an arbitrageur in respect of futures contracts specified by the futures exchange; and

(*b*) purchases or sells any futures contract specified by the futures exchange in a futures market together with an off-setting sale or purchase of the same or equivalent contract in a different market at as nearly the same time as practicable for the purpose of taking advantage of a difference in prices in the 2 markets;

"market-maker" means a person who —

(*a*) is appointed, approved or registered by a futures exchange as a market-maker in respect of futures contracts specified by the futures exchange;

(*b*) enters into transactions for the purchase or sale of futures contracts specified by the futures exchange for his own account;

(*c*) regularly publishes *bona fide* competitive bid and offer quotations in respect of futures contracts specified by the futures exchange; and

(*d*) is ready, willing and able to effect transactions at his quoted prices with other persons in respect of futures contracts specified by the futures exchange.

Provision of statement of account to customers

40.—(1) The holder of a capital markets services licence shall on a monthly basis furnish to each customer a statement of account containing the particulars referred to in paragraph (2).

(1A) Paragraph (1) shall not apply to the holder where —

(*a*) there is no change to any of those particulars since the date on which the last statement of account was made up to; or

(*b*) the customer is an accredited investor, or a related corporation of the holder, and —

(i) the holder has made available to the customer, on a real-time basis, those particulars in the form of electronic records stored on an electronic facility and the customer has consented to those particulars being made available to him in this manner; or

(ii) the customer has requested, in writing, not to receive the statement of account on a monthly basis from the holder.

(2) The statement of account referred to in paragraph (1) shall contain, where applicable, the following particulars:

(*a*) securities transactions of the customer and the price at which the transactions are entered into;

(*b*)

futures positions and leveraged foreign exchange positions of the customer and the prices at which the positions are acquired, and the net unrealised profits or losses in all futures positions and leveraged foreign exchange positions of the customer marked to the market;

(*c*) the status of every asset in the holder's custody held for the customer, including any asset deposited with a third party that is used for securities lending under regulation 33 or held as collateral under regulation 34;

(*d*) the movement of every asset of the customer, the date of and reasons for such movement, and the amount of the asset involved;

(*e*) the movement and balance of money received on account of the customer within the meaning of regulation 15(2); and

(*f*) a detailed account of all financial charges and credits to the customer's account during the monthly statement period, unless the detailed account of financial charges and credits has been included in any contract note or tax invoice issued by the holder to the customer.

(3) Subject to paragraph (4), the holder of a capital markets services licence shall furnish to each customer, at the end of every quarter of a calendar year, a statement of account containing, where applicable, the assets, futures positions, leveraged foreign exchange positions and cash balances (if any) of the customer as at the end of that quarter.

(4) Paragraph (3) shall not apply to the holder of a capital markets services licence where —

(*a*) such particulars have been furnished to the customer by the holder in accordance with paragraph (1) for the last month of that quarter; or

(*b*) the holder is exempted from complying with paragraph (1) by virtue of the application of paragraph (1A)(*b*).

(5) Paragraphs (1) and (3) shall not apply to the holder of a capital markets services licence which is a member of a clearing house if the statements of account referred to in those paragraphs are furnished to the customer by the clearing house or a Depository within the meaning of section 130A of the Companies Act (Cap. 50).

Documentation required by Authority, futures exchange or clearing house

41. Where the Authority, or a futures exchange or clearing house of which the holder of a capital markets services licence is a member, requests the holder to furnish it with the documentation of any cash transaction underlying the exchange of futures contract for any cash commodity, the holder shall request for such documentation from its customer and, upon receipt thereof, provide such documentation to the Authority, futures exchange or clearing house, as the case may be.

Contract notes

42.—(1) Subject to paragraph (1A), the holder of a capital markets services licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading shall, in respect of a sale or purchase of securities or futures contracts or a transaction connected with leveraged foreign exchange trading, after entering into the transaction —

(*a*) give to the other party to the transaction a contract note which contains such information as may be prescribed; or

(*b*) procure that such a contract note be given in its name.

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(1A) Paragraph (1) shall not apply to any transaction of sale or purchase of securities or futures contracts effected by the holder of a capital markets services licence through a member of —

(*a*) a securities exchange or overseas securities exchange; or

(*b*) a futures exchange or overseas futures exchange,

if the holder gives, or arranges with that member to give, to the other party to the transaction a contract note or a copy thereof issued by that member in respect of the transaction in accordance with the rules of that exchange or with any written law governing the issuance of contract notes by members of that exchange.

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(1B) The holder shall include, in every contract note to be given under paragraph (1), where applicable —

(*a*) the name or style under which the holder carries on business in dealing in securities, trading in futures contracts or leveraged foreign exchange trading, and the address of the principal place at which the holder carries on the business;

(*b*) where the holder is —

(i) dealing in securities or carrying out leveraged foreign exchange trading as a principal; or

(ii) trading in futures contracts against its customer,

a statement that it is so acting;

(*c*) the name and address of the party to whom the contract note is given;

(*d*) the date on which the transaction is entered into;

(*e*) in respect of a sale or purchase of securities, the number or amount, and description of the securities that are the subject of the transaction;

(*f*) in respect of a sale or purchase of futures contract or a transaction connected with leveraged foreign exchange trading, the quantity and type of the futures contract or the amount of foreign exchange that is the subject of the transaction, as the case may be;

(*g*) in respect of a sale or purchase of securities or futures contract or a transaction connected with leveraged foreign exchange trading, the price per unit of the transaction, the amount of the consideration for the transaction, the rate and amount of commission (if any) charged for the transaction by the holder and the amount of all stamp duties or other duties or taxes payable in connection with the transaction; and

(*h*) in respect of a sale or purchase of securities, if an amount is to be added to or deducted from the settlement amount in respect of the right to a benefit purchased or sold together with the securities, the first-mentioned amount and the nature of the benefit.

[S 709/2010 wef 26/11/2010]

(2) The holder of a capital markets services licence shall, no later than the business day immediately following a sale or purchase of securities or futures contract or a transaction connected with leveraged foreign exchange trading, give to the other party to the transaction a contract note for the transaction.

(2A) Notwithstanding paragraph (2), where any detail in a transaction that is required to be included in every contract note under paragraph (1B) becomes available or is only determined after the business day specified in paragraph (2), the holder of the capital markets services licence shall give to the other party to the transaction the contract note for the transaction no later than the business day immediately following the business day on which the information required to be included in every contract note in paragraph (1B) becomes available or has been determined.

[S 373/2005 wef 01/07/2005]
[S 709/2010 wef 26/11/2010]

(3) Any person who, without reasonable excuse, contravenes any of the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine of $5,000 for every day or part thereof during which the offence continues after conviction.

[S 709/2010 wef 26/11/2010]

Limits for unsecured credit and credit facilities

43.—(1) The holder of a capital markets services licence shall not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility to —

(*a*) any of its directors (other than a director who is also its employee); or

(*b*) in relation to a director who is not an employee of the holder, any connected person of such director who is himself also not an employee of the holder.

(2) Subject to paragraph (1) and section 162 of the Companies Act (Cap. 50), the holder of a capital markets services licence shall not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility to any relevant person of the holder, which in the aggregate and outstanding at any one time exceeds one year's emoluments of such relevant person.

(3) For the purpose of paragraph (2), any unsecured advance, unsecured loan or unsecured credit facility granted by the holder of a capital markets services licence to any person to purchase, subscribe for or trade in any capital markets product for —

(*a*) the account of a relevant person of the holder;

(*b*) an account in which a relevant person of the holder has an interest;

(*c*) an account of any person who acts jointly with, under the control of, or in accordance with, the direction of a relevant person of the holder; or

(*d*) an account of any connected person of a relevant person of the holder, where the connected person is not himself a relevant person of the holder,

shall be deemed to be an unsecured advance, unsecured loan or unsecured credit facility granted by the holder to that relevant person.

(4) In this regulation —

"market value", in relation to assets which are securities listed for quotation or quoted on a securities exchange or an overseas securities exchange, means —

(*a*) the last transacted price of the securities traded on the exchange on the preceding business day;

(*b*) if there was no trading in the securities on the exchange on the preceding business day, then, subject to paragraph (*c*), the lower of the last transacted price and the last bid price of the securities on the exchange; or

(*c*) if there was no trading in the securities on the exchange in the preceding 30 days, the value of the securities as estimated by the exchange or the holder and approved by the Authority;

"relevant person", in relation to the holder of a capital markets services licence, means —

(*a*) an officer of the holder (other than a director who is not its employee); or

(*b*) an employee of the holder;

"unsecured advance, unsecured loan or unsecured credit facility" includes —

(*a*) any advance, loan or credit facility made by the holder of a capital markets services licence to its relevant person without security, whether it has been drawn down or not;

(*b*) in respect of any advance, loan or credit facility made by the holder to its relevant person with security, any part thereof which at any time exceeds the market value of the assets constituting that security or, where the Authority is satisfied that there is no established market value for those assets, on the basis of a valuation approved by the Authority; and

(*c*) any guarantee or performance bond entered into by the holder, or the provision of any security by the holder, in connection with a loan, advance or credit facility made by another party to its relevant person.

[S 373/2005 wef 01/07/2005]

Priority of customers' orders

44.—(1) Except as permitted by paragraph (2) —

(*a*) the holder of a capital markets services licence to deal in securities or trade in futures contracts when acting as principal or on behalf of a person associated with or connected to the holder; or

(*b*) a representative of such a holder when acting for his own account or on behalf of a person associated with or connected to the representative,

shall not enter into a transaction for the purchase or sale of securities or futures contracts that are permitted to be traded on the securities market of a securities exchange, the futures market of a futures exchange or the securities market or the futures market of a recognised market operator, as the case may be, if a customer of that holder or representative, who is not associated with or connected to the holder or representative, has instructed the holder or representative to purchase or sell, respectively, securities or futures contracts of the same class and the holder or representative has not complied with the instruction.

(2) Paragraph (1) shall not apply to the holder of a capital markets services licence or a representative of such a holder —

(*a*) if his customer required the purchase or sale of securities or futures contracts on behalf of the customer to be effected only on specified conditions and he has been unable to purchase or sell the securities or futures contracts by reason of those conditions; or

(*b*) if the transaction is entered into in accordance to the business rules or practices of the securities exchange or futures exchange, as the case may be, through which the transaction is entered into.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 12 months or to both.

[S 709/2010 wef 26/11/2010]

Securities borrowing and lending

45.—(1) Subject to paragraph (2), where a holder of a capital markets services licence —

(*a*) borrows securities from an owner of those securities (referred to in this regulation as the lender), the holder shall provide Collateral to the lender for the borrowing of the securities; and

(*b*) lends securities, including securities belonging to its customer, to any person (referred to in this regulation as the borrower), the holder shall obtain Collateral from the borrower for the lending of the securities.

(2) Paragraph (1)(*a*) shall not apply to a holder of a capital markets services licence when the holder borrows securities from an accredited investor.

(3) For the purposes of paragraph (1)(*a*) and (*b*), the holder of a capital markets services licence shall ensure that the Collateral provided to the lender or obtained from the borrower, as the case may be, shall, throughout the period that the securities are borrowed or lent, have a value not less than 100% of the market value of the securities borrowed or lent.

(4) Where the holder of a capital markets services licence borrows or lends securities in accordance with paragraph (1), it shall ensure that the terms and conditions of the borrowing or lending, as the case may be, are recorded in a prior written agreement, which complies with paragraph (5) and is entered into between the holder and the lender or borrower or their duly authorised agent, as the case may be.

(5) For the purposes of paragraph (4), the written agreement shall —

(*a*) state the capacities in which the parties are entering into the agreement (whether as principal or agent);

(*b*) provide for the transfer of the title to and interest in the securities lent from the lender to the holder, or the holder to the borrower, as the case may be;

(*c*) provide for the transfer of the title to and interest in the whole or part of the Collateral provided or obtained by the holder which is valued to be at least 100% of the market value of the securities (referred to in this regulation as minimum Collateral) which is borrowed by the holder from the lender, or lent by the holder to the borrower, as the case may be;

(*d*) provide for the following rights throughout the period that the securities are borrowed or lent:

(i) in the case where the holder borrows securities from a lender, the rights of the lender in relation to the minimum Collateral and the rights of the holder in relation to the securities borrowed; and

(ii)

in the case where the holder lends securities to a borrower, the rights of the holder in relation to the minimum Collateral and the rights of the borrower in relation to the securities borrowed,

including the treatment of dividend payments, voting and other rights and arrangements for dealing with any corporate action;

(*e*) provide for the procedure for calculating the lending or borrowing fees, as the case may be;

(*f*) include the requirement to mark to market on every business day the securities lent or borrowed, as the case may be, and all minimum Collateral comprising securities and the procedures for calculating the margins;

(*g*) provide for the procedures for the request for the return of the securities lent, and the arrangements for dealing with the situation where such securities cannot be delivered by —

(i) the holder, where the holder borrows securities from a lender; and

(ii) the borrower, where the holder lends securities to a borrower;

(*h*) provide for the termination of the agreement by any party to the agreement, including any early termination fee which that party may be subject to;

(*i*) state whether there is any right of set-off of claims;

(*j*) set out the events of default and the rights and obligations of the parties to the agreement in such events of default; and

(*k*) provide for the law governing the agreement and the jurisdiction to which it is subject.

(6) Where the holder of a capital markets services licence borrows securities from an accredited investor, the holder shall ensure that the terms and conditions of the borrowing are recorded in a prior written agreement, which complies with paragraph (7) and is entered into between the holder and the accredited investor or their duly authorised agent, as the case may be, regardless of whether the holder provides any assets to the accredited investor as collateral for the borrowing.

(7) For the purposes of paragraph (6) —

(*a*) the terms and conditions in the written agreement that apply to the borrowing of securities shall include the details set out in paragraph (5), with the exception of paragraph (5)(*f*), and for this purpose —

(i) any reference to the minimum Collateral in paragraph (5) shall be construed as a reference to any asset which may be provided to the accredited investor as collateral for the borrowing; and

(ii) any reference to the lender shall be construed as a reference to the accredited investor; and

(*b*) where assets are provided to the accredited investor as collateral for the borrowing, the written agreement shall specify —

(i) whether the securities borrowed and the assets provided comprising securities, if any, are marked to market; and

(ii) if so, the procedures for calculating the margins.

(8) Without prejudice to paragraph (3), the holder of a capital markets services licence may —

(*a*) where it borrows securities from a lender, provide assets other than Collateral (referred to in this regulation as additional assets) to the lender if the Collateral already provided to the lender is valued at not less than 100% of the market value of the securities borrowed as at the time the additional assets are provided to the lender; and

(*b*) where it lends securities to a borrower, obtain additional assets from the borrower if the Collateral already obtained from the borrower is valued at not less than 100% of the market value of the securities lent as at the time the additional assets are obtained from the borrower.

(9) In this regulation —

"Collateral" means —

(*a*) cash;

(*b*) Government securities;

(*c*) marginable securities;

(*d*) guarantees issued by banks licensed under the Banking Act (Cap. 19);

(*e*) letters of credit;

(*f*) any asset that —

(i) is liquid and readily convertible into cash;

(ii) is in the possession or control of —

(A) the holder where the holder borrows securities from a lender; and

(B) the borrower where the holder lends securities to a borrower;

(iii) is subject to a legally binding agreement between the lender and the holder or the holder and the borrower, as the case may be, which —

(A) is evidenced in writing;

(B) is irrevocable and enforceable against —

(AA) the holder where the holder borrows securities from a lender; and

(BB) the borrower where the holder lends securities to a borrower; and

(C) confers an unconditional right to apply the asset, to sell the asset or to otherwise convert the asset into cash on —

(AA) the lender where the holder borrows securities from a lender; and

(BB) the holder where the holder lends securities to a borrower;

(iv) is not a security issued by —

(A) in the case where the holder borrows securities from a lender —

(AA) the holder, that gives rise to exposure to the holder; or

(BB) a related corporation of the holder; and

(B) in the case where the holder lends securities to a borrower —

(AA) the borrower, that gives rise to exposure to the borrower; or

(BB) a related corporation of the borrower; and

(v) is not a security that is prohibited from serving as collateral by any securities exchange, futures exchange or clearing house, as the case may be; or

(*g*) such other instruments as the Authority may from time to time, by a guideline issued by the Authority, determine;

"customer" means —

(*a*) a person on whose behalf the holder of a capital markets services licence carries on any regulated activity; or

(*b*) any other person with whom the holder enters or will enter into transactions as principal for the sale or purchase of securities;

"marginable securities" means —

(*a*) securities listed for quotation or quoted on the Singapore Exchange Securities Trading Limited;

(*b*) in the case of an initial public offer, securities to be listed for quotation or quoted on the Singapore Exchange Securities Trading Limited, for which the holder of a capital markets services licence has received full payment from the borrower;

(*c*) securities quoted on a recognised group A exchange, and issued by a corporation with shareholders' funds of not less than $200 million or its equivalent in a foreign currency; or

(*d*) such other securities as the Authority may approve and set out in a guideline issued by the Authority;

"market value", in relation to securities listed for quotation or quoted on a securities exchange or overseas securities exchange, means —

(*a*) the last transacted price of the securities traded on the exchange on the preceding business day;

(*b*) if there was no trading in the securities on the exchange on the preceding business day, then, subject to paragraph (*c*), the lower of the last transacted price and the last bid price of the securities on the exchange; or

(*c*) if there was no trading in the securities on the exchange in the preceding 30 days, the value of the securities as estimated by the exchange or the holder and approved by the Authority;

"recognised group A exchange" has the same meaning as in regulation 2 of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations (Rg 13).

[S 418/2011 wef 31/08/2011]

Advertisement

46. The holder of a capital markets services licence, an appointed representative, a provisional representative or a temporary representative shall not, directly or indirectly, publish, circulate or distribute any advertisement —

(*a*) which refers, directly or indirectly, to any past specific recommendations of the holder in relation to securities or futures contracts which were or would have been profitable to any person, except that the holder or representative may refer in an advertisement to a list of all recommendations made by the holder or representative within the period of not less than one year immediately before the date the advertisement is published, circulated or distributed, which list, if furnished separately from the advertisement, shall —

(i) state the name of each securities or futures contract recommended, the date and nature of the recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the market price of the securities or futures contract as of the most recent practicable date; and

(ii) contain a statement, in as large a font as the largest font used in the body of the advertisement, to the effect that the past performance of the securities or futures contracts in the list is not indicative of the future performance of the securities or futures contracts;

(*b*) which represents, directly or indirectly, that any graph, chart, formula or other device set out or referred to in the advertisement —

(i) can, in and of itself, be used to determine which securities or futures contracts to buy or sell, or when to buy or sell them; or

(ii) will assist any person in deciding which securities or futures contracts to buy or sell, or when to buy or sell them,

without prominently disclosing in the advertisement the limitations thereof and the difficulties with respect to its use;

(*c*) which contains any statement to the effect that any report, analysis or other service will be furnished free or without charge, unless such report, analysis or service is in fact or will in fact be furnished in its entirety and without any condition or obligation; or

(*d*) which contains any inaccurate or misleading statement or presentation, or any exaggerated statement or presentation that is calculated to exploit an individual's lack of experience and knowledge.

Certain representations prohibited

46A.—(1) Subject to paragraph (2), the holder of a capital markets services licence shall not represent or imply or knowingly permit to be represented or implied in any manner to any person that the holder's abilities or qualifications have in any respect been approved by the Authority.

(2) Paragraph (1) does not apply to a statement that a person is holding a capital markets services licence to carry on business in any regulated activity.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 and, in the case of a continuing offence, to a further fine of $5,000 for every day or part thereof during which the offence continues after conviction.

[S 709/2010 wef 26/11/2010]

Trading standards

47.—(1) The holder of a capital markets services licence to deal in securities, trade in futures contract or carry out leveraged foreign exchange trading, or a representative of such a holder, shall not withhold or withdraw from a market any order or any part of a customer's order for the benefit of itself or himself, or of any other person.

(2) The holder of a capital markets services licence to deal in securities, trade in futures contract or carry out leveraged foreign exchange trading, or the representative of such a holder, shall not divulge information relating to a customer's order held by it, unless the disclosure —

(*a*) is necessary for the effective execution of the order;

(*b*) is permitted under the rules of the relevant securities exchange, futures exchange, clearing house or recognised trading system provider, as the case may be; or

(*c*) is required by the Authority under the Act or these Regulations.

Disclosure of certain interests in respect of underwriting agreement

47A.—(1) Where —

(*a*) securities have been offered for subscription or purchase; and

(*b*) the holder of a capital markets services licence has subscribed for or purchased, or is or will or may be required to subscribe for or purchase, any of those securities under an underwriting or sub-underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased,

the holder shall not, during the period of 90 days after the close of the offer referred to in sub-paragraph (*a*) —

(i) make an offer to sell those securities otherwise than in the ordinary course of trading on a securities exchange or recognised market operator; or

(ii) make a recommendation, whether orally or in writing and whether expressly or by implication, with respect to those securities,

unless the offer or recommendation contains or is accompanied by a statement to the effect that the offer or recommendation relates to securities that the holder has acquired, or is or will or may be required to acquire, under an underwriting or sub-underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased.

(2) For the purpose of paragraph (1), any reference to an offer shall be construed as including a reference to a statement, however expressed, that expressly or impliedly invites a person to whom it is made to offer to acquire securities.

(3) Paragraph (1) shall not apply to the holder of a capital markets services licence when —

(*a*) making an offer to sell any securities, or making a recommendation with respect to those securities, to —

(i) an accredited investor;

(ii) an expert investor; or

(iii) an institutional investor; or

(*b*) making an offer to sell any Government securities, or making a recommendation with respect to those Government securities, to any person.

(4) Where the holder of a capital markets services licence sends to any person a written offer, written recommendation or written statement to which paragraph (1) applies, the holder shall retain a copy of the written offer, recommendation or statement for a period of 5 years after the date the written offer, recommendation or statement is made.

(5) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000.

[S 709/2010 wef 26/11/2010]

Dealing in securities as principal

47B.—(1) Subject to paragraph (3), the holder of a capital markets services licence to deal in securities shall not, as principal, enter into any transaction of sale or purchase of any securities with any customer who is not the holder of a capital markets services licence to deal in securities unless the holder first informs the customer that the holder is acting in the transaction as principal and not as agent.

(2) The holder of a capital markets services licence to deal in securities which enters into a transaction of sale or purchase of securities, as principal, with a customer who is not the holder of a capital markets services licence to deal in securities shall state in the contract note that the holder is acting in the transaction as principal and not as agent.

(3) Paragraph (1) shall not apply to a transaction of sale or purchase of an odd lot of securities that is entered into by the holder of a capital markets services licence to deal in securities which is a member of a securities exchange or recognised market operator and specialises in transactions relating to odd lots of securities.

(4) Paragraphs (1) and (2) shall not apply to a market-maker when dealing in securities in such capacity.

(5) Where the holder of a capital markets services licence to deal in securities fails to comply with paragraph (1) or (2) in respect of a contract for the sale of securities by the holder, the purchaser of the securities may, if he has not disposed of them, rescind the contract by a notice of rescission given in writing to the holder not later than 30 days after the receipt of the contract note.

(6) Where the holder of a capital markets services licence to deal in securities fails to comply with paragraph (1) or (2) in respect of a contract for the purchase of securities by the holder, the vendor of the securities may, in like manner, rescind the contract.

(7) Nothing in paragraph (5) or (6) shall affect any right that a person has apart from those paragraphs.

(8) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 12 months or to both.

(9) For the purposes of this regulation —

(*a*) a reference to the holder of a capital markets services licence to deal in securities entering into a transaction of sale or purchase of securities as principal includes a reference to the holder entering into such a transaction on behalf of —

(i) a person associated with or connected to the holder;

(ii) a corporation in which the holder has a controlling interest; or

(iii) a corporation in which the holder's interest and the interests of the directors of the holder together constitute a controlling interest;

(*b*) a reference to securities is a reference to securities which are permitted to be traded on the securities market of —

(i) a securities exchange;

(ii) an overseas securities exchange; or

(iii) a recognised market operator; and

(*c*) a reference to a market-maker is a reference to —

(i) the holder of a capital markets services licence which —

(A) deals in securities for its own account;

(B) regularly publishes bona fide competitive bids and offers quotations in respect of those securities;

(C) is ready, willing and able to enter into transactions at such quoted prices with other persons in respect of those securities; and

(D) is recognised as a market-maker by a securities exchange, overseas securities exchange or the Authority; or

(ii) a designated market-maker referred to in regulation 2(*i*) of the Second Schedule.

[S 709/2010 wef 26/11/2010]

Trading against customer

47C.—(1) The holder of a capital markets services licence to trade in futures contracts shall not knowingly enter into a transaction to buy from or sell to its customer any futures contract for —

(*a*) the holder's own account;

(*b*) an account of a person associated with or connected to it; or

(*c*) an account in which the holder has an interest,

except with the customer's prior consent and in accordance with the business rules and practices of a futures exchange or recognised market operator.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 12 months or to both.

[S 709/2010 wef 26/11/2010]

Cross-trading

47D.—(1) The holder of a capital markets services licence to trade in futures contracts shall not knowingly fill or execute a customer's order for the purchase or sale of a futures contract on a futures market by off-setting against the order or orders of any other person, without effecting such a purchase or sale either —

(*a*) on the trading floor or electronic futures trading system; or

(*b*) in accordance with the business rules and practices of a futures exchange or recognised market operator.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 12 months or to both.

[S 709/2010 wef 26/11/2010]

Risk disclosure by certain persons

47E.—(1) The holder of a capital markets services licence to trade in futures contracts or carry out leveraged foreign exchange trading shall not open a futures trading account or leveraged foreign exchange trading account for a customer unless it —

(*a*) furnishes the customer with a separate written risk disclosure document in Form 13; and

(*b*) receives from the customer an acknowledgment signed and dated by the customer that he has received and understood the nature and contents of the risk disclosure document in Form 13.

(2) The holder of a capital markets services licence for fund management shall not solicit or enter into an agreement with a prospective customer for the purpose of —

(*a*) managing the customer's futures trading account or foreign exchange trading account; or

(*b*) guiding the customer's futures trading account or foreign exchange trading account,

by means of a systematic programme that recommends specific transactions unless, at or before the time the holder engages in the solicitation or enters into the agreement (whichever is the earlier), the holder —

(i) delivers or causes to be delivered to the prospective customer a risk disclosure document in Form 14; and

(ii) receives from the prospective customer an acknowledgment signed and dated by him that he has received and understood the nature and contents of the risk disclosure document in Form 14.

(3) Paragraph (2) shall not apply to collective investment schemes that are approved under Division 2 of Part XIII of the Act.

(4) The holder of a capital markets services licence shall ensure that copies of Forms 13 and 14 delivered to its prospective customer are kept in Singapore.

(5) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 12 months or to both.

[S 709/2010 wef 26/11/2010]

PART V

DEALING IN GOVERNMENT SECURITIES

Compliance with Rules and Market Practices

48.—(1) The following persons shall comply with the Rules and Market Practices when dealing in Government securities:

(*a*) the holder of a capital markets services licence to deal in securities;

(*b*) a person exempted from holding a capital markets services licence under section 99 (1)(*a*), (*b*), (*c*) or (*d*) of the Act;

(*c*) a person exempted from holding a capital markets services licence to deal in securities under paragraph (2)(*e*) of the Second Schedule.

(2) Where any provision of these Regulations conflicts with any provision set out in the Rules and Market Practices, the former shall prevail.

PART VI

MISCELLANEOUS

49. [*Deleted by S 709/2010 wef 26/11/2010*]

50. [*Deleted by S 709/2010 wef 26/11/2010*]

50A. [*Deleted by S 709/2010 wef 26/11/2010*]

Position limit

51. The Authority may issue a direction to a person, or its agent, who holds or controls net long or net short positions in any futures contract in excess of the position limit set under section 16A of the Act, to trade under conditions and restrictions specified in that direction in order to ensure compliance with the position limit; and may, in particular, require the person or agent to do one or more of the following:

(*a*) cease any further increase in his positions;

(*b*) liquidate his position in order to comply with the position limit within the time specified in the direction;

(*c*) be subject to higher margin requirements in respect of his positions.

Non-applicability of section 339 (2) of Act under certain circumstances

52.—(1) Subsection (2) of section 339 of the Act shall not apply to the carrying on of a business in any regulated activity outside Singapore, insofar as that subsection makes that act an offence under Part IV of the Act, if —

(*a*) information about the business is not communicated to or directed at any person or persons in Singapore, whether electronically or otherwise;

(*b*) a prominent disclaimer comprising a statement referred to in paragraph (2) is contained in all advertisements and published information about the business;

(*c*) no advertisement or published information about the business contains any information which is specifically relevant to a person or persons in Singapore; and

(*d*) no advertisement or published information about the business is referred to in, or directly accessible from, any source which is intended for a person or persons in Singapore.

(1A) Subsection (2) of section 339 of the Act shall not apply to the carrying on of a business in providing credit rating services outside Singapore, insofar as that subsection makes that act an offence under Part IV of the Act, if the credit ratings prepared in the course of the business are prepared wholly outside Singapore.

[S 18/2012 wef 17/01/2012]

(2) For the purposes of paragraph (1)(*b*), the disclaimer shall comprise a statement to the effect that the advertisement or published information to which it relates —

(*a*) is made to or directed at persons outside Singapore; or

(*b*) may be acted upon only by persons outside Singapore.

Exemption for SGXLink Pte Ltd

53. [*Deleted by S 709/2010 wef 26/11/2010*]

Banks, merchant banks and finance companies

54.—(1) Sections 104, 104A and 105 of the Act, Part III of these Regulations and regulations 13(*b*)(ix), 39(3), (4) and (5), 42, 44, 45, 46, 47 and 47B to 47E shall, with the necessary modifications, apply to each of the following exempt persons in respect of its business in any regulated activity as those provisions apply to the holder of a capital markets services licence and, where applicable, shall, with the necessary modifications, apply to a representative of any of these exempt persons when acting as such as those provisions apply to the representative of the holder of a capital markets services licence:

(*a*) a bank licensed under the Banking Act (Cap. 19);

(*b*) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186); and

(*c*) a finance company licensed under the Finance Companies Act (Cap. 108).

[S 709/2010 wef 26/11/2010]
[S 170/2013 wef 28/03/2013]

(2) [*Deleted by S 709/2010 wef 26/11/2010*]

(3) Where any regulation referred to in paragraph (1) or part of it conflicts with any requirement under the Banking Act, the Monetary Authority of Singapore Act or the Finance Companies Act, the latter shall prevail.

Registered Fund Management Companies

54A.—(1) Sections 102(1) to (4), 104(1), 104A, 106, 107(1), (2) and (5) and 112(1) of the Act and Divisions 1, 2 and 3 of Part III (other than regulations 19, 30 and 31) of these Regulations and regulations 13, 13B, 39, 40, 43, 46 and 46A shall, with the necessary modifications, apply to each Registered Fund Management Company in respect of its business in fund management as those provisions apply to the holder of a capital markets services licence and, where applicable, shall, with the necessary modifications, apply to a representative of a Registered Fund Management Company when acting as such, as those provisions apply to the representative of the holder of a capital markets services licence.

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(2) As a condition under section 99(4) of the Act, a Registered Fund Management Company must remove its chief executive officer or any of its directors if the Authority is of the opinion that the chief executive officer or the director has failed to ensure compliance by the Company with any of its duties under regulations 13 and 13B, as applied to the Company under paragraph (1).

[S 170/2013 wef 28/03/2013]
[S 385/2012 wef 07/08/2012]

Offences

55. Any person who contravenes regulation 3D, 4(1), (2) or (3), 5(1), (2), (3), (4), (5), (6) or (7), 7(2A), 11(2), (3) or (4), 11A(2) or (3), 13, 13B, 14(4), 16(1) or (2), 17(1), 18, 20(2), 21, 22(2), 26(1) or (2), 27(1), 28, 29, 31, 32, 33(2), (4) or (5), 34, 35, 37, 38(1), 39(1), (2) or (3), 40(1), (2) or (3), 41, 43(1) or (2), 45(1), (3), (4), (5), (6) or (7), 46, 47 or 48(1), paragraph 5(7A), (7G), (7I) or (7J) or 7(6) of the Second Schedule, or a direction issued by the Authority under regulation 51 or paragraph 5(7H) of the Second Schedule, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000.

[S 709/2010 wef 26/11/2010]
[S 418/2011 wef 31/08/2011]
[S 385/2012 wef 07/08/2012]
[S 170/2013 wef 28/03/2013]

PART VII

TRANSITIONAL PROVISIONS

[S 373/2005 wef 01/07/2005]

Persons exempted from holding capital markets services licence under paragraph 5(1)(*d*) of Second Schedule in force before 7th August 2012

56. Any person who, immediately before 7th August 2012, was exempted from the requirement to hold a capital markets services licence to carry on business in fund management under paragraph 5(1)(*d*) of the Second Schedule in force immediately before that date, shall continue to be exempted from the requirement to hold a capital markets services licence to carry on business in fund management —

(*a*) until the expiry of a period of 6 months after that date;

(*b*) if, before the expiry of the period of 6 months in paragraph (*a*), it applies for a capital markets services licence for fund management, until the date on which the licence is granted to it, the date it is notified by the Authority that its application has been refused, or the date the application is withdrawn; or

(*c*) if, before the expiry of the period of 6 months in paragraph (*a*), it lodges with the Authority a notice of commencement of business as a Registered Fund Management Company pursuant to paragraph 5(7) of the Second Schedule, until the date the Authority publishes its

registration as a Registered Fund Management Company on the Authority's Internet website at http://www.mas.gov.sg, or the date it is notified by the Authority that the Authority has refused to register it as a Registered Fund Management Company.

[S 385/2012 wef 07/08/2012]

57. [*Deleted by S 385/2012 wef 07/08/2012*]

58. [*Deleted by S 385/2012 wef 07/08/2012*]

59. [*Deleted by S 385/2012 wef 07/08/2012*]

60. [*Deleted by S 385/2012 wef 07/08/2012*]

Persons carrying on business in providing credit rating services immediately before 17th January 2012

61. Any person who, immediately before 17th January 2012, was carrying on business in providing credit rating services shall not be required to hold a capital markets services licence to carry on business in providing credit rating services —

(*a*) for a period of 6 months from 17th January 2012; or

(*b*) if, before the expiry of the period of 6 months referred to in paragraph (*a*), he applies for a capital markets services licence to carry on business in providing credit rating services or to carry on business in regulated activities which include providing credit rating services, until the date on which the licence is granted to him, or on which his application is refused or withdrawn,

whichever is the later.

[S 18/2012 wef 17/01/2012]

FIRST SCHEDULE

[*Deleted by S 373/2005 wef 01/07/2005*]

SECOND SCHEDULE

Regulation 14

EXEMPTIONS FROM SECTIONS 82(1) AND 99B(1) OF ACT

Definitions

1. In this Schedule —

"agent", in relation to a member of Lloyd's, "Lloyd's", "member of Lloyd's" and "Service Company" have the same meanings as in regulation 2 of the Insurance (Lloyd's Asia Scheme) Regulations (Rg 9);

"base capital", in relation to a corporation, means the sum of —

(*a*) the following items in the latest accounts of the corporation:

(i) paid-up ordinary share capital; and

(ii) paid-up irredeemable and non-cumulative preference share capital; and

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(*b*) any unappropriated profit or loss in the latest audited accounts of the corporation,

less any interim loss in the latest accounts of the corporation and any dividend that has been declared since the date of the latest audited accounts of the corporation;

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"connected person", in relation to any individual, means —

(*a*) his spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; or

(*b*) a firm or corporation in which he or any of the persons referred to in paragraph (*a*) has control of not less than 50% of the voting power, whether such control is exercised individually or jointly;

"designated market-maker" means a corporation who —

(*a*) carries on business to deal in designated securities as a market-maker; and

(*b*) is approved as a designated market-maker by the Singapore Exchange Securities Trading Limited, in accordance with its business rules;

"designated securities" means —

(*a*) exchange traded fund interests; or

(*b*) structured warrants,

which have received approval in-principle for listing and quotation on, or are listed for quotation on, the Singapore Exchange Securities Trading Limited;

"exchange traded fund interest" means any unit in a collective investment scheme concerned with the acquisition, holding, management or disposal of a portfolio of predetermined constituent assets in predetermined proportions, which constituent assets principally comprise securities listed for quotation on any securities exchange or overseas securities exchange; being a unit that is —

(*a*) listed for quotation, or has received approval in-principle for listing and quotation, on any securities exchange; and

(*b*) created and redeemed as part of a block of units in the collective investment scheme in exchange for the constituent assets in the portfolio;

"Finance and Treasury Centre" means an approved Finance and Treasury Centre under section 43G of the Income Tax Act (Cap. 134);

"headquarters company" means an approved headquarters company under section 43E of the Income Tax Act;

"investment company" has the same meaning as in section 355(1) of the Companies Act (Cap. 50);

"investment contract" means any contract, scheme or arrangement which in substance and irrespective of the form thereof involves the investment of money in or under such circumstances that the investor acquires or may acquire an interest in or right in respect of property which under or in accordance with the terms of investment will, or may at the option of the investor, be used or employed in common with any other interest in or right in respect of property acquired in or under like circumstances;

"irredeemable and non-cumulative preference share capital" means preference share capital consisting of preference shares that satisfy all of the following requirements:

(*a*) the principal of the shares is perpetual;

(*b*) the shares are not callable at the initiative of the issuer of the shares or the shareholders, and the principal of the shares is never repaid outside of liquidation of the issuer, except in the case of a repurchase or other manner of reduction of share capital that is initiated by the issuer and permitted under written law; and

(*c*) the issuer has full discretion to cancel dividend payments, and —

(i) the cancellation of dividend payments is not an event of default of the issuer under any agreement;

(ii) the issuer has full access to cancelled dividend payments to meet its obligations as they fall due; and

(iii) the cancellation of dividend payments does not result in any restriction being imposed on the issuer under any agreement, except in relation to dividend payments to ordinary shareholders;

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"market-maker" means a corporation which —

(*a*) through a facility, at a place or otherwise, regularly quotes the prices at which it proposes to acquire or dispose of designated securities for its own account; and

(*b*) is ready, willing and able to effect transactions in the designated securities at the quoted prices;

"net head office funds", in relation to a foreign company, means the net liability of the Singapore branch of that foreign company to its head office and any other branches outside of Singapore;

[S 385/2012 wef 07/08/2012]

"order-filler" means an individual who is registered as such with a futures exchange for the sole purpose of entering into contracts on the floor of that futures exchange on behalf of members of that futures exchange;

"qualified arrangement" means any of the arrangements referred to in paragraphs (i) to (xii) of the definition of "collective investment scheme" in section 2(1) of the Act;

"quote" means to display or provide on a securities market of a securities exchange information concerning the particular prices or particular consideration at which offers or invitations to sell, purchase or exchange issued securities are made on that securities market, being offers or invitations that are intended or may reasonably be expected to result, directly or indirectly, in the making or acceptance of offers to sell, purchase or exchange issued securities;

"relevant offence" means —

(*a*) an offence, whether under the law of Singapore or elsewhere, in connection with the promotion, formation or management of a corporation, or involving fraud or dishonesty, or the conviction for which involved a finding that the offender had acted fraudulently or dishonestly;

(*b*) an offence under the Companies Act involving lack of diligence in the discharge of the duties of a director of a company;

(*c*) an offence under the Act or any regulations made under the Act; or

(*d*) an offence under the Banking Act (Cap. 19), the Commodity Trading Act (Cap. 48A), the Finance Companies Act (Cap. 108), the Insurance Act (Cap. 142), the Monetary Authority of Singapore Act (Cap. 186), the Money-changing and Remittance Businesses Act (Cap. 187), the Penal Code (Cap. 224), the Financial Advisers Act (Cap. 110), or any subsidiary legislation made under any of these Acts;

"securities borrowing and lending facility" means the facility established and operated by the Central Depository (Pte) Ltd for the lending and borrowing of securities;

"special purpose corporation" means a corporation established to acquire and own an aircraft which is to be leased out;

"structured warrant" means an instrument issued by a financial institution, on an underlying financial instrument not issued by that financial institution, which gives the holder the right —

(*a*) to purchase from, or sell to, the financial institution that underlying financial instrument in accordance with the terms of issue of the instrument; or

(*b*)

to receive from the financial institution a cash payment calculated by reference to the fluctuations in the value or price of that underlying financial instrument and in accordance with the terms of issue of the instrument;

"underlying financial instrument" includes any share, basket of shares and share index.

Dealing in Securities

Exemption from requirement to hold capital markets services licence to deal in securities

2. The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in dealing in securities, subject to the conditions and restrictions specified:

(*a*) a person when carrying on business in dealing in securities for his own account, or an account belonging to and maintained wholly for the benefit of a related corporation, and with or through —

(i) the holder of a capital markets services licence to deal in securities;

(ii) a bank licensed under the Banking Act;

(iii) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;

(iv) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business, but only in relation to securities that are not quoted on a securities exchange;

(v) a corporation or firm licensed or registered to carry on business in dealing in securities under the laws of a jurisdiction outside Singapore, but only in relation to securities that are not quoted on a securities exchange; or

(vi) the Central Depository (Pte) Ltd pursuant to its securities borrowing and lending facility;

(*b*) a person whose dealing in securities is solely incidental to his carrying on business in —

(i) fund management;

(ii) providing custodial services for securities; or

(iii) securities financing;

(*c*) an investment company when dealing in securities solely in connection with its acting as an underwriter or sub-underwriter of the issue of those securities for its own account;

(*d*) the Central Depository (Pte) Ltd in respect of its dealing in securities —

(i) that is solely incidental to its business of providing depository services for securities; or

(ii) that is done by reason only of its entering into a transaction pursuant to its securities borrowing and lending facility, and in compliance with conditions specified in writing by the Authority;

(*e*) a person when carrying on business in dealing in bonds with —

(i) an accredited investor; or

(ii) a person whose business involves the acquisition and disposal of or holding of securities (whether as principal or agent);

(*f*) a corporation when subscribing for securities on behalf of a customer as nominee, provided that such corporation —

(i) has no interest in the securities subscribed for other than as a bare trustee; and

(ii) is a wholly-owned subsidiary of —

(A) the holder of a capital markets services licence to deal in securities;

(B) a bank licensed under the Banking Act (Cap. 19);

(C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(D) a finance company licensed under the Finance Companies Act (Cap. 108);

(E) a securities exchange;

(F) an exchange holding company; or

(G) a clearing house;

(*g*) a person approved by the Authority when, pursuant to the establishment and promotion of an aircraft leasing business in Singapore, he deals in the shares of a special purpose corporation with —

(i) a bank licensed under the Banking Act (Cap. 19), a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186), or such other financial institution as may be approved by the Authority; or

(ii) a corporation with total net assets exceeding $10 million in value or its equivalent in value in a foreign currency as determined in accordance with the most recent audited balance-sheet of the corporation or, in the case of a corporation which is not required to prepare audited accounts, a balance-sheet certified by the corporation as giving a true and fair view of the state of affairs of the corporation as at the end of the period to which it relates,

(referred to in this sub-paragraph as a designated institution) if, and only if, such dealing in shares is subject to a prohibition that the designated institution may not subsequently dispose of the shares of the special purpose corporation except to another designated institution;

(*h*) a trustee of a qualified arrangement in respect of securities whose dealing in securities is solely incidental to the management and administration of such arrangement;

(*i*) a designated market-maker when carrying on business in dealing in designated securities for its own account or for the account of any of its related corporations;

(*j*) a financial adviser licensed under the Financial Advisers Act (Cap. 110), or a person exempted under section 23 or 100 of that Act in respect of the marketing of any collective investment scheme, when marketing, or redeeming units of, any collective investment scheme ;

(*k*) any responsible person for a collective investment scheme —

(i) that is authorised under section 286 of the Act;

(ii) that is recognised under section 287 of the Act; or

(iii) where the units of the scheme have been, is or will be, offered in reliance on an exemption under Subdivision (4) of Division 2 of Part XIII of the Act,

in respect of his dealing in securities being —

(A) units of that scheme or the underlying securities that comprise the investment of funds under that scheme, provided that such responsible person is also the holder of a capital markets services licence, or an exempt person, in respect of fund management; or

(B) units of that scheme, provided that the dealing is effected through any of the following persons:

(BA) the holder of a capital markets services licence to deal in securities;

(BB) an exempt person in respect of dealing in securities being units of any collective investment scheme;

(BC) a financial adviser licensed under the Financial Advisers Act (Cap. 110) to market collective investment schemes; or

(BD) an exempt financial adviser as defined in the Financial Advisers Act in respect of marketing of collective investment schemes.

[S 373/2005 wef 01/07/2005]

Trading in futures contracts

Exemption from requirement to hold capital markets services licence to trade in futures contracts

3. The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in trading in futures contracts, subject to the conditions and restrictions specified:

(*a*) a person when carrying on business in trading in futures contracts for his own account or an account belonging to and maintained wholly for the benefit of a related corporation or connected person;

(*b*) a person whose trading in futures contracts is solely incidental to his carrying on business in fund management;

(*c*) an order-filler, provided that he shall not be or shall cease to be exempted if —

(i) he is or becomes a representative or employee of the holder of a capital markets services licence to trade in futures contracts;

(ii) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or

(iii) he has been convicted of a relevant offence.

Leveraged Foreign Exchange Trading

Exemption from requirement to hold capital markets services licence to carry out leveraged foreign exchange trading

4.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in leveraged foreign exchange trading, subject to the conditions and restrictions specified:

(*a*) a person who carries on business in leveraged foreign exchange trading —

(i) for his own account and with a related corporation or connected person; or

(ii) for his own account or an account belonging to and maintained wholly for the benefit of a related corporation or connected person, and with or through —

(A) the holder of a capital markets services licence to carry on business in leveraged foreign exchange trading;

(B) a bank licensed under the Banking Act (Cap. 19);

(C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(D) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business; or

(E) a corporation or firm licensed or registered to carry on business in leveraged foreign exchange trading under the laws of a jurisdiction outside Singapore;

(*b*) a person whose leveraged foreign exchange trading is solely incidental to his carrying on business in fund management.

[S 385/2012 wef 07/08/2012]

(*c*) [*Deleted by S 385/2012 wef 07/08/2012*]

(2) A person otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if he also carries on business for leveraged foreign exchange trading other than in accordance with sub-paragraph (1)(*a*) or (*b*).

[S 385/2012 wef 07/08/2012]

(3) An individual otherwise exempted under sub-paragraph (1)(*a*) shall not be or shall cease to be so exempted if —

(*a*) he is or becomes a representative or employee of the holder of a capital markets services licence to carry out leveraged foreign exchange trading;

(*b*) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or

(*c*) he has been convicted of a relevant offence.

[S 385/2012 wef 07/08/2012]

(4) A corporation otherwise exempted under sub-paragraph (1)(*a*) shall not be or shall cease to be so exempted if —

(*a*) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*c*) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;

(*d*) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or

(*e*) the corporation or its substantial shareholder has been convicted of a relevant offence.

[S 385/2012 wef 07/08/2012]

(4A) [*Deleted by S 385/2012 wef 07/08/2012*]

(5) [*Deleted by S 385/2012 wef 07/08/2012*]

(6) [*Deleted by S 385/2012 wef 07/08/2012*]

(7) [*Deleted by S 385/2012 wef 07/08/2012*]

(8) [*Deleted by S 385/2012 wef 07/08/2012*]

Fund Management

Exemption from requirement to hold capital markets services licence for fund management

5.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in fund management, subject to the conditions and restrictions specified:

(*a*) a headquarters company or Finance and Treasury Centre which carries on a class of business involving fund management but only to the extent that the business in fund management has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(*a*) or 43G (2)(*a*) of the Income Tax Act (Cap. 134), as the case may be;

(*b*) a corporation which carries on business in fund management for or on behalf of any of its related corporations, so long as in carrying on such business, none of the securities, positions in futures contracts, or foreign exchange arising from foreign exchange trading or leveraged foreign exchange trading being managed, are —

(i) held on trust for another person by the second-mentioned corporation;

(ii) the result of any investment contract entered into by the second-mentioned corporation; or

(iii) beneficially owned by any person, other than the first-mentioned or second-mentioned corporation;

(*c*) an individual who carries on business in fund management for or on behalf of —

(i) his spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; or

(ii) a firm or corporation in which he or any of the persons referred to in sub-paragraph (i) has control of 100% of the voting power, whether such control is exercised individually or jointly with any person referred to in that sub-paragraph,

so long as in carrying on such business, none of the securities, positions in futures contracts, or foreign exchange arising from foreign exchange trading or leveraged foreign exchange trading being managed, are —

(A) held on trust for another person by any person referred to in sub-paragraph (i) or (ii);

(B) the result of any investment contract entered into by any person referred to in sub-paragraph (i) or (ii); or

(C) beneficially owned by any person, other than the individual or any person referred to in sub-paragraph (i) or (ii);

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(*d*) [*Deleted by S 385/2012 wef 07/08/2012*]

(*e*) the holder of a capital markets services licence to trade in futures contracts which carries on business in fund management in accordance with regulation 20;

(*f*) a Service Company whose business in fund management is solely incidental to its carrying on business as an agent of a member of Lloyd's;

(*g*) a financial adviser —

(i) who is licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of the financial advisory services specified in paragraphs 1 and 3 of the Second Schedule to the Act; and

(ii) who carries on business in fund management for or on behalf of another person (referred to in this paragraph as the client) in connection with any advice that is given by the licensed financial adviser to the client concerning units in a collective investment scheme or a portfolio of units in various collective investment schemes,

provided that —

(A) the scope of such business is confined to the management of one or more portfolios comprising solely of units in one or more collective investment schemes, all of which are not listed on a securities exchange;

(B) in carrying on business in fund management for or on behalf of the client, the licensed financial adviser obtains the prior approval of the client in respect of each and every transaction for or on behalf of the client and only receives the client's money or property in respect of approved transactions and services rendered by the licensed financial adviser in relation to such business; and

(C) where the licensed financial adviser receives the client's money or property under sub-paragraph (B), such money or property, except to the extent that it is received wholly for services rendered by the licensee, shall be handed over to —

(CA) the manager or trustee of the collective investment scheme;

(CB) the holder of a capital markets services licence under the Act to provide custodial services for securities which is authorised by the client to receive the client's money or property; or

(CC) a person exempt under the Act from holding a capital markets services licence to provide custodial services for securities which is authorised by the client to receive the client's money or property,

not later than the business day immediately following the day on which the licensed financial adviser receives the money or property or at a later date if, and only if, it has the client's prior written consent to do so;

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(*h*) a person who carries on business in fund management in Singapore on behalf of qualified investors where the assets managed by it comprise securities issued by one or more corporations or interests in bodies unincorporate, where the sole purpose of each such corporation or body unincorporate is to hold, whether directly or through another entity or trust, immovable assets;

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(*i*) a corporation —

(i) which carries on business in Singapore in fund management on behalf of not more than 30 qualified investors, of which not more than 15 are collective investment schemes, closed-end funds, or limited partnerships referred to in sub-paragraph (3)(*e*); and

(ii) which is registered with the Authority in accordance with sub-paragraph (7) and the registration is and continues to be published on the Authority's website.

[S 385/2012 wef 07/08/2012]

(2) For the purposes of sub-paragraph (1) —

(*a*) a person otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if he also carries on business in fund management other than in accordance with sub-paragraph (1)(*a*), (*b*), (*c*), (*e*), (*f*), (*h*) or (*i*), as the case may be;

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(*b*) a person who is exempted under sub-paragraph (1)(*a*) or (*b*) may, in ascertaining the number of qualified investors for the purpose of exemption under sub-paragraph (1)(*i*), exclude those persons on behalf of whom he carries on business in fund management under sub-paragraph (1)(*a*) or (*b*);

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(*bb*) a person otherwise exempted under sub-paragraph (1)(*i*) shall not be or shall cease to be so exempted if —

(i) it is the holder of a capital markets services licence in respect of any regulated activity;

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(ii) it has not commenced business in fund management in accordance with sub-paragraph (1)(*i*) within 6 months from the date of its registration by the Authority as a Registered Fund Management Company under sub-paragraph (7); or

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(iii) it has ceased to carry on business in fund management in accordance with sub-paragraph (1)(*i*), and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

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(*c*) a person who is otherwise exempted under sub-paragraph (1)(*i*) and is also exempted under regulation 27(1)(*d*) of the Financial Advisers Regulations (Rg 2) from the requirement to hold a financial adviser's licence under the Financial Advisers Act (Cap. 110) in respect of providing any financial advisory service, other than —

(i) marketing collective investment schemes; and

(ii) arranging contracts of insurance in respect of life policies,

shall not be or shall cease to be exempted under sub-paragraph (1)(*i*) if the number of qualified investors on behalf of whom he carries on business in fund management and the number of accredited investors to whom he provides financial advisory services exceed 30 in total.

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(3) In this paragraph, each of the following persons, schemes and funds shall be considered as one qualified investor:

(*a*) an accredited investor, other than —

(i) one who is a participant in a collective investment scheme referred to in sub-paragraph (*b*);

(ii) one who is a holder of a unit in a closed-end fund referred to in sub-paragraph (*c*);

(iii) one which is a corporation referred to in section 4A(1)(*a*)(ii) of the Act or an entity referred to in regulation 2(*b*) of the Securities and Futures (Prescribed Specific Classes of Investors) Regulations 2005 (G.N. No. S 369/2005) —

(A) which is related to or controlled by a person referred to in sub-paragraph (1)(*i*), or a key officer or substantial shareholder of such person; and

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(B) the shares or debentures of which are, after 28th May 2008, the subject of an offer or invitation for subscription or purchase made to any person who is not an accredited investor; or

(iv) a corporation or an entity which is a collective investment scheme or a closed-end fund the units of which are, after 28th May 2008, the subject of an offer or invitation made to any person who is not an accredited investor;

(*b*) a collective investment scheme the units of which are the subject of an offer or invitation for subscription or purchase made —

(i) in Singapore only to accredited investors or institutional investors or both; or

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(ii) elsewhere if, after 28th May 2008, such offer or invitation is made only to accredited investors, or investors in an equivalent class under the laws of the country or territory in which the offer or invitation is made, or institutional investors or both;

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(*c*) a closed-end fund the units of which are the subject of an offer or invitation for subscription or purchase made only to accredited investors, or investors in an equivalent class under the laws of the country or territory in which the offer or invitation is made, or institutional investors or both;

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(*d*) an institutional investor, other than a collective investment scheme;

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(*e*) a limited partnership, where the limited partners comprise solely of accredited investors or investors in an equivalent class under the laws of the country or territory in which the partnership is formed, or institutional investors, or both;

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(*f*) any other person that the Authority may, from time to time, by a guideline issued by the Authority, determine;

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(4) An individual shall not be or shall cease to be exempted from the requirement to hold a capital markets services licence to carry on business in fund management if —

(*a*) he is or becomes a representative or employee of the holder of a capital markets services licence for fund management;

(*b*) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or

(*c*) he has been convicted of a relevant offence.

(5) A corporation otherwise exempted under sub-paragraph (1)(*a*), (*b*), (*h*) or (*i*) shall not be or shall cease to be so exempted if —

(*a*) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*c*) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;

(*d*) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or

(*e*) the corporation or its substantial shareholder has been convicted of a relevant offence.

[S 385/2012 wef 07/08/2012]
[S 170/2013 wef 28/03/2013]

(6) A person who is exempted under sub-paragraph (1)(*i*) shall —

(*a*) take reasonable measures to verify that the persons on behalf of whom he carries on business in fund management are qualified investors; and

(*b*) ensure that proper records are kept of any document evidencing the status of such persons.

[S 385/2012 wef 07/08/2012]

(7) A corporation which seeks to be exempted under sub-paragraph (1)(*i*) shall register with the Authority as a Registered Fund Management Company by lodging with the Authority a notice of commencement of its business in Form 22A prior to the commencement of its business in fund management, accompanied by a non-refundable annual fee which shall be paid in the manner specified by the Authority in writing.

[S 385/2012 wef 07/08/2012]

(7A) A corporation shall not represent itself as a Registered Fund Management Company, unless —

(*a*) it has fulfilled all the requirements in sub-paragraph (1)(*i*); and

(*b*) the registration of the corporation as a Registered Fund Management Company is and continues to be published on the Authority's website.

[S 385/2012 wef 07/08/2012]

(7B) The Authority may refuse to register a corporation under sub-paragraph (7) unless the corporation has demonstrated to the Authority's satisfaction that —

(*a*) it is able to fulfil the requirements under sub-paragraph (1)(*i*)(i) and regulation 13 or both regulations 13 and 13B (as the case may be) as applied to a Registered Fund Management Company under regulation 54A(1);

[S 170/2013 wef 28/03/2013]

(*b*) if it is incorporated in Singapore, its base capital, or if it is a foreign company, its net head office funds, is not less than $250,000;

(*c*) it employs at least 2 persons, each of whom has at least 5 years' experience that is relevant to the fund management activities it intends to carry out; and

(*d*) the total value of its managed assets does not exceed $250 million.

[S 385/2012 wef 07/08/2012]

(7C) The Authority may cancel the registration of a corporation under sub-paragraph (7) if the corporation is issued with a capital markets services licence in fund management.

[S 385/2012 wef 07/08/2012]

(7D) A Registered Fund Management Company shall not cause or permit —

(*a*) where it is incorporated in Singapore, its base capital; or

(*b*) where it is a foreign company, its net head office funds,

to fall below $250,000.

[S 385/2012 wef 07/08/2012]

(7E) A Registered Fund Management Company shall at all times employ at least 2 persons, each of whom has at least 5 years' experience that is relevant to the fund management activities it is carrying out.

[S 385/2012 wef 07/08/2012]

(7F) The total value of the managed assets of a Registered Fund Management Company shall not at any time exceed $250 million.

[S 385/2012 wef 07/08/2012]

(7G) If a corporation which carries on business in fund management in reliance on sub-paragraph (1)(*i*) fails to meet the criterion in sub-paragraph (1)(*i*)(i) or to comply with sub-paragraph (7D), (7E) or (7F), or becomes aware that it will likely fail to meet any of those criteria or to comply with sub-paragraph (7D), (7E) or (7F), it shall —

(*a*) immediately notify the Authority; and

(*b*) cease any increase in positions, and not accept assets for fund management, until such time as advised by the Authority.

[S 385/2012 wef 07/08/2012]

(7H) If the Authority becomes aware that a corporation which carries on business in fund management in reliance on sub-paragraph (1)(*i*) fails to meet any criterion in sub-paragraph (1)(*i*)(i) or to comply with sub-paragraph (7D), (7E) or (7F), the Authority may direct the Registered Fund Management Company to operate its business in such manner and on such conditions as the Authority may impose, and the corporation to whom such direction is issued shall comply with the direction.

[S 385/2012 wef 07/08/2012]

(7I) A Registered Fund Management Company shall lodge with the Authority —

(*a*) a notice of change of particulars in Form 23A providing any change in the particulars in the notice lodged under sub-paragraph (7), not later than 14 days after the date of the change;

(*b*) a notice of cessation of business in Form 24A at any time prior to the cessation of its business in fund management; and

(*c*) an annual declaration in Form 25A within one month after the end of each of its financial years.

[S 385/2012 wef 07/08/2012]

(7J) A Registered Fund Management Company shall submit an auditor's report in Form 25B, no later than 5 months after the end of each of its financial years.

[S 385/2012 wef 07/08/2012]

(7K) In this paragraph, "managed assets", in relation to a corporation (including one that is a Registered Fund Management Company), means all of the following:

(*a*) moneys and assets contracted to, drawn down by or are under the discretionary authority granted by the customer to the corporation and in respect of which it is carrying out fund management;

(*b*) moneys and assets contracted to the corporation, and are under the non-discretionary authority granted by the customer to the corporation, and in respect of which the corporation is carrying out fund management;

(*c*) moneys and assets contracted to the corporation, but which have been sub-contracted to another party and for which the other party is carrying out fund management, whether on a discretionary authority granted by the customer or otherwise.

[S 385/2012 wef 07/08/2012]

(7L) In sub-paragraph (7K), moneys and assets are contracted to a corporation if they are the subject-matter of a contract for fund management between the corporation and its customer.

[S 385/2012 wef 07/08/2012]

(8) Every person exempted under sub-paragraph (1)(*a*), (*e*), (*h*) or (*i*) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in fund management as the Authority may reasonably require.

[S 385/2012 wef 07/08/2012]

(9) [*Deleted by S 385/2012 wef 07/08/2012*]

Custodial Services for Securities

Exemption from requirement to hold capital markets services licence to provide custodial services for securities

6.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in providing custodial services for securities, subject to the conditions and restrictions specified:

(*a*) a trustee of a qualified arrangement in respect of securities when carrying out his duties of managing and administering such arrangement;

(*b*) a company or society registered under the Insurance Act (Cap. 142) when carrying on business in providing custodial services only in respect of units of any collective investment scheme;

(*c*) a Service Company acting as an agent in Singapore for any member of Lloyd's, when carrying on business in providing custodial services only in respect of units of any collective investment scheme.

(2) Part III of these Regulations shall, with the necessary modifications, apply to each of the persons referred to in sub-paragraph (1)(*b*) and (*c*) as if it were the holder of a capital markets services licence and, where applicable, to a representative of any of these persons when acting as such, as if he were the holder of a representative's licence.

Advising on Corporate Finance

Exemption from requirement to hold capital markets services licence to advise on corporate finance

7.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in advising on corporate finance, subject to the conditions and restrictions specified:

(*a*) a person who carries on business in giving advice on corporate finance to a related corporation, provided that —

(i) such advice is not specifically given for the making of any offer of securities to the public by the related corporation; and

(ii) where the related corporation is —

(A) a public company;

(B) listed on a securities exchange; or

(C) a subsidiary of a corporation listed on a securities exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors) of (in the case of sub-paragraph (A) or (B)) the related corporation or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

(*b*) a person resident in Singapore who carries on business in Singapore in giving advice on corporate finance to accredited investors, provided that —

(i) such advice is not specifically given for the making of any offer of securities to the public by the accredited investor to whom the advice was given; and

(ii) where the accredited investor is —

(A) a public company;

(B) listed on a securities exchange; or

(C) a subsidiary of a corporation listed on a securities exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors) of (in the case of sub-paragraph (A) or (B)) the accredited investor or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

(*c*) a person who advises another person concerning any arrangement, reconstruction or take-over of any corporation or any of the corporation's assets or liabilities, provided that —

(i) such advice is not specifically given for the making of any offer of securities to the public by the second-mentioned person; and

(ii) where the second-mentioned person is —

(A) a public company;

(B) listed on a securities exchange; or

(C) a subsidiary of a corporation listed on a securities exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors) of (in the case of sub-paragraph (A) or (B)) the second-mentioned person or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

(*d*) a person who carries on business in giving advice to another person concerning compliance with or in respect of any laws or regulatory requirements relating to the raising of funds not involving any securities.

(2) A person otherwise exempted under sub-paragraph (1)(*a*), (*b*) or (*c*) shall not be or shall cease to be so exempted if he also carries on business in advising on corporate finance other than in accordance with sub-paragraph (1)(*a*), (*b*), (*c*) or (*d*).

(2A) A person otherwise exempted under sub-paragraph (1)(*b*) shall not be or shall cease to be so exempted if —

(*a*) he is the holder of a capital markets services licence in respect of any regulated activity;

(*b*) he has not commenced business in advising on corporate finance in accordance with sub-paragraph (1)(*b*) within 6 months from the date of commencement of business as specified in the notice that the person has lodged with the Authority in accordance with sub-paragraph (6)(*a*); or

(*c*) he has ceased to carry on business in advising on corporate finance in accordance with sub-paragraph (1)(*b*), and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

[S 373/2005 wef 01/07/2005]

(3) An individual otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if —

(*a*) he is or becomes a representative or employee of the holder of a capital markets services licence in advising on corporate finance;

(*b*) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or

(*c*) he has been convicted of a relevant offence.

(4) A corporation otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if —

(*a*) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(*b*) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;

(*c*) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;

(*d*) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or

(*e*) the corporation or its substantial shareholder has been convicted of a relevant offence.

(5) A person who is exempted under sub-paragraph (1)(*b*) shall —

(*a*) take reasonable measures to verify that the persons to whom he carries on business in advising on corporate finance are accredited investors; and

(*b*) ensure that proper records are kept of any document evidencing the status of such persons.

(6) A person who is exempted under sub-paragraph (1)(*b*) shall lodge with the Authority —

(*a*) a notice of commencement of business in Form 22 not later than 14 days after the commencement of his business in advising on corporate finance;

(*b*) a notice of change of particulars in Form 23 providing any change in the particulars in the notice under sub-paragraph (*a*), not later than 14 days after the date of the change;

(*c*) a notice of cessation of business in Form 24 not later than 14 days after the cessation of his business in advising on corporate finance; and

(*d*) a declaration in Form 25 within 14 days after the end of the financial year of the person.

(7) Every person exempted under sub-paragraph (1)(*b*) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in advising on corporate finance as the Authority may reasonably require.

(8) A person exempted under sub-paragraph (1)(*b*) who has, at any time before 1st October 2002, lodged a notice of commencement of business in the prescribed form under regulation 41(5)(*a*) of the revoked Securities Industry Regulations (Cap. 289, Rg 1) in relation to the activity specified in paragraph (*a*) of the definition of "investment adviser" in section 2 (1) of the repealed Securities Industry Act (Cap. 289) shall be deemed to have lodged a notice of commencement of business in compliance with sub-paragraph (6)(*a*).

Other Exemptions

Exemption from section 99B(1) of Act

8.—(1) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for dealing in securities shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder:

(*a*) dealing in securities on a securities exchange or recognised market operator; or

(*b*) dealing in securities with —

(i) an institutional investor; or

(ii) an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(2) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for trading in futures contract shall be exempted from section 99B(1) of the Act when carrying out regulated activities for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder.

(3) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for leveraged foreign exchange trading shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder:

(*a*) leveraged foreign exchange trading with an institutional investor; or

(*b*) leveraged foreign exchange trading with an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(4) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(*a*), (*b*) or (*c*) of the Act in respect of the activity of dealing in securities shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person:

(*a*) dealing in securities on a securities exchange or recognised market operator; or

(*b*) dealing in securities with —

(i) an institutional investor; or

(ii) an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(5) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(*a*), (*b*) or (*c*) of the Act in respect of the activity of trading in futures contract shall be exempted from section 99B(1) of the Act when carrying out that activity for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person.

(6) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(*a*), (*b*) or (*c*) of the Act in respect of the activity of leveraged foreign exchange trading shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person:

(*a*) leveraged foreign exchange trading with an institutional investor; or

(*b*) leveraged foreign exchange trading with an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(7) Sub-paragraphs (1) to (6) —

(*a*) shall not apply to any activity of dealing in securities, trading in futures contract or leveraged foreign exchange trading which involves customer account; and

(*b*) shall only apply if the employee, when dealing in securities, trading in futures contract or leveraged foreign exchange trading —

(i) does not have access to customers' trade and order information; and

(ii) is not in a position to control or affect the order or priority of executing customers' orders.

(8) A person shall, when acting as a representative of the holder of a capital markets services licence or person exempt under section 99(1)(*a*), (*b*) or (*c*) of the Act in respect of the activity of securities financing or providing custodial services for securities, be exempted from section 99B(1) of the Act, as the case may be.

[S 709/2010 wef 26/11/2010]

Exemption for exchange holding company

9. An exchange holding company shall be exempted from the requirement to hold a capital markets services licence in respect of any regulated activity insofar as its carrying out of such regulated activity is solely incidental to its operation as an exchange holding company.

THIRD SCHEDULE

Regulation 6(1) and (6)

FEES

First column		*Second column*	*Third column*	*Fourth column*
No.	*Provision of Act*	*Matter*	*Amount*	*Manner and Time of Payment*
1.	Section 84(3)	Application for grant of a capital markets services licence	$1,000	By cheque or in the manner specified by the Authority, at time of application
2.	Section 85(1)	Annual licence fee for capital markets services licence in respect of —		(*a*) Where the holder has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice. (*b*) Where the holder has GIRO arrangement with the Authority, by GIRO by 19th December of the preceding year.
		(*a*) dealing in securities —		
		(i) where the holder is a member of the Singapore Exchange Securities Trading Limited; or	$8,000	
		(ii) where the holder is any other person;	$4,000	
		(*b*) fund management;	$4,000	
		(*c*) advising on corporate finance;	$4,000	
		(*d*) trading in futures contracts;	$2,000	
		(*e*) leveraged foreign exchange trading;	$2,000	
		(*f*) securities financing;	$2,000	
		(*g*) providing custodial services for securities;	$2,000	
		(*h*) real estate investment trust management;	$4,000	
		(*i*) providing credit rating services	$4,000	
3.	Section 90(2)	Application to add type(*s*) of regulated activity to capital markets services licence	$500	Payable by GIRO by the 16th day of the month following that in which application is made
4.	Section 99K (1)	Lodgment of documents under section 99H of the Act for appointment of appointed, provisional or temporary representative	$100	(*a*) Where principal is an applicant for capital markets services licence, by cheque or in the manner specified by the Authority, at time of lodgment. (*b*) Where principal is a holder of capital markets services licence, and — (i) it has no GIRO arrangement with the Authority, by cheque

					or in the manner specified by the Authority, by the date specified in the fee advice; or (ii) it has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which lodgment is made.
5.	Section 99K (2)	Annual fee for retention of name of appointed or provisional representative in the public register of representatives in the year in which the name is first entered in the register, where the regulated activity is — (*a*) dealing in securities; (*b*) fund management; (*c*) advising on corporate finance; (*d*) trading in futures contracts; (*e*) leveraged foreign exchange trading;	Amount derived from the formula: $\frac{A}{365} \times Y$ where: "A" is the number of days between the date the name of appointed or provisional representative is first entered in the register and 31st December of same year, both dates inclusive; and "Y" is — (*a*) $700 where the regulated activity or one of the regulated activities is dealing in securities on behalf of a principal who is a member of the Singapore Exchange Securities Trading Limited; or (*b*) $200 where the regulated activity is one of, or the regulated activities are 2 or more of, the following: (i) dealing in securities on behalf of a principal	(*a*) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice. (*b*) Where principal has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which name is entered in the register.

				who is any other person;	
		(*f*) real estate investment trust management; or		(ii) fund management;	
		(*g*) providing credit rating services		(iii) advising on corporate finance;	
				(iv) trading in futures contracts;	
				(v) leveraged foreign exchange trading;	
				(vi) real estate investment trust management; or	
				(vii) providing credit rating services	
6.	Section 99K (2)	Annual fee for retention of name of appointed or provisional representative in the public register of representatives in any other year, where the regulated activity is —			(*a*) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice. (*b*) Where principal has GIRO arrangement with the Authority, by GIRO by19th December of the preceding year or, if the name of the representative is entered in the public register of representatives in that preceding year during the period between 20th and 31st December (both dates inclusive), by 16th January of that other year.
		(*a*) dealing in securities —			
			(i) where the principal is a member of the Singapore Exchange Securities Trading Limited; or	$700	
			(ii) where the principal is any other person;	$200	
		(*b*) fund management;		$200	
		(*c*) advising on corporate finance;		$200	
		(*d*) trading in futures contracts;		$200	
		(*e*) leveraged foreign exchange trading;		$200	
		(*f*) real estate investment trust management; or		$200	
		(*g*) providing credit rating services,		$200	
		or where there is more than one regulated activity		the higher or highest of the relevant amounts set out above for those regulated activities	

7.	Section 99K (3)	Fee payable by a temporary representative for retention of name of temporary representative in the public register of representatives, where the regulated activity is —		(*a*) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice. (*b*) Where principal has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which name is entered in the register.
		(*a*) dealing in securities —		
		(i) where the principal is a member of the Singapore Exchange Securities Trading Limited; or	$700	
		(ii) where the principal is any other person;	$200	
		(*b*) fund management;	$200	
		(*c*) advising on corporate finance;	$200	
		(*d*) trading in futures contracts;	$200	
		(*e*) leveraged foreign exchange trading;	$200	
		(*f*) real estate investment trust management; or	$200	
		(*g*) providing credit rating services,	$200	
		or where there is more than one regulated activity	the higher or highest of the relevant amounts set out above for those regulated activities	
8.	Section 99K (4)	Resubmission of a form for lodgment of documents under section 99H(1) of the Act for the appointment of appointed, provisional or temporary representative	$100	(*a*) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice. (*b*) Where principal has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which resubmission is made
9.	Section 99A (1)	Annual fee payable by Registered Fund Management Company for the year of commencement of business	Amount derived from the formula: $\frac{B}{365} \times \$1,000$ where: "B" is the number of days between 1st April 2013 or the date of commencement of business (whichever is the later), and 31st December of the same year, both dates inclusive	Payable by the date and in the manner specified by the Authority in the fee advice.
		Annual fee payable by Registered Fund Management Company for any year following the year of commencement of business	$1,000	Payable by the date and in the manner specified by the Authority in the fee advice.

10.	Section 317 (2)	Inspection of and extraction from records	$20 per name submitted for inspection inclusive of the goods and services tax chargeable under the Goods and Services Tax Act (Cap. 117A)	By cheque at time of inspection

#For the avoidance of doubt, this fee is still required to be paid if the date on which the name is entered in the register is 31st December.

[S 171/2013 wef 02/04/2013]
[S 385/2012 wef 01/04/2013]
[S 170/2013 wef 28/03/2013]
[S 18/2012 wef 17/01/2012]
[S 709/2010 wef 26/11/2010]

LEGISLATIVE HISTORY

SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS) REGULATIONS (CHAPTER 289, RG 10)

This Legislative History is provided for the convenience of users of the Securities and Futures (Licensing and Conduct of Business) Regulations. It is not part of these Regulations.

1. **G. N. No. S 457/2002—Securities and Futures (Licensing and Conduct of Business) Regulations 2002**

   Date of commencement : 1 October 2002

2. **G. N. No. S 543/2003—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2003**

   Date of commencement : 22 December 2003

3. **2004 Revised Edition—Securities and Futures (Licensing and Conduct of Business) Regulations**

   Date of operation : 29 February 2004

4. **G. N. No. S 404/2005—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2005**

   Date of commencement : 22 June 2005

5. **G. N. No. S 373/2005—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2005**

   Date of commencement : 1 July 2005

6. **G. N. No. S 275/2008—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2008**

   Date of commencement : 28 May 2008

7. **G. N. No. S 374/2008—Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2008**

   Date of commencement : 1 August 2008

8. **G.N. No. S 709/2010—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2010**

   Date of commencement : 26 November 2010

9. **G.N. No. S 418/2011—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2011**

   Date of commencement : 31 August 2011

10. **G.N. No. S 18/2012—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2012**

    Date of commencement : 17 January 2012

11. **G.N. No. S 385/2012—Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2012**

    Date of commencement : 7 August 2012

12. **G.N. No. S 503/2012—Securities and Futures (Licensing and Conduct of Business) (Amendment No. 3) Regulations 2012**

    Date of commencement : 19 November 2012

13. **G.N. No. S 170/2013—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2013**

    Date of commencement : 28 March 2013

14. **G.N. No. S 385/2012—Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2012**

    Date of commencement : 1 April 2013

15. **G.N. No. S 171/2013—Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2013**

    Date of commencement : 2 April 2013

16. **G.N. No. S 170/2013—Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2013**

    Date of commencement : 28 March 2014

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-5(6)

Securities and Futures (Clearing Facilities) Regulations 2013

Enacting Formula

Part I PRELIMINARY

Part II APPROVAL AS APPROVED CLEARING HOUSE AND RECOGNITION AS RECOGNISED CLEARING HOUSE

Part III REGULATION OF APPROVED CLEARING HOUSES

Division 1 — Obligations and Matters relating to Approved Clearing Houses

Division 2 — Customers' Money and Other Assets

Division 3 — Business Rules of Approved Clearing Houses

No. S 464

SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES (CLEARING FACILITIES) REGULATIONS 2013

In exercise of the powers conferred by sections 60, 77, 81Q, 339(3) and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Clearing Facilities) Regulations 2013 and shall come into operation on 1st August 2013.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

"annual report" means the audited profit and loss accounts, audited balance-sheet and auditors' report, however described;

"business day", except for the purposes of regulations 26 and 47, has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"position", in relation to a futures contract, means a futures contract which is outstanding and which has not been liquidated —

(*a*) by an off-setting transaction;

(*b*) by delivery of the commodity underlying the futures contract;

(*c*) through settlement of the futures contract in accordance with the business rules or practices of a futures market; or

(*d*) by substituting the futures contract for a cash commodity;

"settlement bank" means an entity approved by an approved clearing house or a recognised clearing house to settle payment obligations arising from the transactions of the participants of the approved clearing house or recognised clearing house (as the case may be) that are cleared or settled by the approved clearing house or recognised clearing house (as the case may be);

"specified transaction" means any derivatives contract.

(2) Any word or expression used in these Regulations which is defined in section 48 of the Act shall, unless the context otherwise requires, have the same meaning as in that section.

Forms

3.—(1) The forms to be used for the purposes of Part III of the Act and these Regulations are those set out at the Authority's Internet website at http://www.mas.gov.sg (under "Regulations and Financial Stability", "Regulations, Guidance and Licensing", "Securities, Futures and Fund Management"), and

any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website and described in the First Schedule.

(2) Any document required to be lodged with the Authority under any provision of Part III of the Act or these Regulations shall be lodged in the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of Part III of the Act and these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if —

(*a*) it is not completed in accordance with this regulation; or

(*b*) it is not accompanied by the relevant fee referred to in regulation 4.

(5) Where strict compliance with any form is not possible, the Authority may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the Authority thinks fit.

Fees

4.—(1) The fees specified in the Second Schedule shall be payable to the Authority for the purposes specified therein and, subject to section 53(2) of the Act, shall not be refundable.

(2) Payment of fees may be effected, through such electronic funds transfer system as the Authority may designate from time to time, by directing the transfer of funds electronically from the bank account of the payer to a bank account designated by the Authority.

Keeping of books and other information

5. Every approved clearing house and every recognised clearing house shall ensure that all relevant books, and all other information as may be required by the Authority for the purposes of the Act, are kept for a minimum of 5 years.

PART II

APPROVAL AS APPROVED CLEARING HOUSE AND RECOGNITION AS RECOGNISED CLEARING HOUSE

Application for approval or recognition

6. For the purposes of section 50(3) of the Act, an application to be approved as an approved clearing house or recognised as a recognised clearing house shall be made in Form 1 and shall be lodged with the Authority together with —

(*a*) Forms 2 and 3; and

(*b*) each relevant annex and all relevant information specified in those Forms.

Minimum requirements for approval or recognition

7.—(1) For the purposes of section 51(7) of the Act, the Authority shall not approve an applicant as an approved clearing house, unless the applicant has demonstrated to the Authority's satisfaction that —

(*a*) the applicant is able to meet the obligations of, and comply with the requirements imposed on, an approved clearing house under the Act; and

(*b*) the applicant is able to maintain a minimum base capital of at least $10,000,000.

(2) For the purposes of section 51(7) of the Act, the Authority shall not recognise an applicant as a recognised clearing house, unless the applicant has demonstrated to the Authority's satisfaction that —

(*a*) the applicant is able to meet the obligations of, and comply with the requirements imposed on, a recognised clearing house under the Act; and

(*b*) if the applicant is a Singapore corporation, the applicant is able to maintain a minimum base capital of at least $5,000,000.

(3) In this regulation, "base capital", in relation to an applicant, means the amount remaining after deducting any interim loss in the latest accounts of the applicant, and any dividend that has been declared since the latest audited accounts of the applicant, from the sum of the following items:

(*a*) the paid-up ordinary share capital of the applicant in the latest accounts of the applicant;

(*b*) the paid-up irredeemable and non-cumulative preference share capital of the applicant in the latest accounts of the applicant;

(*c*) any unappropriated profit or loss in the latest audited accounts of the applicant; and

(*d*) any reserves set aside by the applicant solely for the purposes of the applicant's clearing fund.

Criteria for deciding whether applicant should be approved as approved clearing house or recognised as recognised clearing house

8.—(1) Without prejudice to section 51(10) of the Act, for the purposes of section 52(1)(*a*) of the Act, the Authority may approve a Singapore corporation as an approved clearing house under section 51(1)(*a*) of the Act if —

(*a*) the Authority is satisfied that a disruption in the operations of a clearing facility to be operated by the corporation could —

(i) trigger, cause or transmit further systemic disruptions to the capital markets or financial system of Singapore; or

(ii) affect public confidence in the capital markets, financial institutions or financial system of Singapore; or

(*b*) where sub-paragraph (*a*) does not apply —

(i) the corporation has applied to be an approved clearing house under section 50(1)(*a*) of the Act; and

(ii) the Authority is satisfied that the corporation is able to meet the obligations of, and comply with the requirements imposed on, an approved clearing house under the Act.

(2) Without prejudice to section 51(10) of the Act, for the purposes of section 52(1)(*a*) of the Act, the Authority may recognise a Singapore corporation as a recognised clearing house under section 51(1)(*b*) of the Act if, and only if, both sub-paragraphs (*a*) and (*b*) of paragraph (1) do not apply.

(3) The Authority may have regard to the following matters in determining whether the criteria referred to in paragraph (1)(*a*) have been satisfied:

(*a*) the size and structure, or proposed size and structure, of the clearing facility to be operated by the corporation;

(*b*) the nature of the services provided, or to be provided, by the clearing facility to be operated by the corporation;

(*c*) the nature of the securities, futures contracts or derivatives contracts cleared or settled, or to be cleared or settled, on the clearing facility to be operated by the corporation;

(*d*) the nature of the investors or participants, or proposed investors or participants, who may use or have an interest in the clearing facility to be operated by the corporation;

(*e*) whether the corporation is regulated by the Authority under the Act or any other written law;

(*f*) the persons who may be affected in the event that the corporation, or the clearing facility to be operated by the corporation, runs into difficulties;

(*g*) the interests of the public; and

(*h*) any other circumstances that the Authority may consider relevant.

Application for change in status

9. For the purposes of section 54(2) of the Act, an application under section 54(1) of the Act by a Singapore corporation which is an approved clearing house or a recognised clearing house to change its status shall be made in Form 4.

Cancellation of approval or recognition

10. For the purposes of section 55(2) of the Act, an application under section 55(1) of the Act by an approved clearing house or a recognised clearing house to cancel its approval as an approved clearing house or recognition as a recognised clearing house, as the case may be, shall be made —

(*a*) in writing; and

(*b*) no later than 3 months before the date on which the approved clearing house or recognised clearing house, as the case may be, intends to cease operating its clearing facility or, where it operates more than one clearing facility, the last of its clearing facilities.

PART III

REGULATION OF APPROVED CLEARING HOUSES

Division 1 — Obligations and Matters relating to Approved Clearing Houses

Obligation to notify Authority of certain matters

11.—(1) For the purposes of section 58(1)(*f*)(i) of the Act, an approved clearing house shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of the circumstance:

(*a*) any civil or criminal legal proceeding instituted against the approved clearing house, whether in Singapore or elsewhere;

(*b*) any disciplinary action taken against the approved clearing house by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*c*) any change to the regulatory requirements imposed on the approved clearing house by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*d*) any admission or cessation of a bank to act as a settlement bank for the approved clearing house;

(*e*) any failure by any party to debit or credit the relevant accounts for the purposes of the settlement of transactions, including the settlement of money, securities or physically delivered futures contracts or derivatives contracts;

(*f*) any disruption of or delay in any clearing or settlement procedures of the approved clearing house, including those resulting from any system failure.

(2) Where a circumstance under paragraph (1)(*a*), (*b*), (*e*) or (*f*) has occurred, the approved clearing house shall, in addition to the notice required under paragraph (1), within 14 days after the occurrence of the circumstance or such longer period as the Authority may permit, submit a report to the Authority of the circumstances relating to the occurrence, the remedial actions taken at the time of the occurrence, and the subsequent follow-up actions that the approved clearing house has taken or intends to take.

(3) An approved clearing house shall, within a reasonable period of time prior to entering into negotiations to establish a linkage, arrangement or co-operative arrangement with a person (being a person establishing or operating any other clearing facility, any market or any trade repository), give the Authority notice of such intent to enter into negotiations.

(4) An approved clearing house shall, if it intends to make a declaration that a member of the approved clearing house has defaulted or to commence default proceedings against any member of the approved clearing house, immediately give the Authority notice of such intent.

(5) In paragraph (3), "co-operative arrangement" shall not include —

(*a*) any joint development of products and services;

(*b*) any joint marketing efforts between the approved clearing house and the person referred to in that paragraph in promoting the services of any clearing facility, market or trade repository established or operated by the approved clearing house or the person; or

(*c*) any memorandum of understanding for the exchange of information.

Obligation to seek Authority's approval

12.—(1) An approved clearing house shall seek the approval of the Authority —

(*a*) prior to making any change to the risk management frameworks of the approved clearing house, including the types of collateral accepted by it, the methodologies for collateral

valuation and the determination of margins to manage its risk exposure to its participants, and the size of the financial resources available to it to support a default of its member; and

(*b*) prior to commencing any linkage, arrangement or co-operative arrangement referred to in regulation 11(3).

(2) The Authority may grant its approval referred to in paragraph (1) subject to such conditions and restrictions as the Authority may think fit, and the approved clearing house shall comply with those conditions and restrictions.

(3) For the purposes of paragraph (1)(*a*), the financial resources available to an approved clearing house to support a default of its member shall not include margins held with the approved clearing house.

Obligation of members with respect to money or assets received from customers

13. An approved clearing house shall ensure that every member thereof which accepts from that member's customers any money or assets deposited or paid for or in relation to a contract in a specified transaction shall inform each customer concerned that the customer can choose to have the books for any money or assets deposited or paid for or in relation to the contracts of the customer separated from the books for money or assets deposited or paid for or in relation to the contracts of any other customer or customers of that member.

Obligation to submit periodic reports

14.—(1) For the purposes of section 62 of the Act, an approved clearing house shall submit to the Authority —

(*a*) within 3 months after the end of the financial year of the approved clearing house or such longer period as the Authority may permit, a copy each of —

(i) the annual report and directors' report of the approved clearing house, prepared in accordance with the provisions of the Companies Act (Cap. 50); and

(ii) the auditors' long form report of the approved clearing house;

(*b*) within 45 days after the end of each of the first 3 quarters of the financial year of the approved clearing house or such longer period as the Authority may permit, a copy each, in such form as the Authority may approve, of —

(i) the profit and loss accounts of the approved clearing house for the preceding quarter; and

(ii) the balance-sheet of the approved clearing house for the preceding quarter;

(*c*) within 3 months after the end of the financial year of the approved clearing house or such longer period as the Authority may permit, a report on how the approved clearing house has discharged its responsibilities under the Act during that financial year;

(*d*) when required by the Authority, a report relating to the business of the approved clearing house; and

(*e*) when required by the Authority, such other report as the Authority may require for the proper administration of the Act.

(2) The auditors' long form report referred to in paragraph (1)(*a*)(ii) shall include the findings and recommendations of the auditors, if any, on —

(*a*) the internal controls of the approved clearing house; and

(*b*) any non-compliance by the approved clearing house with —

(i) any provision of the Act;

(ii) any direction issued by the Authority under the Act; or

(iii) any other relevant written law.

Exceptions to obligation to maintain confidentiality

15.—(1) For the purposes of section 64(2)(*a*) of the Act, section 64(1) of the Act shall not apply to the disclosure of user information by an approved clearing house or its officers or employees for the following purposes or in the following circumstances:

(*a*) the disclosure of user information is necessary for the making of a complaint or report under any written law for an offence alleged or suspected to have been committed under such written law;

(*b*) the disclosure of user information is permitted for such purpose specified in writing by the user or, where the user is deceased, by his appointed personal representative;

(*c*) the disclosure of user information is necessary for the execution by the approved clearing house of a transaction in any securities, futures contracts or derivatives contracts or for the clearing or settlement of any such transaction, and such disclosure is made only to another user which is —

(i) a party to the transaction; or

(ii) a member of an approved exchange, an approved clearing house or a recognised clearing house through which that transaction is executed, cleared or settled;

(*d*) where there are any disciplinary proceedings of the approved clearing house —

(i) the disclosure of the user information is necessary in those disciplinary proceedings, and reasonable steps are taken to ensure that user information disclosed to any third person is used strictly for the purpose for which the user information is disclosed; or

(ii) the disclosure of the user information is necessary for the publication, in any form or manner, of those disciplinary proceedings and the outcome thereof;

(*e*) the user information disclosed is already in the public domain;

(*f*) the disclosure of user information is made in connection with an arrangement for protection against a default by a member of the approved clearing house to another member of the approved clearing house who is identified by the approved clearing house for the purposes of carrying out or undertaking the obligations under the arrangement;

(*g*)

the disclosure of user information is made to a member of the approved clearing house in connection with an arrangement for the transfer to that member of any contract from another member of the approved clearing house who is in default;

(*h*) the disclosure of user information is made in connection with —

(i) the outsourcing or proposed outsourcing of any function of the approved clearing house to a third party;

(ii) the engagement or potential engagement of a third party by the approved clearing house to create, install or maintain systems of the approved clearing house; or

(iii) the appointment or engagement of an auditor, a lawyer, a consultant or any other professional by the approved clearing house under a contract for service;

(*i*) the disclosure of user information is necessary for, or is required by the Public Trustee or the Commissioner of Estate Duties in the course of —

(i) an application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased user; or

(ii) the administration of the estate of a deceased user; or

(*j*) the disclosure of user information is made in connection with —

(i) the bankruptcy of a user who is an individual; or

(ii) the winding up or receivership of a user which is a body corporate.

(2) Where user information is disclosed under paragraph (1)(*f*), (*g*) or (*h*), the approved clearing house shall —

(*a*) maintain, and make available for inspection by the Authority, a record of —

(i) the circumstances relating to the disclosure of the user information; and

(ii) the particulars of —

(A) in the case of a disclosure of user information under paragraph (1)(*f*), the arrangement for protection;

(B) in the case of a disclosure of user information under paragraph (1)(*g*), the arrangement for the transfer;

(C) in the case of a disclosure of user information under paragraph (1)(*h*)(i), the outsourcing or proposed outsourcing of the function of the approved clearing house;

(D) in the case of a disclosure of user information under paragraph (1)(*h*)(ii), the engagement or potential engagement of the third party; or

(E) in the case of a disclosure of user information under paragraph (1)(*h*)(iii), the appointment or engagement of the auditor, lawyer, consultant or other professional;

(*b*) disclose the user information only in so far as this is necessary for the relevant purpose; and

(*c*) take reasonable steps to ensure that —

(i) the user information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose; and

(ii) the user information is not disclosed by that person to any other person, except with the consent of the approved clearing house.

(3) Where the disclosure to a body corporate of user information is permitted for any purpose or in any circumstance under paragraph (1), the user information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

(4) In paragraphs (2) and (3), "relevant purpose" means —

(*a*) in the case of a disclosure of user information under paragraph (1)(*f*), the carrying out of the arrangement for protection;

(*b*) in the case of a disclosure of user information under paragraph (1)(*g*), the carrying out of the arrangement for the transfer;

(*c*) in the case of a disclosure of user information under paragraph (1)(*h*)(i), facilitating the outsourcing or proposed outsourcing of the function of the approved clearing house;

(*d*) in the case of a disclosure of user information under paragraph (1)(*h*)(ii), facilitating the engagement or potential engagement of the third party; and

(*e*) in the case of a disclosure of user information under paragraph (1)(*h*)(iii), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.

Business continuity plan

16.—(1) An approved clearing house shall maintain at all times a plan of action (referred to in this regulation as a business continuity plan) setting out the procedures and establishing the systems necessary to restore, in the event of any disruption to the processes of any clearing facility which it operates, safe and efficient operations of that clearing facility.

(2) An approved clearing house shall review and test the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the business continuity plan.

(3) An approved clearing house shall immediately notify the Authority of any activation of its business continuity plan and of any action taken or intended to be taken to restore safe and efficient operations of its clearing facility.

(4) An approved clearing house shall, within 14 days or such longer period as may be permitted by the Authority, inform the Authority of any material change to the business continuity plan and shall, if requested by the Authority, submit a copy of the new or amended plan to the Authority.

Recovery and resolution plan

17.—(1) An approved clearing house shall maintain at all times a plan of action (referred to in this regulation as a recovery and resolution plan) setting out the procedures and establishing the systems necessary, in the event of financial pressures or stress —

(*a*) to restore the ability of the approved clearing house to operate as a going concern; and

(*b*) to ensure the orderly winding up of the approved clearing house.

(2) An approved clearing house shall review the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the recovery and resolution plan.

Provision of information

18. An approved clearing house shall make available to any person upon his request, or publish in a manner that is accessible, information on —

(*a*) all services of the approved clearing house;

(*b*) all products that may be cleared or settled by the approved clearing house; and

(*c*) the applicable fees and charges of the approved clearing house.

Transmission and storage of user information

19.—(1) An approved clearing house shall take all reasonable measures to maintain the integrity and security of the transmission and storage of its user information.

(2) An approved clearing house shall immediately notify the Authority of —

(*a*) any compromise of the integrity or security of the transmission or storage of any user information of the approved clearing house; and

(*b*) any action taken or intended to be taken to restore the integrity and security of the transmission and storage of that user information.

Determination of position limits

20.—(1) For the purposes of determining whether a person has exceeded any position limit established or varied by an approved clearing house under section 59 of the Act in respect of a futures contract, the approved clearing house shall take into account —

(*a*) any position held by any other person directly or indirectly controlled by the first-mentioned person;

(*b*) any position held by any other person acting, pursuant to an express or implied agreement or understanding, as if such position were held by the first-mentioned person; and

(*c*) any position held in respect of options on the futures contract, calculated on a futures equivalent basis.

(2) Where an approved clearing house has determined that any person has exceeded any position limit established or varied by the approved clearing house, the approved clearing house shall require that person or any other person whose position has been taken into account under paragraph (1)(*a*) or (*b*) in that determination, or both of those persons —

(*a*) to trade under such conditions and restrictions as the approved clearing house considers necessary to ensure compliance with that position limit; and

(*b*) if the approved clearing house considers it necessary for the purpose under sub-paragraph (*a*), to take one or more of the following actions:

(i) cease any further increase in his or their positions;

(ii)

liquidate his or their positions to comply with that position limit within such time as the approved clearing house may determine;

(iii) be subject to higher margin requirements in respect of his or their positions.

(3) In paragraph (1)(*c*), "futures equivalent basis" means the basis by which an option is adjusted by the risk factor or delta coefficient of that option, such risk factor or delta coefficient being calculated at the close of trading on the last day on which that option was traded or at such other time as the approved clearing house may determine.

Regulation of clearing fees of specified approved clearing houses

21.—(1) An approved clearing house specified in Part I of the Third Schedule shall not, without the prior approval of the Authority under paragraph (4) —

(*a*) impose any clearing fee on its participants in respect of any service or services provided by the approved clearing house; or

(*b*) modify, restructure or otherwise change any existing clearing fee imposed on its participants.

(2) An application to the Authority for approval under paragraph (4) shall be made in Form 5.

(3) Where an approved clearing house has made an application under paragraph (2), the Authority may require the approved clearing house to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the approved clearing house shall comply with that requirement.

(4) The Authority shall, within 20 business days after receiving a completed application under paragraph (2), by notice in writing to the approved clearing house, either grant the approval or notify the approved clearing house of the Authority's intention to refuse to grant the approval.

(5) The Authority may, by notice in writing to the approved clearing house, extend the period referred to in paragraph (4) —

(*a*) in the first instance, to a period of up to 35 business days after receiving the completed application under paragraph (2); or

(*b*) upon the expiry of the period referred to in sub−paragraph (*a*), for such further period as the Authority thinks fit.

(6) Before the Authority extends under paragraph (5)(*b*) the period referred to in paragraph (4), the Authority shall give the approved clearing house an opportunity to be heard.

(7) In deciding whether to grant or refuse approval under paragraph (4), the Authority may have regard to the following matters:

(*a*) the effect of the proposed imposition of or change in the clearing fee on —

(i) competition in the financial services industry of Singapore; and

(ii) access to clearing or settlement services in Singapore;

(*b*) the cost of providing the service to which the proposed imposition or change applies;

(*c*)

the effect of the proposed imposition or change on the cost and efficiency of trading, clearing and settlement in Singapore of the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule; and

(*d*) the effect of the proposed imposition or change on the objectives of the Authority as specified in section 4(1)(*b*) of the Monetary Authority of Singapore Act (Cap. 186).

(8) The Authority may grant its approval under paragraph (4) subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing to the approved clearing house, including conditions or restrictions relating to —

(*a*) the period for which the approval of a clearing fee will be in force;

(*b*) the circumstances under which, or date by which, upon the expiry of the period referred to in sub-paragraph (*a*), the approved clearing house will be required to submit another application under paragraph (2) for approval of the clearing fee; and

(*c*) the circumstances under which, or the changes in the clearing fee for which, upon the expiry of the period referred to in sub-paragraph (*a*), the approved clearing house will not be required to submit another application under paragraph (2) for approval of a change in the clearing fee.

(9) The Authority shall not refuse to grant its approval under paragraph (4) without giving the approved clearing house an opportunity to be heard.

(10) An approved clearing house may only charge a clearing fee approved by the Authority under paragraph (4) for the service or services in respect of which that fee was approved.

(11) Any clearing fee charged by the company known as The Central Depository (Pte) Limited immediately before 1st August 2013 shall be deemed to be a clearing fee approved by the Authority under paragraph (1), subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing.

(12) In this regulation, "clearing fee" means any fee, tariff or compensation for clearing or settlement of transactions in the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule.

Division 2 — Customers' Money and Other Assets

Application of this Division

22. This Division shall apply to every approved clearing house —

(*a*) with or to which money or assets are deposited or paid by its members in respect of or in relation to the contracts of the customers of those members; and

(*b*) which holds such money or assets in the course of its clearing or settlement activities.

Segregation of customers' money held by approved clearing house

23.—(1) For the purposes of section 60(1)(*a*) of the Act, an approved clearing house which accepts any money or assets deposited with or paid to it by its members, for or in relation to any contracts of the customers of those members, shall, in respect of each contract which is cleared or settled by it, and for or

in relation to which any money or assets are deposited with or paid to it by a member, require the member to notify it in such manner as it may determine —

(*a*) whether that contract is a contract of a customer of the member;

(*b*) whether the money or assets deposited or paid for or in relation to that contract are deposited or paid for or in relation to a contract of a customer of the member; and

(*c*) if that contract is a specified transaction of a customer of the member, whether the books for the money or assets that are deposited or paid for or in relation to that contract are, in accordance with the instructions given to the member by that customer, to be separated from the books for any money or assets deposited with or paid to the approved clearing house for or in relation to the contracts of other customers of the member.

(2) Where a member of an approved clearing house has notified the approved clearing house under paragraph (1) that any money (referred to in this paragraph as the relevant money) or assets (referred to in this paragraph as the relevant assets) are deposited or paid for or in relation to a contract which is a specified transaction of a customer of the member, and that the books for the relevant money or relevant assets are to be separated from the books for any money or assets deposited or paid for or in relation to the contracts of other customers of the member, the approved clearing house shall —

(*a*) subject to regulations 24 and 25, ensure that the relevant money is deposited in a trust account, or the relevant assets are deposited in a custody account, to be held for the benefit of the customers of the member;

(*b*) ensure that the relevant money or relevant assets are kept separate from all other money and assets received by the approved clearing house which are deposited or paid for or in relation to the contracts of the members of the approved clearing house;

(*c*) ensure that the relevant money or relevant assets are kept separate from the money and assets of the approved clearing house; and

(*d*) keep the books for the relevant money or relevant assets separate from the books for the money or assets deposited or paid for or in relation to the contracts of any other customer of any member of the approved clearing house.

(3) Where any money (referred to in this paragraph as the relevant money) or assets (referred to in this paragraph as the relevant assets) are deposited or paid for or in relation to a contract of a customer of a member of an approved clearing house, and the books for the relevant money or relevant assets are not required to be separated from the books for the money or assets deposited or paid for or in relation to the contracts of other customers of the member, the approved clearing house shall —

(*a*) subject to regulations 24 and 25, ensure that the relevant money is deposited in a trust account, or the relevant assets are deposited in a custody account, to be held for the benefit of the customers of the member;

(*b*) ensure that the relevant money or relevant assets are kept separate from all other money and assets received by the approved clearing house which are deposited or paid for or in relation to the contracts of the members of the approved clearing house;

(*c*) ensure that the relevant money or relevant assets are kept separate from the money and assets of the approved clearing house; and

(*d*)

keep the books for the money or assets deposited or paid for or in relation to the contracts of the customers of the member separate from the books for the money or assets deposited or paid for or in relation to the contracts of the customers of any other member of the approved clearing house.

(4) Notwithstanding paragraphs (2)(*a*) and (3)(*a*), where a member of an approved clearing house has notified the approved clearing house under paragraph (1) that any money (referred to in this paragraph as the relevant money) or assets (referred to in this paragraph as the relevant assets) are deposited or paid for or in relation to a contract of a customer of the member, and the member is a bank used by the approved clearing house for the purpose of depositing money or assets, the approved clearing house shall ensure that the relevant money is deposited, or the relevant assets are deposited, in an account which is not operated by the member in its role as a bank or custodian, as the case may be.

(5) Nothing in paragraphs (2)(*a*) and (3)(*a*) shall prevent an approved clearing house from commingling all money or assets deposited pursuant to paragraphs (2)(*a*) and (3)(*a*) in the same trust account or custody account, as the case may be.

(6) Where an approved clearing house has been convicted of an offence under regulation 52 of contravening paragraph (2)(*a*) or (*b*) or (3)(*a*) or (*b*), in so far as any money which has been deposited in a trust account referred to in paragraph (2)(*a*) or (3)(*a*), or any asset which has been deposited in a custody account referred to in paragraph (2)(*a*) or (3)(*a*), is used for any purpose other than —

(*a*) for or in relation to a contract of a customer of a member of the approved clearing house; or

(*b*) in accordance with regulations 24 and 25,

the approved clearing house shall —

(i) if the contravention involved any money, repay the money to the trust account; or

(ii) if the contravention involved any asset —

(A) return the asset to the custody account; or

(B) if the asset cannot be returned to the custody account, deposit in the trust account, for the benefit of the customers of the member, an amount of money equivalent to the monetary value of the asset at the time of the contravention.

(7) In this regulation, "bank" has the same meaning as in section 2(1) of the Banking Act (Cap. 19).

Permissible use of customers' money and assets by approved clearing house

24.—(1) For the purposes of section 60(1)(*b*) of the Act, where the books for the money or assets deposited or paid for or in relation to the contracts of the customers of a member of an approved clearing house are kept by the approved clearing house in accordance with regulation 23(3), and the member fails to meet its obligations to the approved clearing house that arise from the contracts of those customers (referred to in this paragraph as the subject obligations), the approved clearing house may use the money or assets held by the approved clearing house in accordance with regulation 23(3) to meet the subject obligations, only if —

(*a*) the approved clearing house is of the opinion, formed in good faith, that the failure of the member to meet the subject obligations is directly attributable to the failure of any such customer of the member to meet that customer's obligations under any market contract;

(*b*) either —

(i) both of the following have been wholly utilised to meet the subject obligations:

(A) the money and assets deposited with or paid to the approved clearing house for or in relation to the contracts of the member itself;

(B) the money and assets (not being any money or assets of any customer of the member) deposited by the member with the approved clearing house as collateral or guarantee for the purpose of satisfying all obligations of the member to the approved clearing house; or

(ii) the approved clearing house has reasonable grounds for forming an opinion that the failure to use the customers' money or assets to meet the subject obligations may jeopardise the financial integrity of the approved clearing house;

(*c*) the approved clearing house has made provision in its business rules for requirements in addition to those referred to in sub-paragraphs (*a*) and (*b*);

(*d*) the additional requirements referred to in sub-paragraph (*c*) are not inconsistent with the requirements in sub−paragraphs (*a*) and (*b*); and

(*e*) the money or assets are used in accordance with the provisions of the business rules referred to in sub−paragraph (*c*).

(2) Where the books for the money or assets deposited or paid for or in relation to the contracts of a customer of a member of an approved clearing house are kept by the approved clearing house in accordance with regulation 23(2), and the member fails to meet its obligations to the approved clearing house that arise from those contracts (referred to in this paragraph as the subject obligations), the approved clearing house shall not use any money or assets deposited with or paid to the approved clearing house for or in relation to the contracts of any other customer of the member (including any such money or assets held by the approved clearing house in accordance with regulation 23(2) or (3)) to meet the subject obligations.

(3) For the avoidance of doubt, where any money or assets deposited or paid for or in relation to a contract of a customer of a member of an approved clearing house are held by the approved clearing house in accordance with regulation 23(2), the approved clearing house is not prevented from using the money or assets if —

(*a*) the member fails to meet its obligations to the approved clearing house; and

(*b*) the failure of the member to meet its obligations to the approved clearing house is directly attributable to the failure of that customer to meet its obligations under any market contract.

(4) An approved clearing house shall notify the Authority before using any customer's money or assets in the circumstances specified in paragraph (1) or (3).

Permissible investment of customers' money by approved clearing house

25.—(1) For the purposes of section 60(1)(*c*) of the Act, an approved clearing house may invest any money or assets deposited or paid for or in relation to the contracts of a customer of a member of the approved clearing house and held by the approved clearing house in the course of its clearing or settlement activities, including any money or assets deposited in a custody account referred to in regulation 23(2)(*a*) or (3)(*a*), in the following classes of securities:

(*a*) securities of the Government;

(*b*) if the money deposited with or paid to the approved clearing house is in the currency of a foreign country or territory, debt securities of the government of that country or territory;

(*c*) negotiable certificates of deposit;

(*d*) money market funds.

(2) The approved clearing house shall seek the approval of the Authority before investing any money or assets under paragraph (1).

(3) When seeking the approval of the Authority under paragraph (2), the approved clearing house shall satisfy the Authority —

(*a*) that the management of the investments made by the approved clearing house is consistent with the principles of preserving principal and maintaining sufficient liquidity to meet the obligations of customers of members of the approved clearing house;

(*b*) that prudential measures have been adopted to manage the risks in respect of the investment activities of the approved clearing house; and

(*c*) of any other matter which the Authority considers necessary for the sound management of the investments.

(4) The Authority may grant the approval under paragraph (2) subject to such conditions or restrictions as the Authority may think fit.

Daily computation of customers' money and assets

26.—(1) An approved clearing house shall, at such intervals as the approved clearing house determines appropriate (but no less frequently than once each business day), compute —

(*a*) for the purposes of regulation 23(3), the total amount of money and assets of the customers of the members of the approved clearing house held by the approved clearing house, including money that has been invested by the approved clearing house under regulation 25(1); and

(*b*) for the purposes of regulation 23(2), the amount of money and assets of each customer of a member of the approved clearing house held by the approved clearing house, including money that has been invested by the approved clearing house under regulation 25(1).

(2) An approved clearing house shall complete any computation under paragraph (1) in respect of each business day no later than noon of the next business day, and shall keep that computation together with all supporting data.

(3) In this regulation, "business day" means any day in which the approved clearing house is open for business.

Verification of money and assets placed with approved clearing house

27.—(1) An approved clearing house shall, in respect of each financial year of the approved clearing house, cause its auditors to submit to the Authority —

(*a*) a report covering the first 6 months of the financial year, before the end of the seventh month of the financial year (or at such other time as the Authority may require); and

(*b*) a report covering the last 6 months of the financial year, before the end of the first month of the next financial year (or at such other time as the Authority may require).

(2) The approved clearing house shall ensure that each report referred to in paragraph (1) does, in respect of the period covered by the report —

(*a*) certify whether the money and assets deposited with or paid to the approved clearing house by a member of the approved clearing house under regulation 23(3), for or in relation to a contract of a customer of the member —

(i) are segregated from any other money and assets deposited by the member with the approved clearing house;

(ii) are deposited in a trust account or custody account in accordance with regulation 23(3)(*b*), and are not commingled with the money and assets of the approved clearing house; and

(iii) are used only as permitted under or in accordance with regulation 24 or 25; and

(*b*) certify whether the money and assets deposited with or paid to the approved clearing house by a member of the approved clearing house under regulation 23(2), for or in relation to a contract of a customer of the member —

(i) are recorded in books separate from the books for the money or assets deposited or paid for or in relation to the contracts of other customers of the member;

(ii) are segregated from any other money and assets deposited by the member with the approved clearing house;

(iii) are deposited in a trust account or custody account in accordance with regulation 23(2)(*b*), and are not commingled with the money and assets of the approved clearing house; and

(iv) are used only as permitted under or in accordance with regulation 24 or 25; and

(*c*) set out the amount, on an aggregated basis, of all money and assets deposited by the member with the approved clearing house —

(i) for or in relation to each contract of a customer of the member; and

(ii) for or in relation to any other contract.

Reconciliation of money and assets placed with approved clearing house

28.—(1) Where a member of an approved clearing house has notified the approved clearing house that the books for any money or assets deposited or paid for or in relation to a contract of a customer (referred to in this paragraph as the relevant customer) of the member are to be separated from the books for any money or assets deposited or paid for or in relation to the contracts of other customers of the member, the approved clearing house shall cause the member to submit to the approved clearing house on a quarterly basis (or at such other time as the approved clearing house may require) records setting out the amount of money and assets deposited with or paid to the approved clearing house for or in relation to the contracts of the relevant customer.

(2) An approved clearing house shall ensure that the records it keeps in respect of the money or assets deposited or paid for or in relation to any contract or contracts of a customer of a member of the approved clearing house are subject to controls adequate to maintain the accuracy of such records, including regular reconciliation of such records with the records submitted by the member in accordance with paragraph (1).

Division 3 — Business Rules of Approved Clearing Houses

Content of business rules of approved clearing house

29. For the purposes of section 66(1)(*a*) of the Act, an approved clearing house shall make provision in its business rules, to the satisfaction of the Authority, for —

(*a*) the criteria that the approved clearing house would use to determine whether a person should or should not be admitted as a member of the approved clearing house;

(*b*) the continuing requirements to be satisfied by each member of the approved clearing house, including —

(i) requirements relating to the proper conduct of the member when participating in any clearing facility operated by the approved clearing house;

(ii) a requirement that the member has sufficient financial resources to reasonably fulfil all its financial obligations arising out of its activities in relation to any clearing facility operated by the approved clearing house;

(iii) requirements that facilitate the monitoring by the approved clearing house of the compliance of the member with the business rules of the approved clearing house; and

(iv) requirements providing for the expulsion, suspension or disciplining of the member for a contravention of the business rules of the approved clearing house;

(*c*) the class or classes of transactions that may be cleared or settled on any clearing facility that the approved clearing house operates;

(*d*) the terms and conditions under which transactions will be cleared or settled on any clearing facility that the approved clearing house operates;

(*e*) matters relating to risks in the operation of any clearing facility that the approved clearing house operates;

(*f*) the handling of defaults, including —

(i) the financial resources available to support the default of a member of the approved clearing house; and

(ii) where a member of the approved clearing house has failed, or appears to be unable, or is likely to become unable, to meet the member's obligations for all unsettled or open market contracts to which the member is a party, the taking of proceedings or any other action against the member; and

(*g*)

the carrying on of business of the approved clearing house with due regard to the interests and protection of the investing public.

Amendment of business rules

30.—(1) For the purposes of section 66(2) of the Act and subject to paragraph (7), an approved clearing house which proposes to amend its business rules shall, prior to making the amendment, notify the Authority of —

(*a*) the proposed amendment;

(*b*) the purpose of the proposed amendment; and

(*c*) the date on which the approved clearing house proposes that the amendment be brought into force.

(2) The approved clearing house shall, prior to notifying the Authority of the matters referred to in paragraph (1)(*a*), (*b*) and (*c*), consult the participants of the approved clearing house on the proposed amendment, unless the proposed amendment would have limited impact on those participants.

(3) Subject to paragraphs (4) and (6), the date referred to in paragraph (1)(*c*) shall be at least 21 days after the date on which the Authority receives the notification referred to in paragraph (1).

(4) The Authority may, on its own initiative or on the application of the approved clearing house, by notice in writing to the approved clearing house, allow an amendment under paragraph (1) to come into force less than 21 days after the date on which the Authority receives the notification referred to in paragraph (1).

(5) Subject to paragraph (6), the Authority may, within 21 days after receiving the notification referred to in paragraph (1), by notice in writing to the approved clearing house, disallow, alter or supplement the whole or any part of a proposed amendment under paragraph (1), and, thereupon, such whole or part of the proposed amendment, as the case may be —

(*a*) where it is disallowed, shall not come into force; or

(*b*) where it is altered or supplemented, shall come into force, on such date as the Authority may specify in the notice in writing, as altered or supplemented.

(6) The Authority may, on its own initiative, by notice in writing to the approved clearing house, vary the period specified in paragraph (5), and where that period is extended, the amendment under paragraph (1) or the altered or supplemented agreement under paragraph (5), as the case may be, shall not come into force before the expiry of the extended period.

(7) This regulation shall not apply to any periodic amendment made by an approved clearing house to the initial margin requirement or maintenance margin requirement of a contract which the approved clearing house imposes on its participants, if that amendment is made in response to a change in the historical or anticipated volatility of any contract, or in the co-relation between contracts.

Division 4 — Matters requiring Approval of Authority

Application and criteria for approval to acquire substantial shareholding

31.—(1) Any person applying for approval under section 70(1) or (2) of the Act shall submit to the Authority a written application that sets out —

(*a*) the name of the applicant;

(*b*) where the applicant is a corporation —

(i) its place of incorporation;

(ii) its substantial shareholders;

(iii) its directors and chief executive officer; and

(iv) its principal business;

(*c*) where the applicant is an individual —

(i) his nationality;

(ii) his principal occupation; and

(iii) his directorships;

(*d*) all the corporations in which the applicant has a substantial shareholding;

(*e*) the percentage of shareholding and voting power that the applicant has in the approved clearing house;

(*f*) the percentage of shareholding and voting power that the applicant is seeking to have in the approved clearing house;

(*g*) the reasons for making the application;

(*h*) the mode and structure, as appropriate, under which the increase in shareholding would be carried out;

(*i*) whether the applicant will seek representation on the board of directors of the approved clearing house; and

(*j*) any other information that may facilitate the determination of the Authority as to whether the applicant is a fit and proper person for the purposes of paragraph (3)(*a*).

(2) Where an application under paragraph (1) has been made, the Authority may require the applicant to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the applicant shall comply with that requirement.

(3) The Authority may grant its approval under section 70(1) or (2) of the Act if the Authority is satisfied that —

(*a*) the applicant is a fit and proper person to be a substantial shareholder, 12% controller or 20% controller (as the case may be) of the approved clearing house;

(*b*) having regard to the applicant's likely influence, the approved clearing house will, or will continue to, conduct its business prudently and in compliance with the provisions of the Act; and

(*c*) it would not be contrary to the interests of the public to do so.

(4) In paragraph (3), "12% controller" and "20% controller" have the same meanings as in section 70 (3) of the Act.

Application for approval of chairman, chief executive officer, director and key persons

32.—(1) For the purposes of section 71(3) of the Act, an approved clearing house may apply for approval under section 71(1) or (2) of the Act by submitting Form 6 to the Authority.

(2) Where an approved clearing house has made an application under paragraph (1), the Authority may require the approved clearing house to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the approved clearing house shall comply with that requirement.

Criteria for approval of chairman, chief executive officer, director and key persons

33. For the purposes of section 71(4) of the Act, the Authority may have regard to the following matters in determining whether to approve or refuse to approve the appointment of a person under section 71(1) or (2) of the Act:

(*a*) whether the person is fit and proper to be so appointed;

(*b*) whether the appointment of the person would be consistent with any applicable written law relating to —

(i) the qualifications for the position; or

(ii) the requirements for the composition of the board of directors or any committee of the approved clearing house;

(*c*) whether it would be contrary to the interests of the public to approve the appointment of the person.

PART IV

REGULATION OF RECOGNISED CLEARING HOUSES

Division 1 — Obligations and Matters relating to Recognised Clearing Houses

Obligation to notify Authority of certain matters

34.—(1) For the purposes of section 76(1)(*c*)(i) of the Act, a recognised clearing house shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of such circumstance:

(*a*) any civil or criminal legal proceeding instituted against the recognised clearing house, whether in Singapore or elsewhere, which may have a material impact on the operations or finances of the recognised clearing house;

(*b*) any disciplinary action taken against the recognised clearing house by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*c*) any material change to the regulatory requirements imposed on the recognised clearing house by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;

(*d*)

any admission or cessation of a bank to act as a settlement bank for the recognised clearing house;

(*e*) any failure by any party to debit or credit the relevant accounts for the purposes of the settlement of transactions, including the settlement of money, securities or physically delivered futures contracts or derivatives contracts;

(*f*) the recognised clearing house becoming aware of any acquisition or disposal by any person of a substantial shareholding in the recognised clearing house.

(2) A recognised clearing house shall, if it intends to make a declaration that a member of the recognised clearing house has defaulted or to commence default proceedings against any member of the recognised clearing house —

(*a*) immediately give the Authority notice of such intent; or

(*b*) where the recognised clearing house is prohibited by the laws of confidence in the territory in which the head office or principal place of business of the recognised clearing house is situated, give the Authority notice of such intent as soon as the recognised clearing house is permitted to do so.

Obligation of members with respect to money or assets received from customers

35. A recognised clearing house shall ensure that every member thereof which accepts from that member's customers any money or assets deposited or paid for or in relation to a contract in a specified transaction shall inform each customer concerned that the customer can choose to have the books for any money or assets deposited or paid for or in relation to the contracts of the customer separated from the books for money or assets deposited or paid for or in relation to the contracts of any other customer or customers of that member.

Obligation to submit periodic reports

36. For the purposes of section 79 of the Act, a recognised clearing house shall submit to the Authority —

(*a*) within 3 months after the end of the financial year of the recognised clearing house or such longer period as the Authority may permit, a copy of the annual report of the recognised clearing house;

(*b*) when required by the Authority, a report relating to the business of the recognised clearing house; and

(*c*) when required by the Authority, such other report as the Authority may require for the proper administration of the Act.

Exceptions to obligation to maintain confidentiality

37.—(1) For the purposes of section 81(2)(*a*) of the Act, section 81(1) of the Act shall not apply to the disclosure of user information by a recognised clearing house or its officers or employees for the following purposes or in the following circumstances:

(*a*)

the disclosure of user information is necessary for the making of a complaint or report under any written law for an offence alleged or suspected to have been committed under such written law;

(*b*) the disclosure of user information is permitted for such purpose specified in writing by the user or, where the user is deceased, by his appointed personal representative;

(*c*) the disclosure of user information is necessary for the execution by the recognised clearing house of a transaction in any securities, futures contracts or derivatives contracts or for the clearing or settlement of any such transaction, and such disclosure is made only to another user which is —

(i) a party to the transaction; or

(ii) a member of an approved exchange, an approved clearing house or a recognised clearing house through which that transaction is executed, cleared or settled;

(*d*) where there are any disciplinary proceedings of the recognised clearing house —

(i) the disclosure of the user information is necessary in those disciplinary proceedings, and reasonable steps are taken to ensure that user information disclosed to any third person is used strictly for the purpose for which the user information is disclosed; or

(ii) the disclosure of the user information is necessary for the publication, in any form or manner, of those disciplinary proceedings and the outcome thereof;

(*e*) the user information disclosed is already in the public domain;

(*f*) the disclosure of user information is made in connection with an arrangement for protection against a default by a member of the recognised clearing house to another member of the recognised clearing house who is identified by the recognised clearing house for the purposes of carrying out or undertaking the obligations under the arrangement;

(*g*) the disclosure of user information is made to a member of the recognised clearing house in connection with an arrangement for the transfer to that member of any contract from another member of the recognised clearing house who is in default;

(*h*) the disclosure of user information is made in connection with —

(i) the outsourcing or proposed outsourcing of any function of the recognised clearing house to a third party;

(ii) the engagement or potential engagement of a third party by the recognised clearing house to create, install or maintain systems of the recognised clearing house; or

(iii) the appointment or engagement of an auditor, a lawyer, a consultant or any other professional by the recognised clearing house under a contract for service;

(*i*) the disclosure of user information is necessary for, or is required by the Public Trustee or the Commissioner of Estate Duties in the course of —

(i)

an application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased user; or

(ii) the administration of the estate of a deceased user; or

(*j*) the disclosure of user information is made in connection with —

(i) the bankruptcy of a user who is an individual; or

(ii) the winding up or receivership of a user which is a body corporate.

(2) Where user information is disclosed under paragraph (1)(*f*), (*g*) or (*h*), the recognised clearing house shall —

(*a*) maintain, and make available for inspection by the Authority, a record of —

(i) the circumstances relating to the disclosure of the user information; and

(ii) the particulars of —

(A) in the case of a disclosure of user information under paragraph (1)(*f*), the arrangement for protection;

(B) in the case of a disclosure of user information under paragraph (1)(*g*), the arrangement for the transfer;

(C) in the case of a disclosure of user information under paragraph (1)(*h*)(i), the outsourcing or proposed outsourcing of the function of the recognised clearing house;

(D) in the case of a disclosure of user information under paragraph (1)(*h*)(ii), the engagement or potential engagement of the third party; or

(E) in the case of a disclosure of user information under paragraph (1)(*h*)(iii), the appointment or engagement of the auditor, lawyer, consultant or other professional;

(*b*) disclose the user information only in so far as this is necessary for the relevant purpose; and

(*c*) take reasonable steps to ensure that —

(i) the user information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose; and

(ii) the user information is not disclosed by that person to any other person, except with the consent of the recognised clearing house.

(3) Where the disclosure to a body corporate of user information is permitted for any purpose or in any circumstance under paragraph (1), the user information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

(4) In paragraphs (2) and (3), "relevant purpose" means —

(*a*) in the case of a disclosure of user information under paragraph (1)(*f*), the carrying out of the arrangement for protection;

(*b*) in the case of a disclosure of user information under paragraph (1)(*g*), the carrying out of the arrangement for the transfer;

(*c*) in the case of a disclosure of user information under paragraph (1)(*h*)(i), facilitating the outsourcing or proposed outsourcing of the function of the recognised clearing house;

(*d*) in the case of a disclosure of user information under paragraph (1)(*h*)(ii), facilitating the engagement or potential engagement of the third party; and

(*e*) in the case of a disclosure of user information under paragraph (1)(*h*)(iii), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.

Business continuity plan

38.—(1) A recognised clearing house shall maintain at all times a plan of action (referred to in this regulation as a business continuity plan) setting out the procedures and establishing the systems necessary to restore, in the event of any disruption to the processes of any clearing facility which it operates, safe and efficient operations of that clearing facility.

(2) A recognised clearing house shall review and test the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the business continuity plan.

Provision of information

39. A recognised clearing house shall make available to any person upon his request, or publish in a manner that is accessible, information on —

(*a*) all services of the recognised clearing house;

(*b*) all products that may be cleared or settled by the recognised clearing house; and

(*c*) the applicable fees and charges of the recognised clearing house.

Transmission and storage of user information

40.—(1) A recognised clearing house shall take all reasonable measures to maintain the integrity and security of the transmission and storage of its user information.

(2) A recognised clearing house shall immediately notify the Authority of —

(*a*) any compromise of the integrity or security of the transmission or storage of any user information of the recognised clearing house; and

(*b*) any action taken or intended to be taken to restore the integrity and security of the transmission and storage of that user information.

Supervision of participants

41. A recognised clearing house shall —

(*a*) take immediate action to terminate, suspend or restrict the access of a participant in Singapore to any clearing facility operated by the recognised clearing house —

(i) where the participant is an entity licensed or authorised by the Authority, if the participant's licence or authorisation is revoked by the Authority; or

(ii) upon the direction of the Authority; and

(*b*)

within 14 days, or such longer period as the Authority may permit, after taking any disciplinary action against a participant in Singapore, notify the Authority of that disciplinary action.

Regulation of clearing fees of specified recognised clearing houses

42.—(1) A recognised clearing house specified in Part I of the Third Schedule shall not, without the prior approval of the Authority under paragraph (4) —

(*a*) impose any clearing fee on its participants in respect of any service or services provided by the recognised clearing house; or

(*b*) modify, restructure or otherwise change any existing clearing fee imposed on its participants.

(2) An application to the Authority for approval under paragraph (4) shall be made in Form 5.

(3) Where a recognised clearing house has made an application under paragraph (2), the Authority may require the recognised clearing house to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the recognised clearing house shall comply with that requirement.

(4) The Authority shall, within 20 business days after receiving a completed application under paragraph (2), by notice in writing to the recognised clearing house, either grant the approval or notify the recognised clearing house of the Authority's intention to refuse to grant the approval.

(5) The Authority may, by notice in writing to the recognised clearing house, extend the period referred to in paragraph (4) —

(*a*) in the first instance, to a period of up to 35 business days after receiving the completed application under paragraph (2); or

(*b*) upon the expiry of the period referred to in sub−paragraph (*a*), for such further period as the Authority thinks fit.

(6) Before the Authority extends under paragraph (5)(*b*) the period referred to in paragraph (4), the Authority shall give the recognised clearing house an opportunity to be heard.

(7) In deciding whether to grant or refuse approval under paragraph (4), the Authority may have regard to the following matters:

(*a*) the effect of the proposed imposition of or change in the clearing fee on —

(i) competition in the financial services industry of Singapore; and

(ii) access to clearing or settlement services in Singapore;

(*b*) the cost of providing the service to which the proposed imposition or change applies;

(*c*) the effect of the proposed imposition or change on the cost and efficiency of trading, clearing and settlement in Singapore of the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule; and

(*d*) the effect of the proposed imposition or change on the objectives of the Authority as specified in section 4(1)(*b*) of the Monetary Authority of Singapore Act (Cap. 186).

(8) The Authority may grant its approval under paragraph (4) subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing to the recognised clearing house, including conditions or restrictions relating to —

(*a*) the period for which the approval of a clearing fee will be in force;

(*b*) the circumstances under which, or date by which, upon the expiry of the period referred to in sub-paragraph (*a*), the recognised clearing house will be required to submit another application under paragraph (2) for approval of the clearing fee; and

(*c*) the circumstances under which, or the changes in the clearing fee for which, upon the expiry of the period referred to in sub-paragraph (*a*), the recognised clearing house will not be required to submit another application under paragraph (2) for approval of a change in the clearing fee.

(9) The Authority shall not refuse to grant its approval under paragraph (4) without giving the recognised clearing house an opportunity to be heard.

(10) A recognised clearing house may only charge a clearing fee approved by the Authority under paragraph (4) for the service or services in respect of which that fee was approved.

(11) In this regulation, "clearing fee" means any fee, tariff or compensation for clearing or settlement of transactions in the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule.

Division 2 — Customers' Money and Other Assets

Application of this Division

43. This Division shall apply to every recognised clearing house —

(*a*) which is a Singapore corporation;

(*b*) with or to which money or assets are deposited or paid by its members in respect of or in relation to the contracts of the customers of those members; and

(*c*) which holds such money or assets in the course of its clearing or settlement activities.

Segregation of customers' money held by recognised clearing house

44.—(1) A recognised clearing house which accepts any money or assets deposited with or paid to it by its members, for or in relation to any contracts of the customers of those members, shall, in respect of each contract which is cleared or settled by it, and for or in relation to which any money or assets are deposited with or paid to it, require the member to notify it in such manner as it may determine —

(*a*) whether that contract is a contract of a customer of the member;

(*b*) whether the money or assets deposited or paid for or in relation to that contract are deposited or paid for or in relation to a contract of a customer of the member; and

(*c*) if that contract is a specified transaction of a customer of the member, whether the books for the money or assets that are deposited or paid for or in relation to that contract are, in accordance with the instructions given to the member by that customer, to be separated from

the books for any money or assets deposited with or paid to the recognised clearing house for or in relation to the contracts of other customers of the member.

(2) Where a member of a recognised clearing house has notified the recognised clearing houses under paragraph (1) that any money (referred to in this paragraph as the relevant money) or assets (referred to in this paragraph as the relevant assets) are deposited or paid for or in relation to a contract which is a specified transaction of a customer of the member, and that the books for the relevant money or relevant assets are to be separated from the books for any money or assets deposited or paid for or in relation to the contracts of other customers of the member, the recognised clearing house shall —

(*a*) subject to regulations 45 and 46, ensure that the relevant money is deposited in a trust account, or the relevant assets are deposited in a custody account, to be held for the benefit of the customers of the member;

(*b*) ensure that the relevant money or relevant assets are kept separate from all other money and assets received by the recognised clearing house which are deposited or paid for or in relation to the contracts of the members of the recognised clearing house;

(*c*) ensure that the relevant money or relevant assets are kept separate from the money and assets of the recognised clearing house; and

(*d*) keep the books for the relevant money or relevant assets separate from the books for the money or assets deposited or paid for or in relation to the contracts of any other customer of any member of the recognised clearing house.

(3) Where any money (referred to in this paragraph as the relevant money) or assets (referred to in this paragraph as the relevant assets) are deposited or paid for or in relation to a contract of a customer of a member of a recognised clearing house, and the books for the relevant money or relevant assets are not required to be separated from the books for the money or assets deposited or paid for or in relation to the contracts of other customers of the member, the recognised clearing house shall —

(*a*) subject to regulations 45 and 46, ensure that the relevant money is deposited in a trust account, or the relevant assets are deposited in a custody account, to be held for the benefit of the customers of the member;

(*b*) ensure that the relevant money or relevant assets are kept separate from all other money and assets received by the recognised clearing house which are deposited or paid for or in relation to the contracts of the members of the recognised clearing house;

(*c*) ensure that the relevant money or relevant assets are kept separate from the money and assets of the recognised clearing house; and

(*d*) keep the books for the money or assets deposited or paid for or in relation to the contracts of the customers of the member separate from the books for the money or assets deposited or paid for or in relation to the contracts of the customers of any other member of the recognised clearing house.

(4) Notwithstanding paragraphs (2)(*a*) and (3)(*a*), where a member of a recognised clearing house has notified the recognised clearing house under paragraph (1) that any money (referred to in this paragraph as the relevant money) or assets (referred to in this paragraph as the relevant assets) are deposited or paid for or in relation to a contract of a customer of the member, and the member is a bank used by the recognised clearing house for the purpose of depositing money or assets, the recognised clearing house

shall ensure that the relevant money is deposited, or the relevant assets are deposited, in an account which is not operated by the member in its role as a bank or custodian, as the case may be.

(5) Nothing in paragraphs (2)(*a*) and (3)(*a*) shall prevent a recognised clearing house from commingling all money or assets deposited pursuant to paragraphs (2)(*a*) and (3)(*a*) in the same trust account or custody account, as the case may be.

(6) Where a recognised clearing house has been convicted of an offence under regulation 52 of contravening paragraph (2)(*a*) or (*b*) or (3)(*a*) or (*b*), in so far as any money which has been deposited in a trust account referred to in paragraph (2)(*a*) or (3)(*a*), or any asset which has been deposited in a custody account referred to in paragraph (2)(*a*) or (3)(*a*), is used for any purpose other than —

(*a*) for or in relation to a contract of a customer of a member of the recognised clearing house; or

(*b*) in accordance with regulations 45 and 46,

the recognised clearing house shall —

(i) if the contravention involved any money, repay the money to the trust account; or

(ii) if the contravention involved any asset —

(A) return the asset to the custody account; or

(B) if the asset cannot be returned to the custody account, deposit in the trust account, for the benefit of the customers of the member, an amount of money equivalent to the monetary value of the asset at the time of the contravention.

(7) In this regulation, "bank" has the same meaning as in section 2(1) of the Banking Act (Cap. 19).

Permissible use of customers' money and assets by recognised clearing house

45.—(1) Where the books for the money or assets deposited or paid for or in relation to the contracts of the customers of a member of a recognised clearing house are kept by the recognised clearing house in accordance with regulation 44(3), and the member fails to meet its obligations to the recognised clearing house that arise from the contracts of those customers (referred to in this paragraph as the subject obligations), the recognised clearing house may use the money or assets held by the recognised clearing house in accordance with regulation 44(3) to meet the subject obligations, only if —

(*a*) the recognised clearing house is of the opinion, formed in good faith, that the failure of the member to meet the subject obligations is directly attributable to the failure of any such customer of the member to meet that customer's obligations under any market contract;

(*b*) either —

(i) both of the following have been wholly utilised to meet the subject obligations:

(A) the money and assets deposited with or paid to the recognised clearing house for or in relation to the contracts of the member itself;

(B) the money and assets (not being any money or assets of any customer of the member) deposited by the member with the recognised clearing house as collateral or guarantee for the purpose of satisfying all obligations of the member to the recognised clearing house; or

(ii)

the recognised clearing house has reasonable grounds for forming an opinion that the failure to use the customers' money or assets to meet the subject obligations may jeopardise the financial integrity of the recognised clearing house;

(*c*) the recognised clearing house has made provision in its business rules for requirements in addition to those referred to in sub-paragraphs (*a*) and (*b*);

(*d*) the additional requirements referred to in sub-paragraph (*c*) are not inconsistent with the requirements in sub−paragraphs (*a*) and (*b*); and

(*e*) the money or assets are used in accordance with the provisions of the business rules referred to in sub−paragraph (*c*).

(2) Where the books for the money or assets deposited or paid for or in relation to the contracts of a customer of a member of a recognised clearing house are kept by the recognised clearing house in accordance with regulation 44(2), and the member fails to meet its obligations to the recognised clearing house that arise from those contracts (referred to in this paragraph as the subject obligations), the recognised clearing house shall not use any money or assets deposited with or paid to the recognised clearing house for or in relation to the contracts of any other customer of the member (including any such money or assets held by the recognised clearing house in accordance with regulation 44(2) or (3)) to meet the subject obligations.

(3) For the avoidance of doubt, where any money or assets deposited or paid for or in relation to a contract of a customer of a member of a recognised clearing house are held by the recognised clearing house in accordance with regulation 44(2), the recognised clearing house is not prevented from using the money or assets if —

(*a*) the member fails to meet its obligations to the recognised clearing house; and

(*b*) the failure of the member to meet its obligations to the recognised clearing house is directly attributable to the failure of that customer to meet its obligations under any market contract.

(4) A recognised clearing house shall notify the Authority before using any customer's money or assets in the circumstances specified in paragraph (1) or (3).

Permissible investment of customers' money by recognised clearing house

46.—(1) A recognised clearing house may invest any money or assets deposited or paid for or in relation to the contracts of a customer of a member of the recognised clearing house and held by the recognised clearing house in the course of its clearing or settlement activities, including any money deposited in a custody account referred to in regulation 44(2)(*a*) or (3)(*a*), in the following classes of securities:

(*a*) securities of the Government;

(*b*) if the money deposited with or paid to the recognised clearing house is in the currency of a foreign country or territory, debt securities of the government of that country or territory;

(*c*) negotiable certificates of deposit;

(*d*) money market funds.

(2) The recognised clearing house shall seek the approval of the Authority before investing any money or assets under paragraph (1).

(3) When seeking the approval of the Authority under paragraph (2), the recognised clearing house shall satisfy the Authority —

(*a*) that the management of the investments made by the recognised clearing house is consistent with the principles of preserving principal and maintaining sufficient liquidity to meet the obligations of customers of members of the recognised clearing house;

(*b*) that prudential measures have been adopted to manage the risks in respect of the investment activities of the recognised clearing house; and

(*c*) of any other matter which the Authority considers necessary for the sound management of the investments.

(4) The Authority may grant the approval under paragraph (2) subject to such conditions or restrictions as the Authority may think fit.

Daily computation of customers' money and assets

47.—(1) A recognised clearing house shall, at such intervals as the recognised clearing house determines appropriate (but no less frequently than once each business day), compute —

(*a*) for the purposes of regulation 44(3), the total amount of money and assets of the customers of the members of the recognised clearing house held by the recognised clearing house, including money that has been invested by the recognised clearing house under regulation 46 (1); and

(*b*) for the purposes of regulation 44(2), the amount of money and assets of each customer of a member of the recognised clearing house held by the recognised clearing house, including money that has been invested by the recognised clearing house under regulation 44(1).

(2) A recognised clearing house shall complete any computation under paragraph (1) in respect of each business day no later than noon of the next business day, and shall keep that computation together with all supporting data.

(3) In this regulation, "business day" means any day in which the recognised clearing house is open for business.

Verification of money and assets placed with recognised clearing house

48.—(1) A recognised clearing house shall, in respect of each financial year of the recognised clearing house, cause its auditors to submit to the Authority —

(*a*) a report covering the first 6 months of the financial year, before the end of the seventh month of the financial year (or at such other time as the Authority may require); and

(*b*) a report covering the last 6 months of the financial year, before the end of the first month of the next financial year (or at such other time as the Authority may require).

(2) The recognised clearing house shall ensure that each report referred to in paragraph (1) does, in respect of the period covered by the report —

(*a*) certify whether the money and assets deposited with or paid to the recognised clearing house by a member of the recognised clearing house under regulation 44(3), for or in relation to a contract of a customer of the member —

(i) are segregated from any other money and assets deposited by the member with the recognised clearing house;

(ii) are deposited in a trust account or custody account in accordance with regulation 44(3)(*b*), and are not commingled with the money and assets of the recognised clearing house; and

(iii) are used only as permitted under or in accordance with regulation 45 or 46; and

(*b*) certify whether the money and assets deposited with or paid to the recognised clearing house by a member of the recognised clearing house under regulation 44(2), for or in relation to a contract of a customer of the member —

(i) are recorded in books separate from the books for the money or assets deposited or paid for or in relation to the contracts of other customers of the member;

(ii) are segregated from any other money and assets deposited by the member with the recognised clearing house;

(iii) are deposited in a trust account or custody account in accordance with regulation 44(2)(*b*), and are not commingled with the money and assets of the recognised clearing house; and

(iv) are used only as permitted under or in accordance with regulation 45 or 46; and

(*c*) set out the amount, on an aggregated basis, of all money and assets deposited by the member with the recognised clearing house —

(i) for or in relation to each contract of a customer of the member; and

(ii) for or in relation to any other contract.

Reconciliation of money and assets placed with recognised clearing house

49.—(1) Where a member of a recognised clearing house has notified the recognised clearing house that the books for any money or assets deposited or paid for or in relation to a contract of a customer (referred to in this paragraph as the relevant customer) of the member are to be separated from the books for any money or assets deposited or paid for or in relation to the contracts of other customers of the member, the recognised clearing house shall cause the member to submit to the recognised clearing house on a quarterly basis (or at such other time as the recognised clearing house may require) records setting out the amount of money and assets deposited with or paid to the recognised clearing house for or in relation to the contracts of the relevant customer.

(2) A recognised clearing house shall ensure that the records it keeps in respect of the money or assets deposited or paid for or in relation to any contract or contracts of a customer of a member of the recognised clearing house are subject to controls adequate to maintain the accuracy of such records, including regular reconciliation of such records with the records submitted by the member in accordance with paragraph (1).

PART V

INSOLVENCY

Application of Division 4 of Part III of Act

50. For the purposes of section 81B of the Act, Division 4 of Part III of the Act shall apply to the following transactions cleared or settled, whether by novation (however described) or otherwise, by an approved clearing house or a recognised clearing house:

(*a*) securities;

(*b*) futures contracts; and

(*c*) derivatives contracts.

PART VI

MISCELLANEOUS

Criteria for determining whether officer failed to discharge duties or functions

51. For the purposes of section 81P(2) of the Act, the Authority may, in determining whether a chairman, chief executive officer or director of an approved clearing house or of a recognised clearing house (being a Singapore corporation), or any person referred to in section 71(2) of the Act who is appointed to any key management position or committee of an approved clearing house, has failed to discharge the duties or functions of his office or employment, have regard to whether that chairman, chief executive officer, director or person has taken reasonable steps to discharge the following duties:

(*a*) ensure the proper functioning of the approved clearing house or recognised clearing house (as the case may be);

(*b*) ensure the compliance of the approved clearing house or recognised clearing house (as the case may be) with all relevant legislation (including instruments, however described, having legislative effect) of any jurisdiction in which it is incorporated or in which it operates;

(*c*) set out and ensure compliance with written policies on all operational areas of the approved clearing house or recognised clearing house (as the case may be), including its financial policies, accounting and internal controls, internal auditing and compliance with all legislation (including instruments, however described, having legislative effect), whether of Singapore or of any other jurisdiction in which it is incorporated or in which it operates, and all business rules, governing its operations;

(*d*) identify, monitor and address the risks associated with the business activities of the approved clearing house or recognised clearing house (as the case may be);

(*e*) ensure that the business activities of the approved clearing house or recognised clearing house (as the case may be) are subject to adequate internal audit;

(*f*) oversee the financial undertakings and exposure (to risks of any nature) of the approved clearing house or recognised clearing house (as the case may be), by setting out proper delegation limits and risk management controls; and

(*g*) ensure —

(i)

that the approved clearing house or recognised clearing house (as the case may be) maintains written records of the steps taken by it to monitor compliance with its policies, the limits on discretionary powers and its accounting and operating procedures; and

(ii) that every report, return or statement submitted by the approved clearing house or recognised clearing house (as the case may be) to the Authority is complete and accurate.

Offences

52.—(1) Unless otherwise provided in these Regulations, any corporation which contravenes regulation 5, 11(2), 12(1) or (2), 15(2), 16, 17, 18, 19, 20(1) or (2), 21(1), (3) or (10), 23(2), (3) or (4), 24(4), 25(2), 26(1) or (2), 27, 28, 32(2), 37(2), 38, 39, 40, 41, 42(1), (3) or (10), 44(2), (3) or (4), 45(4), 46(2), 47(1) or (2), 48 or 49 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $150,000 and, in the case of a continuing offence, to a further fine not exceeding $15,000 for every day or part thereof during which the offence continues after conviction.

(2) Section 333(1) of the Act shall not apply to any offence referred to in paragraph (1).

Non-applicability of section 339(2) of Act

53. For the purposes of section 339(3) of the Act, section 339(2) of the Act shall not apply to a person operating a clearing facility outside of Singapore whose clearing facility (referred to in this regulation as the foreign clearing facility) is linked to a clearing facility in Singapore operated by an approved clearing house or a recognised clearing house (referred to in this regulation as the Singapore clearing facility), where —

(*a*) the clearing systems of the linked clearing facilities are not significantly integrated;

(*b*) the positions of members of the Singapore clearing facility or their customers held at the foreign clearing facility by virtue of the clearing linkage are not significant; and

(*c*) that person —

(i) is willing and able to co-operate with the Authority by providing information and such other assistance to the Authority as may be required by the Authority for the performance of its functions and duties under the Act;

(ii) has its head office in a jurisdiction where the Authority has entered into adequate arrangements for mutual co-operation with the financial services regulatory authority responsible for the supervision of that person;

(iii) has its head office in a jurisdiction where the regulatory regime is comparable, in the degree to which the objectives specified in section 47 of the Act are achieved, to the requirements and supervision to which clearing facilities are subject under the Act; and

(iv) has in place adequate arrangements with the approved clearing house or recognised clearing house operating the Singapore clearing facility for the supervision of corporations that clear or settle transactions on both linked clearing facilities.

Revocation

54. The Securities and Futures (Clearing Facilities) Regulations 2005 (G.N. No. S 366/2005) are revoked.

FIRST SCHEDULE

Regulation 3(1)

DESCRIPTION OF FORMS

Form	*Description of Form*
1	Application for approval as an approved clearing house or recognition as a recognised clearing house
2	Information on chief executive officer and directors
3	Information on shareholders and subsidiaries
4	Application for change in status
5	Application to impose or change clearing fee
6	Application for approval for appointment of chairman, chief executive officer, director or key person

SECOND SCHEDULE

Regulation 4(1)

FEES

First column	*Second column*
1. For every application for approval as an approved clearing house, or recognition as a recognised clearing house, under section 50(1) or (2) of the Act	$4,000
2. Annual fee under section 53(1) of the Act —	
(*a*) for every recognised clearing house	$10,000
(*b*) The Central Depository (Pte) Limited	$350,000
(*c*) Singapore Exchange Derivatives Clearing Limited	$240,000
(*d*) ICE Clear Singapore Pte. Ltd. (formerly known as "Singapore Mercantile Exchange Clearing Corporation Pte Ltd")	$110,000
3. For every application by an approved clearing house or a recognised clearing house to change its status under section 54(1) of the Act	$1,000
4. For every application for approval to acquire a substantial shareholding in, or to become a 12% controller or 20% controller of, an approved clearing house under section 70(1) or (2) of the Act	$500

[S 296/2014 wef 22/04/2014]

THIRD SCHEDULE

Regulations 21(1), (7) and (12) and 42(1), (7) and (11)

REGULATION OF CLEARING FEES

PART I

SPECIFIED APPROVED CLEARING HOUSES AND RECOGNISED CLEARING HOUSES

1. The Central Depository (Pte) Limited is an approved clearing house specified for the purposes of regulation 21(1).

2. There is no recognised clearing house specified for the purposes of regulation 42(1).

PART II

SPECIFIED SECURITIES, FUTURES CONTRACTS OR DERIVATIVES CONTRACTS

1. The securities, futures contracts or derivatives contracts specified for the purposes of regulation 21(7)(*c*) and (12) are all debentures, stocks or shares that —

(*a*) are issued or proposed to be issued by a corporation, body unincorporate or government; and

(*b*) are cleared or settled by The Central Depository (Pte) Limited.

2. There are no securities, futures contracts or derivatives contracts specified for the purposes of regulation 42(7)(*c*) and (11).

Made this 23rd day of July 2013.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

[CMD/MCP/02/2012; AG/LLRD/SL/289/2010/23 Vol. 1]

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-6(1)

ICE Futures Singapore[sm]

Rules

Table of Contents

SECTION A - GENERAL

A.1 DEFINITIONS

A.1.1 In these Rules, the words standing in the first column of the following table shall bear the meanings set opposite them in the second column, if not inconsistent with the subject or context:

TERM	DEFINITION
"**API**"	means the open application program interface and transport software;
"**Appeals Panel**"	means an appeals panel appointed from time to time pursuant to Rule E.4.14;
"**Applicable Law**"	means any applicable national, federal, supranational, state, regional, provincial, local or other statute, law, ordinance, regulation, rule, code, guidance, order, published practice or concession, regulatory requirement, judgment or decision of a Governmental Authority and, for the avoidance of doubt, includes the MAS Requirements and any rules, regulations, guidance and approach document of any other Regulatory Authority;
"**Arbitration Panel**"	means an arbitration panel appointed from time to time pursuant to Rule H.1.3(a)(i);
"**Authorisation**"	(i) with respect to a Member, means any authorisation, registration, licence, permission, non-objection, consent or approval required under Applicable Law by any Governmental Authority in any jurisdiction in order for such Member to conduct business in connection with the Exchange (including, without limitation, a CMS Licence for trading in Futures and any other investments or financial instruments traded on the Exchange which the Member requires CMS Licence for in relation to their business in connection with the Exchange), and shall include any exemption(s) and/or exclusion(s) from the requirement to obtain any of the same under Applicable Law (including, without limitation, pursuant to the SFA and MAS Requirements); and (ii) with respect to a Member's Representative, means any authorisation, registration, licence, permission, non-objection, consent or approval required under Applicable Law by any Governmental Authority in any jurisdiction in order to act as a representative for the relevant Member's business in connection with the Exchange, and shall include any exemption(s) and/or exclusion(s) from the requirement to obtain any of the same under Applicable Law (including, without limitation, pursuant to the SFA and MAS Requirements);
"**Authorisation, Rules and Conduct Committee**" or "**ARC Committee**"	means the committee for the time being constituted pursuant to Rule C.10.1;
"**Block Trade**"	means the transaction organised and executed in relation to Block Trade Contracts pursuant to the Rules;
"**Block Trade Contracts**"	means those Products designated by the Exchange as contracts that may be traded as a Block Trade pursuant to the Rules (but excluding, for the avoidance of doubt, EFRPs, notwithstanding that EFRPs may be entered into using ICE

	Block);
"**Buyer**"	in respect of a Contract, means the person, determined in accordance with Rule F.1, who is a party to such Contract as buyer;
"**Circular**"	means a publication issued by the Exchange for the attention of all Members and posted on the Exchange's website in accordance with Rule A.1.17;
"**Clearing Agreement**"	means an agreement under which a Clearing Member undertakes on the terms of the Rules to clear and accept liability for any Contract made on the Market pursuant to Rule B.10 by another Member;
"**Clearing House**"	means ICE Clear Singapore Pte. Ltd. as the clearing house which is for the time being appointed by the Exchange as clearing house to the Exchange;
"**Clearing House Rules**"	means the rules of the Clearing House, together with the procedures made thereunder, as interpreted in accordance with guidance and Circulars of the Clearing House and as the same are amended in accordance with the Clearing House Rules from time to time;
"**Clearing Member**"	means a Member that has been authorised as a clearing member by the Clearing House under the Clearing House Rules;
"**CMS Licence**"	means a capital markets service licence granted by the MAS pursuant to Section 86 of the SFA;
"**Complaint Resolution Procedures**"	means the procedure issued by the Exchange from time to time setting out the procedures for the making of a complaint against the Exchange or its personnel by a complainant, and the investigation of such complaint;
"**Conformance Criteria**"	means the criteria determined by the Exchange from time to time to which a Front End Application must conform;
"**Contingent Agreement to Trade**"	means an agreement between two parties to submit details to the Exchange with a view to creation of one or more Contracts pursuant to Section F. This agreement is contingent on acceptance by the Exchange and consequent creation of the Contract(s);
"**Contract**"	means a contract relating to a Product containing the terms set out in the Contract Terms and the Clearing House Rules and, for the avoidance of doubt, a Contract shall not be regarded as falling outside this definition solely by virtue of the fact that it contains additional terms which apply on the default of a party to such contract provided that such terms do not conflict with any applicable Rules in Section D or any applicable Clearing House Rules, or contains terms which modify the terms of the Contract Terms to take account of the fact that the Clearing House is not a party to such contract;
"**Contract Date**"	has the meaning given to the term in Rule I.3;
"**Contract Month**"	has the meaning given to the term in Rule I.3;

"**Contract Procedures**"	with regard to a Product, means the contract procedures for the time being adopted by the Exchange under Rule I.1 in respect of Contracts for that Product, as set out in the ICE Futures Contract Terms and Procedures;
"**Contract Terms**"	with regard to a Product, means the contract terms and any related procedures for the time being applicable under the Rules to Contracts for that Product, as set out in the Rules and the ICE Futures Contract Terms and Procedures;
"**Corresponding Contract**"	means a contract arising between parties other than the Clearing House as set out in Rule F.1.4, F.1.7, F.1.10 and F.1.12, subject to Rules C.6 and F.2;
"**Crossing Order Method**"	has the meaning set out in Rule G.6A.2A(b) and a "Crossing Order" shall mean an order made pursuant to the Crossing Order Method;
"**Cross Trade**"	has the meaning set out in Rule G.6A.1;
"**Delivery Panel**"	means a delivery panel for the time being appointed under Rule C.13;
"**Designated Products**"	means, in relation to a Market Maker Program, a Product notified to the Market Maker, by the publication of a Circular or otherwise, from time to time, as being subject to the Market Maker Program;
"**Director**"	means a director of the Exchange;
"**Disciplinary Panel**"	means a disciplinary panel convened pursuant to Rule E.4.4;
"**EFRPs**"	has the meaning given to the term in the Trading Procedures;
"**EFRP Facility**"	has the meaning given to the term in the Trading Procedures;
"**Electronic User Agreement**"	means an agreement between a Member and the Exchange in a form prescribed by the Exchange from time to time for the use of the ICE Platform by the Member;
"**Energy Contract**"	means all Oil Contracts containing the terms as set out in the Contract Terms and/or any other Product determined to be an Energy Contract by the Exchange from time to time;
"**Exchange**", "**ICE**" or "**ICE Futures**"	means ICE Futures Singapore Pte. Ltd. (a company incorporated in the Republic of Singapore under registration number 200617072D) and the approved exchange (as defined in the SFA) known as and operated by ICE Futures Singapore;
"**Fair Market Value**"	means, in relation to any Block Trade price quoted by a Member to another Member or to a client or in respect of a Block Trade entered into by a Member, a price which is considered by the Member, to be the best available for a trade of that kind and size;
"**Front End Application**"	means a Graphical User Interface developed by a Member, or provided by an ISV to a Member, or the Graphical User Interface provided to a Member by the Exchange as part of the ICE Platform. A Front End Application must at all times meet the Exchange's Conformance Criteria;

"**Future**"	means a contract that is a "futures contract" under Section 2(1) of the SFA (including, for the avoidance of doubt, short-dated instruments on the same terms as futures that are entered into during the last week of trading), and including any similar contract treated as such under any Applicable Law, offered for trading by the Exchange whether on the ICE Platform, ICE Block or otherwise;
"**FX Contract**"	means any Contract Terms where the Underlying is a currency or pair of currencies, as determined by the Exchange from time to time;
"**General Participant**"	means a Member of the category mentioned in Rule B.2.1(a);
"**Goods and Services Tax**"	means any goods and services tax, consumption tax, value added tax or any tax of a similar nature;
"**Governmental Authority**"	means any Regulatory Authority and any national, federal, supranational, state, regional, provincial, local or other government, government department, ministry, governmental or administrative authority, regulator, agency, commission, secretary of state, minister, court, tribunal, judicial body or arbitral body or any other person exercising judicial, executive, interpretative, enforcement, regulatory, investigative, fiscal, taxing or legislative powers or authority anywhere in the world with competent jurisdiction (including, without limitation, the MAS);
"**Graphical User Interface**"	means the software which interfaces with the ICE Platform API and which both determines the requirement for sending, and sends, order handling messages to the Trading Server without necessarily requiring the intervention of an individual;
"**ICE Block**"	means the facility for the time being known as ICE Block established by the Exchange which permits Members to organise and execute transactions in relation to the trading of Block Trade Contracts or EFRPs pursuant to the Rules. This shall include the facilities used by Members connected to the Trade Registration API;
"**ICE Block Member**"	means an entity which has been admitted to the category of membership set out in Rule B.2.1(d) or (e) for the purpose of: (i) accessing ICE Block to enter Block Trades or EFRPs (as the case may be); and/or (ii) accessing the ICE Platform for the purpose of entering Cross Trades, for Own Business or on behalf of clients as the case may be;
"**ICE Clearing Systems**"	means the post trade registration and clearing processing hardware and software used by the Exchange, Clearing House and Members from time to time, as further described in these Rules, as appropriate;
"**ICE Futures Contract Terms and Procedures**"	means the terms and procedures published by the Exchange from time to time setting out all Contract Terms and Contract Procedures;
"**ICE Platform**"	means the electronic trading system for the trading of such Products as determined by the Exchange from time to time and administered by the Exchange and, in the case of an ICE Block Member, the term "the ICE Platform" shall, where applicable, mean the ICE Block and any other implied or

	explicit terms relating to the ICE Platform shall be construed accordingly;
"**ICE Platform Trading Hours**"	means the hours during which Responsible Individuals may conduct Exchange business on the ICE Platform, such hours to be determined by the Exchange in accordance with A.8;
"**Index Contract**"	means any Contract Terms where the Underlying is an index or indices, as determined by the Exchange from time to time;
"**Insolvency**"	means, in relation to any person: a bankruptcy or winding-up application being presented; a bankruptcy order being made; a voluntary arrangement being approved; an Insolvency Practitioner being appointed or application or order being made for such an appointment; a composition or scheme of arrangement being approved by a court or other Governmental Authority; an assignment, compromise or composition being made or approved for the benefit of any creditors or significant creditor; an order being made or resolution being passed for winding up; dissolution; the striking off of that person's name from a register of companies or other corporate bodies; a distress or execution process being levied or enforced or served upon or against property of that person; a Governmental Authority making an order pursuant to which any of that person's securities, property, rights or liabilities are transferred; a Governmental Authority exercising, as it appears it to be necessary upon the occurrence of a Specified Event, one or more of the powers prescribed under any Applicable Law in Singapore, including, but not limited to, the powers prescribed under the Banking Act (Chapter 19 of Singapore) and the Monetary Authority of Singapore Act (Chapter 186 of Singapore), in respect of that person; or any event analogous to any of the foregoing in any jurisdiction (always excluding any frivolous or vexatious petition or solvent reorganisation, change of control or merger notified to the Exchange);
"**Insolvency Practitioner**"	means a receiver, judicial manager, administrator, bank administrator, manager or administrative receiver, liquidator, conservator, examiner, trustee in bankruptcy, relevant officeholder (under Part III of the SFA) or any other person appointed or with powers in relation to an Insolvency in any jurisdiction;
"**IRAS**"	means the Inland Revenue Authority of Singapore or any successor thereto;
"**ISV**"	means an independent software vendor which is a provider of Graphical User Interface software which interfaces with the ICE Platform API and both determines the requirement for sending, and sends, order handling messages to the Trading Server without necessarily requiring the intervention of an individual. Such ISV shall meet such Conformance Criteria as determined by the Exchange from time to time;
"**ITM**"	means a unique individual trader mnemonic assigned by the Exchange to a Responsible Individual;
"**Limit Order**"	means an order to buy or sell a specified Product at a specific price or a price higher or lower than the specific price, as appropriate. A buy Limit Order can only be executed at the

	limit price or lower, and a sell Limit Order can only be executed at the limit price or higher. A Limit Order is not guaranteed to execute. A Limit Order can only be filled if the market price of the specified Product reaches the limit price;
"**Market**"	means the ICE Platform or any other means of trading determined by the Exchange from time to time;
"**Market Maker**"	means a person who meets the criteria under Rule B.6A.2 and, in relation to a Market Maker Program, is authorised to act as such by the Exchange;
"**Market Maker Benefits**"	has the meaning set out in Rule B.6A.8;
"**Market Maker Commitments**"	means the commitments of any Market Maker in relation to a Market Maker Program, as notified to the Market Maker by the Exchange;
"**Market Maker Program**"	means a market maker program (including liquidity provision schemes, rebates, fee discounts and similar incentive scheme arrangements designed to benefit the market) in relation to Designated Products, as published by the Exchange, from time to time, in a Circular or otherwise;
"**MAS**"	means the Monetary Authority of Singapore or any successor entity;
"**MAS Requirements**"	means all requirements, regulations, notices, directions, guidelines, codes, practice notes, circulars, policy statements, guidance, examples, waivers, and other similar materials published or otherwise made by the MAS from time to time;
"**Matched Transaction**"	a Platform Trade, a Block Trade or an EFRP;
"**Member**"	means an entity or person who has been admitted to a category of membership referred to under Section B;
"**Membership Procedures**"	means the procedure issued by the Exchange from time to time setting out the requirements with respect to becoming and being a Member;
"**Member's Representative**"	means any director, employee, executive, officer, staff, partner, agent or representative of a Member (whether a natural person or corporation, including any employee, director, officer, partner, agent or representative of such a corporation), including, for the avoidance of doubt, a Responsible Individual;
"**Minimum Volume Thresholds**"	means the thresholds as determined by the Exchange and published from time to time being the minimum number of lots in respect of each Block Trade Contract that can be traded as a Block Trade;
"**Oil Contract**"	means any Contract Terms where the Underlying is oil, as determined by the Exchange from time to time;
"**Order Book Method**"	has the meaning set out in Rule G.6A.2A(a);
"**Own Business**"	in relation to a Member, means business for such Member's own account or for the account of a related corporation, as defined in Section 4(1) of the Companies Act (Chapter 50 of

	Singapore). Own Business will not include transactions concluded for the benefit of a client of such related corporation unless such client is itself a related corporation of the Member;
"**Person Subject to the Rules**"	means each and all of the following: (a) a Responsible Individual (including a trader who should have been registered with the Exchange as a Responsible Individual); (b) a Member; (c) other staff of the Member registered with the Exchange as a Member's Representative, (or who should have been so registered with the Exchange), who have access to the Trading Facilities of the Exchange; (d) a Market Maker; and (e) persons participating in a Market Maker Program;
"**Platform Trade**"	means a trade arising from an order in relation to a Product, which is not in relation to a Block Trade or EFRP made by one Member being matched with an order of the same Member or another Member on the ICE Platform in respect of a Product;
"**Precious Metal Contract**"	means any Contract Terms where the Underlying is a precious metal, as determined by the Exchange from time to time;
"**Product**"	means a Future listed by the Exchange and offered for trading from time to time which references an Underlying and contains the applicable terms set out in the Contract Terms; and, for the avoidance of doubt, such Products include Energy Contracts, Index Contracts, Soft Commodity Contracts, FX Contracts and Precious Metal Contracts;
"**Regulatory Authority**"	means any Governmental Authority which exercises a regulatory or supervisory function under the laws of any jurisdiction in relation to financial services, the financial markets, exchanges or clearing houses (including, without limitation, the MAS and the IRAS);
"**Repository**"	means a trade repository (as defined in the SFA) used for the reporting of Contracts (which may also be used for the recording of Matched Transactions submitted for clearing by the Clearing House);
"**Responsible Individual**"	means an individual registered by a Member with the Exchange to conduct Exchange business on the ICE Platform for that Member;
"**RFQ**"	means request for quote;
"**Rules**"	means these Rules, the Trading Procedures, the Membership Procedures and the Complaint Resolution Procedures, as interpreted in accordance with Circulars and as the same are amended in accordance with these Rules from time to time, or any arrangements, directions and provisions made

thereunder as the context may require;

"**Seller**" in respect of a Contract, means the person, determined in accordance with Rule F.1, who is a party to such Contract as seller;

"**SFA**" means the Securities and Futures Act (Chapter 289 of Singapore);

"**SF(LCB)R**" means the Securities and Futures (Licensing and Conduct of Business) Regulations;

"**Soft Commodity Contract**" means any Contract Terms where the Underlying is sugar, cotton or some other soft commodity not being a hydrocarbon or other form of energy, as determined by the Exchange from time to time;

"**Specified Event**" means a situation where:

(a) a person is or is likely to become unable to meet its obligations;

(b) a person is or is likely to become insolvent;

(c) a person has suspended or is about to suspend payments;

(d) a person has contravened the provisions of any Applicable Law of Singapore, including, but not limited to, the provisions of the SFA, the Banking Act (Chapter 19 of Singapore) and the Monetary Authority of Singapore Act (Chapter 186 of Singapore);

(e) a person has failed to comply with any condition attached to any license, approval or exemption granted to it under any Applicable Laws of Singapore, including, but not limited to, any licenses granted to it under the SFA, the Banking Act (Chapter 19 of Singapore) and any approvals granted to it under the Monetary Authority of Singapore (Chapter 186 of Singapore) Act;

(f) a person informs any Governmental Authority that one or more of the Specified Events in sub-paragraphs (a), (b) and (c) has occurred;

(g) any Governmental Authority is of the opinion that one or more of the Specified Events in sub-paragraphs (a), (b), (c), (d) and (e) has occurred;

(h) any Governmental Authority is of the opinion that a person is carrying on its business in a manner likely to be detrimental to the interests of such persons as may be prescribed, in relation to the relevant person, by any Applicable Laws of Singapore; or

(i) any Governmental Authority considers the exercise of one or more of the powers prescribed under any Applicable Laws of Singapore, including, but not limited to, the powers prescribed under the Banking Act (Chapter 19 of Singapore) and the Monetary Authority of Singapore Act (Chapter 186 of

Singapore), in respect of a person to be in the public interest;

"**Stop Order**"	also referred to as a stop-loss order, means an order to buy or sell a specified Product once the price of the specified Product reaches a specified price, known as the stop price. When the stop price is reached, a Stop Order becomes a market order. A buy Stop Order is entered at a stop price above the current market price. A sell Stop Order is entered at a stop price below the current market price;
"**Termination Fee Amount**"	means, in the event that a Market Maker ceases to participate in a Market Maker Program under Rule B.6A.7, a percentage of the Transaction Fees in respect of Transactions executed on those Trading Days in the relevant calendar month prior to the date on which such termination is effective;
"**Trade Participant**"	means a Member of the category mentioned in Rule B.2.1(b);
"**Trade Registration API**"	means the open application program interface and transport software available allowing certain designated trades in eligible Products to be electronically reported to the Exchange;
"**Trading Day**"	means a day on which the Market is open to trade, as determined by the Exchange from time to time, or, in relation to deliveries of the Underlying in respect of a particular Product, has the meaning given in the Contract Terms;
"**Trading Facilities**"	means the ICE Platform or such other facilities for the trading of Products as the Exchange may determine from time to time;
"**Trading Procedures**"	means the trading procedures published by the Exchange from time to time pursuant to Rule G.2;
"**Trading Server**"	means the ICE Platform central processing system, being that part of the ICE Platform operated by or on behalf of the Exchange which facilitates the performance of the functions set out in the Trading Procedures including controlling, monitoring and recording trading by Members and concluding transactions between Members;
"**Transaction**"	means the electronic execution of a buy or sell order in a Designated Product on the ICE Platform by a Market Maker (excluding EFRPs or Contracts or transactions undertaken by the Market Maker with itself);
"**Transaction Fees**"	means the fees payable to the Exchange in respect of the execution of Transactions (excluding, for the avoidance of doubt, fees and charges payable to entities other than the Exchange) in respect of a particular Market Maker Program, as notified to the Market Maker by a Circular or otherwise;
"**Transaction Fee Amount**"	means a percentage of the Transaction Fees; and
"**Underlying**"	means the underlying commodity, currency, index or other financial instrument referenced in a Product.

A.1.2 Any words importing the singular number only shall include the plural number and *vice versa*. Words importing persons (except the word 'individual') shall include corporations and firms. The masculine shall include the feminine and the neuter and the singular shall include the plural and vice-versa as the context shall admit or require.

A.1.3 All references to timings or times of day are to Singapore times, unless indicated otherwise. Business hours shall occur only on Trading Days and shall be construed accordingly.

A.1.4 Any reference to a statute, statutory provision or rule shall include any notice, order, guidance, regulation or subsidiary legislation made from time to time under that statute, statutory provision or rule which is in force from time to time. Any reference to a statute or statutory provision shall include such statute or provision as from time to time amended, modified, re-enacted or consolidated from time to time and (so far as liability thereunder may exist or can arise) shall include also any past statute or statutory provision (as from time to time modified, re-enacted or consolidated) which was applicable at the time of any relevant action or omission.

A.1.5 References to any rules or any agreement are references to such rules or agreement as amended or restated from time to time, provided that such amendments or restatements are made in accordance with these Rules.

A.1.6 References in these Rules to Singapore legislation shall be interpreted as references to such legislation as implemented in Singapore, including by the relevant Governmental Authorities of Singapore. The Interpretation Act (Chapter 1 of Singapore) shall apply to these Rules in the same way as it applies to an enactment implemented in Singapore.

A.1.7 When a reference is made in these Rules to a rule, section, part, paragraph or procedure, such reference is to a Rule, section, part, paragraph or procedure of, or made under, these Rules, unless otherwise indicated.

A.1.8 The headings in these Rules are for reference purposes only and do not affect in any way the meaning or interpretation of these Rules.

A.1.9 If any provision of these Rules (or part of any provision) is found by any court or other Governmental Authority to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of the Rules, and the validity, legality or enforceability of the other provisions of these Rules shall not be affected.

A.1.10 To the extent there is any conflict between any of the provisions of these Rules, the Contract Terms, any Circular or Clearing House Rules the provision of the first document specified in the paragraphs below shall, as between the Exchange and a Member, prevail, control, govern and be binding upon the parties:

(a) these Rules (excluding the Trading Procedures, Complaint Resolution Procedures and Membership Procedures);

(b) the Trading Procedures;

(c) the Clearing House Rules;

(d) the Contract Terms and Contract Procedures;

(e) the Membership Procedures;

(f) the Complaint Resolution Procedures;

(g) the Electronic User Agreement; and

(h) any Circular (except for a Circular communicating an amendment to any of the above documents in accordance with these Rules, in which case the amendments communicated in such Circular shall be binding on the effective date specified in the Circular as if such amendments were one of those documents),

provided that this Rule A.1.10 is without prejudice to any other order of construction or interpretation as between the Clearing House and Clearing Members set out in the Clearing House Rules.

A.1.11 All references to "**tax**" shall include, without limitation, any tax, levy, impost, duty, or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying the same).

A.1.12 Any capitalised term used in these Rules that is not defined in Rule A.1.1 or elsewhere herein shall have the meaning given to it in the Clearing House Rules.

A.1.13 The Rules, together with the applicable Electronic User Agreement and other documents listed in Rule A.1.10 that are given contractual force pursuant to these Rules, form a contract between Exchange and each Member and between each Member and every other Member. All obligations of the Exchange hereunder are solely to Members. Subject to Applicable Laws in respect of which the relevant Members shall have the right to enforce the relevant provisions of these Rules or ICE Futures Contract Terms and Procedures against one another, no person shall have any right pursuant to the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore) to enforce any provision of these Rules or the ICE Futures Contract Terms and Procedures.

A.1.14 These Rules, and all non-contractual obligations arising out of or in connection with these Rules or any Contract, shall be governed by and construed in accordance with the laws of the Republic of Singapore.

A.1.15 These Rules may be supplemented by processes established pursuant to documents governing the internal governance of the Clearing House and its committees.

A.1.16 Notwithstanding Rule A.1.13, nothing in these Rules shall preclude a client or any other person from agreeing to the application of these Rules or any provision of these Rules in their agreements with any Member, Clearing Member or third party, in which case the Exchange shall, in accordance with the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore), be entitled to enforce any provision of these Rules as a third party to the extent any rights arise under such legislation.

A.1.17 The Exchange may issue Circulars or amend or revoke the contents of Circulars in connection with the Market, the Rules or any action taken by it under the Rules at any time at its discretion and without prior consultation. Any such publication of a Circular on the Exchange website shall constitute good and sufficient delivery thereof to each Member.

A.1.18 All references to a "**client**" or "**customer**" shall refer to a client of a Member (which, in connection with a Clearing Member, may itself be a Member) but shall exclude those persons set out in sub-paragraphs (a) to (c) of Regulation 15(1) of the SF(LCB)R.

A.2 SPIRIT OF THE RULES

A.2.1 The Rules shall at all times be observed, interpreted and given effect in the manner most conducive to the promotion and maintenance of:

(a) the status of the Exchange as an approved exchange under the SFA and any other legal or regulatory status it has from time to time under any other Applicable Law;

(b) the good reputation of the Exchange (and Members);

(c) an orderly market, free of undesirable situations or practices;

(d) high standards of integrity and fair dealing in accordance with MAS Requirements;

(e) proper protection for all persons interested in the performance of transactions entered into under the auspices of the Exchange; and

(f) the safe and efficient functioning of the Market and the protection of the interests of the investing public.

A.2.2 Each of the Rules shall, unless the context otherwise requires, be construed as an independent provision and shall be in addition and without prejudice to any other provision of the Rules.

A.2.3 Any matter or right stated to be in, of or at the Exchange's discretion shall be subject to the Exchange's sole, unfettered and absolute discretion and such discretion may be exercised at any time. Where there

is a provision that the Exchange (or its Directors, officers, employees, committees or panels or any individual committee or panel member) may make further directions upon or in relation to the operation of a Rule or may make or authorise any arrangement, direction or procedure thereunder, the Exchange may make such direction or make or authorise such arrangement or procedure in relation to or under the whole or any part of the Rule and may make or authorise different directions, arrangements or procedures in relation to different persons and may make or authorise such directions, arrangements or procedures generally or in relation to a particular person or particular occasion and in all cases subject to such conditions as it may think fit. Any action taken at the discretion of the Exchange may not be challenged by any person (except as provided for in these Rules).

A.2.4 Where there is no express provision made in the Rules, the Exchange may from time to time implement such procedures as they think fit in relation to any aspect of the management of the Exchange and the conduct of business on the Exchange.

A.2.5 The Exchange may agree with a Member or a concerned person to waive or vary particular requirements of these Rules in such circumstances and subject to such conditions as the Exchange thinks fit providing that the Exchange is satisfied that compliance with the relevant requirements would be unduly burdensome to the Member or person concerned or that compliance with the relevant requirement would not be in the interests of the Exchange, and waiver or variation of the requirements does not disadvantage other Members or create unacceptable risks for the Exchange. Waivers or variations of requirements may be publicised at the discretion of the Exchange.

A.2.6 The Rules shall, unless the context otherwise requires, be construed in such a way as to impose responsibility on Members for all acts, omissions, conduct or behaviour of the Member's Representatives in accordance with Rule A.9.

A.2.7 To the extent that the Exchange or any Member has any right under these Rules which may on its face be performed in a manner that goes beyond that which is permitted by Applicable Law, that right may only be exercised to the extent permitted under Applicable Laws. For the avoidance of doubt, no reference in these Rules to Applicable Laws (including the expressions "without prejudice to Applicable Laws", "subject to Applicable Laws" or similar), shall be construed as restricting or negating the applicability of any provision of the SFA or any MAS Requirements thereunder or any obligation or liability of the Exchange, a Member, a client or a Governmental Authority under the SFA or any MAS Requirements.

A.3 RELATIONS WITH OTHER REGULATORY AUTHORITIES

A.3.1 With a view to maintaining the status of the Exchange as an approved exchange under the SFA, the Exchange may:

(a) make arrangements with any person for monitoring compliance with and investigating alleged breaches of the Rules (and arrangements, procedures and directions made, authorised or given thereunder); and

(b) co-operate generally with any other Governmental Authority having responsibility for the regulation of investment or any other financial business or the enforcement of law.

Without prejudice to the generality of this Rule A.3.1 and subject to Rule A.4:

(i) this may include making arrangements for the sharing of information with Governmental Authorities; and

(ii) the Exchange may, where appropriate, at any time refer a complaint or any other matter coming to its attention to one or more exchanges, clearing houses or other Regulatory Authorities for its or their comment or investigation and may, pending the result of such reference, either suspend or continue with (in whole or in part) its own investigations, proceedings or other actions.

A.3.2 Subject to Applicable Law, the Exchange may at any time make additional Rules, or amend or revoke the Rules or part of them, to the extent they consider necessary or desirable for the continued status of the Exchange as an approved exchange under the SFA. Any Rule so made, and any such amendment or revocation, shall be announced by Circular to Members and shall take effect at such time and in such

manner as the Exchange may determine. The Exchange shall consult Members in such manner as it sees fit on any proposed amendments to the Rules, but it is not obliged to consult Members where the Exchange determines that the proposed Rule amendments would have a limited impact on Members.

A.4 CONFIDENTIALITY

A.4.1 The Exchange shall be entitled to keep records in an electronic or durable medium of all data or information available to it under these Rules or otherwise concerning Members (including financial statements filed with the Exchange), Matched Transactions, Contracts, positions, accounts, customers and clients, deliveries and settlement and all other information concerning a Member's affairs (including information concerning its clients and Member's Representatives) acquired by it in the course of its operations or investigations, including information provided by a Member to the Exchange at the Exchange's request, or pursuant to the Rules or Applicable Laws.

A.4.2 All information received or held by the Exchange pursuant to Rule A.4.1 above shall be held in confidence by the Exchange and shall not be made known to any other person, subject to Rule A.4.3.

A.4.3 Members and clients are given notice that the Exchange is subject to Section 21(1) of the SFA (subject to the exemptions to the obligation to maintain confidentiality set out in Section 21(2) of the SFA and Regulation 11(1) of the Securities and Futures (Markets) Regulations 2005). Subject, at all times, to such Applicable Laws, the Exchange may, notwithstanding Rule A.4.2, make the following disclosures of confidential information subject to such terms and conditions as the Exchange may from time to time deem appropriate:

(a) to a Regulatory Authority or Governmental Authority where a request is formally made to the Exchange by or on behalf of the same or pursuant to Applicable Laws, where disclosure is required under Applicable Laws or is necessary for the making of a complaint or report under Applicable Laws for an offence alleged or suspected to have been committed under Applicable Laws;

(b) in the case of a breach by a Member of: (i) any membership criteria established by the Exchange, whether as a breach of Rule B.3, the Membership Procedures or otherwise; or (ii) such Member's obligation to publicly disclose prices and fees associated with the services it provides and/or its obligation to provide clients with separate access to each specific service it provides to the public;

(c) pursuant to an order of a competent court or other Governmental Authority or otherwise to such other persons, at such times and in such manner as may be required by Applicable Law;

(d) to any member of the ICE group, any other exchange or clearing organisation and any of their representatives, committees, experts, delivery facilities, auditors, advisers or lawyers including (without limitation) for audit, compliance, making or taking delivery, market surveillance or disciplinary purposes for the purposes of an arbitration pursuant to Section H or any proceedings in support of such an arbitration, or in relation to any possible or actual Event of Default under and within the meaning of Rule D.3, in accordance with Rule D.10 or under the Clearing House Rules, or the termination or suspension of any membership;

(e) to any person in the business of providing data processing or similar services for the purposes of performing computations or analysis, or of preparing reports or records, for the Exchange;

(f) to any person who has provided or is considering entering into a loan, insurance policy, guarantee or other financial arrangement with the Exchange or any of its affiliates, provided that information identifying the positions or name of a Member or any of its accounts or the name of any of a Member's clients will not be so disclosed;

(g) to any Insolvency Practitioner and any other authority or body having responsibility for any matter arising out of or connected with an Event of Default under and within the meaning of Rule D.3 or under the Clearing House Rules;

(h) in the case of information relating to any Matched Transaction or Contract (including details of the parties thereto and related margin), to a Repository or Governmental Authority for purposes of transaction reporting;

(i) to any person or to the public as a result of its complaints procedure or disciplinary proceedings, including pursuant to Rule E.4.13;

(j) to any person if the information comes into the public domain, other than as a result of a breach of this Rule by the Exchange or its representatives;

(k) in the case of information concerning any client of a Member, to such Member with a relationship with such client in respect of trades entered into for such client, including, without limitation, information concerning the user ID and contact details of the Member's clients granted access to the ICE Platform by such Member through the Front End Application provided by the Exchange. In the event that the Exchange discloses client details to a Member, the Exchange may simultaneously notify relevant clients of such disclosure;

(l) otherwise with the specific written consent of the person or persons to whom the confidential information relates; or

(m) otherwise to any person permitted under Section 21(2) of the SFA and Regulation 11(1) of the Securities and Futures (Markets) Regulations 2005, in accordance with such provisions.

A.4.4 The Exchange is a data controller in relation to Personal Data provided to it by Members and their Member's Representatives and clients and may collect and use such Personal Data for the purposes of operating an approved exchange in accordance with these Rules. Each Member shall ensure that:

(a) any and all of its Member's Representatives and clients in relation to whom Personal Data are provided to the Exchange ("**Data Subjects**") have consented in advance to such data being collected, used, disclosed and Processed by the Exchange, or, if not a natural person, have agreed to procure such consent to the extent necessary;

(b) the disclosure of Personal Data by the Member or its Member's Representatives is in all respects and in each case lawful; and

(c) the information set out in Rule A.4.5 has been provided to each Data Subject prior to disclosure of Personal Data relating to such Data Subject to the Exchange.

A.4.5 The Exchange shall have the right to disclose Personal Data to such Persons and for such purposes as are set out in Rule A.4.1. The Exchange and other persons referred to in Rule A.4.1 may transfer Personal Data outside Singapore subject to Applicable Law.

A.4.6 Data Subjects have the right (subject to Applicable Law): (i) on payment of a small fee to the Exchange, to receive a copy of Personal Data held by the Exchange; (ii) to have any errors or inaccuracies in such Personal Data rectified; and (iii) to submit questions to the Exchange in relation to collection, use or disclosure by the Exchange of Personal Data in relation to such Data Subject. Any request should be addressed to the Exchange's registered office.

A.4.7 In this Rule A.4 only, the terms "**Process**" (and derivations thereof) and "**Personal Data**" each have the meaning given to such terms in the Personal Data Protection Act 2012 (Act 26 of 2012).

A.4.8 Each Member and the Exchange:

(a) consents to the recording of telephone conversations between the trading, clearing and other relevant personnel of the Member and its affiliates and the Exchange and its affiliates in connection with the Rules and any Contract, potential Contract, or Matched Transaction;

(b) agrees to obtain any necessary consent of, and give any necessary notice of such recording to, its and its affiliates' Member's Representatives and other relevant personnel;

(c) agrees, to the extent permitted by Applicable Law, that recordings may be submitted as evidence in any dispute; and

(d) agrees that the other provisions of this Rule A.4 shall apply to any such recordings made by the Exchange.

A.5 GENERAL POWERS OF THE EXCHANGE

A.5.1 The Exchange shall have the power to declare any day a non-Trading Day on giving notice thereof to Members.

A.5.2 [Not used.]

A.5.3 [Not used.]

A.5.4 If any Member shall default in the performance of any Contract it shall be liable to be suspended from membership or expelled under Rule B.7.1, notwithstanding that it complied with any requirement as to the settlement of such default.

A.5.5 The Rules and all additions and amendments thereto may from time to time be printed and circulated amongst Members or others interested therein in such manner as the Exchange shall think fit.

A.5.6 [Not used.]

A.5.7 In respect of any automated trading system administered by the Exchange, the Exchange may from time to time determine the rights and obligations to be conferred on any Member entitled to use and access such automated trading system, including without limitation, the ICE Platform.

A.6 FINANCIAL POWERS

A.6.1 The Exchange may impose contract levies of such amounts, and payable to the Exchange in such manner and on such occasions, as they shall from time to time determine. Unless otherwise provided such levies shall be payable on all Contracts registered with the Clearing House. Different rates of levy may be imposed in respect of different Products and different categories of Member.

A.7 EXCLUSION OF LIABILITY

A.7.1 The Exchange wishes to draw to the attention of Members and clients that business on the Market or through any other facility provided by the Exchange may from time to time be suspended or restricted or such facilities (including, without limitation, the Market) may from time to time be closed for a temporary or longer period. Without limitation, this may occur as a result of the occurrence of one or more events which require action to be taken by the Exchange under the Rules in the interests of, *inter alia*, maintaining a fair and orderly market. Any such action may result in the inability of one or more Members and through such Member one or more clients to enter into Contracts or Corresponding Contracts on the Market in accordance with the Rules. Furthermore, a Member and through the Member one or more clients may from time to time be prevented from or hindered in entering into Contracts or Corresponding Contracts on the Market as a result of failure or malfunction of communications equipment or Trading Facilities including, but not limited, to the ICE Platform, or Front End Application supplied to the Member by the Exchange or any other person. Unless otherwise expressly provided in the Rules or in any other agreement to which the Exchange is party, neither the Exchange nor its Directors, officers, employees, committees, panels, any individual committee or panel member, agents or representatives shall be liable to any Member or client for any loss, damage, injury or delay (including any indirect or consequential loss, including without limitation, any loss of profit) arising from or in connection with the Trading Facilities including, but not limited, to the ICE Platform or the occurrence of a temporary or longer suspension, restriction or closure of business on the Market or the Trading Facilities including, but not limited to, the ICE Platform or any act or omission of the Exchange, its Directors, officers, employees, committees, panels, any individual committee or panel member, agents or representatives under the Rules or pursuant to the Exchange's obligations under statute or from any breach of contract by or any negligence howsoever arising of the Exchange, its Directors, officers, employees, committees, panels, any individual committee or panel member, agents or representatives which may prevent or hinder a Member or, through a Member, a client from entering into or closing out a Contract or Corresponding Contract or otherwise affect a Member or client. The Exchange is not liable for any action or omission of the Clearing House.

A.7.2 Rule A.7.1 shall be without prejudice to the provisions of the Electronic User Agreement regarding liability of the Exchange. Nothing in Rule A.7.1 shall operate to exclude the Exchange's liability for death or personal injury resulting from negligence or for fraud.

A.8 TRADING HOURS, DAYS AND PRODUCTS

(a) The Market shall, subject to paragraph (b) below, be open from Monday to Friday of each week between the hours each day and for such Products as decided by the Exchange and published by Circular from time to time. The trading times for each Product, subject to the closures required below, shall be determined by the Exchange from time to time.

(b) The Market shall be open on such Saturdays, Sundays and public holidays in Singapore for the trading of such Products on those Saturdays, Sundays and public holidays as the Exchange determines from time to time. The Exchange shall issue by Circular from time to time a list of the public holidays on which the Market shall be open, the Products which shall be open to trade on such public holidays and the public holidays on which the Market shall not be open.

(c) The Market shall be closed on: Saturdays; Sundays; public holidays in Singapore, subject to paragraph (b) above; any day on which trading is suspended under Applicable Law; and on a temporary basis on any other day for such hours that the Exchange shall from time to time decide is necessary or appropriate in the circumstances, as published by Circular.

(d) The Exchange may, from time to time and subject to Applicable Laws, de-list or make dormant certain Products available for trading. If there are no open positions in the relevant Contract Month or Contract Date for a Product the Exchange wishes to de-list or make dormant, the de-listing or dormancy shall be effective from the date and time the Exchange notifies. If there are open positions in the relevant Contract Month or Contract Date for the relevant Product being de-listed or made dormant, the Exchange shall notify the procedures for immediate settlement either as cash settlement or any other method for closing out open positions. Where reasonably practicable or possible, the Exchange shall give reasonable prior notice of its intention to de-list or make dormant a Product.

A.9 MEMBER RESPONSIBILITY

A.9.1 In this Rule A.9, "**conduct**" means any act, omission, conduct or behaviour in relation to the Rules.

A.9.2 For the purposes of determining a Member's liability to be sanctioned for any conduct (referred to in this Rule A.9 as a "**disciplinary matter**"), a Member shall be responsible for:

(a) all conduct of that Member's Representatives; and

(b) conduct by a Member's client when placing orders under the ITM of a Responsible Individual registered to that Member,

as if that conduct were the conduct of the Member itself. For the avoidance of doubt, all conduct referred to in paragraphs (a) and (b) shall, for the purposes of this Rule A.9, be attributed to that Member and be treated as the conduct of that Member. However, it is understood that, notwithstanding the attribution of such conduct to the Member, the identified Member's Representative responsible for such conduct might also be liable to be sanctioned for such conduct.

A.9.3 Notwithstanding Rule A.9.2, no sanction shall be imposed on a Member in respect of:

(a) conduct by a Responsible Individual registered to that Member;

(b) conduct by a Member's Representative placing orders under the ITM of a Responsible Individual registered to that Member; or

(c) conduct by a Member's client placing orders under the ITM of a Responsible Individual registered to that Member,

where it is established to the satisfaction of the Disciplinary Panel or other person or body determining the disciplinary matter that the Member had taken all reasonable steps to prevent any conduct of the kind in question.

A.9.4 The provisions of this Rule A.9 shall apply:

(a) without prejudice to the liability of any other Person Subject to the Rules for the same conduct;

(b) in the case of inconsistency with any other provision of the Rules, in priority to that other provision;

(c) whether or not the Member's Representative is a Person Subject to the Rules;

(d) whether or not the Member and/or Member's Representative is/are exercising rights to use the Exchange's facilities; and

(e) whether or not the individual Member's Representative can be conclusively identified (provided that it is established that the relevant conduct was in fact carried out by a Member's Representative, albeit one that cannot be conclusively identified).

A.9.5 If a person with obligations under these Rules is a partnership, the liability of each partner in the partnership under or in connection with these Rules shall be joint and several. In the event of any circumstances which would by operation of Applicable Law give rise to the dissolution of the partnership, or entitle a partner to seek an order to dissolve the partnership, the obligations of the partners shall remain in full force and effect.

A.10 RESPONSIBLE INDIVIDUAL RESPONSIBILITY

A.10.1 A Responsible Individual shall be responsible for trading activity conducted under his ITM(s).

A.10.2 Where trading is also conducted, pursuant to Trading Procedure 1.2.2 by other individuals within the Member under the ITM(s) of a Responsible Individual registered to the Member, such trading shall be under the supervision of the relevant Responsible Individual, who shall ensure the fitness and propriety of such individuals and register their names with the Exchange.

A.10.3 Where access is granted by the Member to clients (order routing) and, pursuant to Trading Procedure 1.2.3, the client orders are submitted under an ITM assigned to a Responsible Individual, the submission shall be under the relevant Responsible Individual's supervision who shall ensure the fitness and propriety of such individuals and register their names with the Exchange.

A.10.4 Notwithstanding Rule A.9.2 or Rule A.10.1, no sanction shall be imposed on a Responsible Individual in respect of:

(a) conduct of, or trading activity conducted under his ITM(s), by an individual of the Member with whom that Responsible Individual is registered;

(b) conduct by a Member's Representative placing orders under the ITM of that Responsible Individual; and

(c) conduct by a Member's client placing orders under the ITM of that Responsible Individual,

where it is established to the satisfaction of the Disciplinary Panel or other person or body determining the disciplinary matter (as referred to in Rule A.9) that the Responsible Individual had taken all reasonable steps to prevent any conduct of the kind in question.

A.11 SYSTEMS AND CONTROLS

A.11.1 Without prejudice and in addition to any other specific requirement in these Rules regarding systems and controls, a Member shall be responsible for making adequate arrangements, systems and controls for ensuring that:

(a) its internal affairs are organised and controlled in a responsible and effective manner with adequate risk management systems;

(b) its internal record-keeping is adequate;

(c) all of its Member's Representatives and substantial shareholders are fit and proper in accordance with the criteria set out in the Guidelines on Fit and Proper Criteria issued by the MAS, suitable, adequately trained and properly supervised;

(d) all business conducted on the Market, including individual transactions, complies with the Member's and Responsible Individual's obligations under the Rules;

(e) any business conducted by it, or by or through any of its Member's Representatives shall not cause the Member, any Member's Representative or the Exchange to be in breach of any Applicable Laws and MAS Requirements;

(f) a Responsible Individual does not enter orders into or make trades on the ICE Platform in or from a jurisdiction where the Exchange does not have the relevant regulatory status (if such regulatory status is required) if to do so would bring the Exchange into disrepute with the relevant Regulatory Authority within such jurisdiction or put the Exchange in breach of any regulatory obligations to which it might be subject within that jurisdiction;

(g) any hardware, information technology or any online services provided to it, or any of its Member's Representatives, or made available to it, or any of its Member's Representatives, pursuant to its membership of the Exchange shall only be used for the purposes of conducting its business and activities as a Member of the Exchange in accordance with these Rules; and

(h) any person order-routing through it is fit and proper, for access to the ICE Platform, has appropriate systems and controls in relation to trading on the same, are properly supervised and is registered with the Member.

A.11.2 The Exchange may publish guidance from time to time on what arrangements, systems and controls it considers appropriate in the context of this Rule A.11.

A.12 TAX

A.12.1 In the event that the Exchange determines that it will suffer or has suffered (directly or indirectly) any loss, liability or cost for or on account of any tax in connection with any Matched Transaction, Contract or otherwise pursuant to the Exchange's business as an approved exchange, any amount payable to the Exchange or in respect of any future obligation, or these Rules, the Members with orders matched under such Matched Transaction, the Member counterparty to such Contract or the Member by which such amount is payable shall be liable to pay to the Exchange an amount equal to such loss, liability, or cost.

A.12.2 All amounts set out in or expressed to be payable to the Exchange in connection with any Matched Transaction, Contract, these Rules or otherwise pursuant to the Exchange's business as an approved exchange and which constitute the consideration for a supply made by the Exchange for the purposes of Goods and Services Tax, and the value of any supply made by the Exchange for Goods and Services Tax purposes, shall be deemed to be exclusive of any Goods and Services Tax which is chargeable on that supply and accordingly if Goods and Services Tax is chargeable on any supply made by the Exchange the relevant Member shall pay to the Exchange (in addition to and at the same time as the consideration is paid or provided, or if no consideration is due, at the time the supply is made or an appropriate Goods and Services Tax invoice is issued, whichever is earlier) an amount equal to the amount of the Goods and Services Tax and the Exchange shall issue an appropriate Goods and Services Tax invoice.

A.12.3 All amounts payable to the Exchange or by the Exchange in connection with any Matched Transaction, Contract, these Rules or otherwise pursuant to the Exchange's business as an approved exchange shall be paid without any deduction or withholding for or on account of tax unless such deduction or withholding is required by Applicable Law. If a deduction or withholding for or on account of tax is required to be made in relation to an amount payable to the Exchange, the amount of the payment due shall be increased to an amount which (after making the deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.

SECTION B - MEMBERSHIP

B.1 GENERAL PROVISIONS

B.1.1 A person may be a Member by virtue of being admitted to membership under a category referred to in this Section B. Section B will govern a Member's permissions in relation to the ICE Platform. A separate application will be necessary if a person seeks to acquire a new category of membership.

B.1.2 Every Member shall pay such annual subscription as the Exchange may from time to time determine in respect of its category of membership and any trading/clearing permission(s). The subscription shall be due each year on such date as the Exchange may from time to time determine. A failure to pay the subscription by the due date may be punished by the Exchange by any sanction listed in Rule E.4.11 subject to the rights of reconsideration and appeal set out in Rule B.8.

B.1.3 [Not used.]

B.1.4 (a) A Member shall at all times satisfy the criteria from time to time set out in or under the Rules for admission to a category of membership, save as may otherwise be provided in or under the Rules. A Member and any Person Subject to the Rules shall be bound by the Rules and any arrangement, provision or direction made, authorised or given thereunder.

(b) Any failure by a Member or any Person Subject to the Rules to observe or comply with the Rules or any such arrangement, provision or direction may lead to steps, including, without limitation, disciplinary proceedings, being taken by the Exchange in respect of the Member or Person Subject to the Rules under the Rules.

(c) References in the Rules to a Member being prohibited from engaging in a course of action shall, in the case of activities in respect of the ICE Platform, infer a like prohibition upon any person accessing the ICE Platform by or on behalf of the Member (including any Member's Representative acting through the Member).

B.1.5 Every person admitted to membership of the Exchange shall sign a member statement as part of its application to a category of membership under Rule B.4, for the time being prescribed by the Exchange, agreeing to be bound by the Rules in so far as they relate to its category of membership and to accept as binding any decision made by the Exchange under the Rules, subject to such rights of review or appeal as may be contained in the Rules.

B.1.6 A dispute concerning the status, rights or obligations of a Member or any other person under the Rules, or any question in such connection which is not provided for therein, shall be referred to arbitration in accordance with Section H.

B.1.7 Provided that a Member satisfies all outstanding obligations to the Exchange, that Member may resign from membership of the Exchange by one month's notice in writing to the Exchange. Provided that:

(a) if the Member has been Declared a Defaulter under Rule D.4 before the expiry of its notice of resignation (whether the declaration is made before or after its giving of such notice), its membership shall continue until the completion of Default Proceedings (within the meaning of Section D); and

(b) notwithstanding the expiry of its notice of resignation a former Member and its Responsible Individuals shall remain subject to the jurisdiction of the Exchange for one year after such expiry, or such other period as is required for the determination of any proceedings including any appeal, as if continuing to be a Member, in respect of:

(i) things done or omitted by the Member or its Responsible Individual before the expiry of its notice of resignation, and

(ii) steps taken by the Exchange or other person or body under Sections D (Default), E (Disciplinary), H (Arbitration) and Rule I.20 in relation to a Delivery Panel in respect of things so done or omitted.

B.2 CATEGORIES OF MEMBERSHIP

B.2.1 Subject to Rule B.2.1A below, any person seeking access to trading on the ICE Platform as a Member must elect and apply for one of the following categories of membership:

(a) General Participant - to transact Own Business and business for clients (whether such clients are other Members or non-Members) including, for the avoidance of doubt, on ICE Block;

(b) Trade Participant - to transact Own Business only, including, for the avoidance of doubt, on ICE Block;

(c) [Not used.]

(d) General Participant ICE Block (which, for the avoidance of doubt, is not a subset of the General Participant category set out in paragraph (a) above) - to transact Own Business and business for clients (whether such clients are other Members or non-Members) and report through ICE Block;

(e) Trade Participant ICE Block - (which, for the avoidance of doubt, is not a subset of the Trade Participant category set out in paragraph (b) above) to transact Own Business only and report through ICE Block;

(f) [Not used.]

B.2.1A Any person seeking access to ICE Block as an ICE Block Member must make an appropriate election confirming its intention to act as an ICE Block Member in its application for Exchange membership.

B.2.2 Each category of Exchange membership confers the permissions set out in Rule B.6. Only certain categories of membership are eligible to be Clearing Members for the purposes of the Rules, on the basis set out in Rule B.10 below.

B.3 MEMBERSHIP CRITERIA

B.3.1 An applicant for access to trading on the ICE Platform as a Member must, at the time of its application and at all times thereafter:

(a) be able to demonstrate, to the satisfaction of the Exchange, that the applicant, its Member's Representatives and substantial shareholders are each fit and proper in order for it to be a Member, in accordance with the criteria set out in the Guidelines on Fit and Proper Criteria issued by the MAS;

(b) be able to demonstrate, to the satisfaction of the Exchange, that the applicant has sufficient systems and controls in place to ensure that all the Member's Representatives who may act on its behalf or in its name in the conduct of business on the ICE Platform are fit and proper, suitable, adequately trained and properly supervised to perform such functions in accordance with the criteria set out in the Guidelines on Fit and Proper Criteria issued by MAS;

(c) maintain a properly established office (in a location which is acceptable to the Exchange as it may determine in its absolute discretion) for the conduct of its business on the ICE Platform;

(d) satisfy the minimum financial standing requirements for the time being stipulated by the Exchange in relation to the relevant category of membership and as set out in the Membership Procedures, supporting its claim to do so by copies of its last three years of audited accounts (or in the case of an ICE Block Member, a copy of its last audited accounts) and by a copy of its latest audited accounts from time to time as they become available, or such other evidence as the Exchange may require;

(e) be party to an Electronic User Agreement, which is in full force and effect, in the form prescribed by the Exchange from time to time for use by the Member of the ICE Platform at the address(es) notified to the Exchange;

(f) be able to access the Trading Server via a Front End Application which meets the Exchange's Conformance Criteria;

(g) if it is to transact business: (i) in respect of Own Business, be a Clearing Member; (ii) in respect of the account of a client, be a Clearing Member; or (iii) if it is not a Clearing Member in the case of (i) or (ii), be a party to or satisfy the Exchange that it will become a party to a Clearing Agreement with a Clearing Member, in either case in respect of all types of Product covered by its trading and/or clearing permissions under Rule B.6 from time to time, in each case as permitted by the Rules;

(h) hold all necessary Authorisations so as to allow it to carry on business as a Member on the ICE Platform, including ICE Block, in accordance with all Applicable Laws;

(i) be able to demonstrate, to the satisfaction of the Exchange, that the applicant is permitted under Applicable Law, these Rules and any applicable Circulars, in particular, in respect of restrictions or requirements imposed by the Exchange in respect of activities in specific jurisdictions;

(j) if it is not incorporated in Singapore, have appointed and maintain an agent to act as its agent to accept service of process issued out of the courts of Singapore in relation to any arbitration commenced pursuant to Section H, the Electronic User Agreement or any other dispute resolution process set out in these Rules, the ICE Futures Contract Terms and Procedures or the Electronic User Agreement. Nothing in these Rules, the ICE Futures Contract Terms and Procedures, the Electronic User Agreement or any Contract shall affect the right of the Clearing House to serve process in any other manner permitted by Applicable Law; and

(k) satisfy any other criteria specified in the Membership Procedures.

B.3.2 In addition to meeting the general criteria above:

(a) an applicant to be a General Participant or Trade Participant must, at the time of its application and at all times thereafter, be a body corporate;

(b) an applicant to be a General Participant or a Trade Participant must satisfy any other specific criteria or other requirements stipulated by the Exchange from time to time in relation to the particular category of membership applicable to it, supplying such documents in support thereof as they may require; and

(c) an applicant for any category of membership, or an existing Member may be restricted by the Exchange in the types and categories of Products in relation to which they may trade.

B.4 APPLICATION FOR MEMBERSHIP

B.4.1 An applicant for membership under any of the above categories (other than an entity applying to be an ICE Block Member), shall complete such form of application as the Exchange may prescribe, specifying: (1) which category of membership it is seeking; (2) whether it wishes to trade and/or clear Energy Contracts, Index Contracts, Soft Commodity Contracts, FX Contracts, Precious Metal Contracts or such other Products as the Exchange may offer for trading from time to time; (3) whether it is to be a Clearing Member; and (4) if not a Clearing Member, details of the Clearing Members with which it has made clearing arrangements. In the case of an entity applying to be an ICE Block Member, the applicant shall complete such form of application as the Exchange may prescribe, electing whether it wishes to enter: (i) Block Trades and/or EFRPs on ICE Block; and/or (ii) the ICE Platform for the purpose of entering Cross Trades, and specifying the Products for which it wishes to have access.

B.4.2 Any application must be submitted to the Exchange for determination. An applicant must satisfy the Exchange that it meets the criteria for the time being for the category of membership being sought (further particulars of which may, at any time, be obtained from the Exchange, including particulars of any other criteria or requirements stipulated by the Exchange under Rule B.3.2 and any guidance or requirements as to how certain criteria may be satisfied). Admission to membership of the Exchange shall not confer any right or obligation of membership in or right to attend or vote at meetings of, or any right to any share in, or any liability in respect of, the Exchange or any affiliate of the Exchange.

B.4.3 The Exchange shall have absolute discretion, subject to the applicant's rights in respect of reconsideration and appeal under the Rules, whether to approve the application. If they refuse the application, the Exchange shall give the applicant a written statement of their reasons.

B.4.4 A successful applicant shall be notified in writing by the Exchange of the approval of its application. The applicant shall be admitted to the category of membership applied for and details of the Products it may trade (or in the case of an ICE Block Member, the Products for which it may have access to ICE Block) will be confirmed. The membership shall become effective at the point in time notified by the Exchange to the applicant. Membership shall not be transferable.

B.4.5 A Member may, at any time, apply to vary its category of membership and/or its clearing status. Such an application shall be made in the manner prescribed by the Exchange from time to time and shall be processed by reference to the criteria set out in this Section B.

B.4.6 A Member may, at any time, apply to vary the Products it wishes to trade and/or clear, and in the case of an ICE Block Member, may vary its election to access ICE Block for Block Trades and/or EFRPs (as applicable), the ICE Platform for the purpose of entering Cross Trades or the Products for which it may have access. Such an application shall be made in the manner prescribed by the Exchange from time to time.

B.5 ONGOING NOTIFICATION REQUIREMENTS

B.5.1 Every Member shall notify the Exchange forthwith in writing of:

(a) any change or anticipated change in circumstances applicable to the Member, of which the Member is aware, which will, or is likely to, result in the Member being unable to continue to satisfy any one or more of the membership criteria applicable to it;

(b) any alteration in other business information which the Member may be required to furnish to the Exchange;

(c) such information as the Exchange may stipulate from time to time with respect to trading on, or access to the ICE Platform, including, without limitation, location of screens used, details and location of user interfaces employed and order-routing arrangements put, or to be put, in place by or on behalf of the Member;

(d) any other information specified in the Membership Procedures; and

(e) any other information specified by the Exchange from time to time.

B.5.1AA Without prejudice to the generality of Rule B.5.1, Members shall provide the Exchange with any information necessary to enable the Exchange to meet its reporting obligations to any Governmental Authority or for any other regulatory purposes including, but not limited to, withholding tax purposes.

B.5.1A Every Member shall seek the consent of the Exchange in relation to:

(a) (in the case of a firm or a company) any proposed change in the nature of business or legal status of the Member, any proposed change in legal or beneficial ownership of the equity or partnership capital of the Member or any other circumstance that to the directors' or partners' belief would or might have the effect of changing the control of the Member;

(b) any proposed change in the identity of the Responsible Individuals registered on behalf of the Member and any proposed change in the location from which any such Responsible Individual will access the ICE Platform (where the new location is in a different jurisdiction from that previously notified to the Exchange);

(c) any other material change in the way in which the Member accesses and uses the ICE Platform; and

(d) any other item specified in the Membership Procedures.

B.5.2 In the case of a change in a partnership, the continuing and new partners shall sign and deliver to the Exchange a form of undertaking under which they jointly and severally agree to be bound as a Member of the relevant category by the Rules.

B.5.3 If the Exchange declines to approve any change notified under Rule B.5.1A above which requires their consent, the Member shall be informed accordingly, and if the change nonetheless becomes effective, the Member's permission to trade on the Market, to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable) (or any one or more of such permissions) (or in the case of an ICE Block Member, the Member's permission to enter Block Trades and/or EFRPs (as applicable) on ICE Block and/or Cross Trades on the ICE Platform), may be suspended by the Exchange until the Exchange is willing, by agreement with the Member on such terms as they think fit, to lift the suspension.

B.5.4 In addition to the requirements of Rule B.5.1, every Member shall promptly (and thereafter upon demand or with such regularity as may be prescribed) notify the Exchange in writing of such information and of any changes thereto in respect of such of the Member's Representatives and other persons as the Exchange may from time to time prescribe. Without limitation, such information may include details of all types of investment with which such person deals or has dealt, all previous employers, the reason for changing employment (including details of any allegation, investigation or suspicion prompting the person's resignation), all exchanges (whether or not in Singapore) upon which the person is or has in the past been permitted to trade, whether such permission has at any time been withdrawn and if so, the reason therefor, any disciplinary proceedings of any exchange or other Regulatory Authority commenced against the person and the outcome thereof.

B.5.5 If the Exchange considers that there has been a failure to notify the Exchange fully in accordance with this Rule B.5 or if a Member has failed to obtain the Exchange's consent to the change in its circumstances or arrangements as required by the Rules, the Member's permission to trade on the Market, to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable), or in the case of an ICE Block Member, the Member's permission to enter Block Trades and/or EFRPs (as applicable) on ICE Block and/or Cross Trades on the ICE Platform (or any one or more of such permissions) may be suspended for such time as the Exchange sees fit. Suspension under this paragraph shall not prejudice the power of the Exchange or the ARC Committee to commence disciplinary proceedings in respect of the failure.

B.6 SCOPE OF PARTICIPANT ACTIVITIES

B.6.1 A General Participant shall, in accordance with the elections it has communicated to the Exchange in respect of the Products it wishes to trade and/or clear as required under Rule B.4.1 or Rule B.4.6, be permitted to:

(a) only trade Products if it has been approved for such Products on the ICE Platform, as appropriate, for Own Business and in connection with client business in conformity with the Rules;

(b) register any number of Responsible Individuals;

(c) in the case of a General Participant who is also a Clearing Member, become counterparty to the Clearing House in accordance with the Clearing House Rules in respect of:

(i) all Contracts arising pursuant to trades entered into by the General Participant on the ICE Platform;

(ii) by agreement, any Contract arising pursuant to trades entered into on the ICE Platform by another Member; and

(d) accept allocations of Contracts arising pursuant to trades entered into on the ICE Platform in relation to relevant Products approved under paragraph (a).

B.6.2 A Trade Participant shall, in accordance with the elections it has communicated to the Exchange in respect of the Products it wishes to trade and/or clear as required under Rule B.4.1 or Rule B.4.6, be permitted to:

(a) only trade Products if it has been approved for such Products on the ICE Platform as appropriate, for Own Business in conformity with the Rules;

(b) register any number of Responsible Individuals;

(c) in the case of a Trade Participant who is also a Clearing Member, become counterparty to the Clearing House in accordance with the Clearing House Rules in respect of all Contracts arising pursuant to trades entered into on the ICE Platform by the Trade Participant; and

(d) accept allocations of Contracts arising pursuant to trades entered into on the ICE Platform in relation to relevant Products approved under paragraph (a) by a General Participant provided that such Contracts constitute the Own Business of the Trade Participant.

B.6.3 The Trading Procedures shall apply to all Members who trade on the ICE Platform (and to any Person Subject to the Rules).

B.6.4 An ICE Block Member shall, in accordance with the elections it has communicated to the Exchange in respect of the Contracts it wishes to enter into ICE Block for Own Business or on behalf of Members (trading and/or clearing in accordance with Rule B.4.1 or Rule B.4.6), only be permitted to access ICE Block to enter Block Trades and/or EFRPs (as applicable) and/or the ICE Platform for the purpose of entering Cross Trades for such communicated Products, as appropriate.

B.6A MARKET MAKER PROGRAMS

Participants in Market Maker Programs and Market Makers

B.6A.1 Participants in Market Maker Programs may be required to meet participation criteria, conditions and/or obligations set by the Exchange as applicable to participants in a particular Market Maker Program, as the same may be amended or added to from time to time, in order to be able to continue to participate in a particular Market Maker Program.

B.6A.2 Any person applying to be a Market Maker may be required to satisfy specific criteria in relation to market making arrangements and Market Maker Commitments in relation to the trading of the Designated Products, as notified to the applicant by the Exchange.

B.6A.3 Market Makers shall carry out all of their Market Maker Commitments, except that Market Makers shall not be obliged to carry out a Market Maker Commitment in the event that the Exchange confirms or the Market Maker reasonably determines and promptly notifies in writing to the Exchange, that the conditions which pertain in relation to the trading of a Designated Product for that Market Maker Program on the ICE Platform are abnormal.

B.6A.4 In the event of the circumstances referred to in Rule B.6A.3 arising with regard to the Market Maker, the Market Maker may, acting reasonably, either:

(a) widen the bid/offer spread applicable to the relevant Market Maker Commitment (and promptly notify the Exchange accordingly); or

(b) withdraw from carrying out its Market Maker Commitment with respect to the relevant Market Maker Program so long as the abnormal trading circumstances are verified as such by the Exchange, such verification occurring on the request of the Market Maker.

Market Maker Programs

B.6A.5 The Exchange may make the availability of a Market Maker Program contingent on certain cleared volume levels or other criteria relevant to the benefit of the market.

B.6A.6 Transactions entered into by the Market Maker pursuant to a Market Maker Program will be appropriately identified as such in accordance with arrangements for identifying Transactions agreed

upon by the Exchange and the Market Makers. In the event that the Market Maker has not complied with reasonable Market Maker Program criteria or requests to assist Transaction identification for the purposes of the Market Maker Program, the Exchange reserves the right to disqualify resulting unidentified Transactions.

B.6A.7 The Exchange may withdraw any of its Market Maker Programs at any time. The Exchange shall be entitled to terminate any Market Maker's participation in a Market Maker Program on notice at its sole discretion. A Market Maker may terminate its participation in a Market Maker Program upon one month's written notice.

B.6A.8 The benefits receivable under Market Maker Programs shall comprise rebates of transaction costs payable by the Market Maker to the Exchange and/or the Clearing House as a result of trading in a Designated Product, and/or other benefits as determined by the Exchange (collectively, "**Market Maker Benefits**"). The Market Maker shall not:

(a) cause any detriment to clients of the Market Maker Program participants; or

(b) affect or distort the proper market in a Designated Product.

No Market Maker Program shall affect the margin applicable to any Product cleared by the Clearing House.

The Market Maker shall not enter into any transaction on the Exchange or with the Clearing House or another Market Maker Program participant, other than for proper trading purposes (which may include, but are not limited to, hedging, investment, speculation, price determination, arbitrage and filling client orders from any client for whom the Market Maker acts).

Confidentiality and Publicity

B.6A.9 The Exchange may publish details of any Market Maker Program and name its participants from time to time. The Market Maker shall not disclose the terms of any Market Maker agreement, provided that the Market Maker may disclose details of the terms of any Market Maker agreement to a Regulatory Authority or in accordance with Applicable Law or Rule B.6A.10. In the case of the Exchange, confidential information held by it in relation to the Market Maker Program shall be treated in accordance with Rule A.4.

B.6A.10 The Market Maker shall, to the extent required by Applicable Law, inform its clients of its participation in each Market Maker Program and such details of the Market Maker Program as are advisable to be disclosed. The Market Maker (and not the Exchange) shall be responsible for any other disclosure required to be made to clients of the Market Maker, in relation to the Market Maker Program or any other risks or conflicts of interest that may arise from time to time pursuant thereto.

Fees

B.6A.11 The Exchange shall, at its sole discretion, determine Market Maker Benefits, including the Transaction Fee Amount and the Termination Fee Amount payable to Market Makers.

B.6A.12 Subject to Rule B.6A.13, Market Maker Benefits in respect of Transactions in a particular calendar month shall be paid to the Market Maker within 30 days of the end of the calendar month in which the relevant Transaction Fees are received by the Exchange, provided that, in the relevant calendar month, the Market Maker complies with the relevant Market Maker Commitments.

B.6A.13 If the Market Makers ceases to participate in a Market Maker Program under Rule B.6A.7, then provided that the Market Maker has complied with the relevant Market Maker Commitments:

(a) a Termination Fee Amount shall be payable to the Market Maker on the Trading Days in the relevant calendar month prior to the date on which the termination is effective; and

(b) any Market Maker Benefit which does not comprise a rebate of transaction costs, and which therefore is excluded from the Termination Fee Amount, shall be subject to payment on a pro-rata basis.

Payment

B.6A.14 Where a Market Maker Program relates to a service for which only Exchange rebates, fee discounts or incentive payments are applicable, the payer of the rebate, fee discount or incentive fee under the Market Maker Program is the Exchange and the payee is the Market Maker, regardless of whether such person is or is not an Exchange Member. Where a Market Maker Program relates to a service for which both trading and clearing rebates, fee, discounts or incentive payments are applicable, the payer under the Market Maker Program is the Clearing House as to the total amount of the trading and clearing rebates, fee discounts or incentive payments multiplied by the percentage that clearing rebates, fee discounts or incentive payments represent of the total sum of clearing and trading rebates, fee payments and incentive payments. The Exchange will be the payer of the remainder of the rebate, fee discount or incentive payment.

B.6A.15 The Exchange may arrange for the Clearing House to make any payment in respect of the Market Maker Program on the payer's behalf. The Market Maker may direct that payments be made directly to its account or to the account of a relevant Member or Clearing Member, as appropriate. Any payment in accordance with such instructions shall constitute due and final payment by the Exchange to the account of the Market Maker. The Market Maker may direct changes to such payment arrangements from time to time by providing written notice to the Exchange.

B.6A.16 In the absence of any payment instructions, the Exchange shall be entitled (but shall not be required) to make payment in respect of any payment under a Market Maker Program by crediting amounts to the proprietary account or customer account of the relevant Member or Clearing Member and in doing so, shall have discharged its obligations in relation to the relevant Market Maker Program payment.

General

B.6A.17 Terms, conditions, rebates, fee discounts and incentive payments may be varied, amended, modified, extended or supplemented by the Exchange at its sole discretion, from time to time, by notice to a Market Maker or by Circular.

B.7 SUSPENSION AND EXPULSION

B.7.1 The Exchange may, upon the recommendation of a Disciplinary Panel under Rule E.4.11 or in the exercise of any other power conferred on the Exchange by the Rules:

(a) expel a Member from membership of the Exchange (or any part of the Market) or, in the case of other Persons Subject to the Rules, permanently remove their right to access the ICE Platform; or

(b) in the case of a Member, suspend any or all of the membership permissions of the Member including its permission to trade on the ICE Platform (or any part of it), to accept allocation of any Contracts made on the ICE Platform by another Member and to clear Contracts made on the ICE Platform (as applicable) (or any one or more of such permissions) for such term as the Exchange may determine.

The Exchange may give the Person Subject to the Rules a brief account of reasons for their action, and shall promptly do so at his request.

B.7.2 If a Member fails to satisfy the requirements of Rule B.3 or fails to comply with the terms of the Electronic User Agreement, the Exchange may suspend any or all membership permissions of that Member including its permission to trade on the Market (or any part of it), to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable) (or any one or more of such permissions) for such term as the Exchange may determine. Without prejudice to the generality of the foregoing, the Exchange may permit a Member to continue to exercise any or all of its permissions to clear Contracts for such period and on such terms (including, but not limited to, any agreement to be bound by the Rules) as the Exchange may in their discretion think fit.

B.7.3 If an Insolvency occurs in respect of a Member then its membership permissions (including trading permissions and its permission to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable)) may be suspended at the discretion of the Exchange as from the time of such occurrence, save that where the Member is Declared a Defaulter under and

within the meaning of Section D, its membership shall continue until the completion of Default Proceedings (within the meaning of Section D). The suspension shall continue until the Member has settled with all its creditors to the satisfaction of the Exchange, or complied with Applicable Law, as the case may be.

B.7.4 A Member whose permissions are suspended shall remain liable in respect of all its obligations of membership including, without limitation, its obligation to pay an annual subscription or any other fees, levies or charges in respect of the relevant category of membership and its obligations in respect of any steps taken with regard to him under Section D. A Member whose trading permissions have been suspended under Rule B.7.3 shall not, during the period of such suspension, be entitled to clear new Contracts, subject to any contrary determination under Section D.

B.7.5 Subject to any applicable provision of Section D, the expulsion of a Member or the suspension of any or all of its permissions shall not affect the right of any party to pursue either a matter or dispute which has been referred to a Delivery Panel under Rule I.20 or to arbitration under Section H in respect of any Contract entered into by the Member.

B.7.6 Upon the, expulsion of a Member taking effect it shall cease to have any rights of membership of the Exchange, including any trading permissions.

B.7.7 Where, upon the suspension of a Member's rights of membership (including its permission to trade on the Market, to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable) (or any one or more of such permissions)) under Rule B.7.3, the Member is not Declared a Defaulter under and within the meaning of Section D, any other Member holding open positions on the Market on its behalf shall be entitled to close the same without prior notice. Where, upon the suspension of a Member's permissions under Rule B.7.3, the Member is Declared a Defaulter under and within the meaning of Section D, any other Member holding on its behalf an open position on the Market which is not discharged under Section D may, upon the completion of Default Proceedings (within the meaning of Section D) in respect of the suspended Member, close such open position without prior notice.

B.7.8 Upon the expulsion of a Member or the suspension of its trading permissions and/or its permission to accept the allocation of any Contracts made on the Market by another Member and/or (if applicable) its entitlement to clear Contracts taking effect, the Exchange shall give notice of the expulsion or suspension to all Members and to the Clearing House.

B.8 RECONSIDERATION AND APPEAL

B.8.1 If the Exchange refuses an application for membership or refuses to approve a change in business particulars notified to the Exchange under Rule B.5.1A, impose sanctions on a Member under Rule B.1.2, make a decision under Rule B.1.6 in respect of status, rights or obligations of a Member or suspend a Member's permission to trade for more than seven days or expel a Member (other than pursuant to a recommendation made by a Disciplinary Panel under Rule E.4.11), the applicant or Member may, within fourteen days of receiving notice of such decision, request the board of Directors of the Exchange in writing to reconsider the matter. The applicant or Member may make such representations and supply such information as it may consider relevant. No request or representation may be made under this Rule in respect of any determination made or step taken under Section D.

B.8.2 The Exchange shall within 28 days of receiving the applicant or Member's written request for reconsideration consider any representations and information placed before them and shall confirm, amend or revoke the decision in respect of which the request has been received. The Exchange shall forthwith notify the applicant or Member of the outcome.

B.8.3 Within fourteen days of receiving such notice from the Exchange, the applicant or Member may serve notice on the Exchange of its intention to appeal against the Exchange's determination. With such notice it shall lodge with the Exchange the sum of SGD 5,000 towards the costs of the appeal, which sum shall be returned to the applicant or Member if its appeal is successful.

B.8.4 The appeal will be to an Appeals Panel appointed in accordance with the provisions of Rule E.4.14.

B.8.5 The Appeals Panel may adopt such procedures as it deems appropriate in hearing the appeal but shall give both the appellant and the Exchange reasonable opportunity to make representations to it. The

Appeals Panel may as it thinks fit either confine the appeal to a review of the Exchange's determination or hear the matter afresh. It shall have the power to order costs to be paid by either party.

B.8.6 The Appeals Panel shall notify its award, with reasons, to the Exchange and to the appellant. The Exchange shall, within 28 days, serve notice on the appellant confirming, amending or revoking their decision accordingly.

B.9 [NOT USED.]

B.10 CLEARING ACTIVITIES

B.10.1 Only certain categories of membership are eligible to be Clearing Members for the purposes of the Rules in relation to the ICE Platform, on the basis set out below:

(a) Trade Participants may elect to be: (i) Clearing Members for the purpose of clearing Own Business (subject to them having the relevant permissions from the Clearing House); or (ii) non-clearing Members, in which case they must have in place a Clearing Agreement with a General Participant acting as a Clearing Member.

(b) General Participants may elect to be: (i) Clearing Members for the purpose of clearing Own Business and/or client business (subject to them having the relevant permissions from the Clearing House); or (ii) non-clearing Members, in which case they must have in place a Clearing Agreement with a General Participant that is a Clearing Member.

(c) [Not used.]

(d) [Not used.]

(e) ICE Block Members may not be Clearing Members and must have in place a Clearing Agreement with a General Participant or ensure that their clients have in place a clearing arrangement with a Clearing Member, as appropriate.

B.10.2 [Not used.]

B.10.3 A Member shall forthwith notify the Exchange upon becoming or ceasing to be a Clearing Member, or upon any of its clients changing its Clearing Member.

B.10.4 Without prejudice to Rule D.6.2, a Member shall notify the Exchange forthwith upon any change in particulars which it has notified under Rule B.10.3, and shall give brief reasons for the change.

B.11 RESPONSIBLE INDIVIDUALS

B.11.1 A Member shall not enter orders into or make trades on the ICE Platform except through a Responsible Individual registered with the Exchange pursuant to the Trading Procedures. At least one individual shall be registered by a Member as a Responsible Individual pursuant to Trading Procedure 14.

B.11.2 A Member must ensure it has a sufficient number of Responsible Individuals for the nature and scale of business being conducted.

B.11.3 [Not used.]

B.11.4 [Not used.]

B.11.5 [Not used.]

Exchange jurisdiction following suspension of registration of Responsible Individual

B.11.6 A Responsible Individual whose registration is suspended by the Exchange under the Rules shall remain subject to the Rules and to the jurisdiction of the Exchange under the Rules in respect of acts and omissions of the individual while he was registered as a Responsible Individual, and in respect of any investigation or disciplinary proceedings relating thereto, whether commenced before or after his suspension, (including the payment of any fine or application of any other sanction imposed) as if he were still registered, for the longer of:

(a) the period of 12 months from the date on which the registration was suspended; or

(b) the period during which disciplinary proceedings continue against him, being proceedings started by the Exchange no later than 12 months after the date on which his registration was suspended, subject to any extension of the period under Rule B.11.8 below.

B.11.7 Disciplinary proceedings commenced following suspension of a Responsible Individual's registration may be commenced by giving notice of an investigation to that individual no later than 12 months after the date on which his registration was suspended.

B.11.8 In the event that a Disciplinary Panel concludes that there are, or may be, additional matters which should be investigated and in respect of which disciplinary proceedings may be taken, the period referred to in Rule B.11.7 shall be extended until such time as such additional disciplinary proceedings are completed (including the payment of any fine or application of any other sanction imposed).

Exchange jurisdiction following de-registration of Responsible Individual

B.11.9 A Member may terminate the registration of a Responsible Individual by giving to the Exchange notice in writing of its intention to de-register the Responsible Individual with effect from the date specified in the notice.

B.11.10 A Responsible Individual who is de-registered shall remain subject to the Rules and to the jurisdiction of the Exchange in respect of acts and omissions of the individual while he was registered as a Responsible Individual, and in respect of any investigation or disciplinary proceedings relating thereto (including the payment of any fine or application of any other sanction imposed) as if he were still registered, for the longer of:

(a) the period of 12 months from the date on which the de-registration became effective; or

(b) the period during which disciplinary proceedings continue against him, being proceedings started by the Exchange no later than 12 months after the date on which his de-registration became effective, subject to any extension of the period under Rule B.11.12 below.

B.11.11 Disciplinary proceedings commenced following a Responsible Individual's de-registration may be commenced by giving notice of an investigation to that individual no later than 12 months after the date on which the de-registration became effective.

B.11.12 In the event that a Disciplinary Panel concludes that there are, or may be, additional matters which should be investigated and in respect of which disciplinary proceedings may be taken, the period referred to in Rule B.11.11 shall be extended until such time as such additional disciplinary proceedings are completed (including the payment of any fine or application of any other sanction imposed).

B.12 [NOT USED.]

SECTION C - COMPLIANCE

C.1 REPORTING REQUIREMENTS: AUTHORISATION

(a) All Members who intend to trade on the Market shall obtain and maintain Authorisation to trade in Futures and any other investment which is traded on the Exchange. All Members who intend to trade on the Market shall obtain and maintain Authorisation for all Member's Representatives to ensure compliance with the SFA and any other Applicable Law.

(b) Where a Member's (or any of its Member's Representative's) Authorisation is derived from reliance upon an exemption or exclusion from the requirement for Authorisation which is permitted pursuant to the SFA and MAS Requirements or other Applicable Law, the Member is fully responsible for ensuring that the relevant exemption/exclusion is available and sufficient for its activities. Such a Member must also have regard to and comply with any guidance issued by the Exchange from time to time regarding the availability of exemptions/exclusions for trading activities through the Exchange.

(c) Every Member shall from time to time give written notice to the Exchange as to:

(i) where such Member's (or any of its Member's Representative's) Authorisation consists of reliance upon an exemption or exclusion set out in MAS Requirements or Applicable Law, that fact, and the nature of such exemption or exclusion;

(ii) where such Member's Authorisation consists of a CMS Licence, details of such licence and any applicable conditions imposed by the MAS;

(iii) details of any other Authorisations the Member (or any of its Member's Representative's) has or relies upon to conduct their business in connection with the Exchange (including any business registration requirement under the Companies Act (Chapter 50 of Singapore)).

Such notice shall be given not less than once in every year on or around a date agreed in advance with the Exchange and, in addition, forthwith upon any change in the particulars last notified. Notices shall be in such form as the Exchange may from time to time prescribe and shall, where required, be certified by a firm of auditors, solicitors or some other person acceptable to the Exchange.

C.2 REPORTING REQUIREMENTS: SUPPLEMENTARY

(a) Every Member shall also furnish to the Exchange such information; documents; records or data concerning its:

(i) relationship or dealings with its main (or any other) regulator in Singapore or other jurisdiction; and

(ii) activity on the ICE Platform which shall include any order, transaction and position information,

at such times and in such manner as may from time to time be prescribed by the Exchange.

(b) The Exchange may modify the operation of this Rule and make different directions in relation to different categories of Member and may make such directions generally or in relation to particular Members or particular occasions and in all cases subject to such conditions as they may think fit.

C.3 [NOT USED.]

C.4 ACCURACY OF INFORMATION

All Members shall ensure that to the best of their ability, all information and documents from time to time given to the Exchange or to the Clearing House are complete, fair and accurate.

C.5 ADVERTISEMENTS

All advertising material issued by or on behalf of Members concerning the membership of the Exchange, Products available for trading on the Exchange or on the terms of the Rules or otherwise using the Exchange's name or in relation to matters of concern to the Exchange shall conform to such guidelines as may from time to time be published by the Exchange.

C.6 OPENING OF ACCOUNTS

C.6.1 A Member shall not open an account for the trading of Products or entering into a Contract or Corresponding Contract or accept an order to enter into a Contract or Corresponding Contract for the account of a client unless the Member has (subject to such exceptions as may be prescribed) entered into a written agreement with the client containing such terms as may from time to time be prescribed in the Rules or in directions given pursuant to this Rule by the Exchange. Without prejudice to any terms which may from time to time be so prescribed, a Member shall ensure that its written agreement with each client:

(a) imports into every Corresponding Contract made with the client all the terms of the Rules insofar as they are applicable; and

(b) with regard to business done with the client, enables the Member to perform all Contracts and Corresponding Contracts to which the Member is party from time to time and to comply with all requirements of the Rules (and arrangements, provisions and directions given thereunder) including, without limitation, requirements relating to disclosure and emergencies.

C.6.2 (a) Subject to paragraph (b) below, a Member shall not enter into any Corresponding Contract with a client for a delivery month or delivery day capable of being traded on the Market at the date the Corresponding Contract is entered into and represent (in whatever form) to the client that it has entered into an "ICE Futures Singapore Contract" (however expressed) for such client unless a Contract is made on the Market by it in respect of and in the terms of the same Contract Terms as the Corresponding Contract to be made with the client or the Member has procured the entry into of a Contract on the Market through another Member. The Member shall ensure that if it is the buyer opposite its client under the terms of the Corresponding Contract entered into with its client otherwise than on the Market, it (or its Clearing Member as applicable) or such Member executing the same shall be the Seller under the terms of the relevant Contract and *vice versa*. Subject to paragraph (c) below, such Corresponding Contract made with the client shall be at the same price as the price at which the relevant Contract was made.

(b) Paragraph (a) above shall not apply to a Contract or Corresponding Contract made under Section D.

(c) Where a Member has executed for a client on the same day one or more orders (either buy or sell but not together) for the same Product and Contract Month, the Corresponding Contracts made with the client referred to in paragraph (a) above may be reported to the client at an average price provided that:

(i) there is a written agreement between the client and the Member with whom the client has an account which, where rounding of the average price is used, includes the method of rounding, the number of decimal places to which the reported average price will be rounded, and the method of distribution or collection of the cash residual.

The cash residual shall be the difference between the rounded average price and the actual average price multiplied by the number of lots making up the order for the average price;

(ii) the formula used by the Member to calculate the average price before any rounding occurs is the trade weighted average set out in Trading Procedure 2.4.19 (a), (b), (c) and (d);

(iii) upon request by the client or the Exchange, a Member shall provide the prices and volumes of any trades that constitute an average price reported by the Member; and

(iv) such reporting is permitted under Applicable Laws.

C.6.3 A Member shall give a written confirmation to its client recording the terms of any Contract or Corresponding Contract made with or for that client.

C.7 PARTICULAR KINDS OF CLIENT

(a) In respect of Futures business to be done on the Market or otherwise subject to the Rules, no Member may have as a client a person who is a director, employee, representative or otherwise associated (otherwise than as a client) with another Member, unless that Member consents in writing.

(b) Any Member's Representative shall not trade either directly or through another Member for any account in which he is interested (either directly as the client or indirectly insofar as he is entitled to share in the profits of such account or is connected with the client or otherwise) save in accordance with the following procedure:

(i) all transactions must be separately recorded and identified in the accounting records of the Member;

(ii) the individual must have approval to trade for his personal account from his Member firm and must be party to an appropriate written agreement with his Member firm to govern the arrangements (including applicable regulatory and risk obligations) for this activity prior to any such trading commencing:

(iii) transactions must be cleared and margined as for any other client transaction;

(iv) transactions must be monitored by senior management of the Member for whom the individual is a Member's Representative. Such senior management shall be independent of the individual concerned and shall maintain procedures to ensure that such trading is not prejudicial to the interests of the Member's other clients.

(c) Within seven business days of the date of approval to trade pursuant to Rule C.7(b)(ii), the Member must provide to the Exchange details of the approved individual and the house or client account number to which trades transacted by that individual will be assigned. Any changes in these account numbers must also be advised to the Exchange within seven business days of them becoming effective.

C.8 RECORDS OF COMPLAINTS

(a) All Members shall retain for at least five years all written complaints in relation to their business in connection with the Exchange.

(b) They shall ensure that all such complaints are promptly, thoroughly and fairly investigated and that the complainant is informed in writing of the outcome. All serious complaints shall be investigated by a suitably senior Member's Representative who has no personal interest in the subject matter.

(c) They shall also compile and keep a register showing details of the date of receipt of all such complaints, the client, the account executive, the matter complained of and any action taken by the Member.

(d) This register shall be open to inspection by the Exchange upon demand.

C.9 INVESTIGATION OF COMPLAINTS

C.9.1 The Exchange shall consider all complaints made to it in writing save that if it considers that it would be appropriate to do so, it may refer the matter to another regulatory body pursuant to Rule A.3.

C.9.2 In the case of a complaint which, if substantiated, might constitute a breach of the Exchange's Rules, the Exchange may (subject to its power to refer the matter complained of pursuant to Rule A.3.1) authorise an immediate investigation or write to the Member or other person complained of (and any Member with whom such person was associated at the time of the matter complained of) requesting its or his comments or explanation or take such other or further steps (if any) as may be thought appropriate including the commencement of an investigation or disciplinary proceedings.

C.9.3 The Exchange may inform the complainant in writing of any steps taken as a result of his complaint and of the result thereof.

C.9.4 In the event of a complaint against the Exchange or any of its Directors, officers, employees, committees or panels (or any individual committee or panel member) (or agents in their capacity as such), such complaint shall be made and investigated in accordance with the Complaint Resolution Procedure issued by the Exchange from time to time.

C.10 AUTHORISATION, RULES AND CONDUCT COMMITTEE

C.10.1 There shall be an Authorisation, Rules and Conduct Committee appointed by the Exchange pursuant to Terms of Reference adopted by the Exchange.

C.10.2 The ARC Committee shall be responsible for promotion of good regulatory practices. Without derogating from this, the ARC Committee shall have such powers as the Rules may from time to time provide including, without limitation, those powers mentioned in Section E.

C.10.3 For the avoidance of doubt, the ARC Committee is a committee of the Exchange and has no executive powers independent of the Exchange. Accordingly, any reference in these Rules or the ICE Futures Contract Terms and Procedures to the ARC Committee shall be construed as being a reference to the Exchange acting by the ARC Committee, and any reference to a power of the ARC Committee shall be construed as being a power of the Exchange.

C.11 [NOT USED.]

C.12 INSPECTIONS AND ENQUIRIES

C.12.1 Routine inspections and enquiries may be authorised by the Exchange who may itself carry out such inspections or make such enquiries, or authorise some other person or persons (including another exchange) to do so with it or on its behalf.

C.12.2 In carrying out such inspection or enquiry, the Exchange shall have the same powers as an investigation panel would have under Rules E.3.3, E.3.4 and E.3.5 in respect of an investigation. Members (and other Persons Subject to the Rules) shall co-operate fully with all routine inspections and enquiries.

C.12.3 If, in the course of such routine inspection or enquiry, the Exchange forms the provisional conclusion that there has been a breach of the Rules (or any arrangement, procedure or direction made, authorised or given thereunder), it may in an appropriate case deal with the matter itself and/or shall furnish to the chairman of the ARC Committee a report in writing of any action taken. Alternatively the Exchange shall report its provisional conclusion to the chairman of the ARC Committee which may itself make further enquiries. Unless otherwise directed, the Exchange shall forthwith inform the Member concerned or other person the subject of the inspection or enquiry, of his provisional conclusion and of the grounds thereof, and shall invite his comments or observations either orally or in writing.

C.12.4 Subject to any direction as aforesaid, the Exchange shall continue its inspection or enquiry and on completion thereof it shall make a report in writing to the ARC Committee setting out its final conclusion, and making such recommendation as it considers appropriate. The ARC Committee shall consider such report, and shall then take one or more of the steps mentioned in Rule E.3.8.

C.12.5 Any failure by the Exchange to comply with the above procedures or any of them shall not invalidate its conclusions or any steps taken in consequence thereof.

C.12.6 The provisions of Rules C.12.2, C.12.3 and C.12.4 shall be without prejudice to the rights of the Exchange under Rule D.7.2. Rules C.12.3 and C.12.4 shall not apply to any enquiry or inspection in respect of a Defaulter made under and within the meaning of Section D.

C.12.7 The provisions of the Rules in C.12 shall be without prejudice to the provisions of the Electronic User Agreement.

C.13 DELIVERY PANEL

C.13.1 The Exchange shall be entitled to establish a Delivery Panel from time to time for the purposes of dealing with late performance, non-performance, disputes and other matters related to deliveries, as set out in the ICE Futures Contract Terms and Procedures.

C.13.2 The Delivery Panel shall have such powers as the Rules and the ICE Futures Contract Terms and Procedures may from time to time provide, or such powers as the Exchange may confer.

C.14 INTERVIEWS

If a person is formally summoned to an interview with the Exchange personnel, that person must attend the interview on pain of a fine for SGD 2,000 per day of non-attendance and possible exclusion from the Market until they take reasonable steps to make themselves available on an alternative date. Every letter from the Exchange advising of the interview shall indicate the penalty in order for it to apply.

C.15 INDEPENDENT COMPLAINTS COMMISSIONER

The Exchange shall appoint a person to the office of Independent Complaints Commissioner for such term, at such remuneration and on such other conditions as they think fit. The Exchange shall be entitled to remove from office any Independent Complaints Commissioner.

The Independent Complaints Commissioner shall have such powers as the Complaint Resolution Procedure may from time to time provide.

C.16 FIDELITY FUND

C.16.1 For the purposes of this Rule C.16, "Member" shall mean a Member who has a CMS Licence.

C.16.2 The Exchange shall, in accordance with Applicable Laws, maintain a fidelity fund to:

(a) compensate any person (other than an accredited investor as defined in the SFA) who suffers financial loss through the Defalcation committed, by a Member or Member's Representatives, in respect of any money or other assets that was entrusted or received by the Member or Member's Representatives for or on behalf of such person or by reason that the Member was a trustee of the money or other assets; or

(b) pay to a Member's Insolvency Practitioner to make up or reduce the total deficiency arising because the available assets of the Member are insufficient to satisfy any debts arising from such Member's trading on the Exchange that have been proved in the Insolvency of the Member.

C.16.3 "Defalcation" for the purposes of this Rule C.16 refers to the misapplication, including any misappropriation, of any assets as contemplated under the SFA.

C.16.4 All Members shall contribute to the fund in such manner and at such times as the Exchange may, having regard to the provisions of the SFA, determine from time to time and notify by way of Circular.

C.16.5 Any person claiming compensation from the fund under this Rule shall act in accordance with the provisions of the SFA and the procedures determined by the Exchange and produce such documents in support of their claim as may be required by the Exchange.

SECTION D - DEFAULT

D.0 DEFINITIONS AND INTERPRETATION

In this Section D, the following words and expressions shall, unless the context otherwise requires, have the following meanings:

TERM	DEFINITION
"**Closing-out Contract**"	means a Market Contract effected under the Rules or under the Clearing House Rules, being a contract on the same terms as an Unsettled Market Contract to which a Defaulter is party save as to the price or premium and save that where the Defaulter is a Seller under the terms of the Unsettled Market Contract, the Defaulter shall be a Buyer under the terms of the Closing-out Contract and *vice versa* and references to "Closing-out" shall be construed accordingly;
"**Counterparty**"	in relation to a Defaulter, means a person (other than the Clearing House) party as principal to a Market Contract to which the Defaulter is party;
"**Declared a Defaulter**"	in relation to a Member, means being declared a defaulter by the Exchange under Rule D.4.1 or Rule D.4.2;
"**Defaulter**"	means a person who has been Declared a Defaulter;
"**Default Panel**"	means a panel from time to time appointed by the Exchange to fulfil the function ascribed to such panel in this Section D;
"**Default Proceedings**"	means proceedings taken by the Exchange under this Section D;
"**Event of Default**"	has the meaning ascribed to it in Rule D.3.1;
"**Lot**"	in respect of a Contract, has the meaning given in the relevant Contract Terms;
"**Market Contract**"	means any Contract or Corresponding Contract, excluding a Contract or Corresponding Contract in respect of which the parties have agreed to make and take delivery of a product of a specification other than that provided for, or in a manner or at a place or in terms other than those specified, in the relevant Contract Terms. For the purposes of this Section D, where any "Market Contract" is for more than one Lot there shall be deemed to be a separate Contract in respect of each Lot and the term "Market Contract" shall be construed accordingly;
"**Segregated Client**"	means a person whose assets, if and when received by a Member as collateral in respect of a Contract, is or would be client money or client assets for the purposes of MAS Requirements;
"**Unsettled Market Contract**"	means a Market Contract in respect of which the rights and liabilities of the parties thereto have not been discharged whether by performance, compromise or otherwise.

D.1 GENERAL

D.1.1 Subject to Rule D.1.2, this Section D is without prejudice to, but in the case of any conflict take precedence over, any other provision of the Rules and the terms of any other agreement which apply to a Market Contract.

D.1.2 All Contracts to which the Clearing House is central counterparty and the Defaulter is party under the Clearing House Rules shall be dealt with in accordance with the Clearing House Rules, which shall have priority over this Section D.

D.2 [NOT USED.]

D.3 EVENTS OF DEFAULT

D.3.1 An "Event of Default" shall occur in relation to a Member if the Exchange determines that the Member is or appears to be unable or likely to become unable to meet its obligations under one or more Market Contracts. Without prejudice to the generality of the foregoing, in making such determination, the Exchange may take any one or more of the following events or circumstances as sufficient grounds for determining that a Member is or appears to be unable or likely to become unable to meet his obligations under one or more Market Contracts:

(a) failure by a Member duly to perform or comply with any obligation to make payment or make or accept delivery under the terms of a Market Contract;

(b) failure by a Member to comply with any other obligation under a Market Contract or to satisfy any liability to provide margin;

(c) an Insolvency occurring in respect of a Member;

(d) a Member taking any corporate action or other step to authorise, institute or commence any of the actions referred to in (c) above;

(e) any execution, distress, sequestration, attachment or other process being levied or enforced against a Member against any substantial part of its revenues and assets and not being discharged within seven days of being so levied or enforced;

(f) a Member being refused an application for or being suspended or expelled from membership of a regulatory body or being in breach of the rules as to the financial requirements of membership of a regulatory body or a regulatory body taking or threatening to take any action in relation to the Member under Applicable Law, including the SFA or MAS Requirements or taking or threatening to exercise its powers under the Rules to restrict or prohibit the Member from entering into transactions or carrying on its business or dealing with its assets;

(g) any Authorisation or other authorisation necessary to carry on its business in the normal course being revoked, withheld or materially modified or failing to be granted or perfected or ceasing to remain in full force and effect;

(h) a Member failing to satisfy the Exchange at any time that it meets any minimum net worth or other financial requirement for membership from time to time stipulated by the Exchange, included as set out in the Membership Procedures as applicable;

(i) a Member being or being declared in default under the default rules of any exchange or clearing house or being declared in breach of the rules as to the financial requirements of membership of, or being refused membership of, or suspended or expelled from membership of, any exchange or clearing house;

(j) a Member, being a partnership, being dissolved; or

(k) any event that could be an Event of Default under the Clearing House Rules (regardless of whether the Member is a Clearing Member).

D.3.2 An event or circumstance referred to in Rule D.3.1 shall, without limitation, be deemed to have occurred in relation to a Member being an unincorporated association or partnership if it occurs in relation to a person comprised in such unincorporated association or partnership.

D.4 DECLARATION OF DEFAULT

D.4.1 Subject to Rule D.4.2, upon the occurrence of an Event of Default or at any time thereafter, if the Exchange, in its absolute discretion, considers that action should be taken under this Section D with respect to such Member the Exchange shall declare such Member to be a Defaulter by means of a Circular.

D.4.2 The Exchange may be directed by the MAS pursuant to Applicable Law to take action or not to take action (including not to take action under Rule D.4.1) or to take specified steps under this Section D.

D.4.3 Subject to Rule A.4, the Exchange may consult with the Clearing House or any exchange or clearing house or any regulated market or central counterparty or Governmental Authority or any other relevant person before or at any time after taking action under this Section D in relation to a Defaulter.

D.4.4 A Member who is Declared a Defaulter shall not enter into any Contract or Corresponding Contract (including, for the avoidance of doubt, a Closing-out Contract) with any person, and a Clearing Member or non-clearing Member shall not enter into any such Contract or Corresponding Contract with a Defaulter, after the time that it is Declared a Defaulter, (notwithstanding any order or instruction to do so given by a person other than the Default Panel) save in accordance with the Clearing House Rules.

D.5 DEFAULT PROCEEDINGS

D.5.1 If a dispute arises as to whether a Contract has been made or as to whether a contract is a Market Contract, the Exchange may direct that the parties to the dispute refer the dispute to arbitration in accordance with Section H or appeal against any award made in relation thereto or (where it is permissible to do so) commence court proceedings or otherwise apply to the court in respect thereof, within such time limit as the Exchange may direct for the purpose (but without prejudice to any shorter limitation period applicable by virtue of the terms of the Market Contract, Section D or otherwise) and promptly send to the Exchange a copy of any document commencing arbitration proceedings or other process or appeal, failing which both parties shall be deemed to have waived their rights in respect thereof (subject always to any contrary provision of the SFA) whereupon the Exchange shall determine the issue on such evidence (if any) as it may in its absolute discretion require. The Exchange may make such further procedural directions as it thinks fit for the purposes of this Rule.

D.5.2 The Default Panel shall have the power to determine whether a contract is a Market Contract or whether a Market Contract is an Unsettled Market Contract for the purposes of exercising the powers of the Exchange under this Section D. Any dispute between the Defaulter, or a person party to a contract with the Defaulter, and the Default Panel as to whether a contract is a Market Contract shall be referred to the Exchange for final determination and the Exchange shall determine the issue on such evidence as may be presented to them. The decision of the Exchange shall be final, conclusive and binding.

D.5.3 Subject to Rule D.5.1, no person may refer to arbitration under Section H any dispute arising as to whether a contract is a Market Contract or a Market Contract is an Unsettled Market Contract, or any dispute, claim or matter arising out of or in connection with any step taken under this Section D.

D.6 NOTIFICATION

D.6.1 As soon as reasonably practicable after a Member has been Declared a Defaulter, the Exchange will issue a Circular stating that the relevant Member is a Defaulter and may take such steps as it may in its absolute discretion consider appropriate in order that:

(a) Counterparties to Unsettled Market Contracts with the Defaulter, persons party to a Market Contract as agent for the Counterparty and such other persons as it thinks fit, are notified that a Member has been Declared a Defaulter;

(b) Counterparties to Unsettled Market Contracts with the Defaulter are notified of any decision taken under this Section D with respect to such Market Contracts to which they are party;

(c) if the Defaulter is party to a Market Contract as agent, (notwithstanding any prohibition on this in the Rules) its principal is notified that a default has occurred and the identity of the Counterparty to such Market Contract; and

(d) the Defaulter ceases to have access to the Trading Facilities and its membership is suspended.

D.6.2 A Member shall forthwith give notice to the Exchange of the occurrence of any event or circumstances referred to in Rule D.3.1(c) to (k) inclusive in relation to the Member.

D.6.3 The Defaulter and, where applicable, a Member party to a Market Contract or an alleged Market Contract with a Defaulter shall forthwith give notice to the Exchange of any dispute, claim or matter which it is proposed will be referred to arbitration under Section H or to the Exchange for resolution in accordance with Rule D.5.1.

D.7 PROCEDURES

D.7.1 The Exchange may from time to time prescribe procedures for the purposes of this Section D and to provide for the manner in which its rights or obligations under the SFA in relation to such Rules or Default Proceedings may be exercised by or on behalf of the Exchange.

D.7.2 For the purposes of exercising its powers or fulfilling its obligations under this Section D or exercising its rights or fulfilling its obligations under the SFA in relation to such Rules, the Exchange shall have the right at all times through its employees or agents, without giving prior notice, to enter into any premises in which a Member carries on its business or maintains his records to examine and remove or take copies of or extracts from the trading, accounting, computer and other records of the Member and to operate any accounting or computing systems of the Member and to reproduce data to which the Exchange has access, for the purpose of obtaining the names and addresses of all Counterparties, details of all Unsettled Market Contracts entered into by the Member, details of money and other property held for the account of Segregated Clients and any other information which the Exchange considers to be necessary or desirable for the purpose of implementing this Section D.

D.7.3 The Defaulter and each Member shall co-operate, and shall procure that its Member's Representatives shall co-operate, fully at all times with the Exchange and shall promptly provide such information as the Exchange or its employees or agents may request in connection with the implementation by the Exchange of this Section D or the exercise by it of its powers or the fulfilment by it of its obligations under the SFA in respect of such Rules including, without prejudice to the generality of the foregoing, information regarding Market Contracts entered into by the Defaulter.

D.8 DELEGATION OF FUNCTIONS

The Exchange may from time to time appoint one or more persons to perform any of the functions on its behalf, save those referred to in Rules D.4.1 and D.7.1, which it may or may be required to exercise under this Section D and may appoint any professional adviser to advise or assist the Exchange with respect to carrying out its functions hereunder.

D.9 COSTS

The Defaulter shall indemnify the Exchange for costs, charges and expenses which the Exchange may incur or suffer in taking any action under this Section D, including the costs or fees of any person appointed to perform any function on behalf of the Exchange, or to advise or assist with respect thereto, under Rule D.8.

D.10 CO-OPERATION WITH OTHER BODIES

Subject to Rule A.4, the Exchange may pass on any details of or other information in its possession relating to a Defaulter or his Market Contracts to the Clearing House, the MAS or to any other of the persons referred to in Rule D.4.3 or to any other body or authority having responsibility for any matter arising out of or in connection with the default and otherwise co-operate with any such persons in connection with such default.

SECTION E - DISCIPLINARY

E.1 NOTIFICATION OF BREACH

All Members shall immediately notify the Exchange of any infringement of the Rules (including those prescribed under Rule A.9) or of any financial or commercial difficulty on the part of themselves or any Member or Person Subject to the Rules and, as soon as practicable thereafter, give the Exchange full particulars of the infringement or difficulty.

E.2 BREACHES OF RULES AND ACTS OF MISCONDUCT

Bringing the Exchange into Disrepute

E.2.1 (a) No Member and no other Person Subject to the Rules shall (or shall permit any Member's Representatives to) take any action or be guilty of any omission which in the opinion of the Exchange is liable to bring the Exchange or its Members into disrepute or otherwise be substantially detrimental to the interests or welfare of the Exchange.

(b) No Member and no other Person Subject to the Rules shall knowingly or recklessly permit the use of his or its services, facilities or membership by any person in a manner which is in the opinion of the Exchange liable to bring the Exchange or its Members into disrepute, impair the dignity or degrade the good name of the Exchange, create or maintain or exacerbate manipulations (or attempted manipulations) or corners (or attempted corners) or violations of the Rules (or arrangements, provisions or directions made or given thereunder) or otherwise be substantially detrimental to the interests or welfare of the Exchange.

Conduct In Relation To Trading

E.2.2 (a) No Member (or other Person Subject to the Rules) shall in relation to Contracts or Corresponding Contracts entered into, or orders placed, on the Market or otherwise in accordance with the Rules:

(i) commit any act of fraud or bad faith;

(ii) act dishonestly;

(iii) engage or attempt to engage in extortion;

(iv) continue (otherwise than to liquidate existing positions) to trade or enter into such Contracts or Corresponding Contracts or provide margin to or accept margin from the Exchange when not in compliance with the minimum financial requirement currently in force in relation to the category of membership to which it belongs;

(v) knowingly disseminate false, misleading or inaccurate reports concerning any product or market information or conditions that affect or tend to affect prices on the Market;

(vi) manipulate or attempt to manipulate the Market, nor create or attempt to create a disorderly Market, nor assist its clients, or any other person to do so;

(vii) make or report a false or fictitious trade;

(viii) enter into any Contract or Corresponding Contract or fail to close out the same either intending to default in performance of the same or having no reasonable grounds for thinking that it would be able to avoid such default (provided that it shall not be sufficient to have intended to comply with any contractual or other provision governing the consequences of default); or

(ix) use or reveal any information confidential to the Exchange or another person obtained by reason of participating in any investigation or disciplinary proceedings.

Market Abuse

E.2.2A Members and other Persons Subject to the Rules whose behaviour amounts to any behaviour prohibited under Part XII of the SFA shall be in breach of the Rules.

Other Acts of Misconduct

E.2.3 For the purposes of these Rules, an act of misconduct is:

(a) any conduct contrary to Rule A.2.1;

(b) participation in conduct by a third party which would be a violation or attempted violation of these Rules if that third party were subject to these Rules;

(c) a failure to pay a fine or order for costs imposed by a Disciplinary Panel that had not been overturned by an Appeal Panel;

(d) any other event or practice which has developed or is developing on the Exchange and is thought to be capable of impairing the orderly conduct of business on the Exchange or affecting the due performance of contracts;

(e) provision to the Exchange of information (including information for the purpose of obtaining membership) which is false, misleading or inaccurate in a material respect;

(f) ceasing to meet eligibility criteria for membership as set out in the Rules without notifying the Exchange;

(g) any other matter of which the Exchange may, from time to time, notify Members through administrative notices issued to Members.

E.2.4 The making of a Contract or Corresponding Contract by a Member with a client (whether or not a Member) otherwise than on the Market and not falling within Rule F.2.1(a) or (b) or any other breach of Rule F.2, shall constitute an offence. Any contract so made will be deemed not made by the Member subject to the Rules, save that the Member will be subject to disciplinary Rules and procedures.

E.3 INVESTIGATIONS

E.3.1 Investigations into alleged infringements of the Rules or an act of misconduct may be authorised by the Exchange.

E.3.2 The Exchange shall issue a Notice of Investigation ("**NoI**") notifying the Member concerned that an investigation has been commenced. The NoI shall be sent to the Member or the person concerned and copied to the Member's compliance officer or other appropriate Member's Representative and shall contain a brief description of the matter under investigation.

E.3.3 In the course of conducting an investigation, the Exchange may call for the assistance of such professional, legal or accounting advisers, clearing houses, exchanges, regulatory organisations and other advisers or persons as it thinks fit. Any external adviser appointed by the Exchange shall be required to treat all information obtained in the course of the investigation as confidential and to disclose it only to the Exchange.

E.3.4 Members and other Persons Subject to the Rules shall co-operate fully with all such investigations (whether or not such Member or person is the direct subject of such investigation). Without limitation, each Member (and, so far as applicable, each Person Subject to the Rules) shall:

(a) promptly furnish to the Exchange such information and documentary and other material as may reasonably be requested (including, without limitation, in the case of Members details of the Member's own and clients' accounts);

(b) permit those persons appointed to carry out or assist in carrying out the investigation on reasonable notice, such notice being commensurate with the seriousness of the potential or alleged breach of the Rules and to enter any premises in any part of the world where the Member carries on its business or maintains its records during normal business hours for the purpose of carrying out such investigation. Each Member hereby irrevocably grants the Exchange a licence for this purpose and shall procure a licence to the Exchange from any affiliate person, agent or third party under its control that is necessary for this purpose;

(c) make available for interview itself (if the Member is a natural person) and such of its Member's Representatives as may reasonably be requested; and itself answer, and procure that its Member's Representatives answer, truthfully and fully any question put by or on behalf of the Exchange. If a Member or Member's Representative fails to attend an interview with the Exchange or a scheduled hearing of the ARC Committee, Disciplinary Panel or Appeals Panel, the Member and/or Member's Representative may be fined SGD 2,000 per day of non-attendance and may be excluded from the Market until they take reasonable steps to make themselves available on an alternative date;

(d) make available for inspection such documents, records or other material in its possession, power or control as may reasonably be required and, upon request, provide copies of the same;

(e) use its best endeavours to ensure that so far as possible its agents give similar co-operation.

E.3.5 Each Member and other Person Subject to the Rules authorises the Exchange to request any clearing house, exchange or regulatory body or person to furnish to the Exchange such information and documents as the Exchange may require in connection with an investigation.

E.3.6 [Not used.]

E.3.7 When, in the opinion of the Persons conducting the investigation, they have sufficient information, they shall make a written report to the Exchange who may, or may not, recommend to the ARC Committee that disciplinary proceedings should be commenced.

E.3.8 The Exchange or the ARC Committee may, without prejudice to any other of their powers:

(a) decide that no further action should be taken and notify any Member or other person concerned in writing accordingly;

(b) in the event of a minor infringement or misconduct, issue a written warning (which shall be private save as provided for in paragraph (f) below) to the Member concerned (or, in the case of such an infringement or misconduct by some other person, that person with a copy to any Member with whom he was associated at the time of such infringement or misconduct);

(c) commence disciplinary proceedings (including, in an appropriate case, summary proceedings under Rule E.7.0 or Rule E.7.1);

(d) in the case of the ARC Committee, refer the matter back to the Exchange for further enquiry;

(e) [Not used.]

(f) report such of the findings of the investigation to such exchanges, clearing houses or other regulatory bodies as they think fit; or

(g) publish such findings and in such detail as they deem appropriate where the matter under investigation is considered of relevance to the market in general or in the public interest,

provided that the Exchange or the ARC Committee may, in an appropriate case, take more than one of the above actions or different actions in relation to different Members or other persons concerned in the same investigation.

E.4 DISCIPLINARY PROCEEDINGS

Commencement

E.4.1 Disciplinary proceedings may be commenced by the ARC Committee only when it is satisfied (whether or not a formal investigation has taken place under the Rules) that there is *prima facie* evidence of an infringement of the Rules or misconduct by a Member or other Person Subject to the Rules. The ARC Committee shall only impose any sanction on a person that it determines is or was or should be held responsible (whether solely, jointly or by way of contribution) for the relevant conduct. If sanctions are to be imposed as a result of any conduct of a client of a Member, the relevant Member

may present information or evidence to the ARC Committee as to whether any sanctions should be limited to those set out in this Section E of the Rules.

E.4.2 When the ARC Committee decide to commence disciplinary proceedings, they shall (subject to Rule E.7.0) direct that a written notice ("**Notice**") be sent to the Member (or, in the case of proceedings against some other person, that person and any Member with whom he was associated at the time of the matter in question), which shall set out the alleged act of misconduct or infringement, including a summary of facts relied upon.

E.4.2.1 The Member or other person the subject of a Notice shall, if it wishes, have twenty working days (or such further time as the ARC Committee may in its absolute discretion allow) from the service of the Notice in which to provide a statement of defence (the "**Defence**") responding to all or any of the allegations, stating its intended pleas and what admissions of fact, if any, it makes. Where no defence has been served and no settlement has been reached, the Exchange will deem the Member or other person the subject of Notice to have accepted the facts and matters alleged in the Notice.

E.4.2.2 Having seen and considered the Defence, the ARC Committee may, if it deems appropriate, continue to proceed with the disciplinary proceedings and refer the matter to the Disciplinary Panel or may choose to discontinue disciplinary proceedings or deal with the matter as set out in Rule E.3.8.

E.4.3 Without adjournment or reference back to the ARC Committee, the Disciplinary Panel, or a quorum of the ARC Committee hearing a case summarily, may amend a Notice by deletion, alteration or addition, or may vary the Rule breach alleged or add another Rule breach, provided that they are of the opinion that:

(a) the amendment or variation is material to the course of conduct under investigation;

(b) the essential character of the allegation or Rule breach has not been changed; and

(c) the Member would not be prejudiced in any defence it might wish to put before the Disciplinary Panel.

In any other circumstances, and in particular should a Disciplinary Panel, or a quorum of the ARC Committee hearing a case summarily, determine that a separate or unrelated course of misconduct or an infringement of the Rules may have been revealed, it may order an adjournment to enable the matter to be investigated further or, in the case of the Disciplinary Panel, may refer the matter back to the ARC Committee for further examination.

Settlement

E.4.3.A The Member and/or the person alleged to have committed the infringement may attempt to settle the disciplinary proceedings at any stage (including any appeal) with the Exchange. The terms of any settlement shall be agreed between the Exchange and the individual or Member as the case may be and submitted in writing to the chairman of the ARC Committee, or in his absence a quorum of this ARC Committee for ratification. Upon ratification, the terms of the settlement shall take effect. In the event the settlement is not ratified, the disciplinary proceedings shall continue.

Appointment of Disciplinary Panel

E.4.4 (a) Disciplinary Panels shall be appointed, as required, by the Exchange. A Disciplinary Panel shall consist of a chairman sitting alone or together with one or two other persons; such persons that are appointed to the Disciplinary Panel may be persons drawn from market practitioners, lawyers or other suitable persons. Serving members of the ARC Committee or Directors shall not be appointed to a Disciplinary Panel. Expert assessors may be appointed, at the discretion of the ARC Committee or the Disciplinary Panel itself, to sit with and advise the Disciplinary Panel but not to vote. No person shall serve on or sit with a Disciplinary Panel if he has a personal or financial interest, in or has been involved in any investigation into, or previous Disciplinary Panel hearing on, the matter under consideration.

(b) The Member and/or the person alleged to have committed the infringement and the Exchange may object to any particular appointment to the Disciplinary Panel which objection will be determined in the first instance by the chairman of the Disciplinary Panel and, in the event that

the objection is against the chairman of the Disciplinary Panel, then this will be determined by the chairman of the Appeals Panel.

(c) In the event of equality of votes, the chairman shall have a second or casting vote.

(d) In the event of any member of the Disciplinary Panel having or acquiring a personal or financial interest in the outcome or in any other way being or becoming incapacitated or permanently unavailable, the chairman of the Disciplinary Panel (or in the case of the chairman of the Disciplinary Panel, the chairman of the Appeals Panel) may direct that the Disciplinary Panel shall continue to act with a reduced number or appoint another person to take the place of the retiring member of the Disciplinary Panel (and the disciplinary proceedings shall then proceed as if such person had been originally appointed in lieu of the first person) or may direct that a new Disciplinary Panel should be appointed to re-hear the matter.

E.4.5 [Not used.]

E.4.6 [Not used.]

E.4.7 [Not used.]

Proceedings of Disciplinary Panels

E.4.8 The Disciplinary Panel shall investigate the alleged misconduct or infringement and determine whether there has been a violation of the Rules and, if so, the appropriate sanction (if any) to be imposed. In carrying out this function, the Disciplinary Panel may adopt such procedures as it thinks fit. Without limitation:

(a) it may request from the Exchange or the Member (or the person concerned and any Member) such further statements, information, documents or other evidence as it may think fit, or either party to the proceedings may adduce further evidence as they consider necessary, within time limits agreed by the Disciplinary Panel;

(b) the Disciplinary Panel, or its chairman sitting alone, may deal with such matters as it considers appropriate at a pre-hearing review, issue directions and take such other steps as it considers appropriate for the clarification of the facts and issues and for the just and expeditious determination of the case;

(c) it may, if it considers appropriate, but only with the agreement of the Exchange and the Member concerned (or the person concerned and any associated Member), decide to determine the case upon written submissions and evidence placed before it;

(d) in all other cases, the Exchange and the Member (or the person concerned and any Member) shall be given the opportunity (and may be required by the Disciplinary Panel upon reasonable notice) to attend and give evidence before the Disciplinary Panel and be questioned. The Exchange or the Member (or the person concerned and associated Member, as the case may be) may call witnesses to give evidence and be questioned;

(e) the Member (or the person concerned and any associated Member) and the Exchange may be assisted or represented by any person who may or may not be legally qualified;

(f) any person who is subject to the Rules may be required (and any other person may be requested) by the Disciplinary Panel (upon reasonable notice) to attend and give evidence. The Member (or person concerned and any associated Member) shall be given notice of every hearing at which any person is to give evidence. Both the Member (or the person concerned and associated Member, as the case may be) and the Exchange shall be allowed the opportunity of examining and cross-examining any person who attends to give evidence;

(g) the Disciplinary Panel may call for any person to attend its hearings. Save for this, all hearings shall be in private unless the Member requests otherwise and the Exchange and the Disciplinary Panel consent;

(h) the Disciplinary Panel shall not be bound by any rule of law or court procedure concerning admissibility of evidence and may accept as conclusive any finding of fact made by a court or any regulatory body;

(i) the Disciplinary Panel shall apply the civil standard of proof on the balance of probabilities, with the cogency of evidence required being commensurate with the seriousness of the alleged infringement;

(j) the Disciplinary Panel may consult with legal advisers;

(k) a Member's disciplinary record shall not be disclosed to the Disciplinary Panel until the Disciplinary Panel shall have declared itself satisfied that an infringement has been proved. The Disciplinary Panel shall then bespeak such record from the Exchange and shall be entitled to take it into account when selecting the appropriate sanction;

(l) the Disciplinary Panel may receive submissions from the Exchange on the appropriate sanction. Such submissions shall be made available to the Member and/or person concerned who shall have the right to make final submissions on penalty.

E.4.9 If the Exchange or Member (or person concerned and any associated Member or either of them) should fail to meet a time limit imposed by the Disciplinary Panel or fail to attend a hearing, the Disciplinary Panel may, in its absolute discretion, allow an extension of time, adjourn its proceedings or proceed, if necessary in the absence of the Member (or the person and Member, or either of them).

E.4.10 The findings of the Disciplinary Panel, and particulars of any sanction, shall be notified in writing to the Member concerned (or the person concerned and any associated Member). Such findings and sanction shall be deemed conclusive and binding upon expiry of the time permitted for appeal or receipt by the Exchange of any earlier written notice that such right of appeal will not be exercised.

Sanctions

E.4.11 The sanctions which may be imposed on a Person Subject to the Rules by a Disciplinary Panel shall not exceed the following:

(a) the issue of a public or private warning or reprimand;

(b) the issue of a public or private notice of censure;

(c) in the case of an individual, disqualification (either indefinitely or for a fixed term) from being a Director or member of a committee or any panel of the Exchange;

(d) in the case of a Member, disqualification (either indefinitely or for a fixed term) of any of its Member's Representatives from being a Director or member of a committee or any panel of the Exchange;

(e) a fine of any amount, to be paid on such terms as may be prescribed by the Exchange by Circular;

(f) in the case of an individual entitled to enter or access the Market, suspension or curtailment of his right to do so (which may include suspension of his registration as a Responsible Individual) for a fixed term of up to a maximum of 36 months;

(g) [Not used.]

(h) a recommendation to the Exchange that they expel a Member from membership of the Exchange, or in the case of other Persons Subject to the Rules, permanently remove their right to access the Trading Facilities of the Exchange under Rule B.7.1(a);

(i) the issue of an order requiring the Member found to have committed the breach (or the person found to have committed the breach and the Member with whom he was associated at that time, or either of them) to take such steps including making an order for compensation, as the Disciplinary Panel may direct to remedy the situation including, without limitation, making an

order for restitution to any affected person when the Member (or person concerned) has profited (or avoided a loss) from an act of misconduct at that person's expense;

(j) [Not used.]

(k) any combination of the foregoing.

Where a Person Subject to the Rules is expelled pursuant to Rule B.7.1(a) or has any or all of his rights of membership suspended pursuant to Rule B.7.1(b) or Rule B.7.2 (as applicable), the ARC Committee may make such directions;

(i) as they think fit in respect of his open Contracts or Corresponding Contracts (including, without limitation, directions for the reduction, transfer or elimination of them);

(ii) to the effect that where a Person Subject to the Rules is expelled, they may reapply for registration with the Exchange at any time after the date specified in the notice of sanction. Such reapplication will only be considered if all costs and fines associated with the notice of sanction are paid in a timely fashion.

E.4.12 (a) The contravention of any sanction imposed or direction made under or pursuant to Rule E.4.11 may be treated for all purposes as an infringement of the Rules. The lack of enforcement or actioning by the Exchange of a recommendation to impose any sanction shall not constitute a breach of the Rules by the Exchange.

(b) A Disciplinary Panel may order any party to the proceedings to pay costs as it thinks appropriate, including but not limited to, administration costs, costs incurred in the investigation, preparation, and presentation of the case.

Publication of Findings

E.4.13 The ARC Committee shall give such publicity as they consider appropriate to any finding of, or any sanction imposed or other order made by a Disciplinary Panel or by an Appeals Panel, or any ratified settlement, provided that if the ARC Committee shall determine that no publicity shall be given as aforesaid, they shall record in the minutes of their meeting the reasons for the said determination. The provisions of this Rule are without prejudice to the right of the Exchange under Rule A.4.1 or otherwise to disclose confidential information to other regulatory or law-enforcement bodies.

Appeal

E.4.14 The Exchange shall from time to time appoint persons who shall not be Directors or serving members of the ARC Committee, to serve on Appeals Panels. An Appeals Panel shall consist of a chairman sitting alone or together with one or two other persons who are not prevented from serving on the Appeals Panel by reason of the matters contained in Rule E.4.4 and shall not, for the avoidance of doubt, include any person sitting on the relevant Disciplinary Panel for the same or a related matter. The chairman of the Appeals Panel shall be a lawyer.

E.4.15 (a) Within 14 days of receiving notice in writing of a finding or order of a Disciplinary Panel, or such longer period as the Exchange may in its absolute discretion direct, a defendant or the Exchange, or both, may request an Appeals Panel be convened to hear its appeal by lodging with the Exchange a notice of appeal in writing and by delivering a copy thereof to any other party. A notice of appeal shall set out the grounds of the appeal and shall contain a brief statement of all matters relied on by the appellant. The grounds of the appeal may be any one or more of the following:

(i) the Disciplinary Panel misdirected itself; or

(ii) the Disciplinary Panel's decision was:

(aa) one which no reasonable Disciplinary Panel could have reached;

(bb) unsupported by the evidence or was against the weight of the evidence; or

(cc) based on an error of law, or a misinterpretation of the Exchange Rules; or

(iii) the sanction imposed by the Disciplinary Panel was excessive or, in the case of an appeal by the Exchange, was insufficient or inappropriate; or

(iv) new evidence is available and that, had it been made available, the Disciplinary Panel could reasonably have come to a different decision. This will not apply if the evidence could have been adduced before the Disciplinary Panel by the exercise of reasonable diligence;

but no party may otherwise appeal against the Disciplinary Panel's finding of infringement, or order;

(b) In the case of appeal against a sanction, the Appeals Panel may affirm, vary or revoke the sanction, in all cases, within the limits set out in Rule E.4.11. In the case of appeal pursuant to Rule E.4.15(a)(i), (ii) or (iv), the Appeals Panel may make such order or give such direction as it considers just including, if thought fit, in relation to an appeal pursuant to Rule E.4.15(a)(ii), a direction for a rehearing of the case by another Disciplinary Panel.

(c) On receipt of a notice of appeal, the Exchange will constitute an Appeals Panel from among those persons authorised under Rule E.4.14 above.

E.4.16 An Appeals Panel may adopt such procedure as it thinks fit and just, including without limitation the procedures described in Rule E.4.8. The appellant and the respondent may appear, make representations and (subject to the restriction on adducing new evidence in Rule E.4.15(a)(iv)) call witnesses, who may be examined and cross-examined.

E.4.17 (a) The decision of an Appeals Panel shall be final and binding and there shall be no further appeal. The decision shall be notified to the appellant in writing as soon as possible.

(b) Rule E.4.12(b) shall apply to the Appeals Panel as though the reference therein to the Disciplinary Panel were to the Appeals Panel.

E.5 EMERGENCY SUSPENSION

Notwithstanding and without prejudice to any other provision of the Rules (including without limitation this Section E of the Rules) the Exchange may, upon reasonable belief that immediate suspension is necessary to protect the interests of the Exchange and its Members or to ensure an orderly market, suspend for up to seven working days the right of any Member's Representative (including clients or customers) to enter the Market to trade. Such decisions shall be reviewed by the Exchange within that period, and may be extended subject to such arrangements as the Exchange thinks fit.

E.6 [Not used.]

E.7 SUMMARY ENFORCEMENT

E.7.0 (a) Subject to paragraph (b) below, where in all the circumstances of a case the ARC Committee considers summary enforcement of the Rules to be apt, it may, instead of referring disciplinary proceedings to a Disciplinary Panel, summarily hear and determine the case itself. The sanctions which may be imposed by the ARC Committee are those set forth in Rule E.4.11 save that:

(i) the sanction of expulsion shall not be available to the ARC Committee;

(ii) the maximum sanction of suspension which may be imposed by the ARC Committee on an individual is limited to three calendar months; and

(iii) the maximum fine which may be imposed by the ARC Committee is limited to SGD 50,000 for an individual and SGD 100,000 for a Member in respect of each offence.

In the conduct of a summary hearing under this Rule the ARC Committee shall conform to such procedures as may from time to time be prescribed for the purpose by the Exchange.

(aa) In connection with a summary hearing under this Rule the ARC Committee may order any party to the proceedings to pay costs as it thinks appropriate, including but not limited to, administration costs, costs incurred in the investigation, preparation and presentation of the case.

(b) Where an alleged infringement or misconduct falls outside those mentioned in Rule E.7.1, before commencing a summary hearing under paragraph (a) above, the ARC Committee shall inform the Member or other person concerned that such person may object to summary enforcement. If the person concerned so objects, the case shall not proceed under this Rule but shall be referred to a Disciplinary Panel under Rule E.4.1.

(c) A Member, or other person proceeded against, may appeal to a Disciplinary Panel against a summary determination of the ARC Committee under paragraph (a) above. Notice of appeal shall be lodged with the Exchange within seven days of notification of the Committee's determination. Rule E.4.8 shall apply to the proceedings of the Disciplinary Panel, modified as the Disciplinary Panel may consider appropriate to the case. The determination of the Disciplinary Panel on appeal from the ARC Committee shall be final and binding. There shall be no further appeal.

E.7.1 Without prejudice to the powers of investigation and discipline contained in Rules E.3.1, E.4.1 and E.5, or to the summary jurisdiction of the ARC Committee under Rule E.7.0, an infringement or contravention of or a failure to observe or comply with any provision of the Rules appearing in Rule E.8 (except paragraph (a) thereof) or in Section G (Trading) may be summarily dealt with under Rule E.7.2.

E.7.2 The Exchange or such other persons as may be duly authorised by the ARC Committee may take summary disciplinary measures, including, without limitation, the imposition of fixed penalty fines and fixed terms of exclusion from the Market (or any part thereof), in respect of any infringement, contravention or failure mentioned in Rule E.7.1. The Exchange, under the authority of the ARC Committee, may from time to time by Circular or other written notice to Members prescribe the procedure governing the taking of summary disciplinary measures under this Rule, any procedure for appeal and any other matter incidental thereto, including the limitation of summary measures either generally or in particular classes of case.

E.7.3 A failure to observe any sanction imposed under Rule E.7.0 or Rule E.7.2 shall be treated as an infringement of the Rules. The lack of enforcement or actioning by the Exchange of any sanction shall not constitute a breach of the Rules by the Exchange.

E.7.4 Any summary decision of the ARC Committee or the Exchange shall be notified to the relevant Member and may be circulated by the Exchange to the compliance officer or other appropriate Member's Representative or published by way of Circular.

E.8 GENERAL OFFENCES

A Person Subject to the Rules is prohibited from doing any act which may bring the Exchange into disrepute. Such acts as may include, but are not limited to:

(a) physical or verbal abuse of an Exchange official in the course of his duties;

(b) abusive and/or disorderly behaviour;

(c) any act which, in the opinion of the Exchange, may be prejudicial to the good reputation of the Exchange; and

(d) any other act prescribed under this Rule by the Exchange.

E.9 LOSS OR DAMAGE TO TRADING FACILITIES

E.9.1 Damage or loss to the property of the Exchange or the Trading Facilities will be paid for by the Member causing such damage or loss to the property unless the Member can satisfy the Exchange that the damage or loss to property was caused by a third party named by the Member.

E.9.2 All other forms of damage or loss to property to the Exchange or the Trading Facilities will be charged to the Members when no individual or individuals can be held responsible.

E.10 OTHER OFFENCES

E.10.1 **EFRP Reports**

The Exchange may, by Circular, require Members to report every EFRP transaction conducted under Rule F.5A to the Exchange in such manner and within such time as it may prescribe. Failure to comply with any such requirements shall be an offence.

E.10.2 **Rules**

The Exchange may, by Circular, prescribe fixed penalty fines to be imposed on a Member who has, or appears to have, failed to comply with any obligation under the Rules.

SECTION F - CONTRACTS

F.1 CONTRACTS WITH CLEARING HOUSE

F.1.1 Contracts shall arise only at the times, and subject to the conditions, set out in the Clearing House Rules. In the event of any conflict between this Rule F.1 and the Clearing House Rules, the Clearing House Rules shall prevail.

Platform Trades

F.1.2 The following Rules apply to a Platform Trade that is matched between one Member and another Member (the "**Counterparty**") which may be the same person as the first-mentioned Member pursuant to Rules F.1.3 and F.1.4. Pursuant to the Clearing House Rules, two Contracts arise at the time of such matching, which for the purposes of this Rule F.1 shall be called the "**ICE Futures Singapore Matched Contracts**".

F.1.3 The two ICE Futures Singapore Matched Contracts arising in accordance with Rule F.1.2 shall be between the following parties:

(i) one Contract between the Clearing House and the following counterparty or counterparties acting as Buyer (the "**First Leg Contract**"):

(Own Business Platform Trades of the Member)

(A) if the Member is a Clearing Member and is clearing a Platform Trade for Own Business, the Member;

(B) if the Member is entering into a Platform Trade for Own Business and is not a Clearing Member (or, if it is a Clearing Member, and has, by act or omission, established settings in the ICE Clearing Systems such that it will not clear the relevant Platform Trade in either such capacity) the Clearing Member that has been selected by the Member as Clearing Member for the Platform Trade ("**Clearing Member A**"), provided that Clearing Member A is party to a Clearing Agreement with the Member (such Member, not being Clearing Member A, for the purposes of this Rule F.1 a "**non-clearing Member**");

(C) [Not used.]

(Client account Platform Trades of the Member)

(D) if the Member is a Clearing Member and is clearing a Platform Trade for the account of its client, the Member; and

(E) if the Member is not a Clearing Member and is entering into a Platform Trade for the account of a client, the Clearing Member that has been selected by the Member as Clearing Member for the Platform Trade ("**Clearing Member B**"), provided that Clearing Member B is party to a Clearing Agreement with the Member or its client (such Member or its client, not being Clearing Member B, for the purposes of this Rule F.1 a "**non-clearing counterparty**"); and

(F) [Not used.]

(G) [Not used.]

(ii) another Contract between the Clearing House and a counterparty or counterparties acting as Seller in the same way as set out in Rule F.1.3(i) above but with respect to the Counterparty (the "**Second Leg Contract**").

F.1.4 Upon two ICE Futures Singapore Matched Contracts arising in accordance with Rules F.1.3(i)(B), (D) and (E), up to two Corresponding Contracts shall also arise between the following parties:

(i) in the case of Rule F.1.3(i)(B), the non-clearing Member and Clearing Member A;

(ii) [Not used.];

(iii) in the case of Rule F.1.3(i)(D), the client and the Member; and/or

(iv) in the case of Rule F.1.3(i)(E), the non-clearing Counterparty and Clearing Member B,

(v) [Not used.]

(vi) [Not used.]

as applicable, in respect of the First Leg Contract and/or Second Leg Contract (with respect to the Counterparty). A party to a First Leg Contract may also be a party to a Second Leg Contract if it is the Clearing Member in respect of both legs and acts in a different capacity or for different clients in respect of the same Platform Trade. In such circumstances, any Corresponding Contracts arising in accordance with this Rule F.1.4 will arise separately with respect to the First Leg Contract and Second Leg Contract.

The terms of any such Corresponding Contracts shall be as set out in the Clearing House's Customer-CM Transactions Standard Terms, but on economic terms identical to the terms of the relevant ICE Futures Singapore Matched Contract, except that:

(A) if the party to the ICE Futures Singapore Matched Contract is the seller under the ICE Futures Singapore Matched Contract it shall be the buyer under the Corresponding Contract and *vice versa*;

(B) it is not a cleared Contract (with the result that certain terms applicable only to cleared Contracts will not apply pursuant to the Customer-CM Transactions Standard Terms); and

(C) it shall be subject to such amended or different terms and conditions as are or have been agreed between the parties, to the extent not inconsistent with the Customer-CM Transactions Standard Terms.

Block Trade and EFRP Contracts ("ICE Futures Singapore Block Contracts")

F.1.5 The following Rules apply to an ICE Futures Singapore Block Trade which is agreed between two different Members (for the purposes of this Rule F.1.5 the "**Non-Crossed Transaction**"). The relevant details may be reported to the Exchange by one Member ("**Block Member A**") who is party to the Non-Crossed Transaction, through ICE Block, pursuant to the Rules and in such a manner that may be prescribed by the Exchange from time to time. The other Member party to the Non-Crossed Transaction ("**Block Member B**") must confirm acceptance of the relevant details through ICE Block. Pursuant to the Clearing House Rules, two ICE Futures Singapore Block Contracts arise at the time of receipt by the Exchange in its system of such confirmation of acceptance, provided that complete and correct data in respect of the transaction has been received.

F.1.6 The two ICE Futures Singapore Block Contracts arising in accordance with Rule F.1.5 shall be established in the same way and between such parties as set out in Rule F.1.3(i) and (ii) above, but with respect to Block Member A and Block Member B.

F.1.7 Upon an ICE Futures Singapore Block Contract arising under Rule F.1.5 above, up to two Corresponding Contracts shall be established in the same way and between such parties as set out in Rule F.1.4 above, but with respect to Block Member A and Block Member B.

F.1.8 This Rule F.1.8, and Rules F.1.9 and F.1.10, apply to an ICE Futures Singapore Block Trade where both the buy and sell sides of the ICE Futures Singapore Block Trade are reported to the Exchange by the same Member (for the purposes of this Rule F.1.8, a "**Crossed Transaction**"). The relevant details may be reported to the Exchange by the Member ("**Block Member A**") through ICE Block pursuant to the Rules and in such a manner that may be prescribed by the Exchange from time to time. Pursuant to the Clearing House Rules, two ICE Futures Singapore Block Contracts arise at the time of receipt by the Exchange in the ICE Clearing Systems of correct and complete details relating to the Crossed Transaction.

F.1.9 The two ICE Futures Singapore Block Contracts arising in accordance with Rule F.1.8 shall be established in the same way and between such parties as set out in Rule F.1.3(i) and (ii) above but with respect to Block Member A.

F.1.10 Upon an ICE Futures Singapore Block Contract arising under Rule F.1.8 above, up to two Corresponding Contracts shall be established in the same way and between such parties as set out in Rule F.1.4 above, but with respect to Block Member A.

General Provisions

F.1.11 Subject to any Rules and procedures made pursuant to Rule F.6, an ICE Futures Singapore Matched Contract or ICE Futures Singapore Block Contract to which a Clearing Member becomes a party pursuant to Rule F.1 (and which has not been allocated by such Clearing Member to, and accepted by, another Clearing Member in accordance with Clearing House Rules) shall be recorded with the Clearing House in the name of such Clearing Member in accordance with and subject to the Clearing House Rules.

F.1.12 An ICE Futures Singapore Matched Contract or ICE Futures Singapore Block Contract may be allocated from one Clearing Member, being the person initially party to such contract pursuant to Rule F.1.3, F.1.5 or F.1.9 ("**Clearing Member A**") to another Clearing Member ("**Clearing Member B**") if both such Clearing Members record their agreement to such allocation in the ICE Clearing Systems on the same day that the relevant ICE Futures Singapore Matched Contract or ICE Futures Singapore Block Contract arose. Subsequent to such agreement having been recorded, the original ICE Futures Singapore Matched Contract or ICE Futures Singapore Block Contract between Clearing Member A and the Clearing House shall be terminated simultaneously with a replacement ICE Futures Singapore Matched Contract or ICE Futures Singapore Block Contract, on the same terms as the terminated Contract, arising between Clearing Member B and the Clearing House and being recorded with the Clearing House in the name of Clearing Member B, in accordance with and subject to the Clearing House Rules. Any related Corresponding Contract to which Clearing Member A was party shall also simultaneously terminate and be replaced by a Corresponding Contract to which Clearing Member B is party.

F.1.13 [Not used.]

F.1.14 If the Clearing House takes any action in relation to a Contract, without limitation including pursuant to Clearing House Rules 103 (Delay in performance by the Clearing House), 104 (Invoicing back and specification of terms), 107 (Conversion to other Eligible Currency), 109 (Alteration of Rules, Procedures, Guidance and Circulars), 110 (Extension or Waiver of Rules) or 112 (Force majeure and similar events), each affected Clearing Member may take equivalent action (or, if it cannot take equivalent action, it is not advisable to do so or equivalent action would not deal with the matter in hand, other appropriate action) against the relevant Member under the Corresponding Contract, including but not limited to terminating, and/or modifying the non-economic terms of, such Corresponding Contract and/or making adjustments to any determination of amounts paid or payable under the relevant Clearing Agreement.

F.1.15 Each Member agrees and acknowledges that any Clearing Member selected by it for any Matched Transaction, if applicable, does not guarantee the Clearing House's performance of any of the Clearing House's obligations under the Rules, any Contract or any Corresponding Contract. In the event that the Clearing House defaults in or defers or varies the payment or performance of any obligation otherwise owed by it in respect of a Contract corresponding to a Corresponding Contract, the Clearing Member will be entitled to make a corresponding deduction, withholding or other reduction from, or tolling or deferring of any payment or performance otherwise owed by it under such Corresponding Contract and/or to make its performance under such Corresponding Contract conditional on performance by the Clearing House under the related Contract. Where any such deduction or forbearance may be attributable to Corresponding Contracts between the relevant Clearing Member with more than one Member, the Clearing Member shall allocate such deduction among such Members on a *pro rata* basis. If such defaulted or delayed payment is subsequently obtained by the Clearing Member from the Clearing House (in whole or in part), the Clearing Member shall thereupon be liable to make the corresponding payment or performance (or portion thereof) to the Member pursuant to the Corresponding Contract.

F.1.16 Each Corresponding Contract will automatically terminate without any obligation or liability of any party to such Corresponding Contract in the event that the Contract to which it relates is void or voided, pursuant to the Clearing House Rules, at the same time as the relevant Contract terminates and without need for any further action on the part of any person.

F.1.17 A Clearing Member may be suspended, have its membership with the Clearing House terminated or be subject to Default Proceedings (within the meaning of Section D) by the Clearing House. Members that are not Clearing Members should be aware that such events may have effects upon Corresponding Contracts or agency relationships or their ability to enforce their rights under Corresponding Contracts or agency relationships. Members should refer to the Clearing House Rules for further details and to other references to "Customers" in the Clearing House Rules, in addition to the relevant risk disclosures made by the Clearing House and each Clearing Member.

F.1.18 Each Member is hereby deemed to acknowledge, represent and agree that:

(i) in entering into Contracts and Corresponding Contracts, Members will act as principal and not as agent, subject to the Clearing House Rules;

(ii) except as further detailed in the Clearing House Rules, the Clearing House has no obligation or liability to a Member that is not a Clearing Member, whether in tort, contract, restitution, in respect of any Contract, pursuant to the Rules or otherwise, (except any liability for fraud, death or personal injury or any other liability which under Applicable Laws may not be excluded); and

(iii) in accordance with the Clearing House Rules, the Clearing House has the right to suspend or terminate the clearing of transactions, either generally or in relation to a particular Clearing Member, without notice.

F.2 CONTRACTS IN THE MAKING OF WHICH A MEMBER IS SUBJECT TO THE RULES

F.2.1 A Member is subject to the Rules when entering into Contracts and contracts of the following kinds:

(a) a Corresponding Contract made with a client otherwise than on the Market in conformity to Rule C.6.2(a);

(b) a Corresponding Contract made with a client otherwise than on the Market, not conforming to Rule C.6.2(a) only because the relevant matching contract (within the meaning of that Rule save as to the time it is made) is made or procured by the Member after and not before the matching of the Contract;

(c) a Contract made on the Market which is allocated to and accepted by the Member;

(d) a Corresponding Contract arising between the Clearing Member and its client which is a Member, pursuant to a Clearing Agreement to which they are both a party; and

(e) any other Contract made or required or permitted to be made under the Rules including, without limitation, Section D.

F.2.2 [Not used.]

F.3 TRANSACTION RECORDS

(a) All Members shall keep proper and complete accounting and other records relating to all Contracts and Corresponding Contracts made on the Market or Contracts entered into otherwise in accordance with the Rules, whether for a Member's own or a client's account, and containing such details as the Exchange or the ARC Committee may from time to time prescribe. Separate accounts shall be kept in relation to each client and all orders and accounts shall be given a unique and clearly identifiable reference.

(b) All orders executed on the Market or otherwise in accordance with the Rules shall be promptly recorded in writing (or such other permanent form as may from time to time be permitted) by the Member in its own records and reported to the Exchange (or, if the

Exchange permits, to the Clearing House on behalf of the Exchange) in such manner and together with such particulars as the Exchange may from time to time require. The Exchange shall (and is hereby authorised to) present and confirm particulars of all Contracts to the Clearing House on behalf of Members by means of the ICE Clearing Systems.

(c) Members shall keep daily records of such open positions and shall comply with such reporting requirements as the Exchange or the ARC Committee may from time to time prescribe. The Exchange may request the Clearing House to disclose to the Exchange details of Contracts and open positions of Members.

(d) Such records shall be maintained for a reasonable period of time (which shall be not less than five years) and shall be open to inspection by the Exchange.

(e) The provisions of the Rules in F.3 shall be without prejudice to the provisions of the Electronic User Agreement regarding record keeping which shall supplement the Rules in F.3.

(f) [Not used.]

F.4 DEPOSITS AND MARGINS

Members shall charge (by cash or such other collateral as may from time to time be approved by the Exchange) to clients who are not Members in respect of each Corresponding Contract:

(a) at least such initial margin, if any, as shall for the time being be prescribed by the Exchange in respect of Products of that kind; and

(b) such variation margin, if any, as the Exchange shall for the time being determine in respect of Products of that kind;

subject always to such conditions and exceptions as may be specified by the Exchange or by the ARC Committee.

F.5 [NOT USED.]

F.5A EFRPs

F.5A.1 These Rules shall apply to all EFRPs (including, for the avoidance of doubt, EFRPs entered on ICE Block by an ICE Block Member).

(a) EFRPs are available in respect of those Products and Contract Months as determined by the Exchange from time to time. Such transactions in such Products are not subject to the Trading Procedures unless specifically referred to.

(b) Details of the EFRP must be reported to the Exchange in accordance with Trading Procedure 16B or by any other means determined by the Exchange from time to time. The transaction details specified in Trading Procedure 16B shall be displayed on the ICE Platform and made available during the Trading Day.

(c) In respect of EFRPs, upon demand by the Exchange, EFRP executing Members must provide satisfactory evidence that the EFRP has been executed in accordance with these Rules and the Trading Procedures.

(d) EFRPs shall only be registered within price parameters as defined by the Exchange from time to time.

(e) A decision by the Exchange not to record or accept an EFRP or not to present any EFRP to the Clearing House is final.

(f) All Members and Persons Subject to the Rules must ensure that, on bringing the transactions on-Exchange, they comply with all applicable Rules.

F.6 TRANSFER OF CONTRACTS

The Exchange may from time to time make, add to or amend Rules and procedures providing for the transfer of Contracts between the Exchange and/or the Clearing House and another exchange or its clearing house.

F.7 BLOCK TRADES

F.7.1 (a) Block Trades may take place in respect of Products designated by the Exchange from time to time as Products that may be traded as Block Trades pursuant to the Rules.

(b) Block Trades may be organised only during such ICE Platform Trading Hours of the Block Trade Contract concerned and on such Trading Days as the Exchange may from time to time prescribe.

(c) Any Member is permitted to arrange Block Trades subject only:

(i) to the Member's Representative arranging the Block Trade on behalf of the Member, having such individual registration with the Exchange or otherwise as is required by Applicable Laws;

(ii) in the case of a Trade Participant, to the Block Trade being in respect of business for his Own Business and the counterparty with whom he arranges the Block Trade being another Member;

(iii) to Members having completed such form of registration or enrolment as may be prescribed by the Exchange from time to time;

(iv) to ICE Block Members having being approved by the Exchange and completed such form of registration or enrolment as may be prescribed by the Exchange from time to time;

(d) Where a General Participant enters into a Block Trade with or on behalf of a client who is not a Member of the Exchange, it must comply with all Applicable Laws, including in relation to suitability and appropriateness.

(e) [Not used.]

(f) A Member must not disclose the identity of the party to a Block Trade order to potential counterparties unless the Member has previously received that party's permission to do so. Members may disclose the terms of Block Trade orders in furtherance of bilateral negotiations, which may include indicating that the negotiations have ended.

(g) Members are not permitted to facilitate the execution of Block Trades on a system or facility which is accessible to multiple participants that allows for the electronic matching or the electronic acceptance of anonymous bids and offers.

Minimum Volume Thresholds

F.7.2 (a) The Minimum Volume Thresholds in respect of each Block Trade Contract that can be traded as a Block Trade shall be determined by the Exchange and published from time to time. A Contract may be subject to one Minimum Volume Threshold for Block Trades which are to be published and separate Minimum Volume Thresholds for Block Trades which are not to be published or for which publication is to be deferred.

(b) Members are, subject to Rule F.7.1 above, permitted to enter into Block Trades which involve the trading of two or more different Products or Block Trades that involve the trading of two or more different Contract Months of the same Product.

(c) An order for a Block Trade for two or more Contract Months of the same Product may be matched with Block Trade orders for individual Contract Months provided that each such order meets or exceeds the Minimum Volume Threshold for that Product or combination.

(d) Applicable requirements relating to Block Trades, and the Minimum Volume Thresholds that apply, shall be determined by the Exchange and published from time to time. A breach of any guidance, policy or procedures published under this Rule F.7.2 relating to Block Trades by a Member or Person Subject to the Rules may constitute a breach of the Rules by such Member or person.

Aggregation of Lots

F.7.3 In respect of Products designated by the Exchange as Block Trade Contracts, Members must not aggregate separate orders in order to meet the Minimum Volume Thresholds.

Members may aggregate separate orders provided each such separate order meets or exceeds the Minimum Volume Threshold for the relevant Product or are received from the same client. Members may also aggregate orders for funds which are operated by the same fund manager and traded by the same fund manager, pursuant to the same strategy.

Likewise Members may not combine separate orders in respect of different Products to generate an inter-contract spread trade, unless each such separate order is for the same client or meets or exceeds the Minimum Volume Threshold for the relevant Product.

F.7.4 When arranging a Block Trade and, in particular, when aggregating orders on the matching side to facilitate arrangement of a Block Trade in accordance with the Rules, (and in particular with Rule F.7.3) Members must ensure that they act with due skill, care and diligence; and the interests of the client(s) are not prejudiced.

Price

F.7.5 Members shall ensure, when arranging or organising Block Trades, that the price of any Block Trade being quoted represents the Fair Market Value for that trade. On each occasion of quoting a Block Trade price, the Member must, at the time, make it clear to the potential counterparty(ies), whether a Member or a client who is not a Member of the Exchange, that the price being quoted is a Block Trade price and not the prevailing market price.

When determining a Block Trade price, a Member should, in particular, take into account the prevailing price and volume currently available in the Market, the liquidity of the Market and general market conditions, but shall not be obliged to obtain prices from other Members, unless this would be appropriate in the circumstances.

Prices of Block Trades will not be included in the determination or calculation of any Exchange index or settlement price.

Submission of Details of Block Trades

F.7.6 Once a Block Trade has been organised the Members must submit the Block Trade details to the Exchange in accordance with Trading Procedure 17.

F.7.7 A decision by the Exchange not to record or accept a Block Trade or not to present details of the Block Trade to the Clearing House is final.

F.8 POSITION TRANSFERS

F.8.1 (a) Once a Contract arises under the Clearing House Rules, that Contract may not be transferred to another Member's name without the agreement of the Clearing House and unless in accordance with this Rule F.8. Members may transfer positions in accordance with relevant Clearing House processes and the Clearing House Rules in the following instances:

(i) transfers of open Contracts from one Member to another Member made at the request of a client where no change in the underlying position at the client level is involved; or

(ii) transfers of open Contracts from one account to another account on the books of the same Member made at the request of a client where no change in the underlying position at the client level is involved.

(b) Position transfers input in accordance with Rule F.8.1(a)(i)-(ii) above may be submitted on any Trading Day for the Contract Month up until the close of the ICE Clearing Systems or expiry of the relevant Contract Month on the last Trading Day of such Contract Month, subject to guidance from the Exchange.

Position transfers where Rule F.8.1(g)(i)-(iv) below applies may be submitted on any Trading Day for the Contract Month up to five Trading Days before the expiry of the relevant Contract Month, subject to guidance from the Exchange. Requests for such transfers must be provided at least one Trading Day prior to the transfer date.

(c) Position transfers which have the effect of off-setting (closing-out) existing open positions are not permitted in the spot month of a Contract.

(d) Position transfers in Futures may be effected at:

(i) the prior day's settlement price; or

(ii) at the original market price,

subject to such approvals from the Clearing House as may be required.

(e) [Not used.]

(f) For all such position transfers, the Member receiving the positions must record the transferred Contracts on its books at either the original dates or the transfer date, in accordance with the price at which the positions were transferred.

(g) Position transfers shall not be permitted if there is any change in the beneficial ownership of the Contracts involved except for the following, at the discretion of the Exchange and on submission of such details as requested by the Exchange:

(i) position transfers made for the purpose of combining the positions held by two or more funds which are operated by the same fund manager and traded by the same fund manager, pursuant to the same strategy, into a single account so long as the transfers do not result in the liquidation of any open positions, and the pro rata allocation of interests in the consolidating account does not result in a significant change in the value of the interest of any fund participant;

(ii) such other position transfer as the Exchange, in its discretion, shall exempt in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-recurring corporate transaction between two or more entities where one or several entities become the successor in interest of one or several other entities;

(iii) with the consent of the Member(s) and the approval of the Exchange, the transfer of existing positions between accounts or between Members when the situation so requires and such transfer is in the best interests of the Exchange or the Market; and

(iv) for purposes of this Rule, a change in beneficial ownership shall not be deemed to have occurred with respect to:

(a) position transfers between firms which are 100% owned by the same person; and

(b) position transfers between any person and any entity owned 100% by such person.

(h) The Exchange may review position transfers at any time. When reviewing position transfers, the Exchange may seek further explanations or supporting documentation from Members in

order to confirm its understanding of the nature of the transaction. Processing of a position transfer will not preclude the Exchange from instigating disciplinary proceedings in the event that it transpires that the position transfer may have been in contravention of applicable Exchange Rules.

(i) If a Member who is a Clearing Member is in default with regard to the Clearing House, the Clearing House shall have discretion to transfer any or all of the rights, liabilities and obligations of the Defaulter (as defined in Section D) in respect of any Contract to another Clearing Member without reference to the Exchange.

F.9 TRANSACTION REPORTING

F.9.1 Each Member acknowledges and agrees that the Exchange shall be authorised to submit the terms of a Contract (and any related Corresponding Contract) to any Repository as a delegate for the Clearing House, Clearing Member and any relevant client, as applicable, save where the relevant Clearing Member notifies the Clearing House or the Exchange in writing that it does not require the Exchange to act as such (whether generally or in respect of particular clients or kinds of Contract).

SECTION G - TRADING

G.1 GENERALLY

Contracts shall be executed on the Market in accordance with this Section G and such procedures as are for the time being prescribed under Rule G.2.

The Exchange shall from time to time determine those Products that shall be traded.

G.2 EXCHANGE POLICIES AND PROCEDURES

(a) The Exchange may from time to time by Circular or other written notice to Members and Persons Subject to the Rules prescribe procedures governing trading on the ICE Platform and the registration of EFRPs, Block Trades and Cross Trades on the Market and other aspects of business conducted on the Market.

(b) A breach of any policy, guidance document or any procedures prescribed under this Rule G.2 by a Person Subject to the Rules will constitute a breach of the Rules by such person.

G.2A [Not used.]

G.2B [Not used.]

G.2C [Not used.]

G.2D [Not used.]

G.2E [Not used.]

G.2F CONTRACTS TRADED BY MEMBERS ON THE ICE PLATFORM

An order executed or matched on the ICE Platform by, for or following any submission by or on behalf of a Member shall give rise to Contract(s) in accordance with Rule F.1 and Clearing House Rules.

G.3 VALIDITY OF CONTRACTS

(a) To be a valid Contract made on the Market, the Contract must give rise to a Contract under Clearing House Rules that is not void or voided and must be:

(i) executed on the ICE Platform only by a registered Responsible Individual using his appropriate ITM; and

(ii) executed in accordance with either Rule G.5 or G.6.A; or

(iii) expressly authorised by the Exchange in its absolute discretion, pursuant to Trading Procedure 8.5; or

(iv) expressly authorised by the Exchange in its absolute discretion.

(b) Once a bid or offer made on the Market has been accepted in whole or in part, there is no right of withdrawal by the Exchange or a Member, subject to each of: (i) Rule G.15; (ii) any power exercisable by the Exchange pursuant to Section D; (iii) any power exercisable by the Clearing House treating a Contract as void or voided; and (iv) the default rules set out in the Clearing House Rules.

(c) Acceptance of a bid or offer gives rise to a Contract between the two parties in accordance with the Clearing House Rules and as further described in Rule F.1, subject to each of: (i) Rule G.15; (ii) any power exercisable by the Exchange; and (iii) the Clearing House treating a Contract as void.

G.4 PRIOR ARRANGEMENT PROHIBITED

It shall be an offence for a Member or Member's Representatives to prearrange a Contract made or intended to be made on the Market, except a Contract made or to be made under Rule F.5.A or

Rule F.7. It shall also be an offence for a Member or Member Representative to engage in pre-execution communications, except in accordance with the following procedures:

(a) for the purposes of this Rule, pre-execution communications shall mean communications for the purpose of discerning interest in the execution of a transaction in a Product prior to the terms of an order being submitted to the ICE Platform;

(b) a Member or Member Representative may engage in pre-execution communications subject to it complying with the following conditions:

(i) if a customer order is involved, the customer has previously consented to such communications being made on its behalf;

(ii) the details of such communications shall not be disclosed to any person who is not a party to the communications;

(iii) no order shall be entered, and no trade shall be executed, to take advantage of information conveyed during such communications, except in accordance with this Rule; and

(iv) each order that results from pre-execution communications shall be executed in accordance with Rule G.6A.

TRADING PRACTICES

G.5 ORDERS GIVEN ON A NOT HELD BASIS

A Member given an order to work on a not held basis has discretion to work the order in the best interests of the client. The exact terms of this discretion are not prescribed by the Exchange but will be agreed between each Member and its individual clients.

A Member may only work an order on a not held basis when it has specific instructions to do so. Any arrangements to work all of a particular client's orders on a not held basis should be supported by prior agreement. However, irrespective of whether an order is being worked on a not held basis, Members are required to immediately execute the order on the ICE Platform should the order become capable of execution. It shall be an offence to withhold an order which is capable of immediate and full execution for the purpose of soliciting matching business.

G.6 [NOT USED.]

G.6A MATCHING ORDERS

G.6A.1 Without prejudice to the obligations of a Member under Applicable Law, including, without limitation, Regulation 47D of the SF(LCB)R, a Cross Trade is defined either as a single Responsible Individual simultaneously executing matching buy and sell orders for different beneficial account owners, or by separate Responsible Individuals registered with the same Member trading together for different beneficial account owners.

G.6A.2 Pursuant to Rule G.4, any matching orders arising from pre-execution communications or pre-arrangement must be entered to the ICE Platform either:

(a) by submission to the ICE Platform as a Cross Trade in accordance with this Rule G.6A; or

(b) by submission as a Block Trade or EFRP where the transaction has been made in accordance with applicable Rules and procedures.

G.6A.2A Matching orders may be submitted to the ICE Platform as Cross Trades through the following methods:

(a) the Order Book Method – a method by which matching business is entered into the order book as two separate orders; and

(b) the Crossing Order Method – a method by which matching business is entered into the order book as a single order containing a matching bid and offer.

The Exchange shall designate which methods may be used for each Product or group of Products by Circular.

G.6A.3 Subject to the provisions of this Rule G.6A, once a Member or a Member's Representative has procured matching business through pre-execution communications, the process for the submission of matching orders must be initiated without delay, using the designated method for the Product concerned.

G.6A.4 In relation to matching orders which are submitted to the ICE Platform using the Order Book Method, where no bid and/or offer exists in the Market for the relevant Product, and where Members have matching orders, one side of the order shall be submitted to the ICE Platform without delay (the "**first submission**") and the matching order may only be submitted to the ICE Platform when a period of at least five seconds has elapsed since the first submission. If the matching order is to be submitted, the applicable buy or sell order must be submitted as soon as practicable and in any event no later than thirty seconds after the first order was submitted. Where a Member wishes to match a client order with an order where that Member is acting in a proprietary capacity, it shall enter the client order first and also comply with the requirements under Applicable Law in trading against its client. Where matching orders are both client orders, the Member shall determine which client order to enter first in accordance with Applicable Laws. Such orders may be filled by existing orders.

G.6A.5 A bid and/or offer must not be submitted to the ICE Platform deliberately to circumvent the procedures set out in Rule G.6A.4.

G.6A.6 [Not used.]

G.6A.7 [Not used.]

G.6A.8 [Not used.]

G6A.9 Where matching orders are to be submitted to the ICE Platform using the Order Book Method, the price of the trade must be representative and must be:

(a) (i) within the prevailing best bid and offer price on the ICE Platform; or

(ii) at the best bid or offer where the differential between such best bid and offer is the minimum price movement for the Product concerned (such trade must also meet any applicable minimum volume thresholds which the Exchange may set by Circular from time to time); or

(b) where a bid but no offer, or an offer but no bid, exists on the ICE Platform, better than such bid or offer as the case may be; and

(c) in any event, at a price which represents a fair value for the trade.

G.6A.9A In relation to matching orders which are submitted to the ICE Platform using the Crossing Order Method, such orders must be submitted without delay once the terms of the Crossing Order have been agreed. Crossing Orders must contain the quantity and price at which execution is sought and the submitting Member or Member's Representative must not enter an RFQ until the Crossing Order has been activated. Upon receipt by the ICE Platform, the Crossing Order will be time-stamped and will automatically initiate an RFQ, which will be exposed to the market for a prescribed time period before the ICE Platform central processing system seeks to execute the Crossing Order. The prescribed time period shall be five seconds, or such other period as the Exchange may specify by Circular. Immediately following such period, the Crossing Order will be activated, at which point it will be evaluated against other orders in the order book. Matching of orders shall occur through application of the trade matching algorithm for the Product concerned, subject to the over-riding condition that the price of a resultant trade must represent a fair value for such trade.

G.6A.10 A Member or a Responsible Individual may deliberately seek to effect a trade involving two wholly or partially matching orders provided the requirements in these Rules are met.

G.6A.11 Members and Responsible Individuals must ensure that, when executing client business by way of a Cross Trade, they comply fully with relevant Exchange Rules and Applicable Laws, and, in particular:

(i) they act with due skill, care and diligence and in compliance with any applicable best execution requirements, applicable client order handling rules and the Member's allocation policy;

(ii) the interests of the client or clients, as the case may be, are not prejudiced;

(iii) they are in compliance with the terms and conditions applicable between the relevant Member and client; and

(iv) they are in compliance with Rule C.6.

G.6A.12 The Exchange shall monitor trades made by the Member resulting from the simultaneous entry of bid and offer orders which are not filled by existing orders.

G.7 PRIORITY OF ORDERS

(a) A Member undertaking Own Business or business on account of any of its Member's Representatives or other persons associated or connected to such persons, as well as on account of other clients, shall always give priority to the orders of such other clients. However, this Rule does not require Members with house or other proprietary orders already entered in the ICE Platform when a client order is received at the same price, to give precedence to that client order.

(b) The orders of clients must be dealt with fairly and, subject to paragraph (a) above, in their due turn.

G.8 DISCLOSURE, WITHDRAWAL AND WITHHOLDING OF ORDERS

G.8.1 A Person Subject to the Rules must neither withdraw nor withhold a client's order in whole or in part for his own benefit or the benefit of any other person. Nor shall a Person Subject to the Rules procure another Person Subject to the Rules to act in contravention of this Rule G.8.1.

G.8.2 All client orders must be shown in whole or in part to the Market immediately upon receipt subject to Rule G.8.5 below.

G.8.3 A Member or Person Subject to the Rules must not disclose any order to another client or to any other person, unless so requested by the Exchange or other Regulatory Authority or organisation, without first showing the order to the Market in accordance with Rule G.8.2 above.

G.8.4 [Not used.]

G.8.5 In the case of orders to be shown on the ICE Platform:

(a) All orders must be entered into the ICE Platform in full (but not necessarily shown in full) upon receipt by the Member and designated as active unless:

(i) the order gives the Member discretion as to the time when the order is to be displayed on the ICE Platform, in which case such order must be entered immediately into the ICE Platform in full but can be designated as inactive until the Member exercises its discretion as to when the order must immediately be shown on the ICE Platform by being designated active;

(ii) the Member has discretion to vary the price of the order, in which case such order must be entered immediately in full and designated active for the base price. When the Member exercises its discretion in relation to the change, the order must be amended immediately;

(iii) the order is subject to a condition which requires the Member to withhold the order in line with the client's requirements, in which case the order must be entered

immediately in full but can be designated inactive until the condition is met when it must immediately be shown on the ICE Platform by being made active;

(iv) the client has given the Member instructions to work an order on a not held basis.

(b) Any order designated active in the ICE Platform must be entered to show at least the minimum quantity as determined by the Exchange from time to time.

(c) A Member may only disclose any order to other clients once all or part of the order has been displayed on the ICE Platform in accordance with Rule G.8.2 unless the order is being worked on a not held basis.

G.9 ABUSE OF ORDERS

(a) A Member must not take advantage of a client's order for its own benefit, the benefit of another Member or the benefit of any Member's Representative, whether by trading ahead of the client's order or otherwise.

(b) A Member shall not be taken as having taken advantage of a client's order merely because it executes a Cross Trade in accordance with the provisions of this Section G.

TRADERS

G.10 QUALIFICATION TO TRADE ON THE MARKET

(a) A person wishing to register as a Responsible Individual with the Exchange for the purpose of conducting Exchange business on the ICE Platform must be a person employed by or representing a Member who has permission to access the ICE Platform pursuant to Rule B.6.

(b) Before the Exchange will register a person as a Responsible Individual, a person intending to be a Responsible Individual must attend and complete such training course in the use of the ICE Platform, and pass such written or practical examination or assessment as is for the time being prescribed under this Rule by the Exchange.

(c) A Member must first register a person with the MAS as an appointed representative (or otherwise comply with Section 99B of the SFA) or with such other individual registration as is required by Applicable Laws if that person is to arrange Block Trades or EFRPs, as applicable.

G.11 LIMITATION ON MEMBERS' TRADING STAFF

(a) A General Participant or Trade Participant may register any number of Responsible Individuals for the purpose of trading on the ICE Platform without limitation on the number of Responsible Individuals who may have access to the ICE Platform at any one time, subject to the requirements of Rule B.11 and the Rules generally.

G.12 [NOT USED.]

G.13 PRICE LIMITS

G.13.1 [Not used.]

G.13.2 For a Product trading on the ICE Platform:

(a) The Exchange may implement procedures to establish the maximum price fluctuations on the Market in respect of each Product, and to provide for any consequential restriction or suspension of business.

(b) The absence of such procedures shall not prevent the exercise of any other power under the Rules to curtail or suspend trading on the Market.

G.14 EMERGENCY CLOSURES

(a) Trading on the Market may be temporarily suspended by the Exchange in the event of a fire alert, bomb scare or other alarm or in such other event, which in the opinion of the Exchange makes suspension of trading necessary in the interests of the Exchange, or its Members, or is needed in order to maintain a fair and orderly market. Trading will be resumed as soon as reasonably practicable following any such interruption.

(b) The Exchange may declare that trading on the ICE Platform has been suspended and will remain so until all the consequences of such an event have been remedied to their satisfaction. If, as a result of action under (a) above, trading in respect of any Product may not be resumed before the end of the trading session, or at a time which, in the opinion of the Exchange, would leave sufficient time before the end of the trading session as would allow the determination of a representative settlement price, the Exchange will either:

(i) declare the trading session suspended and determine the settlement prices; or

(ii) declare that trading continue pursuant to alternative trading arrangements, as appropriate. Notification of alternative trading arrangements will be made by way of Circular, notice or such other means of communication as the Exchange sees fit.

G.15 TRADING DISPUTES

If the price of a Matched Transaction or Contract (for the purposes of this Rule G.15, the "trade") made, or alleged to be made, on the ICE Platform is the subject of a dispute on the day of trade, then the market participant (who need not be a Member or party to such trade) who disputes the price of such trade shall notify the Exchange within such period of time as the Exchange may specify.

Once notified, the Exchange may, in its absolute discretion, apply or vary procedures pursuant to Trading Procedure 11 to determine whether the price of such trade is unrepresentative.

The Exchange may investigate any trade which has been cancelled or where the price of such trade is adjusted due to the determination of the Exchange that it was executed at an unrepresentative price.

If a trade made, or alleged to be made on the ICE Platform, is disputed on the day of trade on the basis that it may have been made in breach of the Rules, then the market participant (who need not be a Member or party to such trade) who disputes the validity of the trade, shall notify the Exchange within such period of time as the Exchange may specify.

Once notified, the Exchange may, in its absolute discretion, make such enquiries in accordance with Rule C.12 to determine the validity of the trade.

G.16 ORDER RECEIPT AND ORDER ENTRY RECORDS

(a) Where client orders are not submitted to the ICE Platform immediately, at any Member location, into an order routing system or Front End Application, all such orders must be recorded immediately when they reach the Member either on an order slip and, time-stamped on a time-stamping machine unique to each Member, or entered into an electronic order system which must record the time of such entry.

(b) Additionally in the case of an order for a Block Trade or EFRP and Contingent Agreements to Trade, the time that the verbal agreement of the terms of the relevant transaction is reached and the person reaching such agreement on behalf of the Member must also be recorded in such a manner immediately upon such agreement.

All Members are required to have a time-stamping machine or electronic order recorder, or have access to an order routing system or a Front End Application at all locations where orders are received.

(c) If an order is to be transmitted to another location or locations before being shown to the Market, a further order slip must be completed and time-stamped or a further electronic record made for each location.

(d) In the case where orders are submitted through an order routing system or a Front End Application, Members must ensure that there is an adequate audit trail of submission of orders to the Trading Server and that their systems arrangements meet the Exchange requirements for orders and that their Front End Applications meet the Exchange's Front End Application Conformance Criteria.

(e) Members must ensure that all trade and transaction records include such information required by the Exchange which, at a minimum, must include all information under Trading Procedure 3.1.2 and be in accordance with Rule F.3.

(f) The Exchange may from time to time prescribe additional information that may be required to be recorded on order and trade records. Members must ensure that all such required information is recorded and provided in accordance with the relevant provisions in the Rules.

G.17 OPEN INTEREST

G.17.1 A Member's open interest in any Exchange Future, is the number of lots, long or short, which the Member holds either for its Own Business or on behalf of clients which will either be:

(a) offset by trading out in the Market; or

(b) [Not used.]

(c) [Not used.]

(d) taken to delivery or cash settlement.

G.17.2 The open interest figures published daily by the Exchange are calculated on the basis of the number of Contracts held by Members which remain open.

G.17.3 Members' positions are maintained in sub-accounts as set out in the Clearing House Rules.

G.17.4 (a) Open interest at the close of business on a Trading Day for each sub-account will be calculated using the method set out above after a cut-off time on the subsequent Trading Day, and will include any settlements and position adjustments carried out before the cut-off time. The cut-off time will be notified by the Exchange to Members from time to time.

(b) In respect of certain Products notified to Members by the Exchange from time to time the Exchange will calculate an indicative 'open interest' figure on the last Trading Day of each Contract Month in respect of the expiring Contract Month. Such indicative open interest figure will be calculated on the basis of the number of contracts held by Members at the close of business on the last Trading Day in such Contract Month.

(c) In respect of such Products notified to Members under Rule G.17.4(b) Members will be permitted to perform settlements and position adjustments in respect of positions in the expiring Contract Month after the cessation of trading in such Contract Month up to the last Trading Day cut-off time, which will be as notified by the Exchange to Members from time to time. Members must ensure that positions in the expiring Contract Month which should not be maintained gross in accordance with Rule G.17.5 are settled on the last Trading Day of the expiring Contract Month prior to the last Trading Day cut-off time.

G.17.5 In cases where clients, including certain in-house departments, hold both long and short positions, Members will need to determine, in accordance with Applicable Law or otherwise, whether these should be maintained gross or whether, or to what extent, they should be netted or otherwise closed out.

G.17.6 Once positions have been netted or otherwise closed out, they may not subsequently be re-opened by Members themselves other than by trading in the Market, except that Members wishing to re-open positions in order to effect deliveries on behalf of clients or otherwise may apply to the Exchange for permission to do so.

G.18 [NOT USED.]

G.19 [NOT USED.]

G.20 DISORDERLY TRADING

It shall be an offence for a Responsible Individual or Member to engage in disorderly trading whether by high or low ticking, aggressive bidding or offering, or otherwise.

G.21 ICE FUTURES SINGAPORE MARKERS ("MARKERS")

The Exchange shall determine from time to time those Products and Contract Months which may be published as non-tradable Markers.

SECTION H - ARBITRATION

H.1 ARBITRATION OF DISPUTES BETWEEN MEMBERS OR BETWEEN A MEMBER AND THE CLEARING HOUSE

H.1.1 SCOPE

A dispute arising out of or in relation to any Contract between two or more Members or between a Member and the Clearing House, including any question regarding the existence, validity or termination of such Contract and any other dispute set out in these Rules or the ICE Futures Singapore Contract Terms and Procedures referenced as being subject to resolution in accordance with this Section H (a "**Dispute**") shall be referred for final and binding resolution by arbitration in Singapore in accordance with the following provisions of this Rule H.1.

This Rule H.1:

(a) shall not apply to any Dispute between: (i) a Member and any of its clients; and (ii) a Clearing Member and any of its clients;

(b) shall not apply to any Dispute which is required to be settled by a Delivery Panel in accordance with Rule I.20;

(c) shall not apply to any Dispute of a Member or other third party against the Exchange; which Dispute shall be settled in accordance with Rule C.9.4 and the Complaint Resolution Procedures, provided such Dispute constitutes an 'eligible complaint' as defined therein;

(d) shall not apply to any Dispute between one or more Members and the Exchange that is not settled in accordance with Rule C.9.4 and the Complaint Resolution Procedures, or which otherwise is or is required to be settled in accordance with Rule H.2; and

(e) is not intended to extend to Disputes which, under these Rules or the ICE Futures Contract Terms and Procedures, are expressly required to be resolved under the rules of another body or are required to be so handled under Applicable Laws.

H.1.2 ROLE OF THE CLEARING HOUSE

(a) In the event that the Clearing House is a party to one or more Disputes under this Rule H.1, each of which arises under one or more Contracts, the Clearing House may: (i) in the case of a Dispute as to whether a Contract is valid or void (or other similar Disputes), match the relevant Contract with the corresponding Contract which arose (or was purported to arise) from the same Matched Transaction; or (ii) in the case of a Dispute relating to a delivery, where a Buyer under a Contract has been matched by the Clearing House with a Seller under another Contract for the purposes of making delivery between them in satisfaction of delivery obligations to or of the Clearing House, match such underlying Contracts. In respect of a Dispute which reference to arbitration has been made under this Rule H.1 where the Clearing House has matched a pair of Contracts in accordance with this Rule H.1.2, a party to such Dispute may:

(i) in the case of a Dispute between the Clearing House and a Buyer, request the joinder of the Seller under the matched Contract;

(ii) in the case of a Dispute between the Clearing House and a Seller, request the joinder of the Buyer under the matched Contract or;

(iii) in the case that the Clearing House is a party to two or more such Disputes, to which a Buyer and a Seller are parties, request the consolidation of such Disputes before the Arbitration Panel first constituted.

Such request for joinder under paragraph (i) or (ii) shall be decided by the Arbitration Panel constituted to decide the Dispute for which the request for joinder is made, having regard to all the circumstances of the case.

Such request for consolidation under paragraph (iii) shall be decided by the Exchange, in the event that an Arbitration Panel has not yet been constituted, or where one or more Arbitration

Panels have already been constituted, by the Arbitration Panel appointed in the arbitration first commenced, having regard to all the circumstances of the case.

(b) In any Dispute under this Rule H.1 to which the Clearing House, a Buyer and a Seller are parties (whether by operation of paragraph (a) or otherwise) and which arises under one or more Contracts which have been matched by the Clearing House in accordance with Rule H.1.2(a) and in respect of which reference to arbitration has been made under this Rule H.1, the Clearing House may elect to call upon a Seller and a Buyer to conduct such Dispute between them in accordance with the following provisions:

(i) the Clearing House shall give notice in writing of such election to the Buyer, the Seller and the Exchange;

(ii) the Seller and the Buyer shall, at their own expense, each argue the Clearing House's case against the other, subject to the provisions of this Rule;

(iii) copies of all pleadings, correspondence and documents shall be given to the Clearing House and the Clearing House shall be entitled to submit any additional arguments to the Arbitration Panel (as defined in Rule H.1.3) in support of its own case, in which case it shall supply copies of such submissions to the Seller and the Buyer;

(iv) the Arbitration Panel shall have the power to call upon the Clearing House to disclose documents which are in its custody, power or possession relating to the arbitration to the same extent as the other parties to the arbitration; and

(v) the Arbitration Panel shall in its award determine the rights of each of the Seller, the Buyer and the Clearing House in respect of the relevant transactions. If the Clearing House is found liable to one party in respect of a breach of a Contract and the other party is also found liable to the Clearing House in respect of the same breach of a Contract which has been matched by the Clearing House as mentioned in paragraph (a) above, then the liability of the Clearing House shall be deemed to be a foreseeable consequence of that breach and the Clearing House shall be entitled to be indemnified by the other party in respect of such liability.

(c) The Clearing House shall be bound by an arbitration award made against it in pursuance of an arbitration conducted pursuant to this Rule H.1, whether it participates in the arbitration or not.

H.1.3 **APPOINTMENT AND CONSTITUTION OF ARBITRATION PANEL**

(a) Any party to a Dispute may refer such Dispute to arbitration after giving four clear Trading Days' notice in writing of his intention to do so to the other party or parties and to the Exchange. Where the parties are situated in different countries such notices shall be given by cable, telex or facsimile transmission or otherwise by the most expeditious means of written communication available.

(i) Upon a reference to arbitration under this Rule, the Exchange shall appoint an arbitration panel consisting of representatives of three Members and designate one such representative as the chairman (the "**Arbitration Panel**"), within seven clear Trading Days of the reference to arbitration.

(ii) Not more than one member on the Arbitration Panel shall be a Director. No member of the Arbitration Panel shall act in any arbitration in which he, or a Member which he represents, is or becomes directly or indirectly interested in the subject matter in dispute.

(b) The Arbitration Panel shall have authority to determine the Dispute in accordance with this Rule H.1 notwithstanding any failure or refusal of the other party to concur in the reference unless the Exchange determines that another arbitration tribunal has jurisdiction over the Dispute and that the Dispute shall be referred to that tribunal.

(c) In the event of a member of the Arbitration Panel being or becoming so interested, dying or in any other way being or becoming, in the opinion of the Exchange, unable to act, the Exchange may revoke the appointment of such member and appoint as soon as practicable another person of the same class (i.e. a person who is or is not one of the Directors, as the case may be) to take his place and the arbitration shall thereupon proceed as if such other person had been originally appointed in lieu of the first-mentioned person.

(d) In the event of disagreement between the members of the Arbitration Panel, the decision of the majority shall prevail and in the event of an equality of votes the chairman shall have a second or casting vote.

(e) The award shall state the reasons of the Arbitration Panel and a note thereof shall be entered by the Exchange in a book to be kept for that purpose.

(f) The award of the Arbitration Panel shall be signed by its chairman, and when so signed shall be final and binding in all cases. Judgment upon the award may be entered or the award enforced through any other procedure in any court of competent jurisdiction.

H.1.4 **ARBITRATION PROCEDURE**

(a) The party (or parties) referring any Dispute to arbitration under this Rule H.1 (including any Seller or Buyer required to participate in such arbitration pursuant to Rule H.1.2, as appropriate, the "**Claimant**") shall communicate its statement of claim in writing to the other party or parties to the Dispute (the "**Respondent**"), together with a copy of the Contract and the evidence on which he intends to rely, and provide a copy of the same to the Exchange and Arbitration Panel within 14 clear Trading Days of the reference to arbitration (or the election referred to in Rule H.1.2(b)(i), where applicable).

(b) The Respondent shall, not later than 22 clear Trading Days after the receipt of the Claimant's statement of case and copy Contract and said evidence, if any, communicate its statement of defence in writing to the Claimant, together with a copy of such other evidence on which he intends to rely, and provide a copy of the same to the Exchange and Arbitration Panel.

(c) The Claimant may, not later than 15 clear Trading Days after the receipt of the Respondent's statement of defence and said evidence, if any, communicate its statement of reply together with any further evidence on which he intends to rely to the Respondent and provide a copy of the same to the Exchange and Arbitration Panel.

(d) No further document stating the claim of one party against the other or the answer to any claim shall be admitted in the arbitration without the express prior consent of the Arbitration Panel, which may determine any application for such consent in its absolute discretion.

(e) Notwithstanding the foregoing, the Arbitration Panel shall be entitled to require either party to the Dispute to provide such documents or information in written form as the Arbitration Panel may in its absolute discretion consider necessary to enable it to determine the Dispute. Subject to compliance with any such requirement the Arbitration Panel shall determine the Dispute and shall issue its award within 3 months of the date of the reference to arbitration.

(f) In the event of either party failing to comply with any time limit prescribed by this Rule H.1.4 or prescribed by the Arbitration Panel pursuant to this Rule H.1.4, the Arbitration Panel shall be entitled to proceed to determine the Dispute notwithstanding such failure.

(g) Each party to the Dispute shall inform the Arbitration Panel whether it requests a *viva voce* hearing with or without the attendance of witnesses not later than 14 clear Trading Days after the communication of the statement of defence in accordance with paragraph (b) above. After considering the parties' views, the Arbitration Panel shall in its discretion determine whether to hold a *viva voce* hearing with or without the attendance of witnesses or whether to decide the case on a documents only basis.

(h) The Arbitration Panel shall conduct the arbitration in accordance with these Rules. To the extent that any matters are not covered by these Rules, the Arbitration Panel shall have the

power to determine such matters as it considers appropriate to ensure the fair, expeditious, economical and final determination of the Dispute and the enforceability of any award.

(i) In all cases the Arbitration Panel shall act fairly and impartially and shall ensure that each party has a reasonable opportunity to present its case.

(j) The Arbitration Panel shall determine any disputes as to its jurisdiction.

(k) The Arbitration Panel shall have the power to obtain and receive oral and documentary evidence and to decide in its discretion on the admissibility and weight of any such evidence, including whether to apply strict rules of evidence.

(l) The Arbitration Panel shall not assume the powers of *amiable compositeur* or decide the Dispute *ex aequo et bono* unless the parties to the Dispute have agreed to grant it such powers.

(m) The Arbitration Panel may, on such terms as it thinks fit, extend the period within which either it, the Exchange or a party to the Dispute is required, by this Rule H.1 or by any order or direction made or given by the Arbitration Panel, to complete (or "commit" or "perform") any act notwithstanding that the said period may have expired.

(n) Should a reference to arbitration under this Rule H.1 be withdrawn by any party to the reference, the Exchange or the Arbitration Panel shall be entitled to require payment by any party to the reference of their fees, expenses and costs in connection with the arbitration.

H.1.5 **NO OTHER LEGAL PROCEEDINGS**

No party to a Contract or alleged Contract and no other person claiming under any such party, shall bring any claim against any other such party in respect of any Dispute which is required to be referred to arbitration pursuant to this Rule H.1 or otherwise resolved as provided by the Rules.

H.1.6 **REGISTRATION FEE**

A registration fee of SGD 200 for Members (or such other sums as the Exchange may from time to time prescribe) shall be paid to the Exchange upon each reference of a dispute to arbitration by the Claimant. The registration fee is not returnable under any circumstances.

H.1.7 **DEPOSIT**

The Claimant shall deposit with the Exchange the sum of SGD 2,000 (or such other sum as the Exchange may from time to time prescribe by Circular) on account of the Exchange's and the Arbitration Panel's fees and expenses in connection with the arbitration. The Arbitration Panel may in its absolute discretion call from time to time for further sums to be deposited by either party on account of such fees and expenses. In the event of failure to make any such deposit as aforesaid the Arbitration Panel may, notwithstanding anything contained in this Rule H.1, postpone or discontinue the arbitration proceedings.

H.1.8 **APPLICATION OF DEPOSIT**

Any sum deposited in accordance with Rule H.1.7 shall be applied towards payment of the total fees and expenses of the Exchange and the Arbitration Panel without prejudice to the incidence of liability therefor as between the parties to the dispute under the award of the Arbitration Panel or Rule H.1.11 below. Any balance of such sums shall thereafter be returned to the depositor in such proportions as the Arbitration Panel in its absolute discretion sees fit.

H.1.9 **FAILURE TO PARTICIPATE**

If any party refuses or fails to refer or participate in the reference of any Dispute to arbitration where required in accordance with this Section H (whether or not any other party to the dispute is a Member) or refuses or fails to perform any award of the Arbitration Panel, he shall be deemed to have infringed this Rule H.1.9 and be subject to disciplinary proceedings accordingly.

H.1.10 **SUSPENSION**

The fact of a Member being suspended or expelled shall not affect the rights of any person to arbitration under this Rule H in respect of any Contract entered or allegedly entered into by the Member.

H.1.11 **COST OF ARBITRATION**

The total amount of the costs of the arbitration shall be fixed by the Arbitration Panel in its discretion. Such costs shall be borne by the losing party unless otherwise specified by the Arbitration Panel.

H.1.12 **ARBITRATION AWARD**

(a) The award shall be sent by the Arbitration Panel to the Exchange as soon as reasonably practicable. Upon receipt thereof the Exchange shall invite each party in writing to take up the award, stating the sum payable under paragraph (b) below.

(b) Either party may take up the award by sending to the Exchange written notice of his wish to do so accompanied by a cheque or draft, payable to the Exchange, for the sum of the fees and expenses mentioned in Rule H.1.11, less the aggregate of sums deposited with the Exchange under Rule H.1.7; provided that where one party has taken up the award the other may not do so unless the first party's cheque or draft shall fail to be paid. The Exchange shall receive such payment for the persons entitled to the said fees and expenses under the award or this Rule H.

(c) Upon the taking up of the award, and payment of the cheque or draft mentioned in paragraph (b) above, the Exchange shall send the award to the party taking it up and a copy thereof to the other party. Liability for payment of the fees and expenses shall be settled between the parties in accordance with the award.

(d) In the event that neither party shall take up the award within four weeks from the date on which the Exchange shall have invited them to do so, the Exchange may, on behalf of the persons thereto entitled under the award or this Rule H.1, recover payment of the sum payable under paragraph (b) above from the party who made the reference to arbitration.

H.1.13 **GOVERNING LAW**

For the purpose of all proceedings pursuant to this Rule H.1 by arbitration or otherwise, any Contract shall be deemed to have been made in Singapore, any correspondence in reference to the offer, the acceptance, the place of payment or otherwise notwithstanding, and Singapore shall be regarded as the place of performance. Disputes shall be settled according to the law of Singapore whatever the domicile, residence, or place of business of the parties to the Contract may be or become.

H.1.14 **SERVICE OF NOTICES**

Any notice or other document which is to be served on or delivered to any party in connection with an arbitration under this Rule H may be sent by prepaid post to the usual or last known address or place of business of that party and shall be deemed to have been received on the day it is delivered. Notices may also be served by telex, cable, facsimile transmission or any other means of reproducing words in visible form.

H.1.15 **APPLICABILITY OF RULES**

The version of this Section H applying to any dispute referred to arbitration pursuant to this Rule H.1 shall be that operative at the time of the reference.

H.1.16 **DISCLOSURE OF AWARD**

The Arbitration Panel may recommend to the Exchange that any matter coming to its attention in the course of an arbitration should be the subject of an investigation or disciplinary proceedings. The Arbitration Panel may accordingly disclose such of its award and the statements and evidence presented to it as it thinks fit for this purpose. Such recommendation shall not, however, normally be made until after the Arbitration Panel has made its award.

H.2 ARBITRATION OF EXCHANGE DISPUTES BETWEEN MEMBER(S) AND THE EXCHANGE

H.2.1 Any dispute, difference, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, in relation to, or in connection with these Rules, the ICE Futures Contract Terms and Procedures, the Electronic User Agreement, or any Contract, including any dispute as to the existence, construction, validity, interpretation, enforceability, termination or breach of these Rules, the ICE Futures Contract Terms and Procedures, the Electronic User Agreement or any Contract, between one or more Members and the Exchange (an "**Exchange Dispute**") subject to any dispute resolution procedure set out in these Rules, the ICE Futures Contract Terms and Procedures, the Complaint Resolution Procedures (a "**Resolution Process**") shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (the "**SIAC Rules**") for the time being in force, which rules are deemed to be incorporated by reference into this Rule H.2. No Exchange Dispute may be so referred to arbitration pursuant to this Rule H.2 where any award in respect of such Exchange Dispute referred to a Resolution Process has been issued and is final and binding pursuant to the terms of such Resolution Process. In the event of a conflict between any provision of a Resolution Process and the terms of this Rule H.2, the terms of such Resolution Process shall prevail. In the event of a conflict between any provision of the SIAC Rules and this Rule H.2, this Rule H.2 shall prevail.

H.2.2 The seat of arbitration will be Singapore and the language of the arbitration proceedings shall be English.

H.2.3 The tribunal will comprise three arbitrators appointed in accordance with the SIAC Rules. Tribunal members shall not be current or former employees or directors of any Member that is a party to the arbitration, current or former employees of the Exchange or any persons with a material interest or conflict of interest in the outcome of the Exchange Dispute.

H.2.4 The tribunal shall have the power on the application of any party to an existing arbitration, to require one or more Members to be joined to an existing arbitration. Each Member agrees that it may be joined as an additional party to an arbitration involving the Exchange and another Member.

H.2.5 If more than one arbitration is begun under this Rule H.2 or a Resolution Process, whether between different parties or pursuant to two different agreements or documents, and the Exchange or a Member, being a party to such arbitrations, serves notice upon the tribunals concerned that it believes two or more arbitrations are substantially related and that the issues should be heard in one set of proceedings, the tribunal appointed in the first-filed of such proceedings shall have the power to determine whether, in the interests of justice and efficiency, the proceedings should be consolidated and heard together before that tribunal. For the avoidance of doubt, such consolidation shall occur where the Exchange is not involved in such arbitrations in any capacity other than as a party to the relevant dispute.

H.2.6 In the case of such joinder or consolidation, the tribunal shall make a single, final award determining all Exchange Disputes between the relevant parties in those proceedings. Each Member and the Exchange irrevocably waives any right to challenge any award or order of any tribunal by reason of the fact that it arises from a joined or consolidated arbitration. Each Member and the Exchange hereby irrevocably waives any right to challenge any award or order of any tribunal appointed under the Electronic User Agreement by reason of the fact that it arises from a consolidated arbitration.

H.2.7 The award of the tribunal will be final and binding on the parties thereto from the day it is made. Judgment upon the award may be entered or the award may be enforced, through any other procedure in any court of competent jurisdiction.

H.2.8 The provisions of this Rule H.2 may not be varied by any Member or Members, save where each Member that is a party to the Exchange Dispute or arbitration proceedings, and the Exchange agree in express written terms.

H.2.9 The commencement of any arbitral proceedings shall be without prejudice to and shall not limit in any way the right of the Exchange to instigate any breaches of these Rules or impose any other sanction under these Rules, including in accordance with Sections C, D and E.

H.2.10 Each Member that now or hereafter has a right to claim sovereign immunity from suit or sovereign immunity from enforcement for itself or any of its assets shall be deemed to have waived any such

immunity to the fullest extent permitted by Applicable Laws. Such waiver shall apply in respect of any immunity from:

(i) any proceedings commenced pursuant to this Section H;

(ii) any judicial, administrative or other proceedings to aid an arbitration commenced pursuant to this Section H; and

(iii) any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from any judicial or administrative proceedings commenced pursuant to this Section H.

H.2.11 The rights and obligations of a Member under the Rules and in relation to any Contract are of a commercial and not a governmental nature.

H.2.12 No Member shall raise or in any way whatsoever assert a defence of sovereign immunity in relation to any claim or enforcement proceedings arising from a Dispute or Exchange Dispute.

H.2.13 Any arbitration or reference to arbitration made under this Rule H.2 shall be deemed to be an arbitration or reference under the International Arbitration Act (Chapter 143A of Singapore).

SECTION I - GENERAL PROVISIONS ON CONTRACTS

I.1 PROCEDURES

All Contracts shall be subject to such Contract Procedures as may from time to time be adopted by the Exchange, provided always that, if any conflict between the Contract Procedures and the Contract Terms shall arise, the provisions of the Contract Terms shall prevail and provided further that no Contract Procedure shall be adopted other than for the regulation of administrative matters affecting Contracts (which shall include, without limitation, all such matters as are regulated by the Contract Procedures first adopted with this Rule). The Exchange may at its discretion at any time revoke, alter or add to the Contract Procedures and any such amendment shall be circulated to the Members and shall have such effect on existing as well as new Contracts as the Exchange may direct.

I.2 [NOT USED.]

I.3 CONTRACT MONTHS OR CONTRACT DATES

Trading shall be permitted in respect of such spot and forward months ("**Contract Months**") or spot and forward dates ("**Contract Dates**") in a particular Product as the Exchange shall determine from time to time, including such groups of contract months and groups of contracts dates as determined by the Exchange from time to time.

I.4 HEADINGS

The construction of this Section I shall not be affected by the headings thereto which are included for convenience only.

I.5 WAR OR GOVERNMENT INTERVENTION

I.5.1 If the Exchange, after consultation with the Clearing House, determines in its absolute discretion that one of the following conditions is satisfied:

(a) a state of war exists or is imminent or threatened and is likely to affect the normal course of business;

(b) a government of any nation, state or territory, or any alliance of government, or any institution of such government or alliance, has proclaimed or given notice of its intention to exercise controls which appear likely to affect the normal course of business; or

(c) the Association of Southeast Asian Nations, the European Union or a similar supranational or multinational institution thereof has introduced, varied, terminated or allowed to lapse any provision, so as to be likely to affect the normal course of business, or has given notice of its intention to do so,

then Contracts for such Contract Months or Contract Dates as the Exchange shall specify (which may, if the Exchange so determines, include Contracts under which a tender has been made) shall, upon the Exchange's formal announcement that such condition is satisfied, be invoiced back at the official quotation in respect of each such Contract Month or Contract Date fixed by the Clearing House for the date of the announcement or for such one of the six business days (not counting any day on which there was no official quotation) immediately preceding the date of the announcement as the Exchange shall in its absolute discretion specify in the announcement.

I.5.2 In respect thereof, accounts shall be made up by the Clearing House on that basis for each Member contracting with it. Settlement of such accounts shall be due immediately and shall be treated as complete and final notwithstanding any further change of circumstances.

I.5.3 In the case of a Contract Month or Contract Date for which there is no official quotation, Contracts shall, for the purpose of this Rule I.5, be invoiced back at the market value as determined by the Exchange.

I.5.4 The Exchange's formal announcement under this Rule I.5 shall be made by Circular.

I.5.5 The decision of the Exchange under this Rule I.5 as to the price at which Contracts are invoiced back shall be binding on both parties and no dispute as to such price may be referred to arbitration, but the completion of invoicing back shall be without prejudice to the right of either party to refer disputes arising out of a Contract to arbitration under Section H of the Rules.

I.6 NEW LEGISLATION

I.6.1 If the Exchange, after consultation with the Clearing House, in its absolute discretion, determines that a change of legislative or regulatory provisions of Singapore, any other country or any international organisation, or of institutions or market organisations in any country or group of countries, (including without prejudice to the generality of the foregoing, a change in respect of duties or taxes) has affected, is affecting or is likely to affect the normal course of business, the Exchange shall have the power (without prejudice to their powers under any other provision of the Rules) to vary this Section I in any way it deems necessary or desirable for the preservation of the orderly course of business.

I.6.2 Such variation may be made notwithstanding that it may affect the performance or value of existing Contracts (or such existing Contracts as may be specified by the Exchange). Without limiting its powers hereunder, the Exchange will use its best endeavours to keep any such variation to the minimum that they consider reasonably necessary to deal with the situation.

I.6.3 The Exchange's powers under this Rule I.6 shall be exercisable by Circular. Any variation made under this provision shall take effect at such time and for such period as the Exchange shall prescribe, but (without prejudice to the preceding paragraph) shall not take effect earlier than the publishing of the relevant Circular.

I.6.4 Every Contract affected by a variation under this Rule I.6 shall remain in full force and effect subject to such variation and shall not be treated as frustrated or repudiated except so far as may be allowed in the Exchange's Circular.

I.6.5 Any Circular published by the Exchange under this Section may be varied or revoked by a subsequent Circular.

I.7 ARBITRATION

Any dispute arising out of a Contract shall (subject to any contrary provision in this Section I, including, without limitation, Rules I.20.1, I.20.10 and I.20.12) be referred to arbitration under Section H.

In any case where an invoicing back price has been fixed in accordance with this Section I, the fixing of such price shall not limit the jurisdiction of the board of arbitration to make such award as it deems fit in the circumstances.

All cash settlements and invoicing back prices fixed by the Exchange under the Contract Rules shall be final and binding on all parties. No dispute arising from or in relation to any cash settlement or invoicing back price fixed by the Exchange under the Contract Rules shall be referred to arbitration under Section H, but the completion of cash settlement or invoicing back shall be without prejudice to the right of either party to refer any other dispute arising out of the Contract to arbitration under Section H or to any action under the Clearing House Rules.

I.8 LAW AND JURISDICTION

This Section I and every Contract and all non-contractual obligations arising out of or in connection therewith, are governed by and shall be governed by and construed in accordance with the laws of the Republic of Singapore and, subject to Rule I.7, any matter arising therefrom shall be subject to the jurisdiction of the courts of Singapore.

I.9 CONTRACT SECURITY

The Clearing House may call for such additional margin, at any time and from time to time, as may be deemed necessary and in accordance with the Clearing House Rules to ensure satisfaction of all obligations relating to a Contract.

I.10 EXCHANGE MONITORING

In order to assist the Exchange in monitoring the performance of Contracts (but without obliging it to do so and without prejudice to any other power which it might have), the Exchange may, at any time and from time to time, require Members and the Clearing House to supply to it such information as it thinks fit. The Exchange may require such information to be supplied to it through the Clearing House.

I.11 EXCHANGE'S POWERS

The provisions of this Section I shall be without prejudice to any powers given to the Exchange by other provisions of the Rules.

I.12 SETTLEMENT TO MARKET

At the request of the Exchange or otherwise, the Clearing House may apply a system of settlement or marking to market or revaluation to Contracts in accordance with the Clearing House Rules. Accordingly, references in this Section I to:

(a) a Contract shall be construed as including settlement obligations arising in accordance with the Clearing House's system; and

(b) the price at which the Buyer or Seller contracted to buy or sell shall be construed as the price for the time being registered on behalf of the Buyer or Seller by the Clearing House under such system,

and all terms of a Contract shall be construed to allow the application of such a system.

I.13 FINAL SETTLEMENT PRICE FOR CASH SETTLED CURRENCY FUTURES CONTRACTS

If, for any reason, the relevant index or other value on which final settlement of any cash settled FX Contract is based is not published at the end of the relevant Trading Day for such Product, or the Exchange believes there is an error in the calculation of the index or other value, or the Exchange is otherwise unable to issue a final settlement price on such day and alternative settlement procedures are not otherwise specified in the relevant Contract Terms, then the Exchange may:

I.13.1 determine a final settlement price that reflects the true market value at the time of final settlement based upon another pricing source or otherwise at its discretion; or

I.13.2 postpone the determination of the final settlement price until such time as the relevant pricing data (as set out in the applicable Contract Terms) is available.

I.14 APPLICATION OF GENERAL RULES

I.14.1 Each Contract shall be subject to the Rules. Each Contract shall also be subject to the Clearing House Rules. The Clearing House Rules shall prevail in the event of any inconsistency between the Clearing House Rules and the relevant Contract Terms. The Clearing House Rules provide that the Clearing House is a party as principal to each Contract, whether as Buyer or Seller and that its counterparty is the relevant Clearing Member. This Section I shall be construed accordingly and, in particular, references to "Buyer" and "Seller" shall include the Clearing House unless the context otherwise requires.

I.14.2 The provisions of neither the Convention relating to a Uniform Law on the International Sale of Goods, of 1964, nor the United Nations Convention on Contracts for the International Sale of Goods, of 1980, shall apply to Contracts.

I.15 FURTHER AMENDMENT OF CONTRACT TERMS

I.15.1 In respect of any Contract, the Contract Terms may from time to time be amended pursuant to this Rule I.15 without prejudice to any right contained elsewhere in the Rules to amend the Contracts Terms. Such an amendment may, according to its terms, have effect on existing as well as new Contracts, and in such case, all Contracts declared to be affected shall forthwith (or at such time as the terms of the amendment shall indicate) automatically be modified in conformity to the amendment.

I.15.2 The Exchange shall not propose an amendment under this Rule I.15 on terms affecting existing Contracts if the amendment is in their opinion likely to affect the market price of the Product. The restraint imposed by this paragraph (b) shall not apply in respect of:

(a) Contract Months which, in the case of Contracts as the Exchange shall specify, are for the time being more distant than the ninth forward Contract Month;

(b) Contract Months which, in the case of Contracts as the Exchange shall specify, are for the time being more distant than the sixth forward Contract Month;

(c) [Not used.]

(d) Contract Dates which, in the case of Contracts as the Exchange shall specify, fall within a month which is for the time being more distant than the third forward Contract Month; or

(e) Contract Months which, in the case of Contracts as the Exchange shall specify, are for the time being more distant than the third forward Contract Month.

I.15.3 In this Rule I.15, references to the amendment of the Contract Terms include additions to and the partial revocation of the Contract Terms.

I.16 REGULATORY FUNCTIONS

I.16.1 Where the Exchange considers that circumstances have arisen, or are reasonably likely to arise, in which it would be desirable for any of the Contract Terms to be varied in the interests of ensuring the orderly operation and evolution of the Market or pursuant to any of the Exchange's other regulatory functions, the Exchange shall have the power (without prejudice to its powers under any other provision of the Rules) to vary any of the Contract Terms in any way it deems appropriate to respond to such circumstances in accordance with the Exchange's regulatory functions. Such circumstances may include, without limitation:

(a) where the provisions for the specification, pricing, settlement or other aspects of a Contract are no longer representative of practices in the underlying market to which a Contract relates;

(b) where, without changes to the provisions for the specification, pricing, settlement or other aspects of a Contract, there is a risk of material detriment being caused to the market for that Contract, whether in terms of liquidity, reputation or otherwise;

(c) where a Contract may, without variation, cease to be a viable hedging tool; or

(d) where any aspect of the current business on the Market in respect of any Contract is, in light of any other current or anticipated circumstances, at risk of being conducted otherwise than in an orderly manner and/or so as to afford proper protection to participants in the Market, and such risk may be addressed by changes to the Contract Terms.

I.16.2 Such variation may be made notwithstanding that it may affect the performance or value of existing Contracts (or such existing Contracts as may be specified by the Exchange). Without limiting their powers hereunder, the Exchange will use its reasonable endeavours to keep any such variation to the minimum that they consider reasonably necessary to respond to the circumstances in question.

I.16.3 The Exchange's powers under this Rule I.16 shall be exercisable by Circular. Any variation made under this provision shall take effect at such time and for such period as the Exchange shall prescribe, but (without prejudice to the preceding paragraph) shall not take effect earlier than the publication of the relevant Circular. The Exchange shall seek to give Members prior notice but, where deemed necessary, changes may take effect immediately upon the posting of such Circular or at such other time as the Exchange prescribes.

I.16.4 Every Contract affected by a variation under this Rule I.16 shall remain in full force and effect subject to such variation and shall not be treated as terminated or frustrated or repudiated except so far as may be allowed in the relevant Circular.

I.16.5 Any Circular published by the Exchange under this Rule I.16 may be varied or revoked by a subsequent Circular.

I.17 TRADE EMERGENCY PANEL

I.17.1 In the event of the Exchange identifying or suspecting the development or possible development of a situation or practice referred to below, it shall forthwith refer the matter to a panel (the "**Trade Emergency Panel**") being a minimum of three people comprising: two Clearing House senior executives nominated for this purpose by the Clearing House; or non-executive Directors. The Trade Emergency Panel may take such professional advice as it sees fit in coming to any decision.

I.17.2 If, in the opinion of the Trade Emergency Panel, an excessive position or unwarranted speculation or any other undesirable situation or practice affecting or capable of affecting the Market is developing, or has developed, it may take any steps whatsoever to provide for, correct or check the further development of such situation or practice and may give directions to Members accordingly. Such steps may (without prejudice to the generality of this Rule I.17), if the Trade Emergency Panel thinks fit, extend to trading which occurred before or on the date that such step is instigated.

I.17.3 A Member contravening a direction of the Trade Emergency Panel under this Rule I.17 shall be liable to the same sanctions (including expulsion or suspension from membership) as if a breach of the Rules were committed.

I.18 DEFINITIONS AND INTERPRETATION

I.18.1 In this Rule I.18 and in Rules I.19 to I.22, unless the context otherwise requires:

TERM	DEFINITION
"Party"	means the Seller or the Buyer under a Contract, which shall not include the Clearing House (except where the context otherwise requires).

I.18.2 Any discretion that may be exercised by a person or body under Rules I.19 to I.22, will be exercised in the absolute discretion of such person or body.

I.19 NON-PERFORMANCE

I.19.1 If it appears to the Clearing House that a Party has, or may have, failed to perform its obligations under a Contract, the Clearing House will, as soon as practicable, take such steps as it deems appropriate to achieve an amicable settlement between the Parties to the affected Contracts. If such steps have not led or are not likely to lead to settlement within five days of the failure (or apparent failure) having come to the attention of the Clearing House, the Clearing House will refer the matter to the Exchange. Subject to Rules I.19.2 and I.19.3, if a reference is made to the Exchange under this Rule I.19.1, the Exchange will refer such matter to the Delivery Panel under Rule I.20.1.

I.19.2 If a reference is made to the Exchange under Rule I.19.1 but an amicable solution is notified to the Exchange by the Parties involved prior to the referral of the matter to the Delivery Panel under Rule I.20.1 by the Exchange, the Exchange will either:

(a) refer such matter to the Delivery Panel under Rule I.20.1; or

(b) not refer such matter to the Delivery Panel under Rule I.20.1 but make such determination as it appears to the Exchange, in its discretion, to be expedient concerning the settlement of such Contract and shall convey its determination to the Parties and to the Clearing House.

Such determination shall be binding on the Parties and the Clearing House and no dispute as to such determination may be referred to arbitration, but shall be without prejudice to the right of either Party to refer any other failure (or apparent failure) of a Party in the performance of its obligations under a Contract or any related dispute to arbitration under Section H of the Rules.

I.19.3 If it comes to the attention of the Exchange, other than pursuant to Rule I.19.1, that a Party to a Contract has, or may have, failed to perform its obligations under a Contract, the Exchange may refer such matter to the Delivery Panel under Rule I.20.1.

I.19.4 [Not used.]

I.19.5 [Not used.]

I.20 DELIVERY PANEL

I.20.1 The Exchange may, in respect of a delivery under a Contract, refer any dispute to the Delivery Panel, but shall refer any matter to the Delivery Panel:

(a) in the circumstances stated in Rules I.19.1, I.19.2(a) or I.19.3.

(b) [Not used.]

(c) [Not used.]

The Exchange will not refer a dispute or matter in respect of a delivery under a Contract to the Delivery Panel if a Party has been Declared a Defaulter under Section D of the Rules or the default rules of the Clearing House. The Exchange will notify the Clearing House and each of the Parties to the affected Contracts that a dispute or matter has been referred to the Delivery Panel.

I.20.2 Following a reference made to the Delivery Panel by the Exchange under Rule I.20.1, the Exchange may, in its discretion, require both Parties, or either of them, to pay to the Exchange a fee of SGD 5,000, unless the Exchange determines, in its discretion, to waive or reduce the fee.

I.20.3 Following the referral of a dispute or matter to the Exchange, the Exchange may constitute a Delivery Panel. Any member of the Delivery Panel shall have no direct or indirect interest in any Party (or any client or underlying client of a Party) or the dispute or matter to be determined.

I.20.4 Any objection raised by a Party to any member of the Delivery Panel being appointed to the Delivery Panel shall be determined by the Exchange, as the case may be, at their discretion.

I.20.5 The Delivery Panel shall meet at any time in person or by telephone.

I.20.6 The Delivery Panel may, in its discretion, require the Parties to the affected Contracts to present written submissions and evidence in support of their claim, to the Delivery Panel by such time and in such form as the Delivery Panel may direct. An oral hearing will only take place if the Delivery Panel, in its discretion, considers it to be necessary. A Party may be assisted by or represented by any person who may be legally qualified at that oral hearing if the Delivery Panel, in its discretion, considers it to be necessary. The Delivery Panel will determine the dispute or matter on such evidence as it thinks is relevant, notwithstanding that such evidence may not be admissible in a court of law, and make one or more of the directions contemplated by Rule I.20.9 below.

I.20.7 The Delivery Panel may obtain legal advice from the Exchange's legal advisers.

I.20.8 The Delivery Panel may obtain expert advice from any expert appointed by the Exchange. The identity of a Party will not be disclosed to an expert nor will the identity of any expert be disclosed to a Party. Each Party will have the opportunity to respond to the substance of any expert advice obtained by the Delivery Panel.

I.20.9 Following the determination of any dispute or matter pursuant to Rule I.20.6, the Delivery Panel shall report in writing its findings, (which shall include, as may be appropriate, whether a Party has failed to perform its delivery obligations under a Contract), to the Exchange, the Clearing House and to each of the Parties to the affected Contracts.

The Delivery Panel may, either at the same time or in advance of its written findings being available, make any one or more of the following directions, except that if it determines that an event of force majeure has occurred which has hindered or prevented the performance of a Contract by five business days after the due date for delivery of the product under a Contract, the Delivery Panel shall only be entitled to make the direction referred to in paragraphs (b) and (c) below:

(a) direct a Party as to how delivery under the affected Contracts should proceed;

(b) direct the Clearing House to invoice back one or more of the affected Contracts at a price to be set by the Delivery Panel in its discretion, taking into account any information it considers to be relevant for this purpose which may have been supplied by the Exchange. The price for invoicing back may, at the Delivery Panel's discretion, take account of any compensation that it may consider should be paid to or by a Party.

In the event of any delay to the invoicing back process, the Delivery Panel may, at its discretion, in advance of it setting a price for invoicing back, and in agreement with the Clearing House, direct the Clearing House to make an interim payment to a party. The amount of the interim payment will be set by the Delivery Panel at its discretion. In such an event, the price for invoicing back shall take account of the interim payment as appropriate; or

(c) direct any of the Parties to pay to the Exchange costs in an amount determined by the Delivery Panel in its discretion. Such costs may include, but shall not be limited to: the fees and expenses of members of the Delivery Panel or any expert; any legal costs; and expenses which the Exchange or the Clearing House may incur or be subjected to in respect of such dispute or matter.

I.20.10 The determination of a matter by the Delivery Panel shall be without prejudice to the powers of the Exchange to take such action under Section E of the Rules as it considers in its discretion appropriate. Without prejudice to the foregoing, in the case where the Delivery Panel finds that a Party has failed to perform its obligations under a Contract, the Exchange may issue a fine under Section E of the Rules.

I.20.11 A Party shall comply with any finding, determination or direction made by the Delivery Panel under this Rule I.20. A direction by the Delivery Panel made under Rules I.20.9(a) and (b) shall be immediately binding upon the Parties to the affected Contracts. Any finding, determination or direction by the Delivery Panel made under Rule I.20.9(c), shall be deemed conclusive and binding upon expiry of the time permitted for appeal or receipt by the Exchange of any earlier written notice that such right of appeal will not be exercised. Any Party who refuses or fails to comply with or perform any finding, determination or direction made under this Rule I.20, shall be deemed to have infringed this Rule I.20 and such infringement will constitute a breach of the Rules by such Party and may be the subject matter of disciplinary proceedings under Section E of the Rules.

I.20.12 In respect of a dispute or matter which has been referred to the Delivery Panel under Rule I.20.1 and determined by a Delivery Panel, no finding, determination or direction made under Rule I.20 in respect of such dispute or matter, including, without limit, any issue or dispute arising out of or in connection with the invoicing back price determined by the Delivery Panel under Rule I.20.9(b), shall be referred to arbitration under Section H of the Rules. This Rule I.20.12 shall be without prejudice to the right of a Party to refer any other matter or dispute to arbitration under Section H of the Rules.

I.20.13 In the event of a member of the Delivery Panel:

(a) becoming directly or indirectly interested or involved in any Party (or any client or underlying client of a Party) or the dispute or matter to be determined other than as a result of being a member of the Delivery Panel;

(b) dying; or

(c) in any other way being or becoming, in the opinion of the Exchange, incapacitated from acting on the Delivery Panel,

the Exchange may appoint another person to take such Delivery Panel member's place, and the Delivery Panel shall thereupon proceed to determine the dispute or matter as if such other person had been originally appointed to the Delivery Panel.

I.21 APPEALS PROCEDURE

I.21.1 A Party to an affected Contract or the Exchange may appeal against any finding, determination or direction made by the Delivery Panel under Rule I.20.9(a) or (c). Such notice of appeal shall be lodged in writing with the Exchange within ten business days of the Delivery Panel's finding, determination or direction.

I.21.2 A notice of appeal under Rule I.21.1 shall set out the grounds of the appeal and shall contain a brief statement of all matters relied on by the appealing Party. The grounds of the appeal shall be any one or more of the following:

(a) the Delivery Panel misdirected itself;

(b) the Delivery Panel's finding, determination or direction under Rule I.20.9(a) or (c) was:

(i) one which no reasonable Delivery Panel could have reached; or

(ii) based on an error of law, or a misinterpretation of the Rules or the Contract Terms; or

(c) the finding, determination or direction under Rule I.20.9(a) or (c) of the Delivery Panel was excessive, insufficient or inappropriate; or

(d) new evidence is available which, had it been before the Delivery Panel, could reasonably have led to a different finding, determination or direction under Rule I.20.9(a) or (c). This will not apply if the appealing Party could have produced the evidence to the Delivery Panel had he made reasonable efforts to obtain it,

but no Party may otherwise appeal under Rule I.21.1.

I.21.3 Upon receipt of a notice of appeal, the Exchange shall convene a panel (the "**Delivery Appeals Panel**") comprising three members, which shall not include any member of the Delivery Panel which made the finding, determination or direction under Rule I.20.9(a) or (c) that is the subject of the appeal. Any member of the Delivery Appeals Panel shall have no direct or indirect interest in any Party (or any client or underlying client of a Party), the dispute or matter determined by the Delivery Panel or the subject of the appeal.

I.21.4 The appealing Party and, if applicable, the other Party, may at the discretion of the Delivery Appeals Panel, present written submissions in support of, or in contention of, the ground for appeal, to the Delivery Appeals Panel by such time and in such form as the Delivery Appeals Panel may direct. An oral hearing of the appeal will only take place if the Delivery Appeals Panel in its discretion considers it to be necessary. A Party may be assisted by or represented by another person at that oral hearing if the Delivery Appeals Panel, in its discretion, considers it to be necessary. The Delivery Appeals Panel will consider the finding, determination or a direction under Rule I.20.9(a) or (c) of the Delivery Panel, review the evidence before the Delivery Panel and such further evidence as may be put to the Delivery Appeals Panel. No new evidence of fact may be adduced unless the Delivery Appeals Panel is satisfied that there is good reason why such evidence was not presented to the Delivery Panel and only if such evidence is relevant, notwithstanding such evidence may not be admissible in a court of law.

I.21.5 The Delivery Appeals Panel may:

(a) dismiss or allow the appeal;

(b) confirm or amend the finding, determination or a direction under Rule I.20.9(a) or (c) (including increasing or decreasing the amount of costs payable by a Party in respect of a direction made under Rule I.20.9(c)); or

(c) substitute its own finding, determination or direction under Rule I.20.9(c) (which may include increasing or decreasing any finding, determination or direction imposed).

Notwithstanding the foregoing, if an appeal is upheld in respect of a direction under Rule I.20.9(a) or any finding or determination upon which a Delivery Panel made a direction under Rules I.20.9(a) or (b), the Delivery Appeals Panel may only direct a Party to pay an amount of compensation or costs as it determines in its discretion to be appropriate.

I.21.6 The Delivery Appeals Panel may, at any stage, approve the settlement of any issue between the Parties to the affected Contracts on such terms as it considers expedient or satisfactory. Any withdrawal of an appeal by an appealing Party must be in writing and lodged with the Exchange. The Exchange may direct such Party to pay to the Exchange costs in accordance with Rule I.21.7.

I.21.7 The Delivery Appeals Panel may direct a Party to pay to the Exchange costs in an amount determined by it, in its discretion. Such costs may include, but shall not be limited to: the fees and expenses of any member of the Delivery Appeals Panel or any expert; any legal costs; and expenses which the Exchange or the Clearing House may incur or be subjected to in relation to the appeal.

I.21.8 The finding, determination or direction of the Delivery Appeals Panel shall be final and binding and there shall be no further appeal. The decision shall be notified in writing to the appealing Party, any other Party to the affected Contracts, the Delivery Panel which made the finding, determination or direction, the Clearing House and the Exchange.

I.21.9 A Party shall comply with any decision of the Delivery Appeals Panel. Any Party who refuses or fails to comply with or perform any decision or direction made, or action taken, under this Rule I.21, shall be deemed to have infringed this Rule I.21.9 and such infringement will constitute a breach of the Rules by such Party and may be the subject matter of disciplinary proceedings under Section E of the Rules.

I.21.10 Following the lodgement of a notice of appeal with the Exchange under Rule I.21.1, the Exchange may, in its discretion, require the appealing Party, to pay to the Exchange a fee of SGD 5,000, unless the Exchange determines, in its discretion, to reduce or waive the fee.

I.21.11 Rules I.20.4, I.20.5, I.20.7 and I.20.8 shall apply to the Delivery Appeals Panel as though the reference therein to the Delivery Panel were to the Delivery Appeals Panel.

I.22 PUBLICATION OF A DETERMINATION

Notwithstanding Rule A.4.1, the Exchange shall give such publicity as it considers appropriate in its discretion, to any finding, determination or direction made by a Delivery Panel or decision or direction made by a Delivery Appeals Panel. This Rule I.22 is without prejudice to the right of the Exchange under Rule A.4.3, or otherwise, to disclose confidential information to other regulatory or law enforcement bodies.

I.23 ENVIRONMENTAL COMPLIANCE AND LIABILITY

I.23.1 In this Rule I.23, the following terms have the following meanings:

(a) The term "**Buyer**" means, in relation to a delivery under a Contract under the Clearing House Rules, the Member or the Clearing House, whichever is obliged to receive delivery of a Commodity (whether itself or through another Person).

(b) The term "**Commodity**" means any kind of property which is capable of being delivered pursuant to a Contract.

(c) The term "**Environment**" means all or any of the following media (whether alone or in combination): air (including the air within buildings or other natural or man-made structures

whether above or below ground), water (including surface water, sub-surface water, groundwater, coastal, marine or inland waters or waterways, and water within drains, sewers or other natural or man-made structures), land (including surface land, land under water, soil and sub-soil), any natural resource and any ecological systems and living organisms supported by these media.

(d) The term "**Environmental Law**" means, as in force from time to time, any national, federal, supranational, state, regional, provincial, local or other law, treaty, directive or other lawful requirement, and including, without limitation, common law, any statute, ordinance, rule, regulation, code, lawful requirement, guidance, statutory guidance note, published practice or concession, order, judgment or ruling of any Governmental Authority, in each case governing or relating to pollution, the protection of the Environment, noise, nuisance, health, safety or natural resources, or the use, sale, delivery, registration, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

(e) The term "**Environmental Permit**" means any licence, approval, authorisation, permission, certificate, certification, registration, notification, waiver, order or exemption that is issued, granted or required under Environmental Law.

(f) The term "**Hazardous Material**" means all chemicals, materials, substances, preparations or articles, whether natural or man-made and whether solid, liquid or gaseous, which are defined or regulated as toxic, hazardous, noxious, radioactive, flammable, corrosive or caustic or as a pollutant, contaminant or waste or words of similar import under any Environmental Law or Environmental Permit, or which may otherwise be capable, whether alone or in combination, of causing harm to any human or other living organism or the Environment.

(g) The term "**Person**" means any individual, partnership, firm, body corporate, association, trust, unincorporated organisation or other entity.

(h) The term "**Seller**" means, in relation to deliveries under a Contract under the Clearing House Rules, the Member or the Clearing House, whichever is obliged to make delivery of a Commodity (whether itself or through another Person).

(i) The term "**Transferee**" means a Person nominated by a Buyer to whom a transfer or delivery is to be made under a Contract and includes reference to the Buyer where transfer or delivery is to be made to the Buyer.

(j) The term "**Transferor**" means a Person nominated by a Seller by whom a transfer or delivery is to be made under a Contract and includes reference to the Seller where transfer or delivery is to be made by the Seller.

I.23.2 Without prejudice to Rule A.7 of the Rules, and without prejudice to Rule 111 of the Clearing House Rules, neither the Exchange nor the Clearing House is responsible for, and neither shall have any liability whatsoever in respect of, any application, notification, reporting, data or information sharing, registration, certification, authorisation, investigation, remediation or the taking or not taking of any other action or thing that may be required by any Environmental Law or Environmental Permit in respect of any Commodity or Contract. In particular but without limitation, neither the Exchange, nor the Clearing House, shall be responsible for, or have any liability whatsoever in respect of, the taking or not taking of any of the following actions:

(a) any pre-registration, registration or other action in connection with any Hazardous Material or other substance, preparation, article or material that is the subject of, or part of, any Commodity or Contract.

(b) [Not used.]

(c) [Not used.]

(d) [Not used.]

I.23.3 Without prejudice to Rule A.7 of the Rules, and without prejudice to Rule 111 of the Clearing House Rules, neither the Exchange, nor the Clearing House, is responsible for, and neither shall have any liability whatsoever in respect of:

(a) the condition, safety or compliance or non-compliance with any Environmental Law or Environmental Permit;

(b) the presence of any Hazardous Material or occurrence of any contamination related to; or

(c) any other liability or obligation arising under Environmental Law or Environmental Permit related to,

any barge, installation, equipment, vehicle, land, water or other location or area used in connection with the sale, delivery, registration, handling, transportation, treatment, management, storage, disposal, release or discharge of any Commodity. Further, neither the Exchange, nor the Clearing House, shall be responsible for, or have any liability whatsoever in respect of the condition or safety of any Commodity delivered pursuant to any Contract.

I.23.4 Each Member delivering a Commodity pursuant to a Contract shall comply, and shall be deemed to represent and warrant that it has complied, fully with any application, notification, reporting, data or information sharing, registration, certification, authorisation, investigation, remediation or the taking or not taking of any other action or thing required by any Environmental Law or Environmental Permit and applicable to such Commodity, including, without limitation, as related to the condition or safety of such Commodity. In particular but without limitation, such Member shall comply, and shall be deemed to represent and warrant that it has complied, fully with any and all requirements specified in Rule I.23.2 to the extent applicable to such Commodity.

I.23.5 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Exchange or the Clearing House, whether in contract, tort or restitution, as a fiduciary or under any other cause of action, for any loss, liability, cost, damage or expense incurred or suffered as a result of any non-compliance with any Environmental Law or Environmental Permit, the condition of or any hazard posed by any Commodity, or the presence of any Hazardous Material or occurrence of any contamination.

SECTION J - POSITION REPORTING, ACCOUNTABILITY AND LIMITS

J.1 DEFINITIONS

For purposes of this Section J, the following terms shall have the meanings set out opposite each:

"**Accountability Level**"	shall mean a threshold for positions held set by the Exchange which if exceeded may trigger enhanced reporting requirements;
"**Expiry Limit**"	shall mean the maximum permitted holding in the expiring Contract Month of a designated contract;
"**Limit**"	unless the context otherwise requires, shall mean a limit, whether a Position Limit, Expiry Limit or otherwise, but shall not include an Accountability Level;
"**Person**"	shall mean either an individual or an entity; and
"**Position Limit**"	shall mean the maximum permitted holding in a designated contract or Contract Month either by a single account or across multiple accounts controlled by the same entity.

J.2 REPORTING OF POSITIONS

(a) Each Member or Person that owns, controls, or carries for another Person an account with reportable positions in any Exchange contract, as specified by the Exchange, in a single Contract Month of a Future, shall submit to the Exchange:

(i) an account identification form as specified by the Exchange for each account; and

(ii) a daily report with respect to such positions, in a form acceptable to the Exchange, containing the account numbers and the number of open contracts in each such Futures Contract Month that equals or exceeds the applicable reporting level specified in paragraph (b), and such other information as the Exchange may require.

In addition, with respect to any Person that owns, controls or carries positions that meet or exceed All Month or Any One Month Accountability Level of any Future, the Member shall report to the Exchange the positions carried by such Person in all Contract Months of that Future, regardless of size. Without limiting any provision of the Rules, Members shall provide such additional information with respect to positions, and the ownership of such positions, as may be requested by the Exchange.

(b) The reportable levels for all contracts will be as notified by the Exchange to Members from time to time.

J.3 LIMITS AND EXEMPTIONS

(a) Limits on Contracts may be imposed at the discretion of the Exchange from time to time. The nature of the Limits and the Contracts affected shall be notified to the Members from time to time:

A Member shall not carry a position that exceeds the Limits on behalf of any Person unless the Member has confirmed that such Person has received an exemption from the Exchange.

All Limits shall be calculated on a net futures-equivalent basis by product and will include Contracts that aggregate into one or more source Products ("**Combined Contracts**"). Such Products and how they aggregate into a Combined Contract shall be published by the Exchange from time to time.

The Exchange may require compliance with Position Limits and Accountability Level on a futures-only basis to the source Products into which other Products are combined.

(b) The Person seeking an exemption from Limits shall file a written request in the form required by the Exchange, which shall include:

for the purposes of all Limits:

(i) a description of the size and nature of the exemption sought;

(ii) an explanation of the nature and extent of the Person's business and such other information as may demonstrate that the granting of the exemption is consistent with the Rules;

(iii) a statement indicating whether the Person on whose behalf the request is made:

(aa) maintains positions in the contract for which the exemption is sought with any other Member; or

(bb) has made a previous or contemporaneous request pursuant to the Rules through another Member and if so, the relationship between the information set forth in such requests;

(iv) a statement that the Person will comply with any limitations imposed by the Exchange with regard to such positions; and

(v) a statement that the Person will immediately supply the Exchange with a supplemental statement whenever there is a material change to the information provided in the Person's most recent application; and

additionally, for the purposes of Position Limits:

(vi) a statement that the intended positions will be either:

(aa) bona fide hedges that are economically appropriate and necessary or advisable as an integral part of the Person's business and comply with all Exchange requirements relating to hedging;

(bb) risk management positions as described in Rule J.5; or

(cc) arbitrage or spread positions;

(vii) a statement that the Person will comply with any limitations imposed by the Exchange with regard to such positions; and

(viii) a statement that the applicant will immediately supply the Exchange with a supplemental statement whenever there is a material change to the information provided in the applicant's most recent application.

(c) Within five Trading Days of the submission of the written request and any supplemental information requested, the Exchange shall notify the Person seeking a Limits exemption whether the exemption has been granted and any limitations placed thereon (if applicable). The Exchange may impose such limitations on the approval as are commensurate with the Person's business needs, financial ability and personal integrity, as well as the liquidity, depth and volume of the market for which the exemption is sought. An exemption will remain in full force and effect until the Person requests a withdrawal or the Exchange revokes, modifies or places further limitations thereon.

(d) A Person approved to exceed Position Limits must initiate and liquidate such positions in an orderly manner consistent with sound commercial practices, and must not initiate or liquidate such positions in a manner calculated to cause unreasonable or unwarranted price changes or fluctuations, breach or circumvent Exchange rules, or otherwise impair the good name of the Exchange.

(e) In the event a Person exceeds its Position Limit specifically due to sudden unforeseen increases in its bona fide hedging needs, such Person shall not be considered in breach of the

Rules provided that the Member on behalf of such Person requests a hedge exemption to carry such increased position within two Trading Days following the day on which the Person's Position Limit was exceeded, provided however that no such request shall be granted during the last three days of trading in an expiring Future.

J.4 BONA FIDE HEDGING POSITIONS

The Exchange may grant exemptions from the Position Limits for positions qualifying as bona fide hedge positions.

Bona fide hedging transactions and positions shall mean transactions or positions in an Exchange Future where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical market, and where they are economically appropriate to the reduction of risk in the conduct and management of a commercial enterprise, and where they arise from:

(i) the potential change in the value of assets which a Person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;

(ii) the potential change in the value of liabilities which a Person owes or anticipates incurring; or

(iii) the potential change in the value of services which a Person provides, purchases or anticipates providing or purchasing.

Notwithstanding the foregoing, no transactions or positions shall be classified as bona fide hedging for purposes of the Rules unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in an orderly manner in accordance with sound commercial practices.

J.5 RISK MANAGEMENT POSITIONS

For the purposes of the Rules contained in this Section J, risk management positions are defined as Futures positions which are held by or on behalf of a commercial entity or an affiliate of a commercial entity, which typically buys, sells or holds positions in the Underlying or forward market, a related cash market, or a related over-the-counter market and for which the underlying market has a high degree of demonstrated liquidity relative to the size of the positions and where there exist opportunities for arbitrage which provide a close linkage between the Futures market and the underlying market in question.

J.6 ARBITRAGE AND SPREAD POSITIONS

The Exchange may grant exemptions from the Position Limits for arbitrage, intra-commodity spread, inter-commodity spread positions.

J.7 AGGREGATION OF POSITIONS

Subject to Rule J.9, in determining whether a position is a reportable position or any Person has exceeded the Limits published by the Exchange or Limits determined pursuant to an exemption granted by the Exchange pursuant to the Rules, the following shall apply:

(i) all positions in accounts for which such Person by power of attorney or otherwise directly or indirectly holds positions or controls trading, shall be included with the positions held by such Person;

(ii) the Limits upon positions shall apply to positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, the same as if all the positions were held, or the trading of the positions was conducted, by a single Person; and

(iii) if a Person can demonstrate to the satisfaction of the Exchange that a position is independently controlled, then that position will not be considered as contributing to any Limit.

J.8 POSITION ACCOUNTABILITY

J.8.1 A Member who holds or controls, or carries for another person, aggregate positions in excess of those Accountability Levels specified by the Exchange from time to time in respect of those contracts designated in Rule J.3:

(a) shall provide, in a timely manner upon request by the Exchange, information regarding the nature of the Person's related cash, futures positions, trading strategy, and hedging information, if applicable (including all relevant documentation, from about the size and purpose of a position or exposure entered into, information about beneficial or underlying owners, any concert arrangements, and any related assets or liabilities in the underlying market) and any information required of the Exchange by a regulatory body pursuant to Rule A.3; and

(b) shall not, when so directed by the Exchange, further increase positions which exceed the levels published by the Exchange. All such positions must be reduced by liquidation, termination or offsetting trades in an orderly manner on a temporary or permanent basis as the specific case may require,

and the Exchange will unilaterally take appropriate action to ensure the liquidation, termination, reduction or offsetting trade if the Member does not comply.

For purposes of this Rule J.8, all positions in accounts for which a Person, by power of attorney or otherwise, directly or indirectly controls trading shall be included with the positions held by such Person. The provisions of this Rule shall apply to positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by a single Person.

J.8.2 The Exchange may require a Member to provide liquidity back into the market at an agreed price and volume on a temporary basis with the express intent of mitigating the effects of a large or dominant position

J.9 ENFORCEMENT OF LIMITS

(a) No Member may for itself or any other Person maintain a combination of Futures which is, or which when aggregated in accordance with Rule J.7 is, in excess of the Limits established by the Exchange.

Members are responsible for maintaining their position and their customers' positions within the Limits established or specified by the Exchange pursuant to these Rules.

(b) In the event the Exchange learns that a Member or customer maintains positions in accounts with more than one Member such that the aggregate position in all such accounts exceeds the Position Limits established by the Exchange, the Exchange may notify all Members maintaining or carrying such accounts that the aggregate position held across all Members is in excess of the Limits. Such notice may also instruct each such Member to reduce the positions in such accounts twenty-four hours after receipt of the notice, proportionately or otherwise so that the aggregate positions of such accounts at all such Members does not exceed the Limits established by the Exchange, unless as provided by Rule J.3(c) below, a request for an exemption is made and granted by the Exchange pursuant to these Rules. Any Member receiving such notice shall immediately take such steps as may be necessary to liquidate such number of Futures as shall be determined by the Exchange in order to cause the aggregate positions of such accounts at such Members to comply with the Position Limits established by the Exchange. Notwithstanding the foregoing, the Members may reduce the positions of such accounts by a different number of Futures so long as after all reductions have been accomplished at all Members carrying such accounts, the aggregate positions at all such Members and across Combined Contracts complies with the Limits established by the Exchange.

(c) Subject to the foregoing provisions of this Rule, in the event that a Member's position (whether for Own Business or for the account of a customer) exceeds the limits established by, or ordered by the Exchange, such Member shall liquidate such number of Contracts as the

Exchange shall direct in order to eliminate the excess within such time as the Exchange may prescribe and shall report to the Exchange when such liquidations have been completed.

If a Member fails to liquidate such Contracts within the time prescribed by the Exchange, then, in addition to any other actions the Exchange may take, the Exchange may take such steps as it may deem necessary or appropriate to liquidate such Contracts on behalf and at the expense of such Member to the extent necessary to eliminate such excess.

(d) Notwithstanding (b) and (c) above, and where in the opinion of the Exchange an excessive position, capable of affecting the Market is developing, or has developed, the Exchange may take any steps as it deems necessary to provide for, correct or check the further increase of such position and may give directions to Members accordingly. Such steps may (without prejudice to the generality of this Rule), if the Exchange thinks fit, extend to trading which occurred before or on the date that such step is instigated.

(e) A Member contravening a direction of the Exchange under this Rule shall be liable to the same sanctions (including expulsion or suspension from membership) as if a breach of the Rules were committed.

(f) The Exchange may report any breach of Position Limits to the Clearing House in order for the Clearing House to impose further margin requirements under the Clearing House Rules.

J.10 EXCHANGE ACCESS TO POSITION INFORMATION

Without limiting any provision of these Rules, the Exchange shall have the authority to obtain from any Member information with respect to any positions of such Member or any customer of such Member. This authority shall include the authority to obtain information concerning positions maintained in omnibus accounts and positions held at other firms, and it shall be the obligation of a Member receiving such an inquiry to obtain such information from its customer. In the event a Member fails to provide the requested information the Exchange, in addition to any other remedy provided in these Rules, may order that the Member liquidate the positions which are related to the inquiry.

J.11 EMERGENCY POWERS NOT LIMITED

Nothing contained in this Section J shall in any way be construed to limit the emergency powers enumerated elsewhere in the Rules, and, unless the Exchange in taking an emergency action shall state otherwise, any such emergency action shall be effective with respect to all Members, regardless of whether an exemption from the Limits has previously been granted pursuant to these Rules.

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-6(2)

ICE Futures Singapore[sm]

Trading Procedures

Table of Contents

SECTION 0 DEFINITIONS

These Trading Procedures are "Trading Procedures" as defined in the ICE Futures Singapore Pte. Ltd. rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rules A.1 and A.1.10. These Trading Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with Singapore law and any dispute arising under these Trading Procedures will be subject to Section H of the Rules.

In these Trading Procedures, the words standing in the first column of the following table shall bear the meanings set opposite them in the second column thereof unless the context otherwise requires:

TERM	DEFINITION
"**Exchange Delivery Settlement Price**"	means the prices determined by the Exchange in accordance with Trading Procedure 2.4 or the relevant Contract Terms or Contract Procedures;
"**Official Settlement Price**"	means the prices determined by the Exchange in accordance with Trading Procedure 2.4.11; and
"**Unofficial Settlement Price**"	means the prices determined by the Exchange in accordance with Trading Procedures 2.4.4 to 2.4.10.

SECTION 1 TRADING

1. ACCESS TO THE ELECTRONIC TRADING SYSTEM

1.1 Access by a Member to the ICE Platform may only be obtained during the hours determined by the Exchange from time to time.

1.2 A Member may access the Trading Server by using the Front End Application provided by the Exchange or by using, where available, any other Front End Application developed by the Member or provided by an ISV which meets all the Conformance Criteria determined by the Exchange from time to time.

1.2.1 A Member shall not enter orders into or make trades through the ICE Platform, or perform any supervisory role except through one or more individuals registered with the Exchange as Responsible Individuals pursuant to Trading Procedure 14.

1.2.2 Trading may also be conducted by other individuals within the Member, provided such individuals are suitable and adequately trained, have any required permissions under Applicable Law in accordance with Rules A.11.1(c) and A.11.1(e) and are registered with the Exchange. These individuals may only submit orders under the ITM(s) of a Responsible Individual registered to the Member and under his supervision.

1.2.3 Trading may also be conducted by a Member's clients (order routing) where access to the ICE Platform is granted by the Member to clients, provided the client orders are submitted under an ITM assigned to a Responsible Individual, under the relevant Responsible Individual's supervision, and that such individuals are registered with the Exchange.

1.3 In order to gain access to the ICE Platform for the purpose of entering an order, making a trade or performing a supervisory role, a Responsible Individual must:

(a) be registered by a Member with the Exchange as a Responsible Individual;

(b) use the ITM, log on and password allocated to him by the Exchange;

(c) be able to obtain the use of his Member's ICE Platform workstation and to enter orders, make trades or perform a supervisory role in accordance with the ICE Platform User Guide or where the Member uses any other Front End Application in accordance with that Front End Application user guide; and

(d) be registered with any relevant Regulatory Authority and have any relevant Authorisation, if applicable.

1.4 [Not used.]

1.5 A Member shall:

(a) establish its trading arrangements such that each Responsible Individual is able to meet the requirements set out in Trading Procedure 1A and that all other relevant obligations contained in the Rules and these Trading Procedures are complied with;

(b) implement suitable security measures such that only those individuals explicitly authorised to trade by the Member may gain access to passwords;

(c) keep the Exchange promptly informed of anything concerning the Responsible Individual which might reasonably be expected to be disclosed to the Exchange. This duty shall arise as soon as the Member becomes aware, or has reasonable grounds for believing, that a matter requiring disclosure has arisen;

(d) ensure that any trading access granted to individuals (whether staff of the Member or otherwise), for example, by way of order routing systems, is adequately controlled and supervised, including the ability to make appropriate checks before any orders are submitted to the Trading Server; and

(e) register with the Exchange, in accordance with Exchange requirements from time to time in force, any Front End Application or order routing system intended to be used in respect of Exchange business and, in respect of business conducted on the ICE Platform, only operate such Front End Application or order routing system, which complies with the Conformance Criteria determined by the Exchange from time to time, with the prior written approval of the Exchange.

1.6 A Member may also access the ICE Platform through individuals who are not Responsible Individuals for the purposes of viewing price data only.

1A THE RESPONSIBLE INDIVIDUAL

1A.1 A Responsible Individual may trade himself and/or be a trading supervisor.

1A.1.1 [Not used.]

1A.1.2 [Not used.]

1A.2 Trading may also be conducted by other individuals within the Member, at the discretion of the Member, provided such individuals are fit and proper, suitable and adequately trained in accordance with Rule A.11.1(c). These individuals may only submit orders under the ITM(s) of a Responsible Individual registered to the Member, and under his supervision.

1A.3 Where access to the ICE Platform is granted by the Member to clients (order routing) the Member must ensure that client orders are submitted under an ITM assigned to a Responsible Individual and under the relevant Responsible Individual's supervision.

1A.4 A Responsible Individual must:

(a) pursuant to Rule A.11.1(c), be adequately trained and fully conversant with the Rules, the ICE Futures Contract Terms and Procedures and these Trading Procedures;

(b) be assigned at least one ITM, and a valid password for each, by the Exchange; and

(c) pursuant to Trading Procedure 3.1.4, conduct all telephone conversations on audio logged lines.

1A.5 [Not used.]

1A.6 In the normal course of events, the Exchange will direct all queries in relation to business submitted under his ITM(s) to the Responsible Individual concerned, whether or not the business was actually input directly by him. In this respect, the Responsible Individual must:

(a) have the authority to adjust or withdraw any orders submitted under his ITM(s);

(b) satisfy himself of the competence, fitness and properness and suitability of any person conducting business under his ITM(s) (including and without limitation, whether such person has complied with all the requirements under Applicable Laws in order to trade in Futures over the ICE Platform);

(c) ensure, as far as possible, that all business conducted under his ITM(s) is conducted in accordance with the Rules; and

(d) know, and be willing to disclose to the Exchange, the immediate source of all orders.

1A.7 (a) Subject to paragraph (b) below, the Responsible Individual must be contactable by the Exchange while his ITM(s) is/are in use.

(b) When a Responsible Individual is absent, and therefore not contactable, yet his ITM(s) is/are to continue to be used, the Member must nominate another Responsible Individual to fulfil his role in respect of the relevant ITM(s).

2. TRADING

2.1 Pre-Trading Session for Products

Prior to commencement of a trading session for a Product for such period as may be specified by the Exchange, a Member may enter new limit orders into, and may vary or cancel such orders, in the order book held on the ICE Platform workstation. Market orders may not be entered during this pre-trading session.

All limit orders which are designated as active are included in the opening match at the end of the pre-trading session.

Throughout the pre-open session an uncrossing algorithm will run at one minute intervals and will provide indicative opening prices to all workstations of individuals logged on at that time.

Reasonability limit checks are not performed during this period.

2.1A Opening Match for Products

After the termination of the pre-trading session and before the commencement of the trading session there will be a transitory state known as the opening match. During the opening match, all outright limit orders input and designated as active during the pre-trading session become active and, where appropriate, trades will result.

The price level and quantity of Products traded during the opening match are determined by an algorithm determined by the Exchange from time to time. No new orders may be input during the opening match.

2.2 Commencement of a Trading Session

2.2.1 The commencement of a trading session for a Product will be indicated by the display of the 'open' indicator in accordance with the ICE Platform User Guide or user guide of any Front End Application used by the Member.

2.3 Termination of a Trading Session

2.3.1 The termination of a trading session for a Product will be indicated by the display of the 'closed' indicator in accordance with the ICE Platform User Guide or user guide of any Front End Application used by the Member. No further orders can be entered or trades made until the commencement of the next pre-trading or trading session for such Product as the case may be.

2.3A Reasonability limits for Products

The Exchange shall set and may vary a reasonability limit within the Trading Server for each Product beyond which the Trading Server will not execute limit or market orders. The reasonability limit is the amount the price may change in one trading sequence from the last traded price of that contract month, or from a price determined by an algorithm in the Trading Server.

An order placed that is outside of the reasonability limit shall be rejected by the ICE Platform in full.

2.4 **Determination of Settlement and Marker Prices**

2.4.1 The Exchange shall determine Unofficial Settlement Prices for all Products in accordance with the settlement price procedures in this Trading Procedure 2.4. The Exchange may, in its absolute discretion, exclude trades from the calculation of Unofficial Settlement Prices if it considers it to be in the best interests of the Market to do so.

2.4.2 Non-traded marker prices shall be determined by the Exchange from time to time. The Exchange may, in its absolute discretion, exclude trades from the calculation of marker prices if it considers it to be in the best interests of the Market to do so.

2.4.3 Prices of EFRPs and leg prices from spread trades ("S"), crack trades ("C") and volatility trades ("V") will not be used to determine the Unofficial Settlement Prices nor the marker prices.

Settlement Price Procedures

2.4.4 The Unofficial Settlement Prices for each Product will be determined from trades made during such period of time (the "designated settlement period") as may be specified by the Exchange from time to time.

In determining whether the Unofficial Settlement Prices for Products are an accurate reflection of prevailing values, the Exchange shall take into account:

(a) the number of lots and prices traded on the ICE Platform during the designated settlement period;

(b) the price and volume of bids and offers made during the designated settlement period;

(c) the conduct of trading during the designated settlement period;

(d) observed and reported values of calendar spreads; and

(e) any other factor the Exchange, in its absolute discretion, considers relevant,

and may, in its absolute discretion, disregard any trades, bids or offers in setting the Unofficial Settlement Prices.

2.4.5 [Not used.]

2.4.5A [Not used.]

2.4.6 The Unofficial Settlement Price for Products shall be:

(a) where the total number of lots traded during the designated settlement period is equal to or exceeds a level determined by the Exchange from time to time, the trade weighted average as detailed in Trading Procedure 2.4.19 below; or

(b) where the total number of lots traded during the designated settlement period is fewer than the level determined by the Exchange from time to time, the Exchange may apply Trading Procedure 2.4.7.

(c) [Not used.]

2.4.7 Where the total number of lots traded during the designated settlement period is fewer than the level determined by the Exchange from time to time, the Unofficial Settlement Price for a Product shall be a price determined by the Exchange taking account of previous Trading Day's settlement prices, bids and offers, spread values during the ICE Platform trading session or provided by market participants, activity in other Products or groups of Products, and/or in a related market, and/or other prices that are recorded by the Exchange or any other factors considered relevant.

2.4.8 [Not used.]

2.4.9 If the Exchange is satisfied that the Unofficial Settlement Prices so determined are an accurate reflection of prevailing values for all contract months, these shall be displayed on the ICE Platform as the Unofficial Settlement Prices.

2.4.10 If the Exchange is not satisfied that the Unofficial Settlement Prices so determined are an accurate reflection of prevailing values of one or more contract months, it may consult market participants (who may or may not be Members) before the Unofficial Settlement Prices are displayed on the ICE Platform. The Exchange alone will make the final decision as to the determination of the Unofficial Settlement Prices.

2.4.11 After the display on the ICE Platform of the Unofficial Settlement Prices for a Product, or the corrected Unofficial Settlement Prices amended in accordance with Trading Procedures 2.4.17 and 2.4.18, and within such a period of time as may be published by the Exchange from time to time, such prices shall be communicated to the Clearing House forthwith and shall become the Official Settlement Prices or Exchange Delivery Settlement Prices for such Product.

2.4.12 [Not used.]

2.4.13 [Not used.]

2.4.14 [Not used.]

2.4.15 [Not used.]

2.4.16 [Not used.]

Settlement Price Objections and Amendments for all Products

2.4.17 Any objections to an Unofficial Settlement Price must be made to the Exchange within a specified time period (as may be determined by the Exchange from time to time) after publications or on display on the ICE Platform. Any objections will be settled forthwith by the Exchange before confirming or amending the Unofficial Settlement Price. The Exchange alone will make the final decision as to the determination of the Official Settlement Prices or Exchange Delivery Settlement Prices.

2.4.18 No amendment to an Official Settlement Price or Exchange Delivery Settlement Price may be made without the express approval of the Exchange.

Trade Weighted Average Calculation

2.4.19 The trade weighted average is calculated as follows:

(a) multiply the number of trades at each price by that price;

(b) add together the resulting aggregate figures;

(c) divide the total from paragraph (b) by the total number of trades in paragraph (a);

(d) round up or down to the nearest tick level (when exactly halfway, round up: e.g. $592.375 would be rounded up to $592.50).

Example: if 60 Contracts at $592.25, 180 Contracts at $594.00 and 40 Contracts at $594.25, then the trade weighted price will be $593.66, which is then rounded up to $593.75.

2.5 **'Settlement' Trades**

2.5.1 The Exchange may, by Circular, determine from time to time those Products and contract months for which Members may execute trades at the settlement price ("settlement trade") and the trading hours of each Product during which Members may execute trades at the settlement price.

2.5.2 The Exchange may also designate Products and contract months where Members may execute trades at a premium or discount to the settlement price. When designating such Products and contract months, the Exchange may limit the permissible trading range around the settlement price within which trades may be executed. The Exchange may vary this trading range at any time with immediate effect.

2.5.3 Settlement trades are executed on the ICE Platform at a price of zero representing the settlement price. For those Products and contract months where it is permitted to trade at a premium or discount to the settlement price, the price of such settlement trades will be prefixed by a plus or minus sign as appropriate. For example, settlement trades executed at +1 cent will be at a premium of 1 cent to the settlement price while those executed at -1 cent will be at a discount of 1 cent to the settlement price.

2.5.4 Settlement trades appear in the ICE Clearing Systems with the previous Trading Day's settlement price as representing the settlement price for that Trading Day. These prices are replaced by the Exchange with the Official Settlement Prices or Exchange Delivery Settlement Prices (once determined) and adjusted appropriately where a trade has been executed at a premium or discount to the settlement price.

2.5.5 Members may not amend the price of a settlement trade.

2.5A **[Not used.]**

2.6 **[Not used.]**

2.7 **[Not used.]**

2.8 **[Not used.]**

3. ORDERS

3.1 **Order Slips and Records of Trades**

3.1.1 (a) A Member is responsible for ensuring that an order received from a client for execution (including an order for a Block Trade or EFRP) during a trading session for a Product on the ICE Platform (whether such order is received before or in the course of a trading session on the ICE Platform) is recorded on an order slip or entered into an electronic order system or submitted through an order routing system or Front End Application as soon as received.

(b) Order slips must be time-stamped on a time-stamping machine unique to that Member or the time of all orders must be recorded electronically immediately upon receipt. The time-stamp or electronic recorder must be at all locations where orders are received.

(c) In the case of entering orders into an order routing system or Front End Application, the Member must ensure that there is an adequate audit trail of submission of orders to the Trading Server.

3.1.2 The written order slip or electronic record of an order must contain the following information:

(a) Member identification;

(b) identity of individual submitting the order to the Trading Server and the ITM under which it is submitted;

(c) identity of the individual completing the order slip or electronic record of an order;

(d) client identification/reference (a code is sufficient);

(e) buy/sell;

(f) volume;

(g) contract code;

(h) [Not used.];

(i) delivery month;

(j) price, price limit, or price range;

(k) any special instructions (including whether the order is a Block Trade order or an EFRP order);

(l) strategy type indicator (if applicable);

(m) order type (e.g. market, limit, stop); and

(n) date and time stamp of order receipt, order entry and of every alteration.

Records for electronic orders must include all of the above information and also include the following:

(o) Clearing Member identification;

(p) futures indicator;

(q) order identification;

(r) deal identification;

(s) authorised trader tags;

(t) clearing account name or code;

(u) if a reserve quantity order, the reserve quantity; and

(v) memo field (to include additional account information where applicable).

Every alteration to the order (including withdrawal or cancellation) shall be time-stamped or recorded electronically. All time stamps must be recorded to the highest level of precision provided.

Members must also ensure that all trade records contain, at a minimum, the above information.

Additional information may be required to be recorded from time to time in accordance with Rule G.16(e).

Members must ensure that where they operate any electronic system which submits orders directly to the ICE Platform (e.g. order routing systems or Front End Applications) their systems arrangements are compatible with the Exchange requirements for orders and meet the Exchange's Front End Applications Conformance Criteria.

3.1.3 The order slip or electronic record of the order together with the relevant ICE Platform trade records must be retained by the Member for a minimum period of seven years after the date of the transaction.

3.1.4 Without prejudice to any obligation applicable to a Member under Applicable Law, Members shall ensure that any telephone line used for the receipt or giving of orders is tape recorded and that all recordings are kept for a minimum of six months, unless the Member can satisfy the Exchange that, given the nature and extent of its business conducted on the Exchange, compliance with these tape recording and storage obligations would be disproportionate and unduly burdensome.

3.1.5 In the case of Block Trades and EFRPs, Members must record the time of verbal agreement of the terms of the trade between the parties to the trade and the name of the person who arranged the trade.

3.2 **Input, Cancellation and Variation of Orders**

3.2.1 All orders (except Block Trade orders) shall be entered into the ICE Platform in accordance with and in a form permitted by the Rules and in the manner set out in the ICE Platform User Guide, or user guide of any approved Front End Application used by the Member.

3.2.2 Orders entered into the ICE Platform may only be activated, (including reactivated), deactivated, cancelled, withdrawn or varied prior to the execution of the same in accordance with and in a form permitted by these Trading Procedures and the ICE Platform User Guide, or user guide of any Front End Application used by the Member, or in such other manner or circumstances as the Exchange may determine from time to time.

3.2.3 Activated orders will be held in a queue for execution in price and time priority in accordance with Trading Procedure 3.8.2.

3.2.4 The Exchange shall from time to time implement such systems and procedures as it considers appropriate to require that Responsible Individuals who have entered orders into the ICE Platform shall promptly advise the Exchange in the event that information relating to such orders or any trades resulting from the execution of any such order is not displayed or is displayed erroneously.

3.2.5 Where a Member is experiencing technical difficulties, the Exchange may delete orders in the order book held in the ICE Platform at the relevant Member's request, on a best endeavours basis and at the Exchange's absolute discretion.

3.3 **Validity of Orders**

3.3.1 A Member's order entered in the ICE Platform will remain valid:

(a) until accepted in full in accordance with these Trading Procedures (in the event of acceptance of part of an order the size of the order will be correspondingly reduced);

(b) until deactivated or withdrawn by the Member;

(c) until the price, volume or contract date of such order is varied by the Member creating a new order;

(Note: an increase in volume will constitute a new order; a decrease in volume will retain the time and price priority of the original order.)

(d) if it is entered under the ITM of an individual registered as a Responsible Individual authorised to conduct business on the ICE Platform;

(e) until the order is deactivated at the end of the trading session for a Product or the order is cancelled as a result of a condition attached to the order in accordance with Trading Procedure 3.4.1; and

(f) unless it is cancelled by the Exchange under Trading Procedures 3.9.1 or 3.11.

3.4 **Types of Orders**

3.4.1 Bids and offers may be entered into the ICE Platform. The ICE Platform recognises and processes 'limit' and "market" orders as set out in the ICE Platform User Guide, or user guide of any Front End Application used by the Member and any other order type as advised by the Exchange from time to time. Where no order type is specified, the order is treated as a Limit Order.

3.5 **Disclosure of Size (Reserve Quantity)**

3.5.1 Any person with access to the Market may specify a maximum disclosure volume to be shown to the Market for an order enabling the order to be released gradually without revealing the full size. The unrevealed part of the order is released only when the first part of such order is completely filled. When each portion of the order is released, it is placed in its entirety at the end of the order priority queue.

3.6 **Restrictions of Orders**

3.6.1 Where a Member receives from a single client matching or partly matching orders (which are not Block Trades or EFRPs) to both buy and sell a number of contracts at the same price level, the Member shall immediately enter both bid and offer orders but cannot guarantee that the orders will both be executed as other orders in the system may have time priority. The Exchange is not a 'held' market and Members cannot be called upon to provide an execution for their clients merely on the basis that market prices reached or surpassed the level of an order.

Members are required to enter matching orders in accordance with Rule G.6A.

3.7 **Priority of Orders**

3.7.1 Any person with access to the Market, including a Member, must at all times subordinate his own interests to those of his clients and act fairly between his clients.

3.8 **Order Execution and Recording of Trades**

3.8.1 Every trade made on the ICE Platform shall be executed in accordance with and in a form permitted by the Rules, these Trading Procedures, as set out in the ICE Platform User Guide or user guide of any Front End Application used by the Member and any direction, order or other procedure issued or implemented by the Exchange from time to time.

3.8.2 A trade is executed in the ICE Platform when (a) occurs:

(a) Price/Time priority:

(i) one order is a bid and the other an offer;

(ii) the two orders are for the same Product and contract date;

(iii) the price of the bid (offer) order equals or is greater (lesser) than the price of the offer (bid).

All orders entered and activated are queued by time of entry or amendment and matched on a first-in-first-out price and time priority basis.

(b) [Not used.]

3.8.3 Should orders entered by either a single Responsible Individual of a Member or different Responsible Individuals registered to the same Member match and a trade results, that Member shall be deemed to have transacted a Cross Trade.

3.8.4 Details of each trade made on the ICE Platform by a Member will be recorded by the Exchange and confirmation of the trade will be displayed on the ICE Platform for each Member party to the trade and such trade shall be transmitted to the ICE Clearing Systems.

3.8.5 The Exchange shall from time to time implement, with the agreement of the Clearing House, procedures to ensure that trades which are made on the ICE Platform which are to be reported to the Clearing House for clearing are so reported.

3.8.6 Failure of the ICE Platform to broadcast any message in respect of an order book, order or any part thereof, or a trade made on the ICE Platform shall not invalidate any trade recorded by the Exchange.

3.8.7 In the event that the ICE Platform or any part of the ICE Platform fails, the Exchange's determination that a trade has or has not been made on the ICE Platform shall be conclusive and binding. Such determination shall be made by the Exchange. This is without prejudice to the right of the Clearing House to treat a Contract as void or voided or to take other actions pursuant to the Clearing House Rules.

3.9 **Cancellation of Trades**

3.9.1 The Exchange may, on the suspension of a Product from trading on the Market under these Rules, cancel or amend any executed trades for such Product which were made on the ICE Platform. The Exchange may, in accordance with Section D of the Rules, cancel any order for a Product in the ICE Platform which is awaiting execution or cancel any trade in respect of a Product made on the ICE Platform. The Clearing House may take similar action under the Clearing House Rules in respect of any affected Contract.

3.9.2 Once a bid or offer has been matched in whole or in part and gives rise to a trade, there is no right of withdrawal, subject to Trading Procedure 3.11 below.

3.9.3 Where one or more legs of a strategy trade are deemed to have taken place at an unrepresentative price, the Exchange may adjust the prices of the entire strategy trade.

3.10 **Spread and Strategy Trading**

If a person with access to the Market wishes to trade a spread he must do so in accordance with the ICE Platform User Guide, or user guide of any Front End Application used by the Member, and adhere to the Rules and to these Trading Procedures.

3.11 **Validity of Trades**

3.11.1 **Invalid Trade**

Notwithstanding the reasonability limit, where applicable, a Contract made or purported to be made on the ICE Platform may be declared invalid by the Exchange in the circumstances set out below.

(a) **Unrepresentative price**

Where the Exchange determines that a trade has taken place at an unrepresentative price, it may declare that trade invalid at its absolute discretion.

Criteria which may be taken into account when determining whether a trade should be invalidated include, without limitation the following:

(i) price movement in other contract periods of the same Product;

(ii) current market conditions, including levels of activity and volatility;

(iii) time period between different quotes and between quoted and traded prices;

(iv) information regarding price movement in related Products, the release of relevant news just before or during an ICE Platform trading session;

(v) manifest error; or

(vi) proximity of the trade to the close of the trading session.

(b) **Breach of the Rules**

Where the Exchange determines that a trade has been made in breach of the Rules or these Trading Procedures, it may declare that trade invalid.

(c) **Disputes**

A trade may be declared invalid pursuant to Rule G.15.

3.11.2 **Deletion of a Trade**

An invalid trade will be removed from the ICE Clearing Systems, may be removed from the trading server and may be displayed in the ICE Platform as a deleted trade. As regards the Clearing House, an invalid trade takes effect as a Contract of opposite effect to the original Contract arising as a result of the invalid trade.

3.11.3 **Notification to Member**

When a trade is declared by the Exchange to be an invalid trade and is deleted from the ICE Clearing Systems, the parties to the trade will be notified by the Exchange of that fact and a message will be broadcast on the ICE Platform announcing the Contract, contract date and price level of the invalid trade.

3.12 [Not used.]

4. ICE PLATFORM MARKET NOTICES AND DISPLAY OF OTHER MESSAGES

4.1 An ICE Platform Market Notice shall be broadcast on the ICE Platform and be circulated in writing to all Members.

4.2 Members may be notified of other Market related information by electronic display of a message on the ICE Platform. Any such information shall have effect at the time it is transmitted or at such time as may be stated in the message. The validity and effect of such information shall not be diminished or delayed solely by it being temporarily deleted from display on one or more ICE Platform workstations or delayed, whether by reason of any equipment, communications or otherwise.

4.3 Members will be notified of the price and volume of a Block Trade by electronic display of a message on the ICE Platform.

5. RESPONSIBILITIES OF THE EXCHANGE

5.1 The Exchange shall:

(a) monitor the activity on the ICE Platform to ensure that trading is carried out in accordance with these Trading Procedures;

(b) input corrections as specified in Trading Procedure 3.9.1 or pursuant to Trading Procedure 8.5;

(c) activate/deactivate Members or any of their Responsible Individuals;

(d) [Not used.]

(e) calculate and correct or amend the settlement prices;

(f) determine, delete and notify Members in respect of an invalid trade in accordance with Trading Procedure 3.11;

(g) determine whether the price of a trade executed at an unrepresentative price may be adjusted and notify Members of such action in accordance with Trading Procedure 3.11; and

(h) have any other responsibility as may be prescribed from time to time by the Exchange.

6. THE ICE PLATFORM BACK UP FACILITIES

6.1 In the event of a failure of one or more of a Member's ICE Platform workstations or failure of the supply of the ICE Platform to one or more of the Members ICE Platform workstations for any reason, the Member is advised to take appropriate steps to use another Member who has access to the ICE Platform to execute business which it would have conducted on the ICE Platform had it been able to use its own ICE Platform workstation.

Note: A Trade Participant may not provide this service for another Member.

7. AUTHORISED CORRECTION AND ADJUSTMENT OF TRADES

7.1 In exceptional circumstances, trades which are the subject of a trading dispute or otherwise, may be processed through the ICE Clearing Systems directly by Exchange staff following the directions of the Exchange.

SECTION 2 GENERAL PROVISIONS

8. TRADING CONDUCT

8.1 Withholding Client Orders

8.1.1 A Member, or Person Subject to the Rules, as appropriate, must neither withdraw, nor withhold (except in accordance with Trading Procedure 3.5 above and Rule G.8) a client's order in whole or in part. A Member, or Person Subject to the Rules, as appropriate, shall not procure another Member to act in contravention of this procedure.

8.1.2 A Member, or Person Subject to the Rules, as appropriate, shall not deliberately delay the reporting of an executed trade to a client.

8.1.3 It shall be an offence for a Member to represent to a client that it has entered into an Exchange Contract executed otherwise than in accordance with the Rules.

8.2 Execution of Client Orders

8.2.1 A person with access to the Market, Member or Person Subject to the Rules, as appropriate, shall not inform a client that it has executed a Corresponding Contract unless he has already made on the Market a matching Contract as set out in Rule C.6.2(a).

8.3 Pre-Arranged Trades

8.3.1 It shall be an offence for a Member or Person Subject to the Rules, as appropriate, to prearrange a trade unless it is an EFRP (including, for the avoidance of doubt, an EFRP, entered on ICE Block by an ICE Block Member) posted in accordance with Rule F.5A, and Section 3 of these Trading Procedures or a Block Trade organised and posted in accordance with Rule F.7 and Section 4 of these Trading Procedures.

8.4 Abuse of Client Orders

8.4.1 A Member must not take advantage of a client's order for its own benefit, the benefit of another Member or the benefit of a Member's Representative.

8.5 Error Correction Facility

8.5.1 Where there has been an error in the execution of a client order or in the reporting thereof by a Member, the Exchange may make available to the Member an Error Correction Facility in order to resolve the error and ensure that the interests of the client are protected. The Clearing House may take similar action under the Clearing House Rules in respect of any affected Contract.

8.5.2 In order to obtain Exchange authorisation of a trade to correct the error ("error correction"), the Member must fax to Market Operations an Error Correction Declaration Form signed by a Member's Representative duly authorised for this purpose. The Error Correction Declaration Form shall confirm the details of the error and, where applicable, confirm that any improvement in price has been offered to the client.

8.5.3 The Member may also be required to provide further information to demonstrate to the satisfaction of the Exchange that:

(a) a client order was received and an attempt made, or the intention existed, to execute the order on the ICE Platform; and

(b) the client was erroneously informed that the order has been successfully executed (in whole or in part) (i.e. either there was a mistaken belief that a trade had been executed which satisfied the client order or a trade had been executed but it differed from that reported to the client).

8.5.4 An error correction may be submitted for authorisation in circumstances where:

(a) a trade has been executed at a better price than that reported to the client, but the client has declined the improvement (in part or in full). If the Member had originally traded a wrong contract month, only the net improvement, if any, would need to be offered to the client;

(b) a trade has been executed at a worse price than that reported to the client;

(c) a trade has been executed in the wrong direction, (i.e. an order to buy has been erroneously executed as a sell trade (or vice versa)), contract month or Product, but were a correct trade to be executed at the current market price, it would be at a worse price than that reported to the client.

If either no trade has been executed, or a trade has been executed in the wrong direction, contract month or Product but were a correct trade to be executed at the current market price, it would be at a better price than that reported to the client, such a trade must be executed on the ICE Platform.

8.5.5 Authorisation of an error correction is at the absolute discretion of the Exchange.

8.5.6 Authorisation of an error correction by the Exchange does not preclude the Exchange from instigating disciplinary proceedings in the event that the trade is subsequently found to have been executed other than in compliance with the Rules and Trading Procedures or related requirements.

9. REGISTRATION OF BUSINESS

9.1 An EFRP made pursuant to Rule F.5A and Section 3 of these Trading Procedures, a Block Trade made pursuant to Rule F.7 and Section 4 of these Trading Procedures and a Contract made on the ICE Platform, must be assigned to an account, claimed or allocated to another Member within 30 minutes of receipt in the ICE Clearing Systems.

9.2 Allocations and account assignments on the ICE Clearing Systems must be promptly attended to in order that any discrepancies may be resolved shortly after the trade is received. The processing of the trade, including allocation, claim and assignment should be completed within 30 minutes of trade execution on the ICE Platform or direct input of a matched EFRP, Contingent Agreement to Trade or Block Trade into the ICE Clearing Systems.

The Exchange may, at its discretion, vary the time by which Members must complete the processing set out in Trading Procedure 9.1 and/or above where the closure of the ICE Clearing Systems is less than 30 minutes after the close of trading on the ICE Platform. In such an event, the variance and the circumstances leading to the variance will be notified in advance to Members.

9.3 Members must ensure that at least one Member of staff with authority to resolve misallocations or deal with other trading, clearing or settlement issues remains on duty until 30 minutes after the close of trading of a Product on the ICE Platform for that Trading Day.

10. DISCIPLINARY PROCEDURES

10.1 Any person duly authorised by the ARC Committee may take summary disciplinary measures, including the imposition of fixed penalty fines up to an amount of SGD 10,000 in respect of each offence and fixed terms of exclusion from the market, in respect of any infringement, contravention of failure mentioned in Rule E.7.1.

10.2 Rule E.2.2 sets out several types of misconduct in relation to trading on the Exchange in respect of which summary measures are not available. Where it appears to the Exchange that there may have been one or more breaches of Rule E.2.2, a report may be submitted to the ARC Committee for consideration of any action necessary.

10.3 Notification of a summary disciplinary measure imposed under Trading Procedure 10.1 above shall be given to the Member forthwith and shall include a notice setting out its right of appeal:

(a) an appeal shall lie against any finding of fact and against any sanction imposed;

(b) a Member desiring to appeal shall lodge a notice setting out the grounds of its appeal:

(i) in the case of a breach of Rule E.8 within one business day of the notification referred to in paragraph (a) above;

(ii) in the case of any other breach within Rule E.7.1 within five business days of the said notification;

(c) an appeal shall be heard by the ARC Committee and shall be by way of re-hearing. On an appeal, the ARC Committee shall make such finding as shall be appropriate and may confirm, vary or quash any sanction imposed, and may confirm, decrease or increase any fine. The decision of the ARC Committee on an appeal shall be final.

(d) on an appeal (including an appeal which is frivolous or without merit) the ARC Committee may order the Member to pay the whole or some part of the costs thereof.

(e) no appeal shall be withdrawn except by notice in writing and with leave of the ARC Committee, and when giving or refusing leave, the ARC Committee may make such order for costs as shall be appropriate.

10.4 Subject to the Rules, the ARC Committee may deal summarily with any case which seems to it to be appropriate and shall:

(a) if the Member does not appear and the ARC Committee is satisfied that the Member has been given due notice of the hearing, decide the case on documentary evidence, including a written case submitted by the Exchange and the Member's response (if any);

(b) if the Member does appear, permit the Exchange and the Member to present their cases orally, and to call witnesses who may be cross-examined.

10.5 The ARC Committee shall announce its decision, taken under Trading Procedure 10.4 above, either orally or in writing at the conclusion of the summary hearing, or so soon thereafter as may be convenient.

10.6 A Member aggrieved by the summary determination of a case by the ARC Committee under Trading Procedure 10.5 above shall within seven days of notification to the Member of the said determination, lodge with the Exchange a notice of appeal in writing stating the grounds of the appeal.

10.7 An appeal against a summary determination by the ARC Committee shall be heard by a Disciplinary Panel and shall be by way of re-hearing. The decision of the Disciplinary Panel on such appeal shall be final.

10.8 Provided that the time for lodging an appeal (where an appeal lies) has expired, any decision of the Exchange or other authorised person under Trading Procedure 10.1, any summary determination of the ARC Committee under Trading Procedure 10.5 and any decision of the Disciplinary Panel under Trading Procedure 10.7 shall be published by the Exchange in whatever form seems to the ARC

Committee to be appropriate, provided that the ARC Committee may, in its discretion, prohibit or restrict such publication but shall in such case, minute such decision giving reasons therefor.

10A [NOT USED.]

11. TRADE INVESTIGATIONS

Commencement of Investigation

11.1 The Exchange may in its absolute discretion investigate a Matched Transaction or a Contract (for the purposes of Trading Procedure 11, the "trade") where:

(a) a market participant (who may or may not be party to the trade) disputes the price of a trade made or alleged to have been made on the ICE Platform, and has notified the dispute to the Exchange within such period of time as published by the Exchange from time to time in accordance with Rule G.15; or

(b) the Exchange determines that a trade may have been made on the ICE Platform at an unrepresentative price and where no such notification has been received from a market participant.

11.2 These investigation procedures may be varied at the Exchange's absolute discretion depending on the circumstances under which an investigation of a trade made or alleged to have been made on the ICE Platform is commenced.

11.3 The Exchange shall not investigate a trade when a dispute has been notified by a market participant in respect of the volume only. In such an event, the trade may be referred to the Exchange, which may, in accordance with Rule C.12, make such further enquiries as to the validity of the trade, or under exceptional circumstances, such trade may, at the absolute discretion of the Exchange, be cancelled.

Final determination by the Exchange

11.4 On conclusion of an investigation where the Exchange determines that the trade under investigation, or any such consequential trades, were executed at an unrepresentative price, the Exchange may, in its absolute discretion:

(a) adjust the price of the trade under investigation and consequential trades to a price that the Exchange evaluates as fair market value at the time of execution, plus or minus the No Cancellation Range (as defined in Trading Procedure 11.6) for that Contract;

(b) cancel the trade under investigation and any such consequential trades; or

(c) let the trade under investigation and any such consequential trades stand.

If the Exchange determines that the price of the trade under investigation or any such consequential trades is to be adjusted, the adjusted price may be:

(i) outside the terms of the Limit Order for which the trade under investigation or any such consequential trades were executed, and, in such instances, the adjusted price shall be applied to the Limit Order despite being outside the order terms; or

(ii) below the stop price of a buy Stop Order or above the stop price of a sell Stop Order, and, in such instances, the adjusted price shall be applied to the Stop Order despite the fact that the trade price sequence after any price adjustments would not have elected the Stop Order.

11.5 As soon as reasonably possible on making such a determination, the Exchange will notify:

(a) the Market;

(b) the counterparties to the trade under investigation;

(c) the party disputing the price of the Contract; and

(d) any other counterparty (who may or may not be a Member or a Member's Representative).

Defined No Cancellation Range

11.6 The Exchange shall publish from time to time, parameters above or below an Exchange set reasonability limits for each Contract between which a trade under investigation, under normal circumstances, may not be cancelled or the price of such trade under investigation may not be adjusted. Such parameters shall be termed a "No Cancellation Range." The Exchange may, in exceptional circumstances and at its absolute discretion, determine that a trade under investigation which falls within the No Cancellation Range shall be cancelled.

Factors Considered when Investigating a Trade

11.7 When determining whether a trade under investigation has been made at an unrepresentative price, the Exchange may take into account criteria which include but are not limited to:

(a) price movement in other contract months of the same contract;

(b) current market conditions, including levels of activity and volatility;

(c) time period between different quotes and traded prices;

(d) information regarding price movement in related contracts;

(e) the release of economic data or other relevant news just before or during electronic trading hours;

(f) manifest error;

(g) number of parties potentially impacted by the investigation;

(h) whether another market participant relied on the price; or

(i) any other factor that the Exchange in its sole discretion, may deem relevant.

The Exchange, in its sole discretion, may consult with market participants, which are not party to the trade under investigation or party to any consequential trades, when determining whether the trade has been made at an unrepresentative price.

Consequential Trades

11.8 The Exchange may also determine:

(a) whether any trades resulting in spread trades should be cancelled or the price of such trades be adjusted; and

(b) whether a market participant relied on the price of the trade to execute subsequent orders and whether such trades should be cancelled or the price of such trades be adjusted.

The Exchange shall consider situations involving consequential trades on a case by case basis.

11.9 Where trades are executed after the Market has been notified that a trade is under investigation which is subsequently cancelled or the price of the trade under investigation is adjusted, such trades under normal circumstances, shall not be cancelled nor shall the prices be adjusted. However, if the price of the trades in such instance is disputed or the Exchange determines that the trades have been made at an unrepresentative price, the Exchange will investigate the trades in accordance with these investigation procedures.

12. [NOT USED.]

13. EMERGENCY PROCEDURES

13.1 In the event of a failure of the ICE Platform or any part thereof, the Exchange shall take such emergency procedures as set out in Rule G.14.

14. RESPONSIBLE INDIVIDUAL REGISTRATION PROCEDURES

Number of ICE Platform Trading Staff

14.1 A Member must register at least one Responsible Individual with the Exchange in order to access the ICE Platform to conduct Exchange business.

14.2 A Member must ensure it has a sufficient number of Responsible Individuals for the nature and scale of business conducted.

General Registration

14.3 A Member must register with the Exchange all staff that are required to work as Responsible Individuals.

The compliance officer of a Member, or other appropriate Member's Representative, wishing to register a Responsible Individual must no later than three business days before the intended starting day:

(a) submit a completed Responsible Individual Registration Form; and

(b) confirm in writing any Authorisation of the individual (if applicable) and the Member firm to which he is registered,

to the Exchange.

The Exchange will notify the compliance officer of the Member (or other appropriate Member's Representative) when the individual has been registered as a Responsible Individual. The ICE Platform supervisor will notify the Responsible Individual of his password, ITM (s) and logon details and the date from which he may access the ICE Platform to conduct Exchange business.

14.4 **De-registration**

A Member must de-register all staff who are no longer required to work as Responsible Individuals or who leave their employment.

The compliance officer of a Member (or other appropriate Member's Representative) who wishes to de-register a Responsible Individual must:

(a) before the intended de-registration day give prior written notice of the de-registration to the Exchange; and

(b) in the event that a Member requires immediate de-registration of a Responsible Individual, (other than under Trading Procedure 14.5) and prevention of that Responsible Individual's access to the ICE Platform to conduct Exchange business, the compliance officer of the Member (or other appropriate Member's Representative) requiring such action must notify the Exchange in writing of such request.

The Exchange will advise the ICE Platform supervisor who will prevent such Responsible Individuals access to the ICE Platform to conduct Exchange business, as soon as reasonably practicable.

Transfer of Registered Responsible Individual

14.5 Where an individual is registered as a Responsible Individual but wishes to transfer from one Member to another, the individual will not be permitted to work as a Responsible Individual for the new Member until:

(a) his former Member has de-registered him in accordance with Trading Procedure 14.4 above; and

(b) the compliance officer of the new Member (or other appropriate Member's Representative) has provided the information set out in Trading Procedure 14.3 above to the Exchange no later than two business days before the proposed transferal date.

15. QUALIFICATION TO TRADE

15.1 Individuals who wish to conduct business on the ICE Platform must be registered as Responsible Individuals in accordance with the Responsible Individual registration procedures pursuant to Trading Procedure 14 or be under the supervision of a Responsible Individual.

Members must have adequate arrangements to ensure that all staff involved in the conduct of business on the ICE Platform are adequately trained and fully conversant with the Rules and Trading Procedures.

The Exchange may institute such examination in such form as it sees fit and may require that the passing of such exam shall be a pre-condition to the registration or continued registration of a Responsible Individual.

15A [NOT USED.]

SECTION 3 EXCHANGE FOR RELATED POSITIONS ("EFRPs")

16. [NOT USED.]

16A. [NOT USED.]

16B. Exchange for Related Positions

16B.1 The Exchange provides an Exchange for Related Positions Facility in Contracts ("**EFRP Facility**") on ICE Block. The EFRP Facility allows Members to organise and execute, subject to this Trading Procedure 16B, the following types of EFRP:

(a) an exchange for physical transaction (an "EFP") , which is a transaction between two parties involving the purchase or sale of a Product and:

(i) the simultaneous price fixing of a directly related and specifically identifiable contract for sale or purchase of the same or similar physical commodity, which expressly contemplated price fixing; or

(ii) the hedging of a directly related and specifically identifiable contemporaneous contract for sale or purchase of the same or similar physical commodity;

(b) an exchange for swap (an "EFS") transaction which is a transaction between two parties involving the purchase or sale of a Futures Contract and an appropriate number of related swaps; and

(c) an exchange for market transaction (an "EFM"), which is a transaction where Members with an existing ICE Futures Singapore Contract (the "Existing Contract"), exchange such Existing Contract for a related ICE Futures Singapore Contract (the "Related Contract") where certain criteria, as determined by the Exchange and published by Circular, is fulfilled which may include the following:

(i) Members may only exchange contract months in Existing Contracts for those contract months in the Related Contract as determined by the Exchange from time to time and published by Circular;

(ii) EFMs shall only be used by Members to reduce a position in an Existing Contract;

(iii) the maximum volume that can be exchanged in an EFM transaction for any contract month in the Existing Contract shall be the total volume of the Existing Contract; and

(iv) applicable minimum volumes shall be determined by the Exchange and published by Circular,

(together, "**EFRPs**").

16B.2 EFRPs may be transacted only in respect of Products which have been designated by the Exchange from time to time for that purpose and published from time to time by Circular. EFRPs are not permitted in a delivery month of a designated Product which has never traded.

16B.3 Any Member is permitted to arrange EFRPs, subject only to the Member having in place arrangements for the execution of the Contract leg of the EFRP via a Member holding a relevant trading right (the "EFRP executing Member") to trade such Product.

16B.3A [Not used.]

16B.3B [Not used.]

16B.4 An EFRP may be organised only during the trading hours of the Product concerned, as published by the Exchange from time to time by Circular.

16B.5 When a Member accepts an EFRP order, he must record the order details set out in Trading Procedure 16B.7 and, in addition, the details prescribed by paragraphs (a) to (c) below, on an order record. Where a Member employs an electronic system for order routing, such details must be recorded electronically:

(a) time of order receipt;

(b) identity of individual organising the EFRP; and

(c) date and time stamp (at time of organisation).

All information required to be retained by the EFRP executing Member, pursuant to this Trading Procedure 16B.5, must be retained by the Member for seven years.

16B.6 The EFRP executing Member is responsible for assigning the price of the Contract leg(s) of the EFRP.

16B.7 In relation to EFPs, the following details must be submitted via the ICE Platform by the EFRP executing Member:

(a) Product in which the EFP is being transacted;

(b) delivery month(s);

(c) agreed futures price(s);

(d) number of lots of each Product; and

(e) counterparty Member mnemonic.

In addition, and subject to Rule F.5A.1(c), the EFRP executing Member must retain, in an easily accessible form that can be audited by the Exchange, documentary evidence of the following information:

either

(i) a copy of the physical contract itself, if this was transacted at a specific outright price. The date of the physical contract must be the same as the date of registration of the futures leg;

or

(ii) a copy of a price-fixation confirmation, together with a copy of the directly related contract which shows the price differential or ratio at which the contract was transacted. The date of the price-fixation confirmation must be the same as the date of registration of the futures leg;

and

(iii) that the price (plus premium, less discount, or multiplied by any applicable volume ratio) equates to the price at which the EFP was transacted;

(iv) that the futures delivery month referred to in the physical contract or price-fixation confirmation is the same as that for which the EFP was registered; and

(v) that the physical contract or price-fixation confirmation relates to at least the equivalent amount of the underlying commodity or a related commodity.

16B.7A In relation to an EFS, the following details must be submitted via the ICE Platform by the EFRP executing Member:

(a) Futures Contract in which the EFS is being transacted;

(b) delivery month;

(c) agreed futures price; and

(d) number of lots of each Futures Contract.

16B.7B [Not used.]

16B.8 Details of an EFRP transaction must be reported to the Exchange through ICE Block by the EFRP executing Member as soon as practicable. In any event, details of the EFRP must be submitted by the EFRP executing Member within 15 minutes of agreeing to execute the EFRP. Members must not delay submission of an EFRP. If the Exchange is not satisfied that all such details are valid, it may, in its discretion, void the EFRP. The executing Member will then receive confirmation of the details of the trade.

16B.9 [Not used.]

16B.10 EFRPs must be reported to the Exchange through ICE Block by:

(a) the Member itself:

(i) where a General Participant Member executes an EFRP with or on behalf of a client who is not a Member, it must comply with all Applicable Laws, including in relation to suitability and appropriateness;

(ii) in the case of a Trade Participant, the EFRP must be in respect of business for its own account and the counterparty with whom it arranges the EFRP being another Member;

(b) a Member's Representative, where they have been authorised by the Member they represent, and have been granted permission by the Exchange to access ICE Block, having completed such form of enrolment as may be prescribed by the Exchange from time to time; or

(c) an ICE Block Member; where the ICE Block Member has the permission from its own Clearing Member or its client's Clearing Member(s) to execute business on its own account or on the client's behalf.

Members may also report the details of EFRPs to the ICE Help Desk for entry into ICE Block in the Member's name, or in the name of the Clearing Member with whom its client on whose behalf the Member is executing business, has a clearing account. The Member must have been appropriately permissioned to enter EFRPs by the Clearing Member.

Members may also report the details of EFRPs through any other means determined by the Exchange from time to time.

16B.11 Where the EFRP is agreed between two separate Members ("Non-crossed Trades") and unless agreed otherwise between the two Members party to the Non-crossed Trade, the buying Member shall enter the details of the Non-crossed Trade into ICE Block and such details shall be confirmed/accepted by the selling Member party to the Non-crossed Trade. Details must be confirmed/accepted within the period of time prescribed by the Exchange for reporting.

16B.12 The EFRP will flow from ICE Block into the ICE Systems and be identified as an EFRP with a specific trade type as prescribed by the Exchange.

16B.13 Where details of a Non-crossed Trade have been submitted to ICE Block by one of the Members party to the Non-crossed Trade, but not confirmed in ICE Block by the other Member party to the Non-crossed Trade within the prescribed period of time, it is the responsibility of both Members (or the Clearing Member with whom the executing Member or counterparty is party to a clearing agreement) to discuss and resolve the matters preventing the confirmation/acceptance of the transaction submitted to ICE Block.

16B.14 The following information with respect to the Contract leg of an EFRP will be broadcast on the ICE Platform:

(a) Product(s) and delivery month(s); and

(b) volume of such Product traded.

In addition, these details will be distributed to quote vendors, marked with the ICE Platform market data update type E (for EFRPs).

For each Product, the cumulative volume traded as the Contract leg of EFRPs posted during the day will also be published.

16B.15 Recording by the Exchange of a transaction does not preclude the Exchange from instigating disciplinary proceedings in the event that the transaction is subsequently found to have been made other than in compliance with the Rules and Trading Procedures.

16B.16 All information required to be retained by the EFRP executing Member, pursuant to Trading Procedures 16B.7 must be retained by the Member for seven years. If the EFRP executing Member is not directly responsible for the execution of the physical leg of the EFRP, he must have appropriate arrangements in place with the party organising/executing the physical leg such that the information in Trading Procedures 16B.7(i) to (v) above can be provided promptly to the Exchange.

SECTION 4 BLOCK TRADE PROCEDURES

17. BLOCK TRADE PROCEDURES

17.1 Block Trades may take place:

(a) in respect of Products designated by the Exchange from time to time by Circular as Products that may be traded as Block Trades pursuant to the Rules;

(b) only during such trading hours of the Block Trade Contract concerned and on such Trading Days as the Exchange may from time to time prescribe; and

(c) only when arranged and reported in accordance with Rule F.7 and these Trading Procedures, and when price, volume and aggregation Rules are met.

Block Trades are not subject to these Trading Procedures other than in this Section 4 or where specifically referred to.

17.2 [Not used.]

17.3 Block Trades must be reported to the Exchange through ICE Block by:

(a) the Member itself:

(i) where a General Participant Member executes a Block Trade with or on behalf of a client who is not a Member or an ICE Block Member of the Exchange, it must comply with all Applicable Laws, including in relation to suitability and appropriateness; or

(ii) in the case of a Trade Participant, the Block Trade must be in respect of business for its own account and the counterparty with whom it arranges the Block Trade being another Member or ICE Block Member;

(b) a Member's Representative, where it has been authorised by the Member it represents and has been granted permission by the Exchange to access ICE Block, having completed such form of enrolment as may be prescribed by the Exchange from time to time; or

(c) an ICE Block Member, where the ICE Block Member has the permission from its own Clearing Member or its client's Clearing Member(s) to execute business on its own account or on the client's behalf.

Members may also report the details of Block Trades to the ICE Help Desk for entry into ICE Block in the Member's name or in the name of the Clearing Member with whom its client on whose behalf the Member is executing business, has a clearing account. The Member must have been appropriately permissioned to enter Block Trades by the Clearing Member.

Members may also report the details of Block Trades by any other means determined by the Exchange from time to time.

Each instance of submission set out above must be done in accordance with the reporting requirements in this Trading Procedure 17.

Block Trades must be reported without delay to the Exchange and accepted / confirmed within a period of time prescribed by the Exchange from time to time which timelines shall take effect as Rules. Failure to meet such reporting timelines may constitute a breach of the Rules.

17.4 The period of time for the submission of a Block Trade to the Exchange commences as soon as verbal agreement on the terms of the Block Trade is reached between the parties to the Block Trade.

17.5 Such time of commencement shall be recorded by the Members arranging the Block Trade on the order slip or electronic record of an order in accordance with the Rules.

17.6 [Not used.]

17.7 Where the Block Trade is agreed between two separate Members ("Non-crossed Trades") and unless agreed otherwise between the two Members party to the Non-crossed Trade, the buying Member shall enter the details of the Non-crossed Trade into ICE Block and such details shall be confirmed/accepted by the selling Member party to the Non-crossed Trade. Details must be confirmed/accepted within the period of time prescribed by the Exchange for reporting.

17.8 The Exchange may check the Block Trade details submitted to ICE Block and, if the Exchange is not satisfied that all such details are valid, it may, in its absolute discretion, void the Block Trade.

A decision by the Exchange to void a Block Trade is final.

17.9 The Block Trade price and volume will be broadcast to the Market by electronic display of the details on the ICE Platform.

17.10 The Block Trade will flow from ICE Block into the ICE Clearing Systems and be identified as a Block Trade with a specific trade type as prescribed by the Exchange.

17.11 Where details of a Non-crossed Trade have been submitted to ICE Block by one of the Members party to the Non-crossed Trade but not confirmed in ICE Block by the other Member party to the Non-crossed Trade within the prescribed period of time, it is the responsibility of both Members (or the Clearing Member with whom the executing Member or counterparty is party to a clearing agreement) to discuss and resolve the matters preventing the confirmation/acceptance of the transaction submitted to ICE Block.

17.12 Recording by the Exchange of a Block Trade does not preclude the Exchange from instigating disciplinary procedures in the event that the transaction is subsequently found to have been made other than in compliance with the Rules, nor does it preclude the Clearing House from voiding or taking other action in relation to a Block Trade.

SECTION 5 [NOT USED.]

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-6(3)

ICE Futures Singapore[sm]

Complaint Resolution Procedures

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1. GENERAL INTRODUCTION

1.1 These Complaint Resolution Procedures are "Procedures" as defined in the ICE Futures Singapore Pte. Ltd. rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule A.1 and Rule A.1.10. These Complaint Resolution Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with Singapore law and any Dispute arising under these Complaint Resolution Procedures will be subject to Section H of the Rules.

1.2 These Complaint Resolution Procedures establish arrangements and adequate procedures for the recording, monitoring, investigation and resolution of complaints arising in connection with the performance of, or failure to perform, any of its regulatory functions (any such matter, a "**Complaint**"). Steps will be taken by the Exchange to ensure that Complaints are handled fairly, consistently and promptly. These arrangements include procedures for a Complaint to be fairly and impartially investigated by an Independent Complaints Commissioner and for that person to report on the result of his investigation to both the Exchange and the person making the Complaint ("**Complainant**"). The arrangements must also confer on the person the power to recommend, if appropriate, that the Exchange: (i) makes a compensatory payment to the Complainant; and/or (ii) remedies the matter complained of. The Exchange should also take prompt action to rectify systems and controls weaknesses highlighted by any Complaint.

1.3 The Exchange has adopted these Complaint Resolution Procedures. A Complaint which runs its full course will consist of the following key stages:

(a) an Eligible Complaint (as defined in Paragraph 2.1) must be submitted in writing;

(b) at first instance the Exchange will investigate the Complaint and attempt to resolve it. If the Complainant is dissatisfied with the Exchange's response or proposals to redress the Complaint, the Complainant may refer the Complaint to an Independent Complaints Commissioner (the "**Commissioner**") or request that the Exchange refers the Complaint to the Commissioner;

(c) the Commissioner, if he determines that the referral is an Eligible Complaint, will investigate the matter as appropriate;

(d) following due consideration, the Commissioner will produce a report outlining his recommendations which will be copied to the Exchange and the Complainant; and

(e) if the Commissioner recommends a compensatory payment and/or remedial action, the Exchange will consider and may act upon such recommendation.

1.4 There is no restriction on who can bring a Complaint, although a Complaint must be an Eligible Complaint in order to be capable of being handled in accordance with these Complaint Resolution Procedures. These Complaint Resolution Procedures do not limit the Exchange from considering or refraining from considering any Complaint which is not an Eligible Complaint pursuant to such procedures as it may determine.

1.5 In referring any Eligible Complaint (or by asking the Exchange to refer such a Complaint) to the Commissioner, the Complainant shall be deemed to agree to be bound by and be subject to these Complaint Resolution Procedures and, as a result, accepts that any recommendation made by the Commissioner to the Exchange, if adopted by the Exchange, shall be in full and final resolution and settlement of the Complaint and all associated rights and claims.

1.6 Without prejudice to the ability of any other person to act as a Complainant, these Complaint Resolution Procedures apply in relation to all Members.

2. ELIGIBLE COMPLAINTS

2.1 "**Eligible Complaints**" are Complaints against the Exchange arising in connection with the performance of, or its failure to perform, any of its regulatory functions.

2.2 A Complaint will not be an Eligible Complaint if it:

(a) relates to:

(i) the Exchange's relationship with its Directors, officers, employees, committees or any individual committee member;

(ii) the content of the Exchange's Rules; or

(iii) a decision against which the Complainant has the right to appeal under the Rules;

(b) is connected with a contractual or commercial dispute involving the Exchange and is not connected in any way with the Exchange's regulatory functions;

(c) is made outside the period of 12 months from the date on which the Complainant becomes aware of the circumstances giving rise to the Complaint unless the Complainant can show reasonable grounds for delay; or

(d) is of a frivolous or vexatious nature or amounts to an abuse of process.

2.3 A Complaint connected with, or which arises from any form of continuing action by the Exchange under Section D or E of the Rules will not normally be investigated by the Commissioner until the action has been completed.

3. MAKING A COMPLAINT

3.1 A Complaint should be made in writing, marked "Complaint for Resolution under ICE Futures Singapore Complaint Resolution Procedure" and sent to:

Chief Regulatory Officer
ICE Futures Singapore Pte. Ltd.
6 Battery Road #36-01
Singapore 049909

or by e-mail to icesingapore-complaints@theice.com

3.2 The Complaint should be signed on behalf of the Complainant, and in any case where it is made by a company, partnership or other body corporate, should be signed by a director or equivalent officer with appropriate authority.

3.3 If a Complaint is made orally, the Complainant will be asked to confirm its Complaint in writing. The Exchange shall not be obliged to investigate any Complaint unless and until the Complainant has submitted a written Complaint in accordance with these Complaint Resolution Procedures.

3.4 The written Complaint should include sufficient information to allow the Exchange to properly identify the Contracts or other matters to which the Complaint relates, the activities complained of, and the basis for any alleged loss or other detriment of the Complainant. If insufficient information is provided, the Exchange may request further information and the Complaint may not be investigated further until such information is provided.

3.5 The Exchange will not impose any charge to Complainants in relation to any Complaint. The Exchange’s and Commissioner's costs and expenses in relation to any Complaint will be paid by the Exchange.

4. INVESTIGATION OF COMPLAINTS BY THE EXCHANGE

4.1 At the first instance, an investigation into the Complaint will be conducted by a suitably senior member of staff who has not previously been involved in the matter and who is not the subject of the Complaint.

4.2 The Exchange will acknowledge the Complaint within five working days of receipt, giving the name and job title of the individual handling the Complaint and including a copy of these Procedures.

4.3 Within 15 days of receiving any Complaint which the Exchange considers to be ineligible, the Exchange will inform the Complainant that it proposes not to investigate the Complaint for the reason specified. Within 15 days of receiving such notice, the Complainant may refer the Complaint to the Commissioner or ask the Exchange to refer the Complaint to the Commissioner. The Commissioner may ask the Exchange to investigate the matter if he deems it appropriate.

4.4 The Exchange will seek to resolve any Eligible Complaint as quickly as possible. In most cases, the Exchange will produce a final response to the Complaint within eight weeks from the date of receipt of the Complaint by the Exchange. However, where the scope of the Complaint reasonably demands further investigation, after eight weeks the Exchange will write to the Complainant explaining why the matter has not been resolved, indicating when a final response is likely to be made.

4.5 If the matter has not been resolved within 12 weeks, the Complainant will have the right to refer the Complaint to the Commissioner. In such cases, the Commissioner will be entitled to decline to consider the Complaint for a defined period notified to the Complainant in order to allow the Exchange to complete its investigation, if: (i) it arises from any form of continuing action by the Exchange under Section E of the Rules; (ii) it relates to any default proceedings under Section D of the Rules; or (iii) it shares its subject matter with an investigation, arbitration or disciplinary proceeding on which the outcome of the Complaint would impinge or otherwise depend.

4.6 Where in the opinion of the Exchange any Eligible Complaint is connected with or arises out of the same or similar facts or circumstances in respect of which an outstanding or otherwise unresolved Complaint has been made under these Procedures, the Exchange may, in its absolute discretion and upon giving notice in writing to any Complainant or Complainants so concerned, join such Eligible Complaints so that they may be addressed in the same investigation and/or any final response. The Exchange shall not in such circumstances be obliged to disclose the identity of a Complainant or facts that in its opinion would be likely to reveal such identity when notifying any individual Complainant of such a joinder or in its drafting of a final response.

4.7 The Exchange may obtain professional advice as appropriate.

5. RESULT OF THE INVESTIGATION

5.1 The Exchange will inform the Complainant of the outcome of the investigation, together with any proposed remedial action. The remedial action taken may include, but will not be limited to, offering an apology, taking steps to rectify the error, the offer of a compensatory payment on an *ex gratia* basis, or a combination of the above. If a Complaint is rejected, the Exchange will give its reason for doing so.

5.2 The Exchange may, where it deems it necessary, itself refer the Complaint to the Commissioner for investigation.

6. REFERRAL TO THE COMMISSIONER

6.1 Within 15 working days of the receipt of notice of the outcome of the Exchange's investigation, the Complainant must notify the Exchange in writing whether it accepts the proposals or requires that the Complaint be referred to the Commissioner. If the Complainant wishes to refer the Complaint to the Commissioner, the Complainant should state the reason for its continued dissatisfaction. Failure by the Complainant to make such notification to the Exchange within 15 working days will result in the Complaint not being referable to the Commissioner and ceasing to be an Eligible Complaint.

7. THE COMMISSIONER'S INVESTIGATION

7.1 The Commissioner will acknowledge any Complaint referred to him within 10 working days of receipt, giving a proposed timetable for the completion of various stages in the investigation.

7.2 If the Commissioner determines at any time that a Complaint he is investigating is not an Eligible Complaint, he must cease conducting his investigations forthwith and give notice to the Complainant(s) and the Exchange of his determination.

7.3 The Commissioner will seek to resolve Eligible Complaints as quickly as possible. The Commissioner will use reasonable endeavours in all cases to produce a final response to the Complaint within eight weeks from the date of his acknowledgment letter. However, where the scope of the Complaint reasonably demands further investigation, the Commissioner will instead explain why the matter has not been resolved and indicate when he is likely to produce a final response. The Commissioner will make every effort to resolve all Complaints within 12 weeks from the date of referral to the Commissioner but will otherwise inform the Complainant if this is not possible.

7.4 In considering whether a Complaint made against the Exchange is justified or substantiated, the Commissioner must consider whether the Exchange's conduct, in relation to its regulatory functions, amounted to, *inter alia*:

(a) a failure to act fairly;

(b) a failure to perform its regulatory functions having regard to all the circumstances of the case;

(c) a lack of care or a mistake; or

(d) an act of fraud, bad faith or negligence.

7.5 Where, in the opinion of the Commissioner, any Eligible Complaint is connected with or arises out of the same or similar facts or circumstances as another Eligible Complaint already referred to him, he may in his absolute discretion and upon giving notice in writing to any Complainant or Complainants so concerned, join such Eligible Complaints so that they may be addressed in the same investigation and/or any final response. The Commissioner shall not in such circumstances be obliged to disclose the identity of a Complainant or facts that in his opinion would be likely to reveal such identity when notifying any individual Complainant of such a joinder or in his drafting of a final response.

7.6 The Exchange and the Complainant shall each make every effort to afford the Commissioner all reasonable cooperation, including access to its staff, documents, records and information. However, the Exchange and Commissioner will have regard to the confidentiality of certain information (such as that given to the Exchange under confidentiality arrangements) as outlined in Paragraph 11.

7.7 The Exchange is not prevented from taking or continuing to take such action, or further action, as it considers appropriate during the investigation in relation to any matter which is related to a Complaint or Complainant.

7.8 If the appointed Commissioner is unable to consider the Complaint due to a conflict of interest, illness or other unavoidable commitments, the Commissioner must nominate an alternate, appointment of which alternate Commissioner is subject to the Exchange's prior written approval. The Complainant will be subsequently informed of any such appointment.

7.9 Any alternate Commissioner must himself meet the requirements for being the Commissioner and shall be required to be bound by these Complaint Resolution Procedures and to conduct the investigation on behalf of the Commissioner. The alternate Commissioner will have the same powers and rights as the Commissioner and must conduct the investigation in accordance with these Complaint Resolution Procedures.

7.10 During the course of his investigation, the Commissioner may:

(a) permit and/or request both the Complainant and the Exchange to provide appropriate documentation, evidence or oral or written submissions in relation to any specific matters that arise in relation to the Complaint;

(b) make further requests of all relevant parties and/or take whatever action is considered appropriate which might assist in considering the Complaint and confirming its factual accuracy including, where reasonable and at the Exchange's expense, appointing or seeking the advice of independent external advisers or experts;

(c) require the parties to co-operate; and

(d) otherwise conduct the investigation as he sees fit.

7.11 The Commissioner may appoint a person to conduct any part of an investigation on his behalf, but subject to his direction. That person must be independent of the Exchange and Complainant.

7.12 The Commissioner will ensure that, before he concludes an investigation and makes a report, any person who may be the subject of criticism in it is given notice of, and the opportunity to respond to, that criticism within a reasonable period.

8. RESULT OF THE INVESTIGATION

8.1 The Commissioner must report on the result of his investigation to both the Exchange and the Complainant, giving reasons for any recommendations made. The Commissioner can recommend that the Exchange takes remedial action including, but not limited to, offering an apology, taking steps to rectify the error, the offer of a compensatory payment on an *ex gratia* basis, or a combination of the above. The Exchange may, where appropriate, also be required by the Commissioner to inform the Commissioner and the Complainant of such steps which it proposes to take in response to the report.

8.2 The Commissioner may, where appropriate, require the Exchange to publish the Commissioner's report (or any part thereof), either publicly or to all Members, if the Commissioner considers that such report should be brought to the attention of the public or Members generally. Further, the Commissioner must ensure that his report, apart from identifying the Exchange, does not mention the name of any other person or contain particulars which are likely to identify any other person unless:

(a) in the opinion of the Commissioner the omission of such particulars would be likely to impair the effectiveness of the report;

(b) taking into account the public interest and the persons involved, the Commissioner considers it necessary to mention the name of that person or to include in the report those particulars;

(c) the consent of the person involved is given to such publication; or

(d) the information is otherwise already public knowledge.

8.3 The Exchange may, where it considers appropriate to do so, disclose to third parties, such as other Regulatory Authorities, any information which is received with the Complaint or which is obtained from the Complainant in the course of a subsequent investigation. Such disclosures are subject to Rule A.4.

8.4 The Exchange may instigate disciplinary proceedings at any time as a result of the Exchange's or Commissioner's investigation or matters surrounding any Complaint.

9. RECORD-KEEPING

A copy of all documents and materials relating to Complaints should be sent to the Exchange. The Exchange will retain such documents and materials for a minimum of seven years.

10. EXCLUSION OF LIABILITY

The Commissioner shall not be liable to the Exchange or any Complainant for any loss (direct or otherwise) damage or injury arising from any act, omission or negligence on his part, save in the case of fraud, death, personal injury or any other liability which by law cannot be excluded.

11. CONFIDENTIALITY

The Commissioner, the Exchange and any Complainant must each observe the strict confidentiality of the investigation of any Complaint, all information provided (to the extent it has not been made public in the Commissioner's report) and all communications made for the purpose of the investigation subject to Rule A.4.

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-6(4)

ICE Futures Singapore[sm]

Membership Procedures

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1. INTRODUCTION

1.1 These Membership Procedures are 'Procedures' as defined in the ICE Futures Singapore Pte. Ltd. rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule A.1 and Rule A.1.10. These Membership Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with Singapore law and any Dispute under these Membership Procedures will be subject to Section H of the Rules.

1.2 These Membership Procedures do not apply to any Member which is a Clearing Member.

1.3 These Membership Procedures are without prejudice to the generality of any membership criteria, ongoing obligation, notification requirement, consent requirement or any other requirement applicable to a Member pursuant to the Rules.

2. ADDITIONAL DEFINITIONS

2.1 The term "**Adjusted Net Head Office Funds**" has the meaning given to the term "adjusted net head office funds" in Regulation 2 of the SF(FMR)R.

2.2 The term "**Aggregate Indebtedness**" has the meaning given to the term "aggregate indebtedness" in Regulation 2 of the SF(FMR)R.

2.3 The term "**Aggregate Resources**" has the meaning given to the term "aggregate resources" in Regulation 2 of the SF(FMR)R.

2.4 The term "**Bank**" has the meaning given to the term "bank" in Section 2 of the Banking Act (Chapter 19 of Singapore).

2.5 The term "**Base Capital**" has the meaning given to the term "base capital" in Regulation 2 of the SF(FMR)R. In the case of a Member which is a Bank, Base Capital shall be calculated without reference to any capital held by such Bank pursuant to applicable capital requirements under Applicable Laws for any of its business as a Bank.

2.6 The term "**Financial Resources**" has the meaning given to the term "financial resources" in Regulation 2A of the SF(FMR)R.

2.7 The term "**Net Capital**" means the: (a) the aggregate of equity share capital, preference share capital with a minimum maturity of 5 years, non-convertible debentures with a minimum of 5 years' maturity, and reserves and surpluses (excluding revaluation reserves); less (b) pledged securities and deposits, investments in unlisted securities and in any related corporation (as defined in Section 4(1) of the Companies Act (Chapter 50)), intangible assets, future tax benefits, prepaid expenses, preliminary expenses and assets which cannot be converted into cash in less than 90 days, provided that the Exchange may from time to time by Circular amend the definition of Net Capital.

2.8 The term "**Net Head Office Funds**" has the meaning given to the term "net head office funds" in Regulation 2 of the SF(FMR)R. In the case of a Member which is a Bank, Net Head Office Funds shall be calculated without reference to any capital held by such Bank pursuant to applicable capital requirements under Applicable Laws for any of its business as a Bank.

2.9 The term "**SF(FMR)R**" means the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations.

2.10 The term "**Total Risk Requirement"** has the meaning given to the term "total risk requirement" in Regulation 2 of the SF(FMR)R.

3. ADDITIONAL MEMBERSHIP CRITERIA AND ONGOING OBLIGATIONS

3.1 A Member must have paid any non-refundable application fee of the Exchange (if applicable) and provided completed membership application forms.

3.2 A Member must have such facilities, equipment, operational capability, personnel, hardware and software systems as are capable of supporting the proper performance of its business as a Member, including such IT links to the Exchange and software as in the judgment of the Exchange are necessary or desirable.

3.3 A Member must have appropriate business continuity arrangements in place to enable it to meet its obligations as a Member (and, where applicable, satisfy any minimum requirements of the MAS and any other Regulatory Authority).

3.4 A Member must have a sufficient level of knowledge about the types of Products that it intends to trade and any risks involved in relation to the same and demonstrate operational competence in respect of the Products that it proposes to trade.

3.5 A Member must not be subject to an Insolvency.

3.6 A Member must have provided details of an office which is staffed during normal business hours and sufficient for its proposed activities as a Member under the direct supervision and responsibility of an executive officer of the Member to which all notices, orders and other communications from the Exchange may be transmitted or delivered. A Member must be able to continuously monitor communication facilities for receipt of communications from the Exchange.

3.7 A Member must, in respect of its relationship with the Exchange, be subject to customer due diligence and know your client measures under MAS Notice to Capital Markets Intermediaries on the prevention of money laundering and countering the financing of terrorism to the Exchange's satisfaction. A Member must, in respect of its relationship with customers, implement customer due diligence and know your client measures which comply with Applicable Laws including, where applicable, MAS Notice 626 which is applicable to Banks or MAS Notice to Capital Markets Intermediaries on the prevention of money laundering and countering the financing of terrorism, to the Exchange's satisfaction.

3.8 A Member must have adequate systems and controls in place in order to ensure that its internal affairs are organised and controlled in a responsible and effective manner, including having adequate separation policies to mitigate concentration risk of critical business functions and compliance oversight in place to enable it to meet its obligations as a Member, adequate segregation of front and back office functions and adequate back office and compliance support, as required under Applicable Laws.

3.9 A Member must have adequate risk management systems and internal audit processes that are applied appropriately.

3.10 A Member must ensure its internal record-keeping is adequate.

3.11 A Member must be able to promptly to review Circulars and other communications delivered or made available to it by the Exchange.

3.12 A Member must keep accurate records showing the details of each trade by or on behalf of such Member and such other information, in such form, as shall be required by the Exchange from time to time and in accordance with Applicable Laws.

3.13 A Member must, upon request, inform the Exchange about the criteria and arrangements adopted by it to allow clients access to the Market.

3.14 Members shall be deemed to represent and warrant, upon their first date of membership and on each subsequent date that they are a Member, that they meet all of the applicable membership criteria in Rule

B.3 and this Paragraph 3 and are in compliance with all of their obligations under the Rules and these Membership Procedures.

3.15 In connection with these Rules, all and any Contracts, its membership of the Exchange and its business and activities as a Member, each Member shall at all times:

(a) comply with these Rules and any agreement with the Exchange;

(b) comply with all Applicable Laws relating to its status and performance as a Member;

(c) act in good faith in its dealings with the Exchange;

(d) respond promptly to any direction, enquiries or requests for information given by the Exchange;

(e) pay all fees and other charges when due; and

(f) if the Exchange at its discretion so directs, allow formal audits or system tests of its operations related to its business with the Exchange during reasonable business hours and on reasonable notice no more than twice annually, at the expense of the Member.

3.16 **Regulatory Restrictions on Members incorporated outside Singapore**

A Member incorporated outside Singapore which does not have a CMS Licence, other than a Bank registered in Singapore, must:

(a) be incorporated in a jurisdiction where the relevant financial services regulator or regulators are either a party the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information or otherwise enter into a bilateral memorandum of understanding with MAS; and

(b) in the case of a Member which intends to conduct customer business:

(i) not conduct Futures trading or brokerage business on the account of any customer domiciled, resident or established in Singapore;

(ii) not carry on any business in Singapore other than complying with these Rules as a Member, complying with the rules of any other approved exchange, approved clearing house or approved trade repository as a member or customer or carrying out a business, maintaining a business presence or having place of business entirely unrelated to trading in any Product or the provision of any financial services;

(iii) carry on business in a jurisdiction the relevant financial services regulator or regulators of which have an arrangement with the MAS for information exchange and co-operation in respect of Futures; and

(iv) have the relevant Authorisation in such jurisdiction by the regulator referred to in paragraph (iii).

4. FINANCIAL RESOURCE REGIME FOR MEMBERS WHO ARE NOT CMS LICENCE HOLDERS

4.1 A Member which does not have a CMS Licence and is not a Bank must have and maintain, at all times, a Net Capital of SGD 1 million. A Member which is a Bank must have and maintain, at all times, Base Capital or Net Head Office Funds of SGD 1 million.

4.2 Net Capital requirements may be satisfied in Singapore Dollars or in other currency equivalents, based on the exchange rates from time to time used by the Exchange and published by Circular.

4.3 The Exchange may impose additional financial resource requirements on particular Members.

5. ADDITIONAL REGULATORY OBLIGATIONS AND FINANCIAL RESOURCE REGIME FOR MEMBERS WHO ARE CMS LICENCE HOLDERS

5.1 This Paragraph 5 applies only to a Member who has a CMS Licence, and all references to a Member in this Paragraph 5 shall be construed as a reference to a Member which has a CMS Licence.

5.2 Members are subject to the minimum Base Capital or Net Head Office Fund requirement applicable to them pursuant to the First Schedule of the SF(FMR)R. Members are required to notify the Exchange of such minimum Base Capital or Net Head Office Fund requirement applicable to them from time to time as requested by the Exchange. Requirements may be satisfied in Singapore Dollars or in other currency equivalents.

5.3 A Member with any doubt in relation to whether a particular balance sheet item counts as Base Capital or Net Head Office Funds shall raise any queries with the Exchange.

5.4 A Member incorporated in Singapore shall not cause or permit its Financial Resources to fall below its Total Risk Requirement.

5.5 A Member incorporated outside Singapore shall not cause or permit its Adjusted Net Head Office Funds to fall below its Total Risk Requirement.

5.6 A Member falling within Regulation 15(b) of the SF(FMR)R shall not cause or permit its Aggregate Indebtedness to exceed 1,200% of its Aggregate Resources.

5.7 A Member shall notify the Exchange without delay of any circumstances it is required to notify to the Exchange pursuant to the SF(FMR)R, including, without limitation, pursuant to Regulations 4(2), 6(3), 7(1), 16(2), 17(1), 21(1), 21(2), 22(1), 22(2)(b)(i) and 25(1) of the SF(FMR)R.

5.8 A Member shall, in accordance with Regulations 7(5) and 17(4) of the SF(FMR)R, submit such statements as the Exchange may direct in accordance with Regulations 7(3) and 17(2) of the SF(FMR)R respectively.

5.9 A Member shall not, in accordance with Regulation 22(2)(a)(i) of the SF(FMR)R, repay, whether in part or in full, any subordinated loan principal before the maturity date set out in the subordination loan agreement without the prior approval of the Exchange.

5.10 A Member shall not, in accordance with Regulation 23 of the SF(FMR)R, make any unsecured loan or advance, pay any dividend or director's fees or increase any director's remuneration if the circumstances set out in Regulation 23 of the SF(FMR)R apply, without the prior approval of the Exchange.

5.11 Any breach by a Member of any prohibition issued by the Exchange pursuant to Regulations 21(2)(d) or 22(b)(v) of the SF(FMR)R shall be a breach of these Rules.

6. ADDITIONAL NOTIFICATION REQUIREMENTS

6.1 Each Member shall notify the Exchange in writing without delay providing full particulars known to it:

(a) in relation to any change of effective control (as set out in Section 97A(6)(b) of the SFA), as soon as it becomes aware of that change or proposed change of effective control and it is not prevented from disclosing the change of effective control by Applicable Laws;

(b) if it breaches any Limit notified to it;

(c) if it ceases to have sufficient Net Capital, Base Capital or Net Head Office Funds as set out in Paragraphs 4 or 5, along with an action plan to bring the Net Capital, Base Capital or Net Head Office Funds to the required minimum;

(d) if its Net Capital, Base Capital or Net Head Office Fund, as applicable, for any reason is reduced by more than 20% from that shown on the latest financial statement filed by it with the Exchange;

(e) in the event that it fails to comply with any applicable capital or financial requirements of any Governmental Authority, Regulatory Authority, exchange or clearing organisation.

(f) of any Insolvency affecting it or any of its affiliates;

(g) of any possible or actual Event of Default;

(h) of any breach by it (or any non-frivolous or non-vexatious investigation or allegation of a breach by it) of any Applicable Law relating to its status and performance as a Member or of the Rules, including full particulars of the breach; and

(i) any business continuity event which may affect the performance of its obligations as a Member.

6.2 Where a Member holds a CMS Licence, notifications under Paragraph 6.1(a) shall only be required where a change of effective control is notifiable to, or subject to the approval of, the MAS; and in such cases the Member should provide the Exchange contemporaneously with a copy of all submissions sent to the MAS relating to the change of effective control.

6.3 All Members shall provide quarterly financial returns in the formats set out by the Exchange from time to time, within fourteen days after the end of the quarter. Subject to Paragraph 6.5, this must include a quarterly statement of: (a) Net Head Office Funds, Base Capital, or Net Capital, as applicable, signed by the chief executive officer or equivalent of the Member; (b) Adjusted Net Head Office Funds or Financial Resources, and Total Risk Requirement in the case of a CMS Licence holder; and (c) in the case of a General Participant or General Participant ICE Block Member, where applicable: (i) the segregation of customer monies and assets; and (ii) profit and loss.

6.4 All Members shall provide annual audited accounts and financial returns in the formats set out by the Exchange from time to time, within 5 months after the end of their financial year. Subject to Paragraph 6.5, this must include annual audited accounts, an auditor's report and certification complying with Paragraph 6.6, an auditor's report on sufficiency of internal control measures, and, in the case of a General Participant or General Participant ICE Block Member, where applicable, a statement on the segregation of customer monies and assets.

6.5 Members who are CMS Licence holders must comply with Paragraphs 6.3 and 6.4 above by complying with the prescribed formats under the SF(FMR)R.

6.6 The auditor's report and certification referred to in Paragraph 6.4 must include an opinion from the auditor that:

(a) the Member has complied with the applicable minimum capital and financial requirements set out in these Rules and, where applicable, the SFA;

(b) the Member's books of accounts and records conform to good industry practice and are kept in a proper manner in accordance with these Rules and, where applicable, the SFA;

(c) the auditor has obtained all the necessary information and explanations for the proper conduct of the audit and to enable it to furnish the certificate, and

(d) the financial position of the Member is such as to enable it to conduct its business on sound grounds, having regard to the nature and volume of the business transacted during its past financial year as shown by its accounts and records.

6.7 Members must submit an annual shareholding pattern showing any changes from the last statement submitted to the Exchange within 5 months after the end of the Member's financial year.

A Member must notify the Exchange immediately of any change to its:

(a) legal name, legal status or incorporation or registration number;

(b) regulatory status or Authorisation;

(c) address (registered address, mailing or operations address or address for service in Singapore);

(d) contract details of Member (telephone number, fax number or website);

(e) contact details of key personnel, emergency contacts, authorised signatories, Responsible Individuals, Member Representatives, including directors and chief executive officer and any change in the identity of any of the aforementioned persons;

(f) email address for the delivery of Circulars;

(g) clients on the account of which the Member trades or otherwise provides access to the Market;

(h) constitutional documents (e.g. articles of association or bylaws);

(i) corporate authority, any power of attorney or appointment of agent relevant to the Member entering into and performing its obligations as a Member;

(j) membership of Futures and/or options exchanges, securities or commodities exchanges or clearing houses, including any rejection from application, suspension, expulsion or disciplinary proceedings from any of the same.

6.8 A Member must notify the Exchange immediately of any event, system related issue or anything else that would prevent it from operating timely and accurately on the Market.

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX A-9

ICE FUTURES SINGAPORE

April 23, 2015

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

By Email: FBOTapplications@cftc.gov

Dear Mr. Kirkpatrick,

Re: ICE Futures Singapore Pte. Ltd. Form FBOT Application

On behalf of ICE Futures Singapore Pte. Ltd. ("**IFSG**") and ICE Clear Singapore Pte. Ltd., in my capacity as President and Chief Operating Officer, I hereby undertake to notify Commission staff promptly if (i) any of the representations made in connection with or related to IFSG's application for registration as a foreign board of trade cease to be true or correct, or become incomplete or misleading, or (ii) if any of the representations made in connection with Supplement S-1 to IFSG's application for registration as a foreign board of trade cease to be true or correct, or become incomplete or misleading, as the case may be.

Yours sincerely,

Lucas Schmeddes
President and Chief Operating Officer
ICE Futures Singapore Pte. Ltd.
ICE Clear Singapore Pte. Ltd.

ICE FUTURES SINGAPORE

April 23, 2015

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

By Email: FBOTapplications@cftc.gov

Dear Mr. Kirkpatrick,

Re: ICE Futures Singapore Pte. Ltd. Form FBOT Application

On behalf of ICE Futures Singapore Pte. Ltd. ("**IFSG**") and ICE Clear Singapore Pte. Ltd., in my capacity as Vice President Asia Pacific, I hereby undertake to notify Commission staff promptly if (i) any of the representations made in connection with or related to IFSG's application for registration as a foreign board of trade cease to be true or correct, or become incomplete or misleading, or (ii) if any of the representations made in connection with Supplement S-1 to IFSG's application for registration as a foreign board of trade cease to be true or correct, or become incomplete or misleading, as the case may be.

Yours sincerely,

Jennifer Ilkiw
Vice President Asia Pacific
ICE Futures Singapore Pte. Ltd.
ICE Clear Singapore Pte. Ltd.

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX C(1)

Monetary Authority of Singapore

GUIDELINES ON FIT AND PROPER CRITERIA

GUIDELINE NO: FSG-G01

Application of Guidelines

These Guidelines set out the fit and proper criteria applicable to all relevant persons in relation to the carrying out of any activity regulated by the Monetary Authority of Singapore ["MAS"] under any written law ["relevant legislation"].

2 MAS expects a relevant person to be competent, honest, to have integrity and to be of sound financial standing. This provides MAS with the assurance that the relevant person is willing and able to fulfill its or his obligations under any written law. This also underpins our requirements that the relevant person performs the activities regulated under the relevant legislation efficiently, honestly, fairly and acts in the best interests of its or his stakeholders and customers.

3 The onus is on each relevant person to establish that it or he is a fit and proper person rather than for MAS to show otherwise. Where a relevant person is required under the relevant legislation to ensure that another relevant person is fit and proper, the onus is on the former to establish to the satisfaction of MAS that the latter is fit and proper. As different appointments and designations entail different responsibilities, these Guidelines would be applied in a manner and to the extent that is suitable to the circumstances. MAS will consider the nature of the responsibilities of the relevant person in determining the relative emphasis and standard that should be expected of the relevant person.

[Amended on 26 November 2010]

4 When assessing an application for the appointment of a relevant person to senior or critical functions, MAS may, in addition to the fit and proper criteria set out in these Guidelines, consider other factors that may be relevant, such as whether the relevant person has a good standing in the profession in respect of which the application is submitted. If the relevant person fails to satisfy MAS that it or he is fit and proper, MAS may refuse the person's application, revoke the person's authorisation or exemption, or take other appropriate regulatory action, as may be applicable and necessary.

5 These Guidelines provide general guidance, and are not intended to be comprehensive nor replace or override any legislative provisions. They should be read in conjunction with the provisions of the relevant legislation, the subsidiary legislation made under the relevant legislation, as well as written directions, notices, codes and other guidelines that MAS may issue from time to time pursuant to the relevant legislation and subsidiary legislation.

Definitions

6 For the purposes of these Guidelines:

"Appointed Actuary" means an actuary appointed by a registered insurer under section 31 of the Insurance Act (Cap. 142) ["IA"];
"appointed representative" has the same meaning as in section 2(1) of the SFA or section 2(1) of the FAA, as the case may be;

[Amended on 26 November 2010]

"authorisation" means —

(a) an approval as an approved exchange under section 8(1) of the Securities and Futures Act (Cap. 289) ["SFA"] respectively;

(b) a recognition as a recognised market operator under section 8(2) of the SFA;

(c) a licensing as a licensed trade repository under section 46E(1) of the SFA;

(d) a licensing as a licensed foreign trade repository under section 46E(2) of the SFA;

(e) an approval as an approved clearing house under section 51(1)(a) of the SFA;

(f) a recognition as a recognised clearing house under section 51(1)(b) or 51(2) of the SFA;

(g) an approval as an approved holding company under section 81W of the SFA;

(h) a licensing as a holder of a capital markets services ["CMS"] licence under section 82(1) of the SFA;

(i) a licensing as a licensed financial adviser ["FA"] under section 6(1) of the Financial Advisers Act (Cap. 110) ["FAA"];

(j) a registration as an insurance broker under section 35X of the IA;

(k) an approval as an approved MAT insurance broker, an approved general reinsurance broker or an approved life reinsurance broker under regulation 4 of the Insurance (Approved Marine, Aviation and Transit Insurance Brokers and Approved Reinsurance Brokers) Regulations (Rg 14);

(l) an approval as an approved MAT insurer under regulation 5 of the Insurance (Approved Marine, Aviation and Transit Insurers) Regulations (Rg 15);

(m) an authorisation as a general reinsurer or life reinsurer under section 8(A) of the IA;

(n) an approval to establish a representative office under section 6 of the IA;

(o) a licensing as a licensed trust company ["TC"] under section 3(1) of the Trust Companies Act (Cap. 336) ["TCA"]; or

(p) a registration of a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations ["SFR(LCB)"].

[Amended on 6 March 2014]

"broking staff", in relation to an insurance broker, means any employee of the insurance broker or any other person who is authorised by the insurance broker to act on its behalf to provide technical advice to any client of the insurance broker in respect of —

(a) insurance policies relating to general business and long-term accident and health policies, other than insurance policies relating to reinsurance business; or

(b) reinsurance of liabilities under insurance policies relating to life or general business;

"business rules" has the same meaning as in section 2(1) of the SFA;

"Certifying Actuary" means an actuary approved by MAS under section 37 of the IA;

"connected person" has the same meaning as in section 2(1) of the SFA or section 2(1) of the FAA, as the case may be;

[Amended on 26 November 2010]

"exempt entity" means:

(a) a person exempt from the requirement to hold a CMS licence under paragraph 5(1)(d) or 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) ["SFR(LCB)"]; or

(b) a person exempt from holding an FA licence under regulation 27(1)(d) of the Financial Advisers Regulations (Rg 2) ["FAR"];

[Amended on 26 November 2010]

[Amended on 7 August 2012]

"exempt financial institution" means:

(a) a financial institution exempt from the requirement to hold a CMS licence under section 99(1)(a), (b), (c), (d), (f) or (g) of the SFA;

(b) a financial institution exempt from holding an FA licence under section 23(1)(a), (b), (c), (d), (e) or (ea) of the FAA;

(c) a financial institution exempt from registration as an insurance broker under section 35ZN(1)(a), (b), (c), (d), (e) or (ea) of the IA; or

(d) a financial institution exempt from holding a TC licence under section 15(1)(a), (b) or (c) of the TCA, or regulation

4(1)(j) of the Trust Companies (Exemption) Regulations (Rg 1);

"exempt person" means:

(a) a person exempt from the requirement to hold a CMS licence under paragraph 5(1)(d) or 7(1)(b) of the Second Schedule to the SFR(LCB);

(b) a key officer of a person referred to in paragraph (a);

(c) a substantial shareholder or an equivalent person of a person referred to in paragraph (a);

(d) a person (other than a person referred to in paragraph (b) or (c)) acting alone or together with any connected person, who –

(i) controls, directly or indirectly, not less than 20% of the voting power or such equivalent decision-making power in the person referred to in paragraph (a); or

(ii) acquires or holds, directly or indirectly, not less than 20% of the issued shares or such equivalent share of ownership of the person referred to in paragraph (a);

(e) a person exempt from holding an FA licence under regulation 27(1)(d) of the FAR;

(f) a key officer of a person referred to in paragraph (e);

(g) a substantial shareholder or an equivalent person of a person referred to in paragraph (e);

(h) a person (other than a person referred to in paragraph (f) or (g)) acting alone or together with any connected person, who –

(i) controls, directly or indirectly, not less than 20% of the voting power or such equivalent decision-making power in the person referred to in paragraph (e); or

(ii) acquires or holds, directly or indirectly, not less than 20% of the issued shares or such equivalent share of ownership of the person referred to in paragraph (e);

[Amended on 26 November 2010]

[Amended on 7 August 2012]

"institution", in relation to a relevant person whose activity is regulated by MAS under the FAA, the IA or the SFA, means:

(a) an approved exchange;

(b) a recognised market operator;

(c) an approved clearing house;

(d) a recognised clearing house;

(e) a licensed trade repository;

(f) a licensed foreign trade repository;

(g) an approved holding company;

(h) a holder of a CMS licence;

(i) a licensed FA;

(j) a registered insurance broker;

(k) an approved MAT insurance broker;

(l) an approved general reinsurance broker;

(m) an approved life reinsurance broker;

(n) a licensed TC; or

(o) a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the SFR(LCB).

[Amended on 6 March 2014]

"key officer", in relation to an exempt person, means:

(a) a director or an equivalent person; or

(b) a chief executive officer or an equivalent person;

"person having control" :

(a) in relation to an approved MAT insurance broker, an approved general reinsurance broker or an approved life reinsurance broker, is as defined in section 12A(7) of the IA read with regulation 16(2) of the Insurance (Approved Marine, Aviation and Transit Insurance Brokers and Approved Reinsurance Brokers) Regulations (Rg 14);

(b) in relation to an authorised reinsurer, is as defined in section 12A(7) of the IA;

(c) in relation to a representative office, shall have the same meaning as in section 12A(7) of the IA as though the references to authorised reinsurer were references to a representative office; and

(d) in relation to an approved MAT insurer, shall have the same meaning as in section 12A(7) of the IA as though references to authorised reinsurer were references to an approved MAT insurer;

"provisional representative" has the same meaning as in section 2(1) of the SFA or section 2(1) of the FAA, as the case may be;

[Amended on 26 November 2010]

"public register of representative" has the same meaning as in section 2(1) of the SFA or section 2(1) of the FAA, as the case may be;

[Amended on 26 November 2010]

"relevant person" means:

(a) in relation to a bank incorporated in Singapore that is licensed by MAS under the Banking Act (Cap. 19):

(i) a substantial shareholder;

(ii) a director;

(iii) a chief executive officer or deputy chief executive officer;

(iv) a chief financial officer;

(v) Head of Treasury; or

(vi) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (iii) or (v),

of the bank;

(b) in relation to a bank incorporated outside Singapore that is licensed by MAS under the Banking Act:

(i) a chief executive officer or deputy chief executive officer;

(ii) Head of Treasury; or

(iii) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (i) or (ii),

of the bank;

(c) in relation to a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186) ["MAS Act"]:

(i) a chief executive officer or deputy chief executive officer;

(ii) Head of Treasury; or

(iii) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (i) or (ii),

of the merchant bank;

(d) in relation to a person whose activity is regulated by MAS under the FAA:

(i) a substantial shareholder or an equivalent person of a licensed FA;

(ii) a licensed FA;

(iii) an appointed or provisional representative under the FAA;

(iv) a chief executive officer, director or an equivalent person of a holder of a FA licence;

(v) an exempt financial institution or its representatives;

(vi) an exempt person or its representatives;

(vii) a person for which an application for authorisation has been made to MAS under the applicable provision in the FAA;

(e) in relation to a person whose activity is regulated by MAS under the IA:

(i) a substantial shareholder of a registered insurer as defined under section 29(3) of the IA;

(ii) a registered insurance broker;

(iii) a substantial shareholder of a registered insurance broker;

(iv) a broking staff of a registered insurance broker;

(v) a chief executive officer, or director of a registered insurance broker;

(vi) a principal officer or director of a registered insurer;

(vii) an Approved Actuary;

(viii) a Certifying Actuary;

(ix) a chief executive officer, or director of the administrator as defined in the Insurance (Lloyd's Asia Scheme) Regulations;

(x) a chief executive officer, or director of a Service Company registered with the administrator under the Insurance (Lloyd's Asia Scheme) Regulations;

(xi) a Singapore representative whom the representative office has appointed to be responsible for the activities of the representative office in Singapore;

(xii) an exempt financial institution or its broking staff;

(xiii) a person for which an application for authorisation has been made to MAS under the applicable provision in IA;

(xiv) a person having effective control of a registered insurer as defined under section 27 of IA;

(xv) a person having control of a registered insurer as defined under section 28 of the IA;

(xvi) a person having control of an approved MAT insurer, an authorised reinsurer, or a representative office;

(xvii) a person having control of an approved MAT insurance broker, an approved general reinsurance broker or an approved life reinsurance broker;

(f) in relation to a person whose activity is regulated by MAS under the SFA:

(i) a substantial shareholder or an equivalent person of a holder of a CMS licence, an approved exchange, a recognised market operator, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house or an approved holding company;

(ii) a holder of a CMS licence;

(iii) an appointed, provisional or temporary representative under the SFA

(iv) an approved exchange;

(v) a recognised market operator;

(vi) a licensed trade repository;

(vii) a licensed foreign trade repository;

(viii) an approved clearing house;

(ix) a recognised clearing house;

(x) an approved holding company;

(xi) a chief executive officer, director or key person stated in a notice under section 28(2), 46V(2), 71(2) or 81ZF(3) of the SFA, of an approved exchange, a licensed trade repository, an approved clearing house or an approved holding company;

(xii) a chief executive officer, director or an equivalent person of a holder of a CMS licence;

(xiii) a chief executive officer, or director of a recognised market operator;

(xiv) a chief executive officer, or director of a licensed foreign trade repository;

(xv) a chief executive officer, or director of a recognised clearing house;

(xvi) an exempt financial institution or its representatives;

(xvii) an exempt person or its representatives;

(xviii) a person for which an application for authorisation has been made to MAS under the applicable provision in the SFA;

(xix) a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the SFR(LCB) and its chief executive officer, director or an equivalent person.

[Amended on 6 March 2014]

(g) in relation to a finance company licensed by MAS under the Finance Companies Act (Cap.108):

(i) a substantial shareholder;

(ii) a director; or

(iii) a chief executive officer or deputy chief executive officer;

(iv) a chief financial officer; or

(v) any person by whatever name described, who has responsibilities or functions similar to any of the persons referred to in this sub-paragraph,

of the finance company;

(h) in relation to a holder of a money-changing or remittance licence granted under the Money-changing and Remittance Businesses Act (Cap. 187):

(i) a substantial shareholder;

(ii) a director of the holder; or

(iii) in the case of a holder of a money-changing licence that is a partnership, a partner,

of the holder;

(i) in relation to a credit card or charge card issuer licensed under section 57B of the Banking Act (Cap. 19):

(i) a director;

(ii) a chief executive or deputy chief executive;

(iii) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (i) or (ii),

of the credit card or charge card issuer;

(j) in relation to an operator of a payment system designated under the Payment Systems (Oversight) Act 2006:

(i) a chief executive officer;

(ii) a director; or

(iii) any person by whatever name described, who has responsibilities or functions similar to a chief executive officer,

of the operator;

(k) in relation to a TC licensed by MAS under the TCA:

(i) a licensed TC;

(ii) a controller;

(iii) a director; or

(iv) a resident manager,

of the trust company.

[Amended on 26 November 2010]

"temporary representative" has the same meaning as in section 2(1) of the SFA.

[Amended on 26 November 2010]

7 The expressions used in these Guidelines shall, except where expressly defined in these Guidelines, have the same meanings as in the applicable Acts in which the expressions are referred to or used.

[Amended on 26 November 2010]

Fit and Proper Test

8 The criteria for considering whether a relevant person is fit and proper include but are not limited to the following:

(a) honesty, integrity and reputation;

(b) competence and capability;

(c) financial soundness.

[Amended on 26 November 2010]

9 The failure by a relevant person to meet any one of the criteria set out in paragraph 8 may not lead to an automatic refusal of an application; refusal to enter his name or any additional regulated activity or financial advisory services in the public register of representatives; revocation of an authorisation; revocation of the status of an appointed, provisional or temporary representative; or withdrawal of an exemption or other

regulatory action by MAS. The significance and relevance of a relevant person failing to satisfy MAS that it or he meets a specific criteria depends on:

(a) the seriousness of, and surrounding circumstances resulting in, the relevant person not meeting the specific criteria;

(b) the relevance of the failure by the relevant person to meet the specific criteria to the duties that are, or are to be, performed and the responsibilities that are, or are to be, assumed by the relevant person; and

(c) the passage of time since the failure by the relevant person to meet the specific criteria.

[Amended on 26 November 2010]

10 In the case where the relevant person is an institution, to establish that it is fit and proper, an institution should satisfy MAS that:

(a) all of its substantial shareholders meet the fit and proper criteria of these Guidelines;

(b) each of its directors and chief executive officer, or equivalent persons, meet the fit and proper criteria of these Guidelines; and

(c) it has in place appropriate recruitment policies, adequate internal control systems and procedures that would reasonably ensure that the persons that it employs, authorises or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, meet the fit and proper criteria of these Guidelines.

[Amended on 26 November 2010]

11 In the case where the relevant person is an exempt financial institution, to establish that it is fit and proper, the exempt financial institution should have in place appropriate recruitment policies, adequate internal control systems and procedures that would reasonably ensure that the persons that it employs, authorises or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, meet the fit and proper criteria of these Guidelines.

[Amended on 26 November 2010]

12 In the case where the relevant person is an exempt entity or a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the SFR(LCB), to establish that it is fit and proper, an exempt entity or a registered fund management company should satisfy MAS that:

(a) all of its substantial shareholders or equivalent persons and persons who:

(i) control, directly or indirectly, not less than 20% of the voting power or such equivalent decision-making power in the exempt entity; or

(ii) acquire or hold, directly or indirectly, not less than 20% of the issued shares or such equivalent share of ownership of the exempt entity;

meet the fit and proper criteria of these Guidelines;

(b) each of its key officers meet the fit and proper criteria of these Guidelines; and

(c) it has in place appropriate recruitment policies, adequate internal control systems and procedures that would reasonably ensure that the persons that it employs, authorises

or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, meet the relevant fit and proper criteria of these Guidelines.

[Amended on 26 November 2010]

[Amended on 7 August 2012]

Honesty, Integrity and Reputation

13 The factors set out in the following paragraphs are relevant to the assessment of the honesty, integrity and reputation of a relevant person. The factors include but are not limited to whether the relevant person:

(a) has been refused the right or restricted in its or his right to carry on any trade, business or profession for which a specific license, registration or other authorisation is required by law in any jurisdiction;

(b) has been issued a prohibition order under any Act administered by MAS or has been prohibited from operating in any jurisdiction by any financial services regulatory authority;

(c) has been censured, disciplined, suspended or refused membership or registration by MAS, any other regulatory authority, an operator of a market, trade repository or clearing facility, any professional body or government agency, whether in Singapore or elsewhere;

(d) has been the subject of any complaint made reasonably and in good faith, relating to activities that are regulated by MAS or under any law in any jurisdiction;

(e) has been the subject of any proceedings of a disciplinary or criminal nature or has been notified of any potential proceedings or of any investigation which might lead to those proceedings, under any law in any jurisdiction;

(f) has been convicted of any offence, or is being subject to any pending proceedings which may lead to such a conviction, under any law in any jurisdiction;

(g) has had any judgment (in particular, that associated with a finding of fraud, misrepresentation or dishonesty) entered against the relevant person in any civil proceedings or is a party to any pending proceedings which may lead to such a judgment, under any law in any jurisdiction;

(h) has accepted civil liability for fraud or misrepresentation under any law in any jurisdiction;

(i) has had any civil penalty enforcement action taken against it or him by MAS or any other regulatory authority under any law in any jurisdiction;

(j) has contravened or abetted another person in breach of any laws or regulations, business rules or codes of conduct, whether in Singapore or elsewhere;

(k) has been the subject of any investigations or disciplinary proceedings or been issued a warning or reprimand by MAS, any other regulatory authority, an operator of a market, trade repository or clearing facility, any professional body or government agency, whether in Singapore or elsewhere;

(l) has been refused a fidelity or surety bond, whether in Singapore or elsewhere;

(m) has demonstrated an unwillingness to comply with any regulatory requirement or to uphold any professional and ethical standards, whether in Singapore or elsewhere;

(n) has been untruthful or provided false or misleading information to MAS or been uncooperative in any dealings with MAS or any other regulatory authority in any jurisdiction;

(o) in addition to sub-paragraphs (a) to (n), where the relevant person is an individual:

(i) is or has been a director, partner, substantial shareholder or concerned in the management of a business that has been censured, disciplined, prosecuted or convicted of a criminal offence, or been the subject of any disciplinary or criminal investigation or proceeding, in Singapore or elsewhere, in relation to any matter that took place

while the person was a director, partner, substantial shareholder or concerned in the management of the business;

(ii) is or has been a director, partner, substantial shareholder or concerned in the management of a business that has been suspended or refused membership or registration by MAS, any other regulatory authority, an operator of a market, trade repository or clearing facility, any professional body or government agency, whether in Singapore or elsewhere;

(iii) has been a director, partner, substantial shareholder or concerned in the management of a business that has gone into insolvency, liquidation or administration during the period when, or within a period of one year after, the relevant person was a director, partner, substantial shareholder or concerned in the management of the business, whether in Singapore or elsewhere;

(iv) has been dismissed or asked to resign from —

(A) office;

(B) employment;

(C) a position of trust; or;

(D) a fiduciary appointment or similar position,

whether in Singapore or elsewhere;

(v) is or has been subject to disciplinary proceedings by his current or former employer(s), whether in Singapore or elsewhere;

(vi) has been disqualified from acting as a director or disqualified from acting in any managerial capacity, whether in Singapore or elsewhere; and

(vii) has been an officer found liable for an offence committed by a body corporate as a result of the offence having proved to have been committed with the consent or connivance of, or neglect attributable to, the officer, whether in Singapore or elsewhere;

[Amended on 26 November 2010]

[Amended on 7 August 2012]

[Amended on 6 March 2014]

(p) in addition to sub-paragraphs (a) to (o), where the relevant person is carrying on business in, or is acting as a representative in respect of, providing credit rating services, is or has been in observance of the Code of Conduct for Credit Rating Agencies.

[Amended on 17 January 2012]

Competence and Capability

14 The factors set out in the following paragraphs are relevant to the assessment of the competence and capability of a relevant person. The factors include but are not limited to:

(a) whether the relevant person has satisfactory past performance or expertise, having regard to the nature of the relevant person's business or duties, as the case may be, whether in Singapore or elsewhere;

(b) where the relevant person is an individual who is assuming concurrent responsibilities, whether such responsibilities would give rise to a conflict of interest or otherwise impair his ability to discharge his duties in relation to any activity regulated by MAS under the relevant legislation;

(c) in relation to a relevant person whose activity is regulated by MAS under the FAA, the IA, the SFA or the TCA and where the relevant person is an institution, exempt financial institution or exempt entity, whether its directors or equivalent persons, chief executive officer or equivalent person, the persons that it employs, authorises or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, where applicable, have satisfactory educational qualification or experience, whether in Singapore or elsewhere;

(d) in relation to a relevant person whose activity is regulated by MAS under the FAA or the SFA, whether the representative of the relevant person has:

(i) satisfactory educational qualification or experience, relevant skills and knowledge, whether in Singapore or elsewhere, having regard to the nature of the duties they are required to perform; and

(ii) satisfied the requirements stipulated in the Notice on Minimum Entry and Examination Requirements for Representatives of Holders of CMS Licence and Exempt Financial Institutions [Notice No. SFA 04-

N09] or Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers [Notice No.FAA-N13], as the case may be and as may be applicable to the representative;

(e) in relation to a relevant person whose activity is regulated by MAS under the IA, whether the broking staff of the relevant person has:

(i) satisfactory qualification or experience, whether in Singapore or elsewhere, having regard to the nature of the duties he is to perform; and

(ii) satisfied the requirements stipulated in the Notice on Minimum Standards and Continuing Professional Development Requirements for Insurance Brokers and their Broking Staff [Notice No. MAS 502], as may be applicable to the broking staff;

(f) in relation to an Appointed Actuary or a Certifying Actuary:

(i) whether the actuary has satisfactory past performance or expertise indicating knowledge of the local life or general insurance market;

(ii) whether an Appointed Actuary is a Fellow of Singapore Actuarial Society (SAS);

(iii) whether a Certifying Actuary is a member of the SAS and is a Fellow of an association recognised by the International Actuarial Association.

[Amended on 26 November 2010]

Financial Soundness

15 The factors set out in the following paragraphs are relevant to the assessment of the financial soundness of a relevant person. The factors include but are not limited to, whether the relevant person:

(a) is or has been unable to fulfil any of its or his financial obligations, whether in Singapore or elsewhere;

(b) has entered into a compromise or scheme of arrangement with its or his creditors or made an assignment for the benefit of its or his creditors, being a compromise or scheme of arrangement or assignment that is still in operation, whether in Singapore or elsewhere;

(c) is subject to a judgment debt which is unsatisfied, either in whole or in part, whether in Singapore or elsewhere;

(d) in addition to sub-paragraphs (a) to (c), in the case where the relevant person is an individual:

(i) is or has been the subject of a bankruptcy petition, whether in Singapore or elsewhere;

(ii) has been adjudicated a bankrupt and the bankruptcy is undischarged, whether in Singapore or elsewhere; or

(iii) is or has been subject to any other process outside Singapore that is similar to those referred to in sub-paragraph (i) and (ii); and

(e) in addition to sub-paragraphs (a) to (c), in the case where the relevant person is a corporation:

(i) is or has been the subject of a winding up petition, whether in Singapore or elsewhere;

(ii) is in the course of being wound-up or otherwise dissolved, whether in Singapore or elsewhere;

(iii) is or has been a corporation where a receiver, receiver and manager, judicial manager, or such other person having the powers and duties of a receiver, receiver and manager, or judicial manager, has been appointed, in relation to, or in respect of any property of, the corporation, whether in Singapore or elsewhere; or

(iv) is or has been subject to any other process outside Singapore that is similar to those referred to in sub-paragraphs (i) to (iii).

[Amended on 26 November 2010]

Cancellation of Guidelines

16 These Guidelines take immediate effect. The Guidelines on Fit and Proper Criteria (Guideline No. MCG-G01) issued on 1 July 2005 are cancelled.

Issue Date : Amended on 26 November 2010
Amended on 7 August 2012
Amended on 6 March 2014

CONFIDENTIAL TREATMENT REQUESTED BY ICE FUTURES SINGAPORE

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX D-2(2)(i)

GUIDANCE

ICE Futures Singapore Guidance on Exchange for Related Positions ("EFRP")

21 April 2015

ICE Futures Singapore Guidance on Exchange for Related Positions ("EFRP")

This Guidance contains an overview on the permitted use of EFRP and the factors to be considered when bringing bilateral positions on-Exchange. It further includes the timings and method of reporting EFRP to the Exchange.

Each Member should ensure that it has appropriate systems and controls in place to ensure that EFRP are registered in accordance with Exchange Rules. Failure to do so may render the Member liable to disciplinary action by the Exchange.

1. Summary overview of EFRP

- The EFRP facility allows Members to register Exchange for Physical ("EFP") trades which are Futures trades linked to physical and forward transactions and Exchange for Swap ("EFS") trades which are Futures trades linked to swap transactions.
- EFRP transactions must be reported to the Exchange as set out in points 4.1 and 4.2 of this Guidance.
- On the day of the expiry of the contract month/date, EFRP trade transactions in respect of the expiring contract date/month may be submitted to the Exchange up to the times set out in point 4.1 below.
- For details about acceptance prices for EFRP, refer to point 3 below.
- The Exchange may require Members to supply evidence of the underlying physical, cash or swap transaction either prior or following registration of the trade and may refuse registration in its sole and final discretion.

2. Permitted use of EFRP

The key uses of the EFRP facility are as follows:

- To permit bilaterally traded physical and paper transactions to be hedged using ICE Futures Singapore contracts in a single contingent transaction (e.g. where the seller of Brent Crude cargo becomes the buyer of ICE Mini Brent Crude Futures and the buyer of Brent Crude cargo becomes the seller of ICE Mini Brent Crude Futures)
- To enable holders of bilateral swap to replace them with the equivalent in ICE Futures Singapore contracts.

There are a number of pricing mechanisms that are used in bilateral transactions which the Exchange will accept on an EFP/EFS registration basis.

These include, inter alia:

• BWAVE - Brent Weighted Average Price • MOPs - Mean of Platts price • ICE Futures Europe marker prices	When a bilateral swap or physical transaction is based on the ICE BWAVE, ICE Futures Singapore marker (excluding any tradable marker e.g. the Brent Afternoon Marker) or MOPs and the bilateral contract has been executed contingent on its conversion into an ICE Futures Singapore contract at an agreed time, date or trigger point subsequent to the trade, the transaction may be reported to the Exchange as an EFP/EFS.

For the purposes of this Guidance and the Exchange Rules, the Exchange considers these and similar instruments to be legitimate bilateral transactions, the crucial factor being that they are not tradable on the Exchange and therefore are eligible to be registered on the Exchange using the EFRP facility.

As bilaterally agreed transactions, the trading of such instruments is outside the jurisdiction of the Exchange Rules until they are brought onto the Exchange. For the avoidance of doubt the negotiation of the purchase or sale of such instruments will not be considered by the Exchange as a breach of Exchange Rule G.4 and Trading Procedure 8.3.1 which prohibits prior arrangement.

Members and clients will need to ensure that, in bringing the contracts on-Exchange, they comply with all applicable Exchange Rules. In addition, Members and clients should also satisfy themselves that the relevant requirements of market conduct are satisfied, as well as other relevant regulations that may apply to the bilateral transactions.

3. Factors to be considered when bringing bilaterally agreed positions on-Exchange

The limiting factors on acceptance of EFRP for registration are:

- The facilities are not designed or intended to facilitate the transfer of funds between parties and/or locations whether for money laundering, resolution of errors or any other purpose other than as a consequence of normal commercial activity. If the Exchange is not satisfied that there is a legitimate commercial rationale for the EFRP, it will be refused.

- In the case of EFP transactions, the underlying physical contract must be properly documented and available for production to the ICE Futures Singapore Compliance department on demand in order to validate its legitimacy. In this context proper documentation is a legally binding bilateral contract between market participants - who may be Members or not. The contract should be either an industry standard contract or one whose terms are of an equivalent standard identifying the underlying product being traded, the price or prices involved and the mechanism by which the contracts may be converted into ICE Futures Singapore contracts.

- In the case of EFS transactions, the underlying swap agreement must be properly documented and available for production to the ICE Futures Singapore compliance department on demand in order to validate its legitimacy. Members must also maintain all documents relating to the EFRP transaction itself and the underlying swap, which may include order documentation such as, but not limited to: order slips (either trader or broker), confirmation notes, copies of electronic confirmations (email, Instant Message) or copies of a trader's blotter.

- There must be evidence of a bona fide pre-existing physical or swap agreement that is not directly dependent on the transaction being registered as an ICE Futures Singapore EFS. This cannot be a 'contingent' EFS – the underlying swap leg must not be retrospectively cancelled out by a further linked swap that comes into effect if the trade is accepted by the Exchange as an EFS.

- If the price at which the EFRP is to be registered is not at current market price or within the high/low range of the day, the Exchange Compliance department may request further information to ensure that the transaction is a legitimate use of the facility.

- The Compliance department may ask for further documentation or request sight of evidence in support of the registration as outlined in Rule F.5A (whether by sight of contract notes or otherwise) to confirm the legitimacy of the underlying transaction. Members will appreciate that the processing of such trades will be significantly quicker on most occasions if such documentation is available at the time of requesting the registration. In any event the Exchange will retrospectively monitor a random sample of accepted EFRP to ensure that there was a legitimate underlying transaction.

- Members should ensure that they post sufficient collateral with ICE Clear Singapore to offset any negative variation margin which results from the posting of an EFRP. ICE Clear Singapore may also require that sufficient cover is held on account to meet any consequential change to initial margin. Failure to do so may result in a refusal by ICE Clear Singapore to register the trade in accordance with ICE Clear Singapore Rule 404. To ensure that this requirement is fulfilled, relevant Exchange staff will examine all EFRP as they are presented for registration and if necessary registration may be delayed until both the Exchange and ICE Clear Singapore are satisfied that funds in the relevant Member's ICE Clear Singapore account are adequate.

4. Procedures for the Reporting of EFRP to the Exchange

4.1 Reporting Time Limits

EFRP trades for all eligible futures should be submitted to the Exchange as soon as possible following agreement to the terms by the relevant parties. Any trade reported after 19:00 hrs SGT will be cleared on the next business day (T+1 trade date).

On the expiry day, EFRP trades in respect of the expiring contract date/month must be reported within one hour after the expiry of the contract date/month.

4.2 Reporting to the Exchange

Once an EFRP has been organized, the Member(s) must report the details to the Exchange in accordance with ICE Futures Singapore Trading Procedure 16. EFRP may be reported to the Exchange by the entry of the details to the ICE Block facility (or by any other means determined by the Exchange from time to time). If such transactions are not entered to the ICE Block facility immediately, the date and the time of execution of the EFRP transaction must be captured and recorded on a separate record containing the other trade details to the EFRP.

Members may post an EFRP by entering into ICE Block the buy and sell sides of the trade as a cross trade. When the EFRP is agreed between two separate Members ("Non-crossed Trade") one of the Members party to a Non-crossed Trade inputs into ICE Block its own side of the deal (i.e. either the buy or sell side of the trade) alleging the counterparty Member to the deal. The counterparty Member to the deal is required to accept the alleged Non-crossed Trade in ICE Block. Once the Non-crossed Trade has been accepted by the counterparty it flows through to the ICE Systems in the normal manner.

In order to facilitate the swift matching of Non-crossed Trades the submitting Member must complete mandatory Order Reference and Contact Number fields to assist any queries prior to acceptance by the counterparty Member. Unless otherwise agreed by the relevant Members, Non-crossed Trades shall be entered by the buying Member in respect of Non-crossed Trades in single contract months. All legs pertaining to multi-legged strategy trades should be entered into ICE Block by the Buyer of the front month.

ICE Block assigns each new trade a unique deal ID and provides an audit of all actions undertaken on ICE Block for that particular day. Only Exchange Members are able to register EFRP on ICE Block. Affiliate or group companies may be eligible to trade on behalf of an Exchange Member but only with the specific written permission of that Member which has been received by the Exchange.

All Exchange Members are eligible to register EFRP using ICE Block but must first apply to the Exchange for access.

The Exchange may check the validity of the EFRP details submitted by the parties to the trades. If the Exchange (following consultation, where necessary, with ICE Clear Singapore and subject to their right to refuse registration) is not satisfied that all such details are valid, it will void the EFRP. Any decision by the Exchange not to register an EFRP is final. Registration of a transaction does not preclude the Exchange from instigating disciplinary procedures in the event that the transaction is subsequently found to have been made other than in compliance with the Regulations.

EFRP volume will be broadcast to the Market via the ICE Platform.

For the trade type codes that will be used for registration see the table below:

Transaction Type	Trade Type Code
EFP	E
EFS	S

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX F(1)(v)

Monetary Authority of Singapore

BUSINESS CONTINUITY MANAGEMENT GUIDELINES

June 2003

TABLE OF CONTENTS

1.0 INTRODUCTION

1.1 READINESS IS YOUR ONLY PROTECTION[1]

1.1.1 The global financial system is a set of interlinked networks of markets, systems, and participants. While financial institutions ("institutions")[2] acknowledge the need to strengthen their resilience against disruptions, they also recognise that the network is only as strong as its weakest link and the potential impact of a major operational disruption may incapacitate the financial system.

1.1.2 The quick recovery[3] of business functions after disruption is therefore crucial in maintaining confidence in institutions. Failing which, institutions may compromise its business obligations, which may result in significant financial losses and potentially lead to a contagion effect on the financial system. Insurance coverage may compensate certain quantifiable losses but would not protect institutions against the erosion of brand value or the loss of customers' confidence.

1.1.3 Business Continuity Management ("BCM") is an over-arching framework[4] that aims to minimise the impact to businesses due to operational disruptions. It not only addresses the restoration of information technology ("IT") infrastructure, but also focuses on the rapid recovery and resumption of critical business functions for the fulfilment of business obligations. One important tangible evidence that the institutions have embraced BCM is the formulation of a business continuity plan ("BCP").

1.1.4 Increasingly, globalisation and technological advancements are constantly testing the boundaries of implementing an effective BCM. A key challenge for institutions is to establish and maintain a comprehensive BCM that is cost-effective without a compromise of prudent risk management policies and fulfil its business obligations during a disruption. This is a continuous process. As changes in technology, business focus, and staff affect the state of

[1] Slogan of Singapore's Civil Defence.
[2] Includes regulated financial institutions and financial utility providers. Financial utility providers are organisations that provide specialised financial services such as cheque clearing and settlement.
[3] The course of action for rebuilding functions to the condition where they are ready to process data or information. This condition should be at a level sufficient to meet outstanding business obligations.
[4] A framework that includes policies, standards, and procedures that provides for continuous functioning of the institution during operational disruptions. It is commensurate with the institutions' nature, scale, complexity of business activities.

preparedness, increasingly, institutions recognise the need to incorporate BCM as an ongoing discipline into its business-as-usual operations and thereby improve its readiness to respond to and recover from crises.

1.1.5 Management prudence is therefore important in this continuous process.

1.2 APPLICATION OF THE GUIDELINES

1.2.1 The guidelines are sound BCM principles and serve as standards that institutions are encouraged to adopt. Institutions may adapt the guidelines as necessary, taking into account the diverse activities they engage in and the different markets in which they conduct transactions. Ultimately, the responsibility for business continuity preparedness and recovery following operational disruptions rests with institutions. MAS will endeavour to update the guidelines in response to international developments as they evolve.

1.2.2 One of MAS' key supervisory objectives is for institutions to have continuity plans in place to allow the continuation of critical business operations and fulfilment of business obligations in the event of disruptions. Institutions are encouraged to implement and maintain BCM that is commensurate with the institutions' nature, scale, and complexity of business activities.

1.2.3 BCM remains an important contributing factor in MAS' overall supervisory assessment. MAS will, in the course of its supervision of institutions, review the BCP implemented, taking into consideration the extent to which the institution observed the guidelines, and its risk profile. Institutions are encouraged to accept and adopt the sound principles, and develop implementation plans taking into consideration their business activities and operating environment.

1.2.4 Due to the interdependent nature of the financial system, institutions may have differing recovery expectations of each other and of the industry. Some institutions are expected to maintain a higher state of business continuity preparedness because of the extent to which other institutions depend on them to fulfil their obligations. A few of these institutions are depended on by the financial industry, to the degree that their failure to recover from operational disruption may contribute towards the amplification of systemic risk. For the purpose of these guidelines, they are collectively referred to as Significantly Important Institutions ("SII"). The financial sector would expect SII to be better prepared and aligned closer to the guidelines. MAS will, in the course of its supervision, be in contact with those institutions considered by MAS to be SII, and will discuss with them MAS' expectations regarding adherence to the guidelines.

1.2.5 Senior management and BCM practitioners should familiarise themselves with the guidelines and understand the intent and implications of the sound principles. Institutions should also read the guidelines in conjunction with relevant regulatory requirements and industry standards.

Institutions are encouraged to conduct a self-assessment of their business continuity preparedness against these sound principles and bring deficiencies to their senior management's attention as soon as possible.

1.3 GLOSSARY

Terminology	Definitions (as used in this document)
BCM	Business Continuity Management. Refers to an over-arching framework that includes policies, standards, and procedures that provides for continuous functioning of the institution during operational disruptions. It is commensurate with the institutions' nature, scale and complexity of business activities.
BCP	Business Continuity Plan. A plan of action that sets out the procedures and establishes the processes and systems necessary to restore the orderly and expeditious operation of the institution in the event of disruptions to the operations of the institution.
BIA	Business Impact Analysis. The process of measuring the business impact or loss (quantitatively and qualitatively) to the institution in an outage. The BIA is useful in identifying the recovery priorities, recovery resources requirements, recovery strategies, and critical staff.
Business Recovery	The course of action for rebuilding functions to the condition where they are ready to process data or information. This condition should be at a level sufficient to meet outstanding business obligations.
Business Resumption	The condition of a function, following its recovery, when it is ready to take on tasks and activities to meet new business obligations.
Recovery Strategies	Defined, management-approved and tested course of action in response to operational disruptions.
Recovery Time Objective	Target duration of time to recover a specific business function. It comprises two components: (1) The duration of time from the point of disruption, to the point of declaring the activation of BCP, and (2) The duration of time from the activation of the BCP to the point when the specific business function is recovered. (Refer to business recovery) It is the acceptable duration of time that can elapse before the non-continuation of the specific business function would result in severe business impact and losses to the institution.
Residual Risk	Risk that remain after mitigating measures have been applied.
Systemic Risk	Includes the risk that the failure of one institution in the financial system to meet its required obligations will cause other institutions to be unable to meet their obligations when due, thereby potentially causing significant liquidity dislocations or credit problems and threatening the stability of the financial markets.

2.0 BUSINESS CONTINUITY MANAGEMENT PRINCIPLES

2.1 PRINCIPLE 1: BOARD OF DIRECTORS AND SENIOR MANAGEMENT SHOULD BE RESPONSIBLE FOR THEIR INSTITUTION'S BUSINESS CONTINUITY MANAGEMENT.

2.1.1 The responsibility for the state of business continuity preparedness of an institution ultimately lies with the Board of directors and senior management.

2.1.2 Senior management is responsible for steering BCM with policies and strategies necessary for the continuation of critical business functions. In addition, they should demonstrate that they have sufficient awareness of the risks, mitigating measures and state of readiness by way of an attestation to the Board of directors.

2.1.3 The attestation is an internal document addressed to the Board of directors[5] for their endorsement. Senior management should determine the form that best provides them the level of comfort and the need for further assurance. The attestation should state clearly the:

- Preparedness of the institution and
- Extent of alignment with the guidelines that is commensurate with the institution's nature, scale and complexity of business activities

MAS also encourages the disclosure and inclusion of residual risk[6] in the attestation.

2.1.4 The attestation should be updated at least once a year or more frequently should there be material change within the institution.

2.1.5 While some customers and counterparties may look to institutions that they have financial dealings with for assurance on their business continuity preparedness, institutions are responsible for determining and decide on the necessary disclosure of the attestation to customers and counterparties.

[5] For overseas incorporated institutions in Singapore, the attestation should be addressed to the relevant function responsible for BCM at Group/Global level.
[6] Risk that remains after mitigating measures have been applied.

2.2 PRINCIPLE 2: INSTITUTIONS SHOULD EMBED BUSINESS CONTINUITY MANAGEMENT INTO THEIR BUSINESS-AS-USUAL OPERATIONS, INCORPORATING SOUND PRACTICES.

2.2.1 BCM is a risk-based framework that addresses operational risk by developing clear policies, strategies, and accountabilities for the recovery of critical business functions. It is a proactive process. Institutions should therefore strive to build an organisational culture that embed BCM as part of their business-as-usual operations and day-to-day risk management.

2.2.2 Depending on the scale and complexity of the businesses, institutions could adopt sound BCM practices[7] that include the following components:

- Clear BCM policy, strategy and budget
- Well-defined roles and responsibilities for the BCM programme
- BCP comprising of detailed tasks and activities
- Succession plans for critical staff and senior management
- Business impact analysis or similar process
- Programme for the development, implementation, testing and maintenance of BCP
- Programmes for training and awareness
- Emergency responses
- External communications and crisis management coordination programmes
- Coordination with external parties (including authorities, interdependent parties, etc.)

2.2.3 The BCP is an important, tangible evidence of an institution's BCM initiative. It should be practical in operation, regularly reviewed, updated as the business changes, and meaningfully tested to ensure its relevancy, effectiveness, and operational viability.

[7] In developing the BCM framework, institutions may want to consider drawing additional references from BCM organisations such as The Disaster Recovery Institute International (www.drii.org) or The Business Continuity Institute (www.thebci.org).

2.3 PRINCIPLE 3: INSTITUTIONS SHOULD TEST THEIR BUSINESS CONTINUITY PLAN REGULARLY, COMPLETELY, AND MEANINGFULLY.

2.3.1 Testing[8] is a vital element for implementing an effective BCM. Changes in technology, business processes and staffs' roles and responsibilities can affect the appropriateness of the BCP; and ultimately the business continuity preparedness of institutions. It is therefore important to regularly test its functionality and effectiveness. Tests will also familiarise staff with the location of the recovery site, as well as the recovery procedures. Institutions should seek assurance from testing, that should they activate their BCP, they would be able to continue to operate reliably, responsively, and efficiently as planned.

2.3.2 **Regular:** Institutions are encouraged to carry out different types of tests. Taking into consideration the criticality of the business functions, the complexities and resources required, institutions could conduct tests in modules and at different but regular intervals. Senior management and staff should participate in these exercises and be familiar with their roles and responsibilities in the event of activation.

2.3.3 **Complete and meaningful:** All components of a business process should be meaningfully tested (e.g. from front-line through to supporting and processing components, etc.). This should include testing the connectivity, functionality and load capacity of the infrastructure provided at the recovery site(s). Institutions should satisfy themselves that their exercise programmes adequately cover both the qualitative (e.g. response time, etc.) and quantitative (e.g. volume capacity, etc.) aspects. They should critically challenge all strategic and planning assumptions regularly to ascertain their applicability, especially when business scope or direction changes. Completeness would also include the awareness and preparedness of staff and coordination with external parties, as well as thorough testing of all interdependencies. This would include the institutions' offices, branches or service providers based outside Singapore.

2.3.4 Institution-wide tests are also encouraged as it offers a different perspective from that of modular tests. Institutions should progressively make their exercises more challenging and introduce different scenarios each time they conduct the same type of exercise. This would lead to an increase in confidence of their business continuity preparedness. Exercises may include:

[8] Testing encompasses exercises, rehearsals, etc. In this document, the words 'test' and 'exercise' are used interchangeably.

- Desk-top walk-through exercise to full system test
- Staff call-tree activation (with and without mobilisation)
- Back-up site to back-up site exercise (including with external service providers)
- Alternative arrangements of shared services
- Back-up tape restoration and
- Retrieval of vital records

Ultimately, institutions have to satisfy themselves that such tests and exercises contribute meaningfully towards enhancing their business continuity preparedness.

2.3.5 Formal exercise documentation and post mortem reviews listing lessons learnt and any new risk mitigating measures should be prepared. Senior management should sign-off on the documentation and concur with the proposed new mitigating measures.

2.3.6 **Industry-wide:** Appropriately scaled and coordinated exercises between key financial utility providers[9] and the institutions they service would increase the level of awareness and confidence in recovery operations. It would also serve to increase the confidence in the financial sector network. Institutions with such dependencies should participate in these exercises.

[9] Financial utility providers are organisations that provide specialised financial services such as cheque clearing and settlement.

2.4 PRINCIPLE 4: INSTITUTIONS SHOULD DEVELOP RECOVERY STRATEGIES AND SET RECOVERY TIME OBJECTIVES FOR CRITICAL BUSINESS FUNCTIONS.

2.4.1 The establishment of recovery strategies enables institutions to execute their BCP in an orderly and predefined manner that minimises disruption and financial loss. Recovery strategies form the basis for defining recovery time objectives[10] of critical business functions. Without these clear markers, scarce resources may be inappropriately diverted to less important activities. This may adversely affect the institutions' reputation and survivability.

Critical business functions

2.4.2 In a crisis, it might not be practical to recover all business functions at the same time. Institutions should therefore identify business functions that are critical (including support operations and related IT systems) and the potential losses (in monetary and non-monetary terms) should their operations be disrupted. A common process used to obtain this information is a business impact analysis ("BIA")[11]. This process also serves to highlight the relative priorities among the various critical functions and help institutions determine their recovery strategies and recovery time objectives.

2.4.3 Critical business functions differ among institutions largely due to different business focus and customers' expectations. Some critical business functions would include; completing payment instructions, clearing and settling transactions, fulfilling end-of-day funding and collateral obligations, managing customers' risk positions and maintaining customer, investor or public confidence.

Recovery time objectives

2.4.4 Recovery time objectives may range from minutes to hours. For some industry sectors and functions, it could be longer. For the reasons stated earlier, it is important for SII to recover and resume their critical business functions faster than the institutions or the industry that depend on them.

2.4.5 The transparency and sharing of recovery time objectives would help improve service level expectations and understanding among institutions and further contribute towards the mitigation of interdependency risk.

[10] Refer glossary.

[11] The process of measuring the business impact or loss (quantitatively and qualitatively) to the institution of an outage. The BIA is useful in identifying the recovery priorities, recovery resources requirements, recovery strategies, and critical staff.

Determining recovery time objectives for critical business functions

2.4.6 Institutions are responsible for determining their critical business functions, recovery strategies and the corresponding recovery time objectives that is commensurate with the nature, scale and complexity of their business functions and business obligations.

2.4.7 It is unlikely that all critical business functions would share the same recovery time objective. There should be a continuum of recovery time objectives for different business functions that is commensurate with institutions' obligations to the market, customers and industry.

2.5 PRINCIPLE 5: INSTITUTIONS SHOULD UNDERSTAND AND APPROPRIATELY MITIGATE INTERDEPENDENCY RISK OF CRITICAL BUSINESS FUNCTIONS.

2.5.1 Increasingly, there is a tendency for institutions to slice and redistribute risk and processes locally, regionally or globally, leading to increased dependency on either internal or external parties. Any mismanagement of these dependencies and the risks they entail could cascade into operational or systemic inefficiencies, potentially leading to the failure of institutions.

2.5.2 When planning for the business continuity of critical business functions, institutions should take into account the interdependencies of these business functions, and the extent to which they depend on other parties. Institutions should also understand the business processes of these parties that support their critical functions, including their business continuity preparedness and recovery priorities.

Examples of such dependencies are:

- Within an institution (e.g. Treasury, custody services, etc.)
- Between institutions (e.g. for US Dollar clearing, etc.)
- On financial utility providers (e.g. clearing and settlement providers, etc.)
- On vendors (e.g. IT or disaster recovery service providers, etc.)
- On infrastructure providers (e.g. telecommunication, etc.)

2.5.3 Institutions should mitigate the risk arising from these complex dependencies as far as practically possible and consider such dependencies in their recovery strategies and recovery time objectives. For example, institutions with customers, counterparties, or service providers whose primary sites are also within the same zone[12] could arrange telecommunication links between their recovery sites and test them regularly.

2.5.4 Although some of the interdependency risks are beyond the institutions' direct control to mitigate completely (e.g. unavailability of telecommunication networks, etc.), this may not dilute their customers' and counterparties' expectation of the institutions' services and obligations. It is the responsibility of institutions to take reasonable steps (e.g. initiate discussions with telecommunications provider on redundancy capabilities, etc.) to ensure that

[12] Please refer to principle 6 for an understanding of what represents a zone.

their key service providers are capable of supporting their businesses, even in disruptions. Institutions could consider engaging common service providers in BCM discussions through their respective industry associations.

2.5.5 Before contracting with external service providers, institutions should satisfy themselves that the risk resulting from outsourcing remains within levels permitted by their operational risk management policies and does not compromise business continuity preparedness. They should ensure that their service providers have BCP in place that is equal to, if not more robust than, their own. Institutions should proactively seek assurances that their service providers' BCP are regularly tested.

2.5.6 Following the appointment of external service providers, it is vital that institutions continue to monitor their financial well-being and gather market intelligence to discern early warning signs of potential problems.

2.5.7 In addition, institutions should mitigate the risk of unexpected termination or liquidation of key service providers that their critical business functions depend on. This is because institutions may take many months to implement an alternative solution. To this end, institutions should take reasonable steps to retain an appropriate level of control and reserve the right to intervene with appropriate measures to continue their critical business operations.

2.5.8 Ultimately, the risk of interdependency lies with the institutions and cannot be 'assumed' away. Institutions are responsible for balancing the risk and cost trade-offs, address the risk adequately and take reasonable steps that are commensurate with the criticality of the business function as well as the size and nature of operations.

2.6 PRINCIPLE 6: INSTITUTIONS SHOULD PLAN FOR WIDE-AREA DISRUPTIONS.

2.6.1 The 11 September 2001 incident demonstrated that institutions should plan for disruptions that affect a wide-area ("zone"). Due to a number of factors such as the differing size and complexity of business operations across all institutions in Singapore, it would not be appropriate nor practical, to standardise on a criteria that defines a zone that could be applied equally across the financial sector.

2.6.2 MAS looks to institutions to demonstrate that they have planned and catered for a wide-area disruption in their BCM. Some planning parameters that institutions may consider are; the geographical concentration of institutions, transactional processing activities, and dependencies on internal or external service providers.

2.6.3 Depending on the operational set-up of institutions, wide-area disruptions may heighten interdependency risk between critical functions and service providers within the same zone. This could be due to widespread disruption of critical services such as telecommunications failure or the inaccessibility of critical staff. Such risk should be mitigated appropriately.

2.6.4 Institutions are responsible for deciding on the need to cater for multiple zones outage scenarios, taking into consideration their respective levels of critical business activities and prudent risk management policies. In addition, they should also consider broadening and deepening their BCM scope to cater for prolonged operational disruptions.

2.7 PRINCIPLE 7: INSTITUTIONS SHOULD PRACTISE A SEPARATION POLICY TO MITIGATE CONCENTRATION RISK OF CRITICAL BUSINESS FUNCTIONS.

2.7.1 There are economic benefits to the centralisation of critical business and support functions such as treasury front and back-office as well as IT data centre. However, institutions risk losing their ability to recover these functions in a disruption, should there be a significant loss of staff or technology.

2.7.2 Critical staff and information are important assets that are difficult to replace quickly. Many institutions assume that the same pool of staff would be available to recover their critical business functions at the recovery sites. This may not always be true as disruptions may result in the unavailability of critical staff. Also, identifying alternates to critical staff may not always reduce the risk, especially if both the primary and alternate critical staff are housed in the same location or zone.

2.7.3 It is important therefore, to find the right balance between mitigating concentration risk and not losing the efficiencies gained from the centralisation of business processes and critical staff. To mitigate concentration risk of critical business functions, institutions could consider the following approaches:

2.7.4 **Primary-secondary site separation.** Separate the primary and secondary sites of critical business functions into different zones. This would mitigate the risk of losing both sites in a wide-area disruption.

2.7.5 **Critical business functions separation and intra-function separation.** Separating critical business functions into different zones would mitigate the risk of losing multiple critical business functions from a single-zone disruption. Similarly, diversifying critical business functions (eg. back-office settlement operations and critical IT support, etc.), such that another labour pool in a different zone is able to take over these functions during disruptions, would eliminate the dependency on a single labour pool.

2.7.6 These approaches have different cost implications. While cost is an important consideration, institutions should design and determine the most appropriate approach, or combination of approaches that best balances cost and risk exposure that provides an adequate level of comfort and assurance. The mitigating solution should be commensurate with the nature, scale, and complexity of their business functions.

2.7.7 Institutions are encouraged to be innovative and explore different avenues of mitigating concentration risk.

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX F(1)(vi)

THE MONETARY AUTHORITY OF SINGAPORE

SECURITIES AND FUTURES ACT (CAP. 289)

GUIDELINES ON THE REGULATION OF MARKETS

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Guideline No : SFA 02-G01
Issue Date : 1 July 2005

1 PURPOSE OF THESE GUIDELINES

1.1 These *Guidelines on the Regulation of Markets* (the "Guidelines") are issued by the Monetary Authority of Singapore ("MAS") pursuant to section 321 of the *Securities and Futures Act (Cap. 289)* (the "SFA"). These Guidelines aim to provide the industry with a better understanding of how MAS will administer the legislative provisions relating to markets, which are contained in Part II of the SFA.

1.2 These Guidelines should be read in conjunction with the provisions of Part II of the SFA and the *Securities and Futures (Markets) Regulations 2005* (the "SF (Markets) Regs") and where relevant, other provisions of the SFA.

1.3 The *Guidelines on the Regulation of Markets* issued on 11 September 2002 are revoked.

2 OBJECTIVES OF REGULATION OF MARKETS

2.1 As set out in section 5 of the SFA, MAS' objectives in regulating markets are —

(a) to promote fair, orderly and transparent markets;

(b) to facilitate efficient markets for the allocation of capital and the transfer of risks; and

(c) to reduce systemic risk.

2.2 These objectives support MAS' objectives of supervision set out in the "*Objectives and Principles of Financial Supervision in Singapore*" Monograph[1]. They are also in line with the public policy objectives set out by international standard setting bodies such as the International Organisation of Securities Commissions ("IOSCO"), in its "*Objectives and Principles of Securities Regulation*"[2].

2.3 The following paragraphs provide guidance on the key concepts encapsulated in MAS' regulatory objectives.

Fair, orderly and transparent markets

2.4 Confidence in the financial system and effective intermediation of financial flows requires that capital markets be fair, orderly and transparent.

2.5 A fair market is one that is characterised by proper trading practices, non-discriminatory access to market facilities and information, and one that does not tilt the playing field in favour of some participants over others. A fair market provides investors with greater confidence that they can trade without other investors having an unfair advantage. In this regard, investors should be able to access quotes for comparison prior to execution on a non-discriminatory basis and bids and offers should be matched on an equitable

[1] The monograph is available on the website of MAS at "http://www.mas.gov.sg/".

[2] For more information on IOSCO, please refer to its website at "http://www.iosco.org/".

basis. An equitable basis of matching bids and offers includes, amongst others, execution in accordance with price-time priority.

2.6 An orderly market is one that has robust and reliable procedures and systems that allow for the organised conclusion of transactions and at the same time, minimising the risk of market failure. Orderliness is important because it provides the basis for an expectation that the market will function smoothly on a continued basis.

2.7 Transparency may be defined as the degree to which information about trading (both pre-trade and post-trade) is made publicly available on a real-time basis. Pre-trade information, such as best bids and offers, should be made available to enable investors to know the transactions they may enter into and at what prices. Post-trade information on executed trades should be similarly publicised to reflect the market prices of executed trades. In addition, material information such as corporate announcements, required to assess the value of securities or futures contracts, should be readily available to investors in a comprehensible manner and on a timely basis.

Efficient markets

2.8 Interaction of bids and offers and price discovery are intrinsic to any well-functioning market. Interaction of bids and offers occurs when bids and offers by participants are exposed to competition from bids and offers of other participants. An efficient market is one where this process is reliable and unhindered. By ensuring that the dissemination of relevant information is reflected in the price discovery process, an efficient securities market allows allocation of scarce capital to its most efficient use while an efficient futures market facilitates the transfer of risks to persons most willing to bear them.

Systemic risk

2.9 The objective of reducing systemic risk in regulating markets is essential because systemically-important markets may potentially undermine stability or public confidence in the financial system should the markets fail or are disrupted.

2.10 A market is systemically-important if disruptions to the functioning of the market can trigger or transmit further disruptions among financial market

participants. Disruptions to the fair, orderly and transparent operations of a market may also cause widespread disruptions among financial market participants and may even result in instability of the financial system.

2.11 In order for MAS to achieve its regulatory objectives, it is essential for MAS to assess the systemic importance of markets, and to be cognisant of the risks posed by systemically-important markets. MAS therefore subjects systemically-important markets to appropriate regulation, thereby promoting the operation of fair, orderly and transparent markets.

3 SCOPE OF REGULATION OF MARKETS

3.1 The definitions of the terms "securities market" and "futures market" are contained in Part I of the First Schedule to the SFA.

3.2 The following paragraphs elaborate on some of the key elements of the definitions and how MAS intends to administer Part II of the SFA in relation to the interpretation of these terms.

Technology neutral approach

3.3 The definitions of the terms "securities market" and "futures market" contain the phrase "whether electronic or otherwise". This means that all market operators, regardless of whether they operate brick-and-mortar trading floors or fully electronic trading platforms, are subject to the same regulatory regime.

3.4 However, a person is not deemed to be operating a "securities market" or "futures markets" merely by establishing some form of electronic facility. For instance, an electronic order-router operated by a licensed intermediary which does nothing more than mere routing of orders, does not fall within the definition of a market under the SFA (see Illustration 1 below). The SFA is not intended to capture a facility that merely acts as a conduit or a channel of communication to a market, if it does not exhibit the other attributes of a market (the elements of which are set out in the respective definitions). Such a facility is similar to an intermediary using a telephone or facsimile machine to transmit customer orders to the relevant markets.

Illustration 1 – Electronic order router

Description of the arrangement:

A corporation provides an electronic facility that enables clients to input orders for securities and futures contracts through the electronic facility. The facility channels the orders of the clients, without alteration of the information contained, to be matched at the relevant exchanges.

The corporation may be required to hold a capital market services license for dealing in securities or trading in futures contracts but is not required to be regulated as a market for the provision of the electronic facility. The electronic facility is an additional channel for the corporation to receive and transmit orders to exchanges. The pure order routing facility merely serves as a conduit without any matching of the orders of one client with another.

3.5 Likewise, providers of technology infrastructure or software for order routing facilities or trading facilities will not be subject to the regulatory regime for markets under Part II of the SFA (see Illustration 2 below). Such persons only supply the hardware or software to enable their clients, being licensed intermediaries or market operators, to implement their business models. This is in line with the current treatment of various service providers which provide telephone lines, computer systems, software and other infrastructure facilities.

Illustration 2 - Technology service providers

Description of the arrangement:

A corporation provides proprietary software that enables licensed intermediaries to place orders for securities and futures contracts listed on overseas securities exchanges or overseas futures exchanges, as the case may be, with overseas intermediaries. The proprietary software also enables the transmission of execution reports back to the licensed intermediaries who entered the orders. The software is installed either on proprietary terminals provided by the corporation or on the computers of the licensed intermediaries. The corporation also provides financial information and news updates to the licensed intermediaries.

Depending on the actual mechanics of the type of financial information provided and the manner in which it is provided, the corporation may be required to hold a financial adviser's licence. However, the corporation is not required to be regulated as a market operator. A technology service provider merely supplies the infrastructure or software to route orders to the overseas intermediaries, who in turn route the orders to the relevant market. Orders are not executed on the proprietary terminals provided by the corporation.

Issued securities

3.6 The term "*issued securities*" refers to listed or unlisted securities that have been previously offered to investors and which are now available for secondary trading.

3.7 Provisions in Part II of the SFA are not applicable to primary offerings of securities where issuers or corporations issue securities in a one-off transaction (see Illustration 3 below). Primary offerings are regulated through different mechanisms such as disclosure requirements, due diligence process and other regulatory processes. The provisions governing offers of investments are found in Part XIII of the SFA.

Illustration 3 – Facility for placement of primary issuance

Description of the arrangement:

A corporation provides an electronic facility via a website to facilitate companies to raise funds through primary placement of their securities with investors. This website is made available to both retail and institutional investors in Singapore and financial institutions licensed by MAS.

The corporation is not required to be regulated as a market operator because the facility facilitates the purchase and sale of previously unissued securities. Since the definition of "securities market" under the SFA is applicable to "issued securities", the facility is excluded from the definition of "securities market".

Regularly

3.8 Part II of the SFA is not intended to catch one-off transactions. Offers or invitations need to be made on the facility "*regularly*". The term "regularly" refers to systematic and recurring transactions. However, it does not mean that transactions have to be executed at certain specified intervals or continuously.

Centralised basis

3.9 At the heart of the operations of a market is price discovery and formation, and this is a process that occurs when offers or invitations are made on a centralised basis. Price discovery refers to the process of uncovering the full-information value of an asset. With the interaction of bids and offers, participants have a good gauge of the supply and demand for securities, thus allowing the participants to better determine the price. Trading facilities that pool together bids and offers of various market participants allow for the comparison and competition of bids and offers. Under the SFA, markets are not limited to facilities where orders are channelled through a single central order execution, but also extend to those where the interaction of bids and offers are done in a centralised manner (see Illustration 4 below).

Illustration 4 – Centralised price discovery

Description of the arrangement:

A corporation operates a fixed income electronic facility that pulls together multiple market makers. Each single market maker posts quotes for government securities. The market maker is able to determine which users are permitted to view its quotes or interact with the market maker. If a customer is so permitted, the customer may view and interact with quotes of multiple market makers using the electronic facility. As such, the electronic facility, by bringing together the quotes of multiple market makers, has facilitated the offer or invitations to sell, purchase or exchange fixed income products on a centralised basis.

The electronic facility, by facilitating the interaction of bids and offers of the various market makers, is deemed to have performed the price discovery function of a market and the corporation operating this electronic facility will fall within the regulatory framework of Part II of the SFA in respect of its operation of a market in Singapore.

Reasonable expectation

3.10 Under the SFA, markets are not limited to trade execution or matching mechanisms which result in the acceptance or making of offers to sell, purchase or exchange futures contracts or issued securities directly on the facility itself. The market operator may also fall within the regulatory ambit of Part II of the SFA when the participants provide sufficient information on their identities as well as firm prices and order sizes even though the negotiations between the participants may not eventually result in the conclusion of transactions. The relevant part in the respective definitions of a securities market and a futures market is "*….being offers or invitations that are intended or may reasonably be expected, to result, whether directly or indirectly, in the acceptance or making, respectively, of offers to sell, purchase or exchange…*".

3.11 Accordingly, a key consideration is whether buyers and sellers have reasonable expectations that they can transact based on the information posted on the facility. Examples include bulletin boards and electronic

platforms which automate traditional over-the-counter markets. It is common for potential buyers and sellers to post bid or offer information on an electronic facility and for subsequent negotiations to be concluded bilaterally off the facility. As long as the information posted on the facility enables the parties to enter into or conclude, or have a reasonable expectation to enter into or conclude, a transaction, the facility will be treated as a market under the SFA (see Illustration 5 below).

Illustration 5 – Electronic trading facilities

Description of the arrangement:

A corporation provides an electronic facility for licensed intermediaries and investors in Singapore to trade in corporate and government bonds. These participants can access the trading facility either via a secured website or through proprietary terminals. Participants post firm prices for the order size that they wish to transact. The facility automatically executes and clears a firm-price order if it matches an existing firm-price order. The facility does not settle trades. Settlement is undertaken subsequently between the 2 counterparties. If no match is immediately available, the facility displays the firm orders to all clients.

Orders with firm prices are automatically matched on the facility and there is a reasonable expectation that orders posted on the facility will lead to the conclusion of a transaction. As the facility is made available to licensed intermediaries and investors in Singapore, MAS will require the corporation providing the facility to be regulated as a market operator under Part II of the SFA.

Whether through that place or facility or otherwise

3.12 A facility where the final negotiation or execution of transactions is done outside the facility will still be treated as a market under Part II of the SFA, where the transactions are concluded based on prices obtained from the facility and the facility exhibits the other attributes of a market, as described in the respective definitions of "securities market" and "futures market" (see Illustration 6 below).

Illustration 6 – Bulletin boards

Description of the arrangement:

A corporation provides an electronic facility via a website to licensed intermediaries and institutional investors in Singapore. The corporation operating the market also has marketing agents in Singapore. The website contains a "bulletin board" where participants can post indicative prices, volumes, and counters of the securities that they wish to transact in. The facility also enables participants to obtain the identities of interested counterparties either via its website or through other communication means. All subsequent negotiation, trading, clearing and settlement activities by the transacting participants will take place off the website of the corporation. The corporation also does not perform any trade matching or execution.

The corporation providing the facility is required to be regulated as a market operator under Part II of the SFA even though the execution of trades is done outside the facility, as it is caught within the scope of the definition of "market" under Part I of the First Schedule to the SFA. The information posted on the website and the ability to ascertain the identity of interested counterparties lead to a reasonable expectation that indicative offers or invitations will result in the conclusion of a transaction. As the facility is made available to licensed intermediaries and institutional investors in Singapore, MAS will require the corporation providing the facility to be regulated as a market operator under the SFA.

Non-multilateral markets excluded

3.13 The definitions of the terms "securities market" and "futures market" respectively provide that only a place or facility that brings together many buyers and many sellers on a centralised basis will be regulated as a market. A securities market or futures market, as defined under the SFA, is one that does not include a place or facility used by only one person to make or accept offers or invitations to sell, purchase or exchange securities or futures contracts.

3.14 Accordingly, facilities that operate on a "one-to-many" basis are not required to be regulated as markets. An example is a market-making facility

by an intermediary that takes proprietary positions (see Illustration 7 below). Nonetheless, the intermediary will have to comply with the relevant regulatory requirements applicable to holders of a capital markets services licence.

Illustration 7 – Market-making facility

Description of the arrangement:

A licensed intermediary, authorised under the SFA to carry on business in the regulated activity of dealing in securities, provides an electronic proprietary market-making facility for its clients to trade in warrants. Each warrant is given a number for identification. Clients will input into the facility the identification number of the warrants and the volume of the warrants which they wish to buy or sell. In return, the licensed intermediary will indicate a price at which it is prepared to trade. If there is a matching order, the intermediary will execute the order against its own inventory.

The licensed intermediary will not be regulated as a market operator under Part II of the SFA as its facility is not a multilateral market but a "one-to-many" facility.

Over-the-counter derivatives

3.15 The definition of "futures markets" in the SFA excludes "*a place or facility that enables persons to negotiate material terms (in addition to the price) of, and enter into transactions in, futures contracts, where the material terms (in addition to the price) of futures contracts are discretionary and not predetermined by the rules or practices of the place or facility*". The intent of this exclusion is that markets that trade over-the-counter derivatives are not considered as "futures markets" for the purposes of the SFA.

4 APPLICATION OF SECTION 339 OF THE SFA (EXTRA-TERRITORIALITY)

4.1 Section 339 of the SFA provides for the circumstances in which an act conducted partly or wholly outside Singapore may constitute an offence of any provision of the SFA. In respect of Part II of the SFA, if an operator of an overseas market falls within the ambit of section 339(1) or (2) of the SFA, it will be required to comply with Part II of the SFA and the operator of the overseas market has to apply to MAS for approval as an approved exchange or recognition as a recognised market operator (the "RMO").

4.2 The *Guidelines on the Application of Section 339 (Extra-Territoriality) of the Securities and Futures Act* set out the general principles underlying how MAS would apply section 339 of the SFA to the various parts of the SFA, including Part II. Part 4 of these Guidelines provides additional guidance specifically for operators of overseas markets.

4.3 MAS will consider operators of overseas markets that physically locate their trading floor or all or part of their trading infrastructure in Singapore to fall within the ambit of section 339(1) of the SFA. In a case where operators of overseas markets provide direct access to the overseas market to investors in Singapore through screens or terminals placed in Singapore that allow investors to directly make or accept offers or invitations on the overseas market through these screens or terminals (see Illustration 8 below), the operators of the overseas markets will fall within the ambit of section 339(1) of the SFA. For the avoidance of doubt, where an operator of an overseas market neither physically locates its trading infrastructure in Singapore, nor provides direct access to investors in Singapore through screens or terminals placed in Singapore, MAS may still consider the operator of the overseas market to fall within the ambit of s339, based on the factors described in the *Guidelines on the Application of Section 339 (Extra-Territoriality) of the Securities and Futures Act*.

4.4 An investor in Singapore is considered to have direct access to a market if the investor can purchase or sell futures contracts or securities on the market without the assistance or intervention of an overseas intermediary. On the other hand, if an investor in Singapore accesses an overseas market through an intermediary in Singapore who forwards the order to another intermediary in the jurisdiction where the market is located,

the investor in Singapore is not considered to have direct access to the market.

Illustration 8 – Operator of an overseas market

Description of the arrangement:

A corporation is licensed to operate a market in a jurisdiction other than Singapore. The corporation provides proprietary trading terminals for institutional investors to enter orders and effect transactions on the overseas market from the premises of the institutional investors in Singapore. This facility allows the institutional investors to have direct access to the overseas market. Transactions can be effected on the overseas market through the terminals.

As the terminals are located in Singapore and the institutional investors have direct access to the overseas market operated by the corporation, the corporation operating the overseas exchange will be regulated by MAS as a market operator under the SFA.

5 REGULATORY REGIME FOR MARKETS

5.1 As provided in sections 6 and 14 of the SFA, a person seeking to establish or operate a market in Singapore can only do so if the person is either approved as an approved exchange, recognised as a RMO or exempted as an exempt market operator ("EMO") by MAS.

5.2 As a general principle, corporations operating markets that are systemically-important will be regulated by MAS as approved exchanges. Corporations operating other markets may be regulated as RMOs or exempted from regulation. Approved exchanges are required to comply with a higher level of statutory obligations than that required of RMOs.

5.3 Prior to establishing or operating a market in Singapore, the market operator needs to apply to MAS either for approval as an approved exchange, recognition as a RMO or exemption as an exempt market operator ("EMO"). The market operator should assess whether it should apply to be an approved exchange or a RMO by considering the factors listed in paragraph 5.4 below in relation to its business model.

Factors for consideration

5.4 In determining whether a market operator should be regulated as an approved exchange or a RMO, MAS will consider whether the market is systemically-important and other relevant circumstances, such as public interest. The factors which MAS considers are as follows:

(a) *the size and structure, or proposed size and structure, of the market operated by the corporation*

Factors which MAS will take into consideration in relation to the size of the market include the volume and value of transactions conducted on the market, the number of investors trading on the market and the number of participants.

The structure of the market refers to how the market is organised. This includes, amongst others, a member-broker structure and direct participation structure. A market that is organised in a more complex manner, and in a manner which

magnifies its reach or influence, e.g. via a member-broker structure rather than a direct participation structure, could be considered to pose a greater risk.

(b) *the nature of the services provided, or to be provided, by the market to be operated by the corporation*

This relates to the range of services provided by the market operator, such as the provision of quotes, matching of orders and provision of data services.

(c) *the nature of the securities or futures contracts traded, or to be traded, on the market to be operated by the corporation*

This relates to the number of classes of securities or futures contracts traded on the market (for example, equities, warrants, options and single stock futures).

(d) *the nature of the investors or participants, or proposed investors or participants, who may use or have an interest in the market to be operated by the corporation*

The factors here include the level of sophistication of the investors or participants, the systemic importance of the participants and the impact of any failure of the market on the investors or participants and the broader financial sector. A market that is widely used by retail investors is more likely to be considered systemically-important.

(e) *whether the corporation is regulated by MAS under the SFA or any other written law*

If the corporation operating the market is already regulated under the SFA or any other written law administered by MAS, MAS will assess if its regulatory objectives can be achieved via such other regulatory ambit. For example, if the holder of a capital market services licence operates a market, MAS may choose not to approve or recognise the market operator and instead exempt the market operator from the regulatory regime under Part II of the SFA, with appropriate conditions imposed under the exemption.

(f) *the parties who may be affected in the event that the market to be operated by the corporation or the corporation itself runs into difficulties*

MAS will consider the nature of the parties who may be affected in the event that the market runs into difficulties. This would include considering if parties beyond the investors or market participants would be affected and the level of sophistication of the parties affected.

(g) *in the case of a corporation operating an overseas market, whether the corporation, in the country or territory in which the head office or principal place of business of the corporation is situated, is subject to requirements and supervision comparable, in relation to the degree to which the objectives referred to in section 5 of the SFA are achieved, to the requirements and supervision to which market operators are subject under the SFA*

MAS will examine the regulatory regime imposed by the overseas regulator on the overseas market and consider if it achieves similar objectives to the regulatory regime in Singapore. When a market operator is already supervised in its home jurisdiction, and the supervision is comparable to MAS' supervision had the market operator been incorporated in Singapore, the market operator is likely to be recognised as a RMO. This is to minimise duplication of regulatory efforts and compliance costs.

(h) *the interests of the public*

MAS may consider if it is in the interests of the public to approve the corporation operating the market as an approved exchange. Such interests may arise if such approval may further the development of the financial sector or reduce systemic risk in the financial system, of Singapore.

(i) *any other circumstances that MAS may deem relevant.*

MAS retains the flexibility to consider other circumstances, as it may deem relevant.

5.5 The decision as to whether a market should be regulated as an approved exchange or as a RMO, or to be granted an exemption as an EMO, will be based on an analysis of the factors in their entirety and is not solely dependent on any one factor above (see Illustrations 9 and 10 below).

Illustration 9 – Approved exchanges

Description of the arrangement:

A corporation seeks to operate a securities market in Singapore. The person provides proprietary trading terminals for licensed intermediaries to enter orders and effect transactions on the securities market. A large number of classes of securities are traded on the market (for example, equities, structured warrants and exchange traded funds) and the products traded are popular and are widely and heavily traded by both retail and institutional investors. The securities market is the only such facility in Singapore that the corporation operates and the failure of the securities market will affect not just the participants and investors, but also the broader financial sector.

Due to the broad nature of the activities of the market operator, large number of classes of securities traded on the market and the parties who may be affected in the event that the market runs into difficulties, amongst other factors, the market would be considered as having systemic importance. As such, to meet MAS' regulatory objectives, the corporation operating the securities market would be regulated as an approved exchange.

Illustration 10 – Recognised market operator

Description of the arrangement:

A corporation provides an electronic facility to trade fixed income products via a website to institutional investors only. The electronic facility allows the institutional investors to post indicative prices, volumes and futures contracts that they wish to transact in. The facility also enables institutional investors to obtain the identities of interested counterparties either via its website or through other communication means. The volume of trades conducted through the electronic is moderately high and the electronic facility offers limited classes of securities for trading, including US government securities and corporate bonds.

The information posted on the electronic facility and the ability to ascertain the identity of interested counterparties lead to a reasonable expectation that indicative offers or invitations will result in the conclusion of a transaction. Thus, the market would fall within the regulatory ambit of Part II of the SFA. As the electronic facility is only used by institutional investors and the volume of trade is moderately high, the failure of the facility is not likely to have a widespread impact on the broader financial sector since institutional investors are better equipped to manage their risks. Thus, the corporation operating the electronic facility would be regulated as a RMO under Part II of the SFA based on the limited systemic risks it poses.

5.6 The approach in relation to oversight over approved exchanges and RMOs is set out below.

Approved exchanges

5.7 MAS adopts a risk-based approach towards market operators. MAS achieves its regulatory objectives primarily by requiring systemically-important entities to be approved as approved exchanges and subjecting them to a higher level of statutory obligations (in particular, Division 2 of Part II of the SFA). MAS may exempt approved exchanges from compliance with certain requirements if MAS is satisfied that the exemption from compliance with such specific obligations would not hinder the achievement of its regulatory objectives.

Recognised markets operators

5.8 The RMO regime is an application of MAS' risk-based approach towards market operators, matching regulatory requirements to the risks posed by the market. The regulatory requirements will be commensurate with the risk profile, nature and scope of the functions of the proposed market operations. MAS also seeks to ensure that there is no regulatory arbitrage between corporations operating similar market operations with similar risk profiles. Under Division 3 of Part II of the SFA, a small number of minimal obligations are applicable to RMOs. MAS also has powers to impose additional obligations on the RMOs, depending on the functions undertaken by the market. MAS will consider the facts and circumstances of each RMO application in deciding on the appropriate recognition conditions. Such recognition conditions could include, amongst others, restrictions on the types of investors the RMO can provide trading access to, the financial products that the RMO can distribute, the requirement for the RMO to notify MAS of changes to its business and the requirement to submit periodic reports to MAS.

5.9 MAS may, under section 8(1) of the SFA, permit an applicant who is not operating a market of systemic importance to elect to be regulated as an approved exchange if the applicant is able to meet the statutory obligations that are imposed on approved exchanges. However, the operator of a market that is systemically important must be regulated as an approved exchange. It does not have the option of electing to be recognised as a RMO.

5.10 On the same note, MAS recognises that a RMO may grow over time to become systemically important. In such cases, MAS may initiate a review of the regulatory status of the RMO under section 11(5) of the SFA or the RMO may apply to MAS to change its status in accordance with the requirements under section 11(1). The review of the regulatory status of the RMO will be conducted in consultation with the RMO. Similarly, if the systemic importance of an approved exchange reduces over time, MAS may, under section 11(5) of the SFA, initiate a review of the regulatory status of the approved exchange or the approved exchange may apply to change its status in accordance with the requirements under section 11(1) of the SFA.

5.11 Section 8(3) of the SFA allows MAS to consider an application for recognition as a RMO as an application for approval as an approved exchange if MAS is of the view that the applicant is more appropriately

regulated as an approved exchange, taking into account the factors described in paragraph 5.4 above, and vice versa (see also section 11(6)). This would only be done with the consent of the applicant. Such an application process will eliminate the need for re-submission of a new application and payment of additional application fees.

5.12 In the case of an operator of an overseas market applying for recognition as a RMO, it must have an address in Singapore for the service of any notice. MAS will also have to be satisfied that –

(a) the applicant is willing and able to co-operate with MAS in sharing information and in any other manner as required by MAS;

(b) adequate arrangements have been made with the regulator of the head office of the applicant on regulatory co-operation;

(c) the regulatory regime of the head office of the applicant is comparable, in the degree to which the objectives in section 5 of the SFA are achieved, to the requirements and supervision to which approved exchanges and RMOs are subject under the SFA; and

(d) adequate arrangements have been made between the applicant and a market operator in Singapore in respect of the supervision of corporations trading on both the overseas market and the market in Singapore, if applicable.

5.13 Generally, MAS will consider that adequate arrangements have been made under paragraph 5.12(b) above where there is a memorandum of understanding, or similar formal documentation, on information exchange and mutual assistance between MAS and the home regulator of the applicant.

Exempt market operators

5.14 Pursuant to sections 14(1) and (2) of the SFA, MAS may approve an application to be an EMO from, or exempt, a corporation which wishes to establish or operate a market if, in the opinion of MAS, the regulatory objectives of MAS can be achieved without regulating that corporation as an

approved exchange or a RMO. The scope of activities that an EMO can undertake is narrow. Possible scenarios whereby a market operator may be exempted include the following:

(a) where the market operator is already separately regulated by MAS. For instance, if the holder of a capital market services licence operates a market, MAS may choose not to regulate the market operator as an approved exchange or RMO, but instead impose appropriate conditions under the exemption; or

(b) where the market poses little risk to the regulatory objectives of MAS and its failure would cause little or limited impact to the financial sector in general. As such, the costs of regulation may outweigh the benefits of regulating the market (see Illustration 11 below).

Illustration 11 – Exempt market operators

Description of the arrangement:

A corporation provides an electronic facility for the distribution of syndicated loans and loan equivalents in both primary and secondary markets. Users of the facility are restricted to institutional investors. Though several products are traded on the market, only one of the products, floating-rate notes ("FRNs"), falls within the definition of "securities" under the SFA. The volumes of FRN trades are small relative to the total volume of FRNs traded in Singapore and to the business of the corporation. There are several other options available to institutional investors wishing to trade FRNs.

The corporation providing the facility can seek to be an EMO under the SFA as the trading volume is low and their services are only offered to institutional clients. The failure of such a market is likely to have little or limited impact on the participants and the financial markets as there are other avenues to trade FRNs.

5.15 MAS is aware that with time, the operations of an EMO may develop and grow in size and complexity. On a case-by-case basis, MAS will

consider whether there is a need to impose limits on the market activities of an EMO. If the assessment of MAS is that the market activities concerned pose risks to our regulatory objectives, MAS may revoke an exemption granted to an EMO pursuant to the powers of MAS under section 15(1) of the SFA.

5.16 If an EMO wishes to increase the scope of its activities, or if circumstances change and the activities it undertakes pose higher risks than before, the EMO may need to be regulated by MAS as either an approved exchange or a RMO.

Holding out as approved exchange or RMO

5.17 No person shall hold himself out to be an approved exchange or a RMO unless he is so approved or recognised by MAS. In the case where MAS revokes the approved exchange status or RMO status, such a person, if he has held himself out to be an approved exchange or a RMO, shall immediately cease to do so.

Title

5.18 It is provided in section 6(3) of the SFA that except with the written approval of MAS, no person other than an approved exchange may use the title or description "securities exchange", "stock exchange", "futures exchange" or "derivatives exchange" in any language. For RMOs who also operate overseas securities or futures exchanges, they have to seek approval from MAS, on a case-by-case basis, to use such title or description. MAS would generally grant its approval to enable the RMO to operate in Singapore without having to change its name. This facilitates the preservation of the brand equity of the RMO.

6 OBLIGATIONS OF REGULATED MARKET OPERATORS

6.1 As set out in Part II of the SFA, approved exchanges and RMOs are required to comply with a list of common obligations which are listed below:

(a) *as far as is reasonably practicable, operate a fair, orderly and transparent market*

The approved exchange or RMO is obliged to operate a fair, orderly and transparent market and shall not engage in activities or businesses that may conflict with this obligation.

(b) *manage any risks associated with its business and operations prudently*

The approved exchange or RMO is expected to ensure that –

(i) appropriate and adequate systems and controls are in place to identify, assess, monitor and manage risks to its market operations;

(ii) appropriate and adequate emergency procedures and business continuity plans, as described in regulations 12 and 25 of the SF (Markets) Regs, are in place; and

(iii) there is periodic testing or review of its systems and controls, including its business continuity plans.

Where the approved exchange or RMO also conducts businesses and operations other than that of the operation of its market, the approved exchange or RMO is expected to contain the risks associated with such other businesses and operations from that of its markets operations.

(c) *in discharging its obligations under this Act, not act contrary to the interests of the public, having particular regard to the interests of the investing public*

The approved exchange or RMO, with regard to the interests of the investing public, should not engage in activities that may compromise its ability to maintain an efficient market or lead to an increase in the systemic risk in the financial system of Singapore.

(d) *have sufficient financial, human and system resources to —*
(i) operate a fair, orderly and transparent market;
(ii) meet contingencies or disasters; and
(iii) provide adequate security arrangements

The approved exchange or RMO is obliged to give regard to the level of resources available to support the trading activities of its market in varying market conditions, commensurate with the needs of its business and operations.

6.2 In addition to the common obligations discussed above, an approved exchange, being systemically important, is required to comply with additional obligations, which are elaborated as follows:

(a) *ensure that access for participation in its facilities is subject to criteria that are fair and objective, and that are designed to ensure the orderly functioning of its market or markets and to protect the interests of the investing public*

The approved exchange is obliged to ensure that access to participation in its market is based on criteria that are not unnecessarily restrictive and do not limit access on grounds other than that of risks to the fair, orderly and transparent operations of its market.

(b) *maintain business rules and, where appropriate, listing rules that make satisfactory provision for —*

(i) a fair, orderly and transparent market in securities or futures contracts that are traded through its facilities; and
(ii) the proper regulation and supervision of its members

The approved exchange is obliged to maintain business rules in compliance with regulation 18 of the SF (Markets) Regs, which prescribes the various aspects of business rules that would enable the approved exchange to discharge its obligations satisfactorily.

(c) *enforce compliance with its business rules and, where appropriate, its listing rules*

The approved exchange is obliged to have an appropriate and adequate surveillance and enforcement programme in place to –

(i) effectively monitor compliance by its members with its business rules;

(ii) enforce its rules; and

(iii) discipline its members in a fair and objective manner.

(d) *ensure that it appoints or employs fit and proper persons as its chief executive officer, directors and key management officers*

The duties and functions of the key officers are elaborated in regulation 29 of the SF (Markets) Regs.

Amendments to the business or listing rules

6.3 In regulation 19 of the SF (Markets) Regs, an approved exchange, which proposes to amend its business rules or listing rules, shall consult its participants, unless the proposed amendment would only have limited impact on its participants. When considering the impact that a proposed rule amendment would have on its participants, the approved exchange should consider the likely effect that the amendment would have on the rights, obligations, operations and systems of its various participants.

6.4 Generally, MAS would also expect the approved exchange to consult the public on rule amendments that the approved exchange considers likely to affect the interests of the general investing public.

6.5 When undertaking a consultation, the approved exchange should provide potential respondents with a reasonable opportunity to comment on the proposed amendment, including providing an adequate period of notice and an appropriate avenue to provide feedback. When considering the length of period that should be provided to potential respondents, the approved exchange should take into account the complexity and impact that the proposed amendment would have. Generally, the approved exchange should provide a notice period of at least 10 business days, with longer periods for proposed amendments that are relatively more complex or are likely to have more impact.

6.6 Where the approved exchange has undertaken a consultation, it should provide MAS with a summary of the comments received together with the reasons for accepting or rejecting such comments, when submitting a notification under regulation 19(1) of the SF (Markets) Regs. This is in addition to the information required under regulation 19(1)(*a*) to (*c*) of the SF (Markets) Regs.

6.7 To the extent reasonably possible, the approved exchange should allow for a reasonable period between the time it publishes the final text of the amendment and the effective date of the amendment. This would allow its participants to put in place any changes necessary to allow the participants to comply with the amended business rules. When considering the length of period that should be provided, the approved exchange should take into account the impact that the proposed amendment would have.

6.8 MAS recognises that there is a possibility that in urgent situations, an approved exchange needs to propose and bring into effect rule amendments within a very short period of time, in order for the approved exchange to maintain fair, orderly and transparent markets. In such situations, MAS may exercise its power to exempt the approved exchange from the requirement to consult its participants under regulation 19(2), pursuant to section 35 of the SFA.

CONFIDENTIAL TREATMENT REQUESTED BY ICE FUTURES SINGAPORE

ICE FUTURES SINGAPORE

FBOT APPLICATION

ANNEX G-4(9)

GUIDANCE

ICE Futures Singapore Guidance on Position and Expiry Limits

21 April 2015

ICE Futures Singapore Guidance on Position and Expiry Limits

This Guidance contains details on the Position Limits and/or Expiry Limits imposed unilaterally by ICE Futures Singapore (the "Exchange"), collectively referred to, for the purposes of this Guidance as the "Limits". The Limits are specified in the respective contract specifications where applicable.

1. Position Limits

The Exchange may unilaterally impose mandatory Position Limits on certain Contracts in any single month and/or in all months combined, for such period or on any trading day as may be prescribed by the Exchange from time to time (the "Position Limit Period").

These Position Limits cannot be exceeded unless an exemption is obtained from the Exchange. Failure to observe Position Limits will be a breach of Exchange Rules and may lead to disciplinary action. Where positions are held across multiple Members, the Position Limits will apply to the aggregated net position.

If a position exceeds the Position Limits in any single month or in all months combined, the Exchange may require further information as to the nature and purpose of the position of that account, and may direct that Members cannot accept orders that further increase the position, or direct that the position be reduced to a lower level.

2. Expiry Limits

The Exchange may unilaterally impose mandatory Expiry Limits on certain Contracts for such other period prior to expiry, as may be prescribed by the Exchange (the "Expiry Limit period"). These Expiry Limits cannot be exceeded unless an exemption is obtained from the Exchange and the conditions of the exemption observed. Failure to observe Expiry Limits will be a breach of Exchange Rules and may lead to disciplinary action. Where positions are held across multiple Members, the Expiry Limits will apply to the aggregated net position.

The Exchange may request further information from participants should it have concerns about the size of a position held in any month or across a Contract.

3. Application of Limits

Aggregation of positions across multiple clearers

The Exchange will monitor positions held by Members or their clients across multiple Members. Where positions belonging to the same account are held across multiple Members, the aggregated net position across those Members will count for the purposes of all Limits.

Linked and independent accounts

In addition to aggregating positions held by the same account across multiple Members, the Exchange will also aggregate separate accounts or sub accounts under common ownership or control. This will mean that positions held by different business units within a client or Member, or positions held by affiliate companies of a client or Member, shall be aggregated and be subject to the normal Position or Expiry Limits. However, if such positions are independently controlled, then the positions will not be aggregated.

Members may request that the Exchange treat accounts or groups of accounts as independently controlled, and therefore not contributing to the same Position or Expiry Limit. Such requests must be

supported with sufficient information to satisfy the Exchange that this is the case. The Exchange's decision as to whether to aggregate or treat positions as independent will be final.

Treatment of omnibus accounts

Where Members or Reporting Firms use 'omnibus' accounts to represent a summary of the positions in one or many underlying accounts held by:

a) an affiliate organisation of the Member, or

b) a client of the Member,

it is important to note that the individual underlying accounts must be identified, and their positions reported.

Where the underlying accounts' positions of the Member's client are reported under the same Firm Code as the Member's main reporting, it is not necessary to report the positions in the omnibus account.

Where the underlying accounts' positions are reported directly under a different Firm Code, either by an affiliate or client of the Member, it is necessary to report both those positions and the position held in the omnibus account.

Reportable positions within omnibus accounts must be fully disclosed to the Exchange. Failure to do so will result in the Exchange treating all positions in the account as if they were under common ownership or control, and therefore aggregated for the purposes of Position and Expiry Limit calculations.

Exemptions from Position and Expiry Limits

All applications for exemptions must follow the procedures laid down in Rule J.3 and, as a minimum, will include a description of the size and nature of the exemption, an explanation of the nature and extent of the applicant's business, and an undertaking that the applicant will comply with any limitations imposed by the Exchange in regard to the positions. The Exchange may require such additional information as it believes necessary to make a fully informed decision to grant or refuse the application.

The Exchange may grant exemptions from the Position Limits for positions qualifying as *bona fide* hedge position. For the purpose of this Guidance and at the discretion of the Exchange, this may include arbitrage, risk management or spread positions.

The Exchange may grant exemptions from the Expiry Limits, at its sole discretion, for participants who provide and document a commercial rationale for their requirement.

Applications for exemption must be made in writing to the Exchange as soon as the applicant believes that it is likely to exceed the Position or Expiry Limits but in any case five days prior to the commencement of relevant Limit Period.

The determination of whether to approve an application for an exemption from Position and/or Expiry Limits is solely that of the Exchange and is final and binding.

A Member acting on behalf of a client, a Member or the client itself may submit an application for an exemption to the Exchange. Market participants may apply to the Exchange for an exemption through their clearer or directly, but in the latter case should advise their clearer that they have done so. If this is not done at the application stage, the Exchange will disclose the fact and size of exemptions to clearers. Members who have clients with positions that exceed the Position or Expiry Limits who have not applied for an exemption on behalf of that client should confirm with the Exchange whether or not an exemption has been granted to that client. It will not be necessary for a client with positions across multiple Members to make multiple applications.

Where the application is on behalf of a client, the exemption, if granted, will be in respect of the client's net Futures equivalent position as aggregated across all Members.

Position reporting

Positions above the required thresholds (see Reportable Thresholds document[1] for details) or subject to any additional reporting requirements must be reported on a daily basis. If the position is in respect of a new account then an account identification form must be submitted which will require:

- Unique and consistent account identification code;
- Unique and consistent account ownership/controller identification;
- Commercial/non-commercial classification of account owner

Client identification and classification

Members should use the ICE Futures Singapore Account Identification sheet to provide details of the accounts they will be reporting. It is particularly important that any omnibus accounts are noted as such.

Confidentiality

Access to data pertaining to Member and client positions is normally restricted to the Exchange personnel performing monitoring functions; however certain information may be disclosed to senior Exchange management for regulatory purposes if necessary. Additionally composite statistics on Open Interest held by sector or other user classification may be compiled and made available either internally or externally if appropriate. Position data may also be forwarded to the MAS, or with other Regulatory Authority if required.

Instructions for Positions Reporting

1- *Net Positions*: The quantities referenced as Expiry Limits and Position Limits should be calculated and reported on the basis of the net position, long or short, in each Futures contract except as specified below;

2- *Gross Positions*: In the following cases, the gross long and short position shall be reported:
(a) Positions in accounts owned or held jointly with another person;
(b) Positions held in multiple accounts subject to trading control by the same trader; and
(c) Positions in omnibus accounts.

If the total open long positions or the total open short positions for any Futures contract month carried in an omnibus account is a reportable position, the omnibus account must be reported.

Positions reported to the Exchange by Clearing Members must be equivalent to the Open Interest calculated for that Clearing Member for that Business Day.

Contracts to which Position and Expiry Limits apply will be advised by the Exchange from time to time.

[1] Please see the ICE Futures Singapore website

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ANNEX H-1(1)

MEMORANDUM OF UNDERSTANDING

United States Commodity Futures Trading Commission

Monetary Authority of Singapore

COOPERATION AND THE EXCHANGE OF INFORMATION
RELATED TO THE SUPERVISION OF CROSS-BORDER COVERED ENTITIES

December 27, 2013

MEMORANDUM OF UNDERSTANDING CONCERNING COOPERATION AND THE EXCHANGE OF INFORMATION RELATED TO THE SUPERVISION OF CROSS-BORDER COVERED ENTITIES

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of regulated entities, the United States Commodity Futures Trading Commission and the Monetary Authority of Singapore (jointly, the "Authorities") have reached this Memorandum of Understanding ("MOU") regarding cooperation and the exchange of information in the supervision and oversight of regulated entities that operate on a cross-border basis in both the United States and Singapore. The Authorities express, through this MOU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates regarding derivatives markets particularly in the areas of protecting investors and customers; fostering the integrity of and maintaining confidence in financial markets; and reducing systemic risk.

ARTICLE ONE: DEFINITIONS

For purposes of this MOU:

1. "Authority" means:
   a. In the United States, the Commodity Futures Trading Commission ("CFTC"); or
   b. In Singapore, the Monetary Authority of Singapore ("MAS").
2. "Requesting Authority" means the Authority making a request under this MOU.
3. "Requested Authority" means the Authority to whom a request is made under this MOU.
4. "Laws and Regulations" means the Commodity Exchange Act, Dodd-Frank Wall Street Reform and Consumer Protection Act, CFTC regulations, and other relevant requirements in the United States, and the Securities and Futures Act (Cap 289) ("SFA"), and regulations and other regulatory requirements issued pursuant to the SFA in Singapore.
5. "Person" means a natural person, unincorporated association, partnership, trust, investment company, or corporation, and may be a Covered Entity or Cross-Border Covered Entity.
6. "Covered Entity" means a Person that is, or that has applied to be, authorized, approved, designated, recognized, qualified, registered, supervised, or overseen by one or more of the Authorities pursuant to Laws and Regulations and may include regulated markets and organized trading platforms, central counterparties, trade repositories, and intermediaries, dealers, or other market participants.
7. "Cross-Border Covered Entity" means:
   a. A Covered Entity of both the CFTC and the MAS;

b. A Covered Entity in one jurisdiction that has been exempted from authorization, approval, designation, recognition, qualification, or registration by an Authority in the other jurisdiction;

c. A Covered Entity in one jurisdiction that controls or is controlled by a Covered Entity located in the other jurisdiction; or

d. A Covered Entity in one jurisdiction that is physically located in the other jurisdiction.

For purposes of this MOU, references to jurisdiction will be determined as either the jurisdiction of the CFTC or the jurisdiction of the MAS.

8. "Books and Records" means documents, electronic media, and books and records within the possession, custody, and control of, and other information about, a Cross-Border Covered Entity.

9. "Emergency Situation" means the occurrence of an event that could materially impair the financial or operational condition of a Cross-Border Covered Entity.

10. "On-Site Visit" means any regulatory visit to the premises of a Cross-Border Covered Entity for the purposes of ongoing supervision and oversight, including the inspection of Books and Records.

11. "Local Authority" means the Authority in whose jurisdiction a Cross-Border Covered Entity that is the subject of an On-Site Visit is physically located.

12. "Visiting Authority" means the Authority conducting an On-Site Visit.

13. "Governmental Entity" means:

a. If the Requesting Authority is the CFTC, the U.S. Department of the Treasury or the U.S. Board of Governors of the Federal Reserve System; and

b. If the Requesting Authority is the MAS, the Singapore Ministry of Finance.

ARTICLE TWO: GENERAL PROVISIONS

14. This MOU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Cross-Border Covered Entities. The cooperation and information sharing arrangements under this MOU should be interpreted and implemented in a manner that is permitted by, and consistent with, the laws and other legal or regulatory requirements applicable to each Authority. With respect to cooperation pursuant to this MOU, no domestic secrecy or blocking laws or regulations should prevent an Authority from providing assistance to the other Authority. The Authorities anticipate that cooperation primarily will be achieved through ongoing informal consultations, supplemented as needed by more formal cooperation, including through mutual assistance in obtaining information related to

Cross-Border Covered Entities. The provisions of this MOU are intended to support both informal consultations and formal cooperation, as well as to facilitate the written exchange of non-public information in accordance with applicable laws.

15. This MOU does not create any legally binding obligations, confer any rights, or supersede domestic laws. This MOU does not confer upon any Person the right or ability directly or indirectly to obtain, suppress, or exclude any information or to challenge the execution of a request for assistance under this MOU.

16. This MOU is not intended to limit or condition the discretion of an Authority in any way in the discharge of its regulatory responsibilities or to prejudice the individual responsibilities or autonomy of any Authority. This MOU does not limit an Authority to taking solely those measures described herein in fulfillment of its supervisory functions or preclude Authorities from sharing information or documents with respect to Persons that are not Cross-Border Covered Entities but may be subject to regulatory requirements in the United States or in Singapore. In particular, this MOU does not affect any right of any Authority to communicate with, conduct an On-Site Visit of (subject to the procedures described in Article Five), or obtain information or documents from, any Person subject to its jurisdiction that is physically located in the jurisdiction of the other Authority.

17. This MOU is intended to complement, but does not alter except where explicitly noted, the terms and conditions of the following existing arrangements:

    a. The *Memorandum of Understanding between the United States Securities and Exchange Commission and Commodity Futures Trading Commission and the Monetary Authority of Singapore Concerning Consultation and Cooperation and the Exchange of Information* (May 16, 2000) ("First MOU"). The term "Futures Processing Business" within the meaning of Paragraph 7 of the First MOU shall include the business of clearing "swaps" as defined in Section 1a(47) of the Commodity Exchange Act.

    b. The *IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information* (revised May 2012) ("IOSCO MMOU") to which the CFTC and the MAS are signatories, which covers primarily information sharing in the context of enforcement matters.

    c. The *Declaration on Cooperation and Supervision of International Futures Markets and Clearing Organizations* (as amended March 1998), to which the CFTC and the MAS are signatories.

18. To facilitate cooperation under this MOU, the Authorities hereby designate contact persons as set forth in Appendix A, which may be amended from time to time by an Authority transmitting revised contact information to the other Authority.

ARTICLE THREE: SCOPE OF SUPERVISORY CONSULTATION, COOPERATION, AND EXCHANGE OF INFORMATION

General

19. The Authorities recognize the importance of close communication concerning Cross-Border Covered Entities and intend to consult regularly, as appropriate, regarding:
    a. General supervisory issues, including regulatory, oversight, or other related developments;
    b. Issues relevant to the operations, activities, and regulation of Cross-Border Covered Entities; and
    c. Any other areas of mutual supervisory interest.

20. The Authorities recognize in particular the importance of close cooperation in the event that a Cross-Border Covered Entity, particularly one whose failure likely would be systemically important to an Authority, experiences, or is threatened by, a potential financial crisis or other Emergency Situation.

21. Cooperation will be most useful in, but is not limited to, the following circumstances where issues of common regulatory concern may arise:
    a. The initial application with the CFTC or the MAS for authorization, approval, designation, recognition, qualification, or registration, or exemption therefrom, by a Covered Entity that is authorized, approved, designated, recognized, qualified, or registered by an Authority in the other jurisdiction;
    b. The ongoing supervision and oversight of a Cross-Border Covered Entity, including compliance with statutory and regulatory requirements in either jurisdiction or with international standards;
    c. Regulatory or supervisory actions or approvals taken in relation to a Cross-Border Covered Entity by the CFTC or the MAS that may impact the operations of the entity in the jurisdiction of the other Authority; and
    d. The provision and maintenance of direct access to information and data stored in Covered Entities that are trade repositories, where such information and data is provided by a Covered Entity and maintained pursuant to Laws and Regulations.

Event-Triggered Notification

22. As appropriate in the particular circumstances, each Authority will endeavor to inform the other Authority promptly, and where practicable in advance, of:
    a. Pending material regulatory changes that may have a significant impact on the operations, activities, or reputation of a Cross-Border Covered Entity, including those that may affect the rules or procedures of a Cross-Border Covered Entity;
    b. Any material event of which the Authority is aware that could adversely impact the financial or operational stability of a Cross-Border Covered Entity. Such events

include any known adverse material change in the ownership, operating environment, operations, financial resources, management, or systems and controls of a Cross-Border Covered Entity, and the failure of a Cross-Border Covered Entity to satisfy any of its requirements for continued authorization, approval, designation, recognition, qualification, or registration, or exemption therefrom, where that failure could have a material adverse effect in the jurisdiction of the other Authority. For a Cross-Border Covered Entity that is a central counterparty, such events also include a default or potential default of a clearing member or clearing participant and market or settlement bank difficulties that might adversely impact the central counterparty;

c. The status of efforts to address any material financial or operational difficulties experienced by a Cross-Border Covered Entity as described in Subparagraph b; and

d. Enforcement actions or sanctions or significant regulatory actions, including the revocation, suspension, or modification of relevant authorization, approval, designation, recognition, qualification, or registration, or exemption therefrom, concerning a Cross-Border Covered Entity.

23. The determination of what constitutes "significant impact", "material event", "adversely impact", "adverse material change", "material adverse effect", "market or settlement bank difficulties", "adversely affect", "material financial or operating difficulties", or "significant regulatory actions" for the purposes of Paragraph 22 shall be left to the reasonable discretion of the relevant Authority that determines to notify the other Authority.

Request-Based Information Sharing

24. To the extent appropriate to supplement informal consultations, upon written request, the Requested Authority intends to provide to the Requesting Authority the fullest possible cooperation subject to the terms in this MOU in assisting the Requesting Authority's supervision and oversight of a Cross-Border Covered Entity, including assistance in obtaining and interpreting information that is relevant to ensuring compliance with the Laws and Regulations of the Requesting Authority and that is not otherwise readily available to the Requesting Authority. Such requests shall be made pursuant to Article Four of this MOU, and the Authorities anticipate that such requests will be made in a manner that is consistent with the goal of minimizing administrative burdens.

25. The assistance covered by Paragraph 24 includes:

a. Information relevant to the financial and operational condition of a Cross-Border Covered Entity including, for example, financial resources, risk management, and internal control procedures;

b. Relevant regulatory information and filings that a Cross-Border Covered Entity is required to submit to an Authority including, for example, interim and annual financial statements and early warning notices; and

c. Regulatory reports (including examination reports) and assessments, or findings or information contained therein, regarding Cross-Border Covered Entities.

Periodic Meetings

26. Representatives of the Authorities intend to meet periodically, as appropriate, to update each other on their respective functions and regulatory oversight programs and to discuss issues of common interest relating to the supervision of Cross-Border Covered Entities, including: contingency planning and crisis management, systemic risk concerns, default procedures, the adequacy of existing cooperative arrangements, and the possible improvement of cooperation and coordination between the Authorities. Such meetings may be conducted by conference call or on a face-to-face basis, as appropriate.

ARTICLE FOUR: EXECUTION OF REQUESTS FOR INFORMATION

27. To the extent possible, a request for information pursuant to Article Three should be made in writing (which may be transmitted electronically), and addressed to the relevant contact person in Appendix A. A request generally should specify the following:

    a. The information sought by the Requesting Authority;

    b. A general description of the matter that is the subject of the request;

    c. The general purpose for which the information is sought; and

    d. The desired time period for reply and, where appropriate, the urgency thereof.

    Information responsive to the request, as well as any subsequent communication among the Authorities, may be transmitted electronically. Any electronic transmission should use means that are appropriately secure in light of the confidentiality of the information being transmitted.

28. In an Emergency Situation, the Authorities will endeavor to notify each other as soon as possible of the Emergency Situation and communicate information to the other as appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During an Emergency Situation, requests for information may be made in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification.

ARTICLE FIVE: ON-SITE VISITS

29. In fulfilling its supervision and oversight responsibilities pursuant to, and to ensure compliance with, its Laws and Regulations, an Authority may need to conduct On-Site Visits to a Cross-Border Covered Entity physically located in the jurisdiction of the other Authority. Each Authority will consult and work collaboratively with the other Authority in conducting an On-Site Visit.

30. An On-Site Visit by an Authority will be conducted in accordance with the following procedure:

    a. The Visiting Authority will provide advance notice to the Local Authority of its intent to conduct an On-Site Visit and the intended time frame for, and the purpose and scope of, the On-Site Visit.

    b. The Local Authority will endeavor to share any relevant reports, or information contained therein, related to examinations it may have undertaken of the Cross-Border Covered Entity.

    c. The Authorities intend to assist each other regarding On-Site Visits, including providing information that the Visiting Authority may request and that is available prior to the On-Site Visit; cooperating and consulting in reviewing, interpreting, and analyzing the contents of public and non-public Books and Records; and obtaining information from directors and senior management of a Cross-Border Covered Entity.

    d. The Authorities will consult with each other, and the Local Authority may, in its discretion, accompany or assist the Visiting Authority during the On-Site Visit, or the Authorities may conduct joint visits where appropriate.

ARTICLE SIX: PERMISSIBLE USES OF INFORMATION

31. The Requesting Authority may use non-public information obtained under this MOU solely for the supervision and oversight of Cross-Border Covered Entities pursuant to, and to ensure compliance with, the Laws and Regulations of the Requesting Authority.

32. The Authorities recognize that, while this MOU is not intended to gather information for enforcement purposes, the Authorities subsequently may want to use the non-public information provided pursuant to this MOU for enforcement purposes. In cases where a Requesting Authority seeks to use non-public information obtained pursuant to the MOU for enforcement purposes, including in conducting investigations or taking enforcement action, use of the non-public information will be in accordance with the terms and conditions in Paragraph 19 of the First MOU and Paragraph 10 of the IOSCO MMOU.

33. Before using non-public information furnished under this MOU for any purpose other than those stated in Paragraphs 31 and 32, the Requesting Authority must modify its request and obtain the approval of the Requested Authority for the intended use. If consent is denied by the Requested Authority, the Authorities will consult to discuss the reasons for withholding approval of such use and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed.

34. If an Authority receives, via a party that is not a signatory to this MOU, non-public information provided by the other Authority that is related to the first Authority's supervision and oversight of a Cross-Border Covered Entity, the first Authority will use and treat the information in accordance with the terms of this MOU.

35. The restrictions in this Article do not apply to an Authority's use of information it obtains directly from a Cross-Border Covered Entity, whether during an On-Site Visit or otherwise. However, where non-public information is provided to the Requesting Authority pursuant to an information-sharing request pursuant to Article Four of this MOU, the restrictions in this MOU apply to the use of the information by that Requesting Authority.

ARTICLE SEVEN: CONFIDENTIALITY OF INFORMATION AND ONWARD SHARING

36. Except as provided in Paragraphs 37 and 38, each Authority will keep confidential, to the extent permitted by law, non-public information shared under this MOU, requests made under this MOU, the contents of such requests, and any other matters arising under this MOU.

37. As required by law, it may become necessary for a Requesting Authority to share non-public information obtained under this MOU with a Governmental Entity in its jurisdiction. In such circumstances and to the extent permitted by law:

    a. The Requesting Authority intends to notify the Requested Authority; and

    b. Prior to the Requesting Authority sharing the non-public information, the Requesting Authority will provide adequate assurances to the Requested Authority concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that:

        i. The Governmental Entity has confirmed that it requires the information for a purpose within the scope of its jurisdiction; and

        ii. The information will not be shared by the Governmental Entity with other parties without getting the prior written consent of the Requested Authority.

38. Except as provided in Paragraph 37, the Requesting Authority must obtain the prior written consent of the Requested Authority before disclosing non-public information received under this MOU to any non-signatory to this MOU. The Requested Authority will take into account the level of urgency of the request and respond in a timely manner. During an Emergency Situation, consent may be obtained in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification. If consent is denied by the Requested Authority, the Requesting and Requested Authorities will consult to discuss the reasons for withholding approval of such disclosure and the circumstances, if any, under which the intended disclosure by the Requesting Authority might be allowed.

39. To the extent possible, the Requesting Authority intends to notify the Requested Authority of any legally enforceable demand for non-public information furnished under this MOU. When complying with the demand, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.

40. The Authorities intend that the sharing or the disclosure of non-public information, including deliberative and consultative materials, such as written analysis, opinions, or recommendations relating to non-public information that is prepared by or on behalf of an Authority, pursuant to the terms of this MOU, will not constitute a waiver of privilege or confidentiality of such information.

ARTICLE EIGHT: AMENDMENTS

41. The Authorities intend periodically to review the functioning and effectiveness of cooperation arrangements between the CFTC and the MAS with a view, *inter alia*, to expanding or altering the scope or operation of this MOU should that be judged necessary. This MOU may be amended with the written consent of the Authorities referred to in Paragraph 1.

ARTICLE NINE: EXECUTION OF MOU

42. Cooperation in accordance with this MOU will become effective on the date this MOU is signed by the Authorities.

ARTICLE TEN: TERMINATION

43. Cooperation in accordance with this MOU will continue until the expiration of 30 days after either Authority gives written notice to the other Authority of its intention to terminate the MOU. If either Authority gives such notice, the parties will consult concerning the disposition of any pending requests. If an agreement cannot be reached through consultation, cooperation will continue with respect to all requests for assistance that were made under the MOU before the expiration of the 30-day period until all requests are fulfilled or the Requesting Authority withdraws such request(s) for assistance. In the event of termination of this MOU, information obtained under this MOU will continue to be treated in the manner described under Articles Six and Seven.

This MOU is executed in duplicate, this 27th day of December 2013.

Gary Gensler
Chairman
U.S. Commodity Futures Trading Commission

Ong Chong Tee
Deputy Managing Director
(Financial Supervision)
Monetary Authority of Singapore

APPENDIX A

CONTACT PERSONS

In addition to the following contact information, the CFTC and the MAS will exchange confidential emergency contact telephone information.

CFTC

Ananda Radhakrishnan
Director, Division of Clearing and Risk
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581
Phone: 202-418-5188
Fax: 202-418-5547
Email: aradhakrishnan@cftc.gov

Gary Barnett
Director, Division of Swap Dealer and Intermediary Oversight
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581
Phone: 202-418-5977
Fax: 202-418-5407
Email: gbarnett@cftc.gov

Vince McGonagle
Director, Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581
Phone: 202-418-5387
Fax: 202-418-5507
Email: vmcgonagle@cftc.gov

MAS

Tan Beng Hwa
Director & Head (Markets & Infrastructure Supervision Division)
Markets Policy & Infrastructure Department
Monetary Authority of Singapore
10 Shenton Way MAS Building
Singapore 079117
Phone: 65-6229 9004
Fax: 65-6225 1350
Email: bhtan@mas.gov.sg

Merlyn Ee
Executive Director (Capital Markets Intermediaries)
Monetary Authority of Singapore
10 Shenton Way MAS Building
Singapore 079117
Phone: 65-6229 9295
Fax: 65-6225 9766
Email: merlynee@mas.gov.sg

ICE FUTURES SINGAPORE

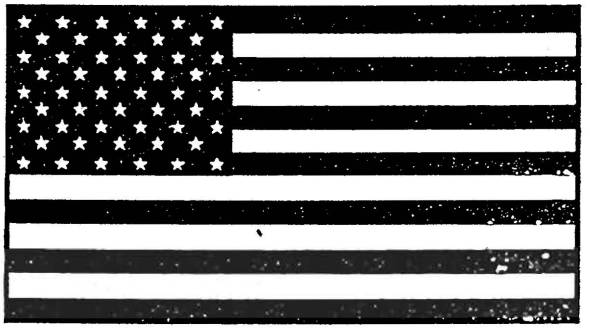
FBOT APPLICATION

ANNEX H-1(2)

MEMORANDUM

OF

UNDERSTANDING



THE UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
COMMODITY FUTURES TRADING COMMISSION

THE MONETARY AUTHORITY
OF
SINGAPORE

CONCERNING CONSULTATION AND COOPERATION AND THE EXCHANGE OF INFORMATION

May 16, 2000

The United States Commodity Futures Trading Commission, the United States Securities and Exchange Commission and the Monetary Authority of Singapore, recognizing increased international activity in securities and futures transactions and acknowledging the need for mutual cooperation between relevant authorities, have reached the following understanding.

DEFINITIONS

For the purposes of this Memorandum of Understanding:

1. "Authority" means:

   (a) the Commodity Futures Trading Commission of the United States;

   (b) the Securities and Exchange Commission of the United States; or

   (c) the Monetary Authority of Singapore.

2. "Requested Authority" means an Authority to whom a request is made under this Memorandum of Understanding.

3. "Requesting Authority" means an Authority making a request under this Memorandum of Understanding.

4. "Futures Contract" means a futures or options transaction regulated or subject to regulation by the Authorities whether transacted over-the-counter or on or subject to the rules of an exchange or market.

5. "Futures Business" includes, among others, any person involved in: the offer, purchase or sale of futures contracts for the account of others; the purchase or sale of futures contracts for one's own account; advising others for compensation, directly or through media, regarding the offer, purchase or sale of futures contracts; the management, promotion, offer or sale of collective investment schemes involving futures contracts; or equivalent activities. The definition of a futures business also includes persons, among others, acting in the capacity of commodity trading advisors, commodity pool operators, futures commission merchants, introducing brokers, associated persons, floor brokers and floor traders.

6. "Futures Market" means an exchange or other market, including an over the counter market, for futures and options that is recognized, supervised or subject to regulation by the Authorities.

7. "Futures Processing Business" means a clearing organization for futures contracts.

8. "Laws and/or Regulations" mean:

(a) for securities, the provisions of the laws of the United States and/or Singapore, the regulations promulgated thereunder, and other regulatory requirements that fall within the jurisdiction of the Authorities, concerning securities; and

(b) for futures, the provisions of the laws of the United States and/or Singapore, the regulations promulgated thereunder, and other regulatory requirements that fall within the jurisdiction of the Authorities, concerning futures contracts.

9. "Person" means a natural person, unincorporated association, partnership, trust, body corporate, or government - or a political subdivision, agency, instrumentality or equivalent authority of a government.

10. "Securities" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

11. "Securities Business" means, any business that involves, in whole or in part, the offer, purchase or sale of securities for the account of others; the purchase or sale of securities for one's own account; advising others for compensation, directly or through media, regarding the offer, purchase or sale of securities; the management, promotion, offer or sale of collective investment schemes involving securities; or equivalent activities. The definition of a securities business also includes persons, among others, acting in the capacity of dealers, investment advisers, introducing brokers, associated persons, floor brokers and floor traders. The definition also includes operation of a securities market.

12. "Securities Market" means an exchange or other market, including an over the counter market, for securities that is recognized, supervised or subject to regulation by the Authorities.

13. "Securities Processing Business" means a clearing organization for securities, a securities clearing agency, a securities depository or securities transfer agent.

ESTABLISHMENT OF A FRAMEWORK FOR CONSULTATIONS REGARDING MATTERS OF MUTUAL INTEREST

14. The Authorities intend to consult periodically about matters of mutual concern. Such consultation will be undertaken in the interest of improving cooperation to enhance: the efficiency and integrity of the Securities and Futures Markets of the United States and Singapore; the protection of investors and customers; appropriate market oversight; and the effective performance by the Authorities of their respective functions regarding the Laws and/or Regulations of the United States and Singapore.

MUTUAL ASSISTANCE AND THE EXCHANGE OF INFORMATION

15. **General Principles regarding Mutual Assistance and the Exchange of Information**

(a) This Memorandum of Understanding sets forth the Authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and/or Regulations of the Authorities. This Memorandum of Understanding does not create legally binding obligations or supersede domestic laws.

(b) This Memorandum of Understanding does not prohibit an Authority from taking measures other than those described herein to obtain information necessary to ensure enforcement of or compliance with the Laws and/or Regulations applicable in its jurisdiction. In particular, this Memorandum of Understanding does not affect any right of any Authority to communicate with, or obtain information or documents from, any Person on a voluntary basis in the jurisdiction of the other Authority.

(c) This Memorandum of Understanding does not confer upon any Person not defined as an Authority within this Memorandum of Understanding, the right or ability directly or indirectly to obtain, suppress or exclude any information or to challenge the execution of a request for assistance under this Memorandum of Understanding.

(d) The Authorities recognize the importance and desirability of exchanging assistance and information for the purpose of enforcing

and securing compliance with the Laws and/or Regulations applicable in their respective jurisdictions. However, a request for assistance may be denied by the Requested Authority:

(i) where the request would require the Requested Authority to act in a manner that would violate its domestic law;

(ii) where the request is not made in accordance with the provisions of this Memorandum of Understanding; or

(iii) on grounds of public interest.

Where a request for assistance is denied, or where assistance is not available under its domestic law, the Requested Authority will provide the reasons for not granting the assistance and consult pursuant to paragraph 21.

16. **Scope of Assistance**

(a) The Authorities will, within the framework of this Memorandum of Understanding, provide each other with the fullest assistance permissible under the laws of the United States and Singapore. Such assistance will be provided in order to facilitate: market oversight including market and financial surveillance; the granting of licenses, authorizations, waivers or exemptions for the conduct of Securities and Futures Businesses and Securities and Futures Processing Businesses; the supervision of Securities and Futures Businesses and Securities and Futures Processing Businesses; the inspection of Securities and Futures Businesses and Securities and Futures Processing Businesses; and the investigation, litigation or prosecution by the Authorities of activity that potentially violates the Laws and/or Regulations applicable in their respective jurisdictions.

(b) The assistance available under this Memorandum of Understanding includes, without limitation:

(i) providing information held in the files of the Requested Authority upon request by the Requesting Authority;

(ii) taking statements of Persons; and

(iii) obtaining information and documents from Persons.

(c) The Authorities recognize that they may not in all circumstances possess the legal authority to provide the assistance or information

referred to in paragraph 16. In such circumstances, the Authorities will use all reasonable efforts to obtain the aid of such other governmental agencies that can provide the assistance or information described in paragraph 16.

17. Requests For Assistance

(a) Requests for assistance will be made in writing and will be addressed to the Requested Authority's contact officer listed in Appendix A.

(b) Requests for assistance will include the following:

(i) a general description of both the subject matter of the request and the purpose for which the assistance or information is sought;

(ii) a general description of the assistance, documents, information, or statements sought by the Requesting Authority;

(iii) any information known to or in the possession of the Requesting Authority that might assist the Requested Authority in identifying either the Persons believed to possess the information or documents sought or the places where such information may be obtained;

(iv) the Laws and/or Regulations pertaining to the subject matter of the request; and

(v) the desired time period for the reply.

(c) In urgent circumstances, requests for assistance, and the response to such requests, may be effected by telephone or facsimile, provided such communication is confirmed in writing.

18. Execution of Requests for Assistance

(a) Information held in the files of the Requested Authority will be provided to the Requesting Authority upon request.

(b) Upon request, the Requested Authority will take the statements of any Person involved, directly or indirectly, in the activities that are the subject matter of the request for assistance or in possession of information that may assist in the execution of the request. The

Requested Authority will make a transcript of any statement it takes on behalf of the Requesting Authority.

(c) Unless otherwise agreed by the Authorities, information and documents requested under this Memorandum of Understanding will be gathered in accordance with the procedures applicable in the jurisdiction of the Requested Authority and by Persons designated by the Requested Authority.

(d) Notwithstanding paragraph 18(c), any Person providing a statement pursuant to a request for assistance under this Memorandum of Understanding will have the right to have counsel present.

(e) Notwithstanding any other provision of this Memorandum of Understanding, any Person providing a statement, information, or documents as a result of a request for assistance under this Memorandum of Understanding will be entitled to all rights and privileges applicable in the jurisdiction of the Requested Authority. Assertions regarding rights and privileges arising exclusively under the laws applicable in the jurisdiction of the Requesting Authority will be preserved for consideration by the courts in that jurisdiction.

(f) Upon request, the Requested Authority will inspect specified books, records, Futures Businesses, Securities Businesses, Futures Processing Businesses or Securities Processing Businesses.

(g) If it appears that responding to a request for assistance under this Memorandum of Understanding will involve substantial cost, the Requested Authority may, as a condition to executing the request, ask the Requesting Authority to make a contribution to such cost in an amount agreed upon by the Authorities.

19. Permissible Uses of Information

(a) The Requesting Authority may use non-public information furnished in response to a request for assistance under this Memorandum of Understanding solely:

(i) for the purpose stated in the request for assistance with respect to ensuring compliance with or enforcement of the Laws and/or Regulations applicable in the jurisdiction of the Requesting Authority, including the legal provisions specified in the request and related provisions; and

(ii) for a purpose within the general framework of the use stated in the request for assistance, including conducting a civil or administrative enforcement proceeding, assisting in a self-regulatory organisation's surveillance or enforcement activities (insofar as it is involved in the supervision of trading or conduct that is the subject of the request), assisting in a criminal prosecution, or conducting any investigation for any general charge applicable to the violation of the provision specified in the request where such general charge pertains to a violation of the Laws and/or Regulations administered by the Requesting Authority.

(b) Before using non-public information furnished under this Memorandum of Understanding for a purpose other than those stated in paragraph 19(a), the Requesting Authority must first inform the Requested Authority of the intended use. The Requested Authority will advise its views within 14 days and, if necessary, the Authorities will consult pursuant to the provisions of paragraph 21 to discuss the reasons for any denial by the Requested Authority over such intended use and the circumstances under which the intended use might otherwise be allowed. Fourteen-day advance notification need not be provided where disclosures are made to Persons having the legal power to compel disclosure; in such cases, notification will be provided according to paragraph 20(c).

20. Confidentiality

(a) Each Authority will keep confidential, to the extent permitted by law, requests made under this Memorandum of Understanding, the contents of such requests, and any matters arising under this Memorandum of Understanding including consultations between the Authorities, and unsolicited assistance.

(b) The Requesting Authority will not disclose non-public information received under this Memorandum of Understanding, except as contemplated by paragraph 19 or pursuant to a legally enforceable demand, or in connection with an adjudicatory action or proceeding brought under the laws applicable in the jurisdiction of the Requesting Authority to which the Requesting Authority or its government, or a political subdivision thereof, is a party.

(c) To the extent possible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand for non-

public information furnished under this Memorandum of Understanding prior to compliance, and will assert such appropriate legal exemptions or privileges with respect to such information as may be available.

(d) To the extent permitted by law, the Authorities may by mutual written consent make an exception to the principles set forth in paragraph 20(a) and (b).

(e) In response to a request by the Requested Authority, and to the extent permitted by law, as soon as the Requesting Authority has terminated the matter for which assistance has been requested under this Memorandum of Understanding, it will return to the Requested Authority all documents and copies thereof not already disclosed in proceedings referred to in paragraph 19(a) and other material disclosing the contents of such documents, other than material that is generated as part of the investigative, deliberative or internal analytical process of the Requesting Authority.

21. Consultation Regarding Mutual Assistance and the Exchange of Information

(a) In any case of dispute over the interpretation of this Memorandum of Understanding, the Authorities will consult each other with a view to reaching a mutually acceptable interpretation.

(b) The Authorities will consult with each other regarding this Memorandum of Understanding with a view to improving its operation and resolving any matters that may arise. In particular, the Authorities will consult in the event of:

(i) an Authority's denial of a request made by the other Authority pursuant to this Memorandum of Understanding;

(ii) a change in market or business conditions or in the legislation governing the matters set forth in paragraph 8; and

(iii) any other circumstance that makes it necessary or appropriate to amend or extend this Memorandum of Understanding in order to achieve its purposes.

(c) The Authorities may agree on such practical measures as may be necessary to facilitate the implementation of this Memorandum of Understanding.

(d) Any of the conditions of this Memorandum of Understanding may be amended, or waived by mutual written consent.

22. Unsolicited Assistance

To the extent permitted by the Laws and/or Regulations of its respective jurisdiction, each Authority will use reasonable efforts to provide the other Authority with any information it discovers that gives rise to a suspicion of a breach or an anticipated breach of the Laws and/or Regulations applicable in the jurisdiction of the other Authority.

FINAL PROVISIONS

23. Effective Date

Cooperation in accordance with this Memorandum of Understanding will begin on the date of its signing by the Authorities.

24. Termination

Cooperation and assistance in accordance with this Memorandum of Understanding will continue until the expiration of 30 days after any Authority gives written notice to the other Authorities of its intention to discontinue cooperation and assistance hereunder. If either the CFTC or the SEC gives such notice, cooperation under this Memorandum will continue with respect to the other two Authorities. If any Authority gives a termination notice, cooperation and assistance in accordance with this Memorandum of Understanding will continue with respect to all requests for assistance that were made or information provided before the effective date of notification (as indicated in the notice but no earlier than the date the notice is sent) until the Requesting Authority terminates the matter for which assistance was requested.

SIGNED IN TRIPLICATE IN ENGLISH AT SYDNEY, AUSTRALIA, THIS 16th DAY OF MAY 2000.

FOR THE COMMODITY FUTURES TRADING COMMISSION OF THE UNITED STATES:

William Rainer
Chairman

FOR THE MONETARY AUTHORITY OF SINGAPORE:

Tharman Shanmugaratnam
Deputy Managing Director
(Financial Supervision)

FOR THE SECURITIES AND EXCHANGE COMMISSION OF THE UNITED STATES

Arthur Levitt
Chairman

APPENDIX A

CONTACT OFFICERS

US Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
USA

For investigatory and enforcement information:
Director, Division of Enforcement
Chief Counsel, Division of Enforcement

Tel: (202) 418-5320
Fax: (202) 418-5523

For supervisory information:
Director, Division of Trading and Markets

Tel: (202) 418-5430
Fax: (202) 418-5536

For market surveillance information:
Director, Division of Economic Analysis

Tel: (202) 418-5260
Fax: (202) 418-5527

US Securities and Exchange Commission
450 5th Street, N.W.
Washington D.C 20549
USA

For all information
Director of International Affairs
Tel: (202) 942-2770
Fax: (202) 942-9524

Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117

For all information:

Head of Department,
Securities and Futures Department

Tel: (65)-229-9461
Fax: (65)-229-9697

Monetary Authority of Singapore Organisation Chart

As at 1 June 2017

Risk Committee

BOARD OF DIRECTORS
Tharman Shanmugaratnam
Chairman

Audit Committee

MANAGING DIRECTOR'S OFFICE
Ravi Menon
Managing Director

Legal
Paul Yuen
- **Division I**
  - Lynette Lee
- **Division II**
  - Dawn Chew

Corporate Planning & Communications
Merlyn Ee
- **Corporate Communications**
  - Bey Mui Leng
- **Corporate Planning**
  - Sharon Ho

Chief Economist
Edward Robinson

Chief of Singapore Economy Analysis
Tu Suh Ping

Internal Audit
Lim Aik Yang
- **Division I**
  - Merion Anggerek
- **Division II**
  - Ong Lay Hong

MONETARY POLICY & INVESTMENT / DEVELOPMENT & INTERNATIONAL / FINTECH & INNOVATION
Jacqueline Loh

ECONOMIC POLICY
Edward Robinson

Economic Analysis
Choy Keen Meng
- **International Economy**
  - Aireen Phang
- **Modelling**
  - Cyrene Chew
- **Specialist Leader (International Macroeconomics)**
  - Liew Yin Sze

Economic Surveillance & Forecasting
Celine Sia
- **Domestic Economy**
  - Tu Suh Ping
- **Price Analysis**
  - Ng Yi Ping

Special Projects
Lam San Ling
- **Information Resource Centre**
  - Susan Song-Lim

MARKETS & INVESTMENT
Chia Der Jiun

Monetary & Domestic Markets Management
Cindy Mok
- **Domestic Markets Management**
  - Evi Farida
- **Monetary Management**
  - Tan Siang Meng

Reserve Management
Benny Chey
- **Americas & EM Asia**
  - Julian Soo
- **Europe & Corporates**
  - Evelyn Sit
- **External Fund Management**
  - Alan Yeo
- **Global Macro**
  - Kee Rui Xiong

London Office
Dawn Ho

New York Office
Thiru Lavan

DEVELOPMENT & INTERNATIONAL
Leong Sing Chiong

Financial Centre Development
Carolyn Neo
- **Banking Development**
  - Anna Ng
- **Business Competitiveness**
  - Wong Zeng Yi

Financial Markets Development
Bernard Wee
- **Asset Management & Insurance Development**
  - Elean Chin
- **Financial Products & Solutions**
  - Tan Fang Yi

International
Luz Foo
- **International Finance**
  - Ian Lee
- **Regional Development**
  - Lee Ser-Jin

Beijing Office
Chang Su Hoong

FINTECH & INNOVATION
Sopnendu Mohanty

- **Payments & Technology Solutions Office**
  - Bernard Wee
- **Technology Infrastructure Office**
  - Damien Pang
- **Technology Innovation Lab**
  - Roy Teo
- **Specialist Leader (Innovation Acceleration Office)**
  - Stanley Yong

FINANCIAL SUPERVISION
Ong Chong Tee

BANKING & INSURANCE
Chua Kim Leng

Banking Department I
Loo Siew Yee
- **Division I**
  - Annabel Tan
- **Division II**
  - Tan Yee Theng
- **Division III**
  - Sin Wun Yi

Banking Department II
Tan Keng Heng
- **Division I**
  - Tan Jiahui
- **Division II**
  - Teo Lay Har
- **Division III**
  - Joyce Tong
- **Supervisory Methodologies, Tools & Analytics**
  - Foo Ming Chuen
- **Financial Risk Specialist**
  - Goh Gek Choo

Banking Department III
Tai Boon Leong
- **Division I**
  - Low Yin Fong
- **Division II**
  - Neo Boon Sim
- **Division III**
  - Goh Soo Hui

Insurance
Ho Hern Shin
- **Division I**
  - Tan Siew Yen
- **Division II**
  - Mike Wong
- **Division III**
  - Fong Wai Seng
- **Supervisory Analytics**
  - Lee Wai Yi

Anti-Money Laundering
Valerie Tay
- **AML Policy**
  - Thong Leng Yeng
- **AML Supervision I**
  - Philip Low
- **AML Supervision II**
  - Tay Jun Yuan
- **Specialist Leader (AML/CFT Policy)**
  - Alvin Koh
- **Specialist Leader (AML/CFT Supervision)**
  - Malkit G Singh

Chief Examiner
Wan Aik Chye
- **Deputy Chief Examiners (Banking)**
  - Goh Gin Choo
  - Foo Swee Lih
  - Thng Teck Soon

CAPITAL MARKETS
Lee Boon Ngiap

Capital Markets Intermediaries I
Merlyn Ee
- **Division I**
  - Chua Yang Leng
- **Division II**
  - Chang Hung Mui
- **Division III**
  - Jennie Ong

Capital Markets Intermediaries II
Lim Cheng Khai
- **Division I**
  - Valerie Tong
- **Division II**
  - Lim May Yee
- **Division III**
  - Chua Ai May
- **Conduct & Surveillance Analytics**
  - Seetoh Kin Choong

Capital Markets Intermediaries III
Koh Hong Eng
- **Division I**
  - Alex Lee
- **Division II**
  - Neo Sok Hsien
- **Division III**
  - Jane Teo

Corporate Finance & Consumer
Abigail Ng
- **Corporate Finance & Investment Products**
  - Low Sze Gin
- **Consumer Issues**
  - Winnie Lim
- **Specialist Leader (Mergers & Acquisitions)**
  - Daniel Teo
- **Specialist Leader (Offerings & Listings)**
  - Thomas Yee

Markets Policy & Infrastructure
Ng Yao Loong
- **Capital Markets Policy**
  - Ken Nagatsuka
- **Market Conduct Policy**
  - Mok Pei Hong
- **Markets & Infrastructure Supervision**
  - Phua Wee Ling
- **Specialist Leader (Financial Markets Infrastructure)**
  - Loh Pui Hoon

Enforcement
Gillian Tan
- **Banking & Insurance Investigations**
  - Lee King See
- **Market Conduct Investigations Division I**
  - Tan Beng Hwa
- **Market Conduct Investigations Division II**
  - Eric Chia
- **Surveillance & Forensics**
  - Ang Eng Seng
- **Enforcement Policy & Legal**
  - Kevin Yong

POLICY, RISK & SURVEILLANCE
Wong Nai Seng

Prudential Policy
Lim Tuang Lee
- **Capital & Liquidity Policy**
  - Sandy Ho
- **Prudential Advisory**
  - Tang Qing Kang
- **Regulatory Framework**
  - Pauline Sim

Technology Risk & Payments
Tan Yeow Seng
- **Payments & Infrastructure**
  - Terry Goh
- **Technology Risk Supervision**
  - Tommy Tan

Macroprudential Surveillance
Rosemary Lim
- **Financial & Special Studies**
  - Ng Heng Tiong
- **Financial Surveillance**
  - Kenneth Gay
- **Specialist Leader (Macrofinancial Modelling)**
  - Lily Chan

DATA ANALYTICS
David Hardoon

- **Data Governance & Architecture Office**
  - Brian Yeoh
- **Specialist Analytics & Visualisation Office**
  - Yap Ghim-Eng
- **Supervisory Technology Office**
  - Li Xuchun

CORPORATE DEVELOPMENT
Andrew Khoo

CORPORATE, HR & IT SERVICES
Ng Nam Sin

Corporate Services
Bernard Yeo
- **Logistics, Administration & Event Management**
  - Elvan Ong
- **Property & Building Services**
  - Chiang Yew Choy
- **Security**
  - Dag Leong

Information Technology
Lawrence Ang
- **IT Applications Division I**
  - Tan Choon Kok
- **IT Applications Division II**
  - Low Lar Wee
- **IT Infrastructure**
  - Yuen Keng Yin
- **IT Security, Governance & Planning**
  - Wong Pei Yuen
- **IT Services**
  - Lee Shwu Yi
- **Payment Systems**
  - Lim Lian Choo

Human Resource
Susanna Lee
- **HR Development**
  - Kee Ann Nee
- **HR Management**
  - Samuel Sobrielo
- **HR Partners**
  - Christina Tan

MAS Academy
Ng Nam Sin

FINANCE, RISK & CURRENCY
Low Kwok Mun

Finance
Teo Kok Ming
- **Financial & Investment Reporting**
  - Wei Ker-Yang
- **Operations & Budget**
  - Jean Tsen

Risk Management
Daniel Wang
- **Enterprise Risk & Business Continuity Management**
  - Charles Lim
- **Investment Risk Management**
  - Justina Lew

Currency
Chung Wei Ken
- **Coins & Business Excellence**
  - Carolyn Tan
- **Notes & Services**
  - Martin Teo

Monetary Authority of Singapore

ANNUAL REPORT 2015/16

Monetary Authority of Singapore

ANNUAL REPORT 2015/16

CONTENTS

SERVING THE PUBLIC, ENGAGING STAKEHOLDERS

VALUED PARTNER ON THE INTERNATIONAL FRONT

ONE MAS: INTEGRATED AND COHESIVE

WHAT WE DO

Our Mission

To promote sustained non-inflationary economic growth, and a sound and progressive financial centre

Our Functions

- To act as the central bank of Singapore, conducting monetary policy, issuing currency, overseeing the payment systems, and serving as banker to and financial agent of the Government
- To manage the official foreign reserves of Singapore
- To conduct integrated supervision of the financial sector and financial stability surveillance
- To develop Singapore as an international financial centre

CHAIRMAN'S MESSAGE

This year's MAS Annual Report comes at a time of heightened uncertainty around the world. Global growth is generally weak. The recovery in the advanced economies is hesitant and uneven despite extraordinarily accommodative monetary policies, and hampered in several instances by a weakened political consensus on future directions. In Asia too, the momentum of growth is slowing, amid a multi-year restructuring of the Chinese economy, lacklustre demand in key export markets and the slow pace of domestic reforms in some economies. The unpredictable consequences of the UK vote to leave the European Union further dented confidence globally.

Against the weak external environment, the Singapore economy is projected to expand by 1–3% this year. Selected clusters of trade-related activities will continue to expand alongside regional growth. Among the domestically-oriented sectors, there is steady demand in infrastructure and for healthcare and education.

Inflation remains subdued. Headline inflation has been negative for some time but could turn positive towards the later part of this year. MAS Core Inflation, which excludes the costs of accommodation and private road transport, is also anticipated to rise gradually over the course of 2016. However, the increase in core inflation will be dampened by weaker external growth and reduced tightness in Singapore's labour market.

"Against the weak external environment, the Singapore economy is projected to expand by 1–3% this year. Selected clusters of trade-related activities will continue to expand alongside regional growth."

MAS' monetary and financial policies aim to preserve stability and confidence in the future amidst global economic fragility, and the generally soft inflation environment.

In April 2016, MAS set the rate of appreciation of the Singapore dollar nominal effective exchange rate (S$NEER) policy band at zero percent. The move represented the culmination of a series of measured steps MAS had taken to reduce the rate of appreciation of the policy band in January and October last year. It recognised the subdued inflation outlook over the next year, while ensuring price stability into the medium term.

"MAS' monetary and financial policies aim to preserve stability and confidence in the future amidst global economic fragility, and the generally soft inflation environment."

Since 2009, MAS has strengthened existing rules on property financing and introduced new measures to ensure stability in the property market and to encourage financial prudence among borrowers. A full-scale property bubble has been averted, and property prices are declining at a measured pace. MAS will continue to monitor the property market, together with other government agencies.

We have continued to keep a close watch on risk management practices and culture in Singapore's financial sector. A thematic inspection of banks' credit underwriting standards showed that practices were generally sound. As part of ongoing efforts to strengthen the resilience of the financial system, MAS has put out proposals to enhance its powers to facilitate the orderly and efficient resolution of distressed financial institutions.

Singapore's financial centre is built on a bedrock of trust and integrity. MAS requires financial institutions to have robust controls in place to prevent money laundering and terrorism financing and will not hesitate to take actions against financial institutions which fail to meet requirements. In 2015, MAS issued reprimands to several financial institutions and imposed financial penalties for deficiencies in their controls. On 24 May 2016, MAS ordered a merchant bank to be shut down for serious breaches of anti-money laundering requirements.

We have introduced several initiatives to safeguard investors' interests while expanding their savings and investment options. MAS refined its rules to make it easier for eligible corporates to offer bonds to retail investors. Together with the Ministry of Finance, we introduced the Singapore Savings Bonds programme to provide Singaporeans with a safe, long-term savings option. More recently, MAS set out its regulatory approach to securities-based crowdfunding. It aims to facilitate access by start-ups and small and medium enterprises to alternative platforms for raising funds, while ensuring sufficient safeguards for investors.

Supporting MAS' efforts to safeguard consumer interest are on-going financial education programmes by the national financial education programme, MoneySENSE. A series of educational campaigns carried in both traditional and new media helped to drive home important financial literacy messages, such as using credit wisely and saving and investing early.

Despite the headwinds to global growth over the past year, the Singapore financial sector continued to perform well and was a major contributor to overall economic growth. MAS is working with the industry to facilitate the flow of long-term funds to support infrastructure development, especially in the Asian region. This includes work to facilitate the transfer of bank financing of infrastructure to institutional investors, and the creation of performance benchmarks to allow investors to better assess the risks and returns of infrastructure projects.

As part of the national SkillsFuture agenda, MAS and the National Trades Union Congress (NTUC) have led the Financial Sector Tripartite Committee (FSTC). The FSTC brings together the industry associations, government and labour movement, to foster a versatile financial sector workforce, well-equipped to embrace the opportunities and future needs of the financial industry.

We are also developing a Smart Financial Centre that leverages effectively on technology. In August 2015, MAS formed a new Financial Technology and Innovation Group to catalyse the growth of a vibrant FinTech ecosystem. Several global financial institutions have since established innovation labs in Singapore to develop and test bed new products for the region. We are also seeing progress in the adoption of electronic payments in Singapore. These efforts involve streamlining payment card acceptance infrastructure at merchants through unified Points-of-Sale (POS) terminals, and increasing the adoption of real-time payments through the Fast and Secure Transfers (FAST) system.

"Despite the headwinds to global growth over the past year, the Singapore financial sector continued to perform well and was a major contributor to overall economic growth."

This year marks MAS' 45th anniversary. Over the years, MAS has become highly regarded internationally, both as a central bank and an integrated financial regulator. Singapore is also ranked among the leading financial centres in the world today. In February 2016, we launched the MAS Gallery, with the aim of helping the public understand the mission and roles of the MAS. It also reflects the outcomes of the hard work and professional expertise of MAS staff over the years, in promoting the growth and stability of the Singapore economy and financial system. On behalf of the Board, I would like to thank all MAS staff, past and present, for their invaluable contributions to building a credible central bank and financial regulator.

Tharman Shanmugaratnam
Chairman

BOARD OF DIRECTORS

Tharman Shanmugaratnam
Chairman
Deputy Prime Minister and Coordinating Minister for Economic and Social Policies

Lim Hng Kiang
Deputy Chairman
Minister for Trade and Industry (Trade)

Heng Swee Keat
Minister for Finance

Lawrence Wong Shyun Tsai
Minister for National Development

Lim Chee Onn
Chairman of Risk Committee
Senior International Advisor, Ascendas-Singbridge Group

Quek See Tiat
Chairman of Audit Committee
Deputy President, Council for Estate Agencies

Peter Ong Boon Kwee
Head of Civil Service and Permanent Secretary
(Prime Minister's Office) (Strategy)

Tan Chorh Chuan
President,
National University of Singapore

V K Rajah
Attorney-General,
Attorney-General's Chambers

Ravi Menon
Managing Director,
Monetary Authority of Singapore

SENIOR ADVISOR TO MAS

Goh Chok Tong
Emeritus Senior Minister

MANAGEMENT
TEAM

A. Ravi Menon
Managing Director

B. Ong Chong Tee
Deputy Managing Director
Financial Supervision

C. Jacqueline Loh
Deputy Managing Director
Monetary Policy & Investment / Development & International / FinTech & Innovation

D. Andrew Khoo
Deputy Managing Director
Corporate Development

E. Chia Der Jiun
Assistant Managing Director
Markets & Investment

F. Chua Kim Leng
Assistant Managing Director
Banking & Insurance

G. Lee Boon Ngiap
Assistant Managing Director
Capital Markets

H. Leong Sing Chiong
Assistant Managing Director
Development & International

I. Low Kwok Mun
Assistant Managing Director
Finance, Risk & Currency

J. Ng Nam Sin
Assistant Managing Director
Corporate, HR & IT Services

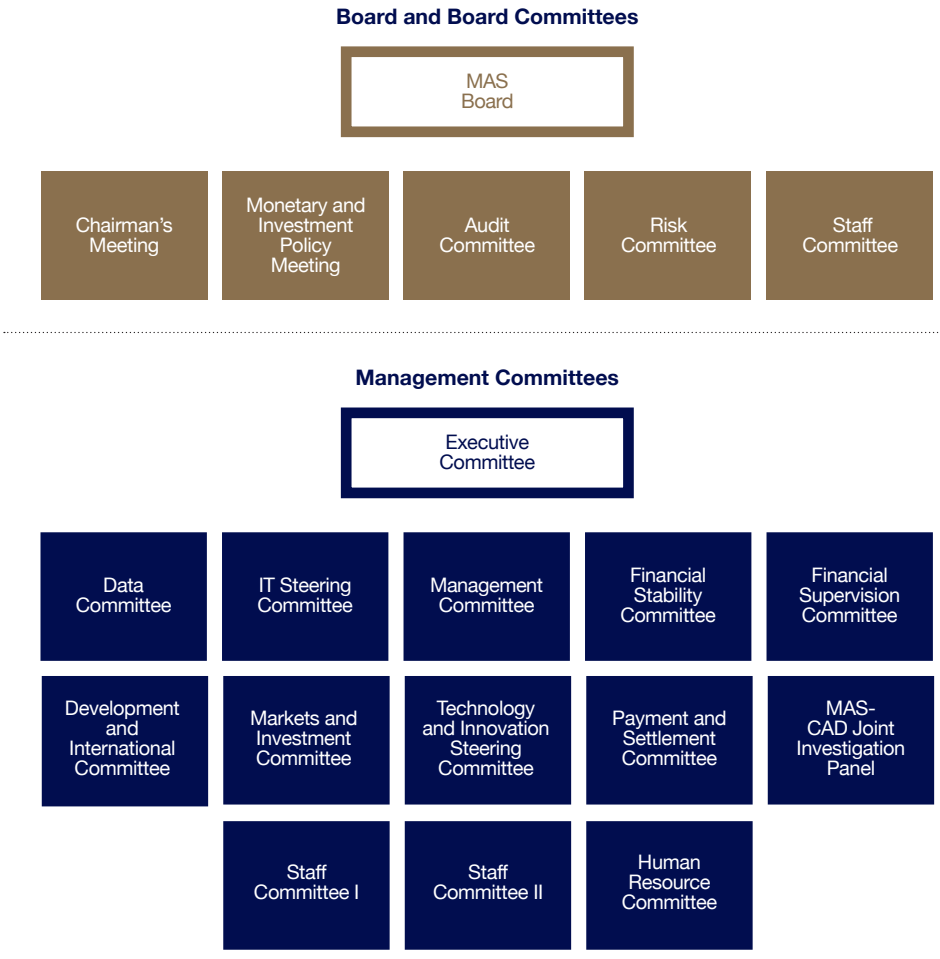
K. Edward Robinson
Assistant Managing Director and Chief Economist
Economic Policy

L. Wong Nai Seng
Assistant Managing Director
Policy, Risk & Surveillance

GOVERNANCE
STRUCTURE

The Board is responsible for the high-level governance of MAS. The Board Committees exercise broad oversight and approve major changes to policies and strategies relating to the principal functions of MAS.

The Managing Director is responsible for the day-to-day operations of MAS and is assisted by various groups and management committees. The Executive Committee is the key decision making body at the management level. Chaired by the Managing Director, it is responsible for ensuring that MAS' policies and initiatives are aligned with its overall direction and objectives. The Executive Committee also oversees matters referred to it by other management fora.



BOARD
COMMITTEES

The MAS Act provides that the Board of Directors shall be responsible for the policy and general administration of the affairs and business of MAS. The Board is assisted by the following committees:

CHAIRMAN'S MEETING

The Chairman's Meeting approves major changes to MAS' supervisory policies and regulatory framework. It also approves major changes to policies and strategies relating to financial centre development and international and regional relations. The Chairman's Meeting comprises Tharman Shanmugaratnam (Chairman), Lim Hng Kiang, Heng Swee Keat, Lawrence Wong and Ravi Menon.

MONETARY AND INVESTMENT POLICY MEETING

The Monetary and Investment Policy Meeting deliberates and decides on issues relating to the formulation and implementation of monetary policy with the objective of maintaining price stability for sustained economic growth. The Meeting also oversees the investment of MAS' reserves. The Monetary and Investment Policy Meeting comprises Tharman Shanmugaratnam (Chairman), Lim Hng Kiang, Heng Swee Keat, Lawrence Wong and Ravi Menon.

AUDIT COMMITTEE

The Audit Committee provides an independent assessment of MAS' internal controls and financial reporting process. The Committee also reviews the efforts of MAS' internal and external auditors. The Audit Committee comprises Quek See Tiat (Chairman), Peter Ong and Tan Chorh Chuan.

RISK COMMITTEE

The Risk Committee provides oversight and guidance on the management of risks faced by MAS. The Committee oversees the MAS-wide risk management framework, and reviews MAS' risk management policies and processes for reporting of risks. The Risk Committee comprises Lim Chee Onn (Chairman), Tan Chorh Chuan, V K Rajah and Ravi Menon.

STAFF COMMITTEE

The Staff Committee approves MAS' key personnel policies, including overall remuneration policy. It also approves matters relating to the appointment, promotion and remuneration of senior management staff. The Staff Committee comprises Tharman Shanmugaratnam (Chairman), Lim Hng Kiang, Heng Swee Keat and Ravi Menon.

As at 1 July 2016

ORGANISATIONAL STRUCTURE

Ravi Menon
Managing Director

MANAGING DIRECTOR'S OFFICE

Corporate Planning and Communications
Merlyn Ee
Executive Director

Legal
Ng Heng Fatt
General Counsel

Internal Audit
Timothy Ng
Executive Director

MONETARY POLICY & INVESTMENT / DEVELOPMENT & INTERNATIONAL / FINTECH & INNOVATION

Jacqueline Loh
Deputy Managing Director

ECONOMIC POLICY

Edward Robinson
Assistant Managing Director and Chief Economist

Economic Analysis
Choy Keen Meng
Executive Director

Economic Surveillance & Forecasting
Celine Sia
Executive Director

Special Projects
Lam San Ling
Executive Director

MARKETS & INVESTMENT

Chia Der Jiun
Assistant Managing Director

Monetary & Domestic Markets Management
Cindy Mok
Director

Reserve Management
Benny Chey
Executive Director

DEVELOPMENT & INTERNATIONAL

Leong Sing Chiong
Assistant Managing Director

Financial Centre Development
Carolyn Neo
Director

Financial Markets Development
Bernard Wee
Executive Director

International
Luz Foo
Executive Director

FINTECH & INNOVATION

Sopnendu Mohanty
Chief FinTech Officer

FINANCIAL SUPERVISION

Ong Chong Tee
Deputy Managing Director

BANKING & INSURANCE

Chua Kim Leng
Assistant Managing Director

Banking I
Loo Siew Yee
Executive Director

Banking II
Tan Keng Heng
Director

Banking III
Tai Boon Leong
Executive Director

Insurance
Lee Keng Yi
Director

Anti-Money Laundering
Valerie Tay
Executive Director

Chief Examiner
Wan Aik Chye

CAPITAL MARKETS

Lee Boon Ngiap
Assistant Managing Director

Capital Markets Intermediaries I
Merlyn Ee
Executive Director

Capital Markets Intermediaries II
Lim Cheng Khai
Director

Capital Markets Intermediaries III
Koh Hong Eng
Director

Corporate Finance & Consumer
Paul Yuen
Executive Director

Markets Policy & Infrastructure
Ng Yao Loong
Executive Director

Enforcement
Gillian Tan
Director

POLICY, RISK & SURVEILLANCE

Wong Nai Seng
Assistant Managing Director

Prudential Policy
Lim Tuang Lee
Executive Director

Specialist Risk
Ho Hern Shin
Executive Director

Macroprudential Surveillance
Wong Nai Seng
Assistant Managing Director

CORPORATE DEVELOPMENT

Andrew Khoo
Deputy Managing Director

CORPORATE, HR & IT SERVICES

Ng Nam Sin
Assistant Managing Director

Corporate Services
Bernard Yeo
Executive Director

Information Technology
Lawrence Ang
Executive Director

Human Resource
Susanna Lee
Director

MAS Academy
Ng Nam Sin
Assistant Managing Director

FINANCE, RISK & CURRENCY

Low Kwok Mun
Assistant Managing Director

Finance
Teo Kok Ming
Executive Director

Risk Management
Daniel Wang
Executive Director

Currency
Chung Wei Ken
Executive Director

As at 1 August 2016

KEY ECONOMIC
AND FINANCIAL STATISTICS

	2011	2012	2013	2014	2015
National Income Aggregates					
Gross Domestic Product					
At Current Market Prices (S$m)	346,172.7	361,498.7	375,751.0	388,169.3	402,457.9
Growth Rate (% change)	7.4	4.4	3.9	3.3	3.7
At 2010 Market Prices (S$m)	342,371.8	354,937.3	371,531.5	383,643.6	391,348.5
Growth Rate (% change)	6.2	3.7	4.7	3.3	2.0
Gross National Income					
At Current Market Prices (S$m)	338,633.7	350,004.1	364,342.2	368,995.7	383,483.5
Growth Rate (% change)	5.6	3.4	4.1	1.3	3.9
Labour Force					
Unemployment Rate (%)	2.0	2.0	1.9	2.0	1.9
Productivity Growth (% change)	2.3	-0.3	0.5	-0.5	-0.1
Changes in Employment ('000)	122.6	129.1	136.2	130.1	32.3
Average Monthly Earnings (% change)	6.0	2.3	4.3	2.3	3.5
Unit Labour Cost (% change)	1.6	3.0	1.4	3.2	2.8
Savings and Investment					
Gross National Savings (S$m)	172,539.4	173,055.1	181,189.2	180,088.9	185,439.1
As % of GNI	51.0	49.4	49.7	48.8	48.4
Gross Domestic Capital Formation (S$m)	93,555.8	107,638.7	113,905.7	112,281.8	105,806.6
As % of GNI	27.6	30.8	31.3	30.4	27.6
Balance of Payments (S$m)					
Goods Balance	93,131.5	87,931.2	94,653.4	100,891.1	113,456.7
Exports of Goods	545,991.9	546,654.2	547,265.5	554,704.5	518,377.8
Growth Rate (% change)	8.1	0.1	0.1	1.4	-6.5
Imports of Goods	452,860.4	458,723.0	452,612.1	453,813.4	404,921.1
Growth Rate (% change)	8.0	1.3	-1.3	0.3	-10.8
Services and Other Balances	-14,147.9	-22,514.8	-27,369.9	-33,084.0	-33,824.2
Current Account Balance	78,983.6	65,416.4	67,283.5	67,807.1	79,632.5
As % of GNI	23.3	18.7	18.5	18.4	20.8
Capital and Financial Account Balance	58,050.1	28,869.6	46,706.6	58,576.9	77,052.4
Balancing Item	-115,546.0	-61,680.1	-91,259.2	-117,766.2	-155,184.2
Overall Balance	21,487.7	32,605.9	22,730.9	8,617.8	1,500.7
Official Foreign Reserves	308,403.2	316,744.2	344,729.2	340,438.1	350,990.8
Inflation (% change)					
Consumer Price Index	5.2	4.6	2.4	1.0	-0.5
GDP Deflator	1.1	0.7	-0.7	0.1	1.6
Monetary Aggregates (% change)					
M1	16.1	7.7	9.9	3.6	0.1
M2	10.0	7.2	4.3	3.3	1.5
M3	10.1	7.6	4.3	3.4	1.7

	2011	2012	2013	2014	2015
Interest Rates (period average, % per annum)					
Prime Lending Rate	5.38	5.38	5.38	5.35	5.35
Banks' 3-month Fixed Deposit Rate	0.17	0.14	0.14	0.14	0.17
3-month S$ SIBOR	0.41	0.39	0.38	0.41	0.92
3-month US$ LIBOR	0.34	0.43	0.27	0.23	0.32
Exchange Rates (period average, S$ per)					
US Dollar	1.2579	1.2497	1.2513	1.2671	1.3748
Pound Sterling	2.0161	1.9803	1.9573	2.0873	2.1023
Euro	1.7495	1.6071	1.6621	1.6837	1.5267
100 Japanese Yen	1.5780	1.5672	1.2840	1.1996	1.1364
Malaysian Ringgit	0.4111	0.4046	0.3973	0.3873	0.3534
Banking and Finance					
Commercial Banks' Assets/ Liabilities (S$m)	855,811.4	911,009.0	973,226.8	1,059,642.3	1,057,520.6
Growth Rate (% change)	9.5	6.4	6.8	8.9	-0.2
Finance Companies' Assets/ Liabilities (S$m)	12,165.3	14,967.5	14,985.7	15,975.7	17,409.8
Growth Rate (% change)	5.6	23.0	0.1	6.6	9.0
Merchant Banks' Assets/ Liabilities (S$m)	87,851.1	92,411.0	84,944.9	96,256.8	106,583.2
Growth Rate (% change)	-2.1	5.2	-8.1	13.3	10.7
Asian Currency Units' Assets/ Liabilities (US$m)	1,019,532.9	1,093,264.6	1,180,703.6	1,190,631.8	1,155,822.6
Growth Rate (% change)	5.0	7.2	8.0	0.8	-2.9
Insurance					
Life Insurers' Assets/Liabilities (S$m)	133,905.4	148,592.5	153,208.7	168,795.7	179,188.3
Growth Rate (% change)	1.5	11.0	3.1	10.2	6.2
General Insurers' Assets/Liabilities (S$m)	27,209.4	26,267.6	26,484.0	28,606.2	30,393.1
Growth Rate (% change)	56.1	-3.5	0.8	8.0	6.2
CPF					
Excess of Contributions Over Withdrawals (S$m)	14,184.8	14,321.6	13,666.8	12,423.3	13,323.9
Domestic Capital Market					
Net Funds Raised in Domestic Capital Market (S$m)	82,763.7	78,664.9	100,252.1	96,566.1	45,565.0

Note: Domestic interbank rates have been discontinued with effect from 1 January 2014 and replaced with S$ SIBOR. US$ SIBOR rates have been also replaced with the US$ LIBOR, the most widely-used US$ interest rate benchmark, so as to align with the larger global US$ market.

NUMBER OF FINANCIAL INSTITUTIONS
IN SINGAPORE

End-March	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Banks	**108**	**113**	**114**	**120**	**120**	**123**	**123**	**124**	**126**	**124**
Local[1]	5	6	6	7	6	6	6	5	5	5
Foreign	103	107	108	113	114	117	117	119	121	119
Full banks	24	24	27	25	26	26	27	28	28	28
Wholesale banks[2]	36	42	41	46	50	52	53	55	56	53
Offshore banks	43	41	40	42	38	39	37	36	37	38
(Banking offices including head offices and main offices)	(399)	(408)	(409)	(421)	(428)	(432)	(425)	(428)	(432)	(431)
Asian Currency Units	**154**	**158**	**161**	**162**	**163**	**165**	**161**	**159**	**160**	**155**
Banks	106	111	112	117	117	120	120	121	123	122
Merchant banks	48	47	49	45	46	45	41	38	37	33
Finance Companies	**3**	**3**	**3**	**3**	**3**	**3**	**3**	**3**	**3**	**3**
(Finance companies' offices including head offices)	(39)	(39)	(39)	(39)	(39)	(39)	(39)	(39)	(39)	(39)
Merchant Banks	**49**	**49**	**50**	**46**	**47**	**46**	**42**	**39**	**38**	**34**
Insurance Companies	**153**	**151**	**158**	**158**	**157**	**164**	**168**	**177**	**181**	**186**
Direct insurers	61	59	62	64	63	70	72	79	80	79
Reinsurers	27	25	27	26	28	29	28	31	31	32
Authorised reinsurers	5	5	6	6	6	6	6	6	6	5
Captive insurers	60	62	63	62	60	59	62	61	64	70
Insurance Brokers	**62**	**65**	**66**	**63**	**64**	**67**	**69**	**71**	**74**	**75**
Representative Offices	**43**	**45**	**36**	**32**	**37**	**38**	**40**	**37**	**39**	**41**
Banks	43	45	36	30	34	36	38	36	38	40
Merchant banks	-	-	-	-	-	-	-	-	-	-
Insurance[3]	-	-	-	2	3	2	2	1	1	1
International Money Brokers	**10**	**10**	**10**	**10**	**10**	**9**	**9**	**9**	**10**	**10**

NUMBER OF FINANCIAL INSTITUTIONS IN SINGAPORE

End-March	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Licensed Financial Advisers	**67**	**69**	**73**	**71**	**67**	**67**	**62**	**58**	**60**	**62**
Capital Markets Services Licensees	**183**	**215**	**221**	**224**	**251**	**250**	**295**	**443**	**493**	**533**
Dealing in Securities	77	93	90	99	98	94	106	118	123	137
Trading in Futures Contracts	40	46	50	48	47	50	52	59	60	68
Advising on Corporate Finance	36	37	37	34	33	34	37	40	42	40
Fund Management	97	110	113	107	118	119	158	289	335	367
Leveraged Foreign Exchange Trading	14	18	19	19	19	20	23	24	24	27
Securities Financing	15	16	16	17	18	17	17	17	17	17
Providing Custodial Services for Securities	34	38	40	39	40	40	38	37	37	37
Real Estate Investment Trust Management[4]	-	-	1	7	22	23	26	31	34	36
Providing Credit Rating Services[5]	-	-	-	-	-	-	3	3	4	4
Licensed Trust Companies	**31**	**35**	**38**	**40**	**48**	**50**	**51**	**52**	**54**	**53**
Registered Fund Management Companies[6]	**-**	**-**	**-**	**-**	**-**	**-**	**74**	**236**	**275**	**273**

1 Local banks comprise five full banks.
2 Previously known as restricted banks.
3 Data is unavailable for the period between 2007 and 2009.
4 Regulation of real estate investment trust management came into effect on 1 August 2008.
5 Regulation of credit rating services came into effect on 17 January 2012.
6 Registration of fund management companies commenced under an enhanced regulatory regime which came into effect on 7 August 2012.

ANCHOR OF ECONOMIC AND FINANCIAL STABILITY

ANCHOR OF ECONOMIC AND FINANCIAL STABILITY

THE ECONOMY

SUBDUED GROWTH IN THE GLOBAL ECONOMY

Global economic growth slowed in 2015 to 3.9% from 4.1% in 2014. While the G3 economies remained on a moderate growth trajectory, Asia ex-Japan recorded weaker outturns.

Global economic growth slowed in 2015 to

3.9%

from 4.1% in 2014

Amid muted external demand, the United States (US) and Eurozone posted relatively firm GDP gains on the back of strong private consumption, but Japan's recovery was more tentative. In Asia ex-Japan, China's growth moderation and the generalised slowdown in global trade flows have weighed on the region's economic activity, particularly in the externally-oriented economies. However, for the second consecutive year, resilient domestic demand in the ASEAN-4 economies provided some offsetting support.

Major central banks have pursued increasingly divergent monetary policies. The steady recovery in the US economy over the past few years enabled the Federal Reserve to raise rates by a notch in December 2015, though the pace of subsequent policy normalisation will likely be gradual. In comparison, sluggish growth and below-target inflation have compelled the European Central Bank (ECB) and the Bank of Japan (BOJ) to intensify monetary easing. The ECB initiated a full-fledged Quantitative Easing programme in March 2015 and subsequently lowered interest rates further into negative territory in December. In January 2016, the BOJ joined the ECB in implementing a negative interest rate policy while the latter expanded the size and scope of its asset purchase programme in March.

A MODERATE G3 RECOVERY

The US economy marked its sixth year of economic expansion in 2015, with total output rising by 2.4%, similar to 2014. Improved consumer confidence on the back of steady employment growth and a strong housing market spurred private consumption and anchored the recovery. The pickup in consumer spending, however, was partly offset by weaker US exports due to the stronger US dollar and tepid global demand. Gross fixed capital formation also eased considerably in the second half of 2015, on account of cutbacks in energy-related investment. The continuation of these trends, coupled with some pullback in consumer expenditure, resulted in sluggish GDP growth of 1.1% on a q-o-q seasonally adjusted annualised rate (SAAR) basis in Q1 2016.

Growth in the Eurozone picked up to 1.6% in 2015, from 0.9% in the previous year, as stronger domestic demand more than compensated for the drag from net exports. Private consumption provided the largest contribution, with household purchasing power boosted by lower energy prices. In comparison, net exports fell, reflecting anaemic demand from China and other emerging economies. Across the Eurozone, growth remained uneven: Spain posted a stellar performance, while Italy and France continued to lag behind the rest of the bloc. Nonetheless, the pace of expansion in the region quickened to 2.2% in Q1 2016 on a q-o-q SAAR basis, in an encouraging start to this year.

Japan's GDP rose modestly by 0.5% in 2015, after staying flat in 2014, as the negative effects of the April 2014 consumption tax hike waned. Nonetheless, the recovery in domestic demand was constrained by subdued private consumption which was, in turn, held down by slower growth in nominal wages.

Meanwhile, weak external demand, especially from the Asian markets, weighed further on economic activity. In Q1 2016, growth recovered to 1.9% q-o-q SAAR from –1.8% in Q4 2015, primarily due to a bounce-back in household spending after a weak showing in the previous quarter.

SLOWDOWN IN ASIA EX-JAPAN

Growth in the Asia ex-Japan economies eased to 4.7% in 2015 from 5.2% in the previous year. Reflecting the transitional frictions associated with the ongoing economic rebalancing and structural reforms, the Chinese economy grew at a more moderate pace of 6.9% in 2015, compared to 7.3% in 2014. The overall expansion was underpinned by the services-producing industries, which were buoyed by strong demand for financial services. Meanwhile, the goods-producing industries registered lower growth, as segments of the manufacturing sector continued to face excess capacity. In Q1 2016, GDP growth in China slipped to 6.7% on a y-o-y basis, with fiscal and monetary policy helping to buffer the extent of the slowdown.

Growth in the Asia ex-Japan economies eased to

4.7%

in 2015, from 5.2% in the previous year

With growth easing in China, a hesitant recovery in the G3, and a protracted slump in global commodity markets, exports from the ASEAN-4 countries stagnated in 2015. Nevertheless, private consumption growth stayed resilient, supported by still favourable labour market conditions, while investment picked up on a surge in government capital spending in the second half of 2015. As firmer domestic demand partially offset trade weakness, ASEAN-4 GDP growth dipped only marginally from 4.7% in 2014 to 4.6% in 2015.

The Northeast Asian-3 economies (NEA-3) grew at a sluggish pace of 1.9% in 2015, down from 3.2% in 2014, due to disappointing exports amid lacklustre global demand. However, household spending remained relatively firm, even though signs of a softening in the labour market had emerged towards the end of the year due, in part, to persistent weakness in the manufacturing and tourism sectors.

HEIGHTENED FINANCIAL VULNERABILITIES AND RISKS

Global financial markets turned volatile in early 2016. Weak commodity prices and economic and financial uncertainties in China, weighed on investor sentiment. This triggered substantial selloffs in global equity markets and renewed capital outflows from emerging markets (EMs).

Commodity prices have remained depressed, and signs of stress have emerged in commodity-related firms and sovereigns. Default rates in commodity-related sectors are expected to rise, and commodity-exporting economies could face greater strains on fiscal sustainability and ensuing capital outflows.

Financial stability concerns have persisted in China as rising corporate defaults affected the asset quality of the Chinese banking system, while heightened asset market volatility has exacerbated the pace of capital outflow. Policymakers continue to face a delicate balance between near-term economic performance and asset market stability on the one hand, and longer-term structural reforms on the other. Strong intra-regional linkages could increase contagion to other Asian economies and banking systems from a China-related shock.

The US increased its interest rate for the first time in more than nine years in December 2015. While there are signs that the US economy is picking up, fragility in global financial markets continues to throw uncertainty over the pace of further rate hikes. The greater use of unconventional monetary policy is also increasing market unease. The impact of divergent monetary policies, as well as the impact of negative interest rates, will continue to be closely watched. Higher financing costs following rate normalisation by the US Federal Reserve and slower EM growth has stoked concerns over household and corporate indebtedness in the region.

Looking ahead, uncertainty over developments in the United Kingdom (UK) and Eurozone could result in further financial market volatility, with possible knock-on effects on financial intermediation and capital flows globally, and economic growth more generally.

LOW GLOBAL INFLATION

Global inflation fell to low levels in 2015, dragged down by declining energy prices and sluggish growth. Headline inflation in the G3 economies dropped sharply to 0.2%, from 1.3% in 2014. In the US and Eurozone, prices were unchanged in 2015, mainly due to the disinflationary effects of falling energy prices. Nonetheless, core inflation stayed firm at 1.8% in the US, reflecting diminishing slack in the labour market. Japan's CPI inflation rate was 0.8%, although this was largely attributable to the residual effects of the consumption tax hike in the previous year. In Asia ex-Japan, inflation fell in 2015, as food and fuel costs eased in China and India. Inflation in the NEA-3 was similarly weighed down by declining commodity prices, which also capped ASEAN-4 price gains. In Thailand, inflation turned negative, as underlying price pressures weakened in line with a protracted period of below-trend growth.

In the first quarter of 2016, global headline inflation, while still low, edged up slightly to 1.3% y-o-y from 1.0% in Q4 2015. Price developments were uneven among the G3 economies, with inflation picking up in the US as the effects of low energy prices dissipated, but moderating in the Eurozone and Japan due to relatively subdued growth. Meanwhile, inflation held steady in Asia ex-Japan at 3.3% y-o-y, driven mainly by food price increases.

Headline inflation in the G3 economies dropped sharply to

0.2% **in 2015, from 1.3% in 2014**

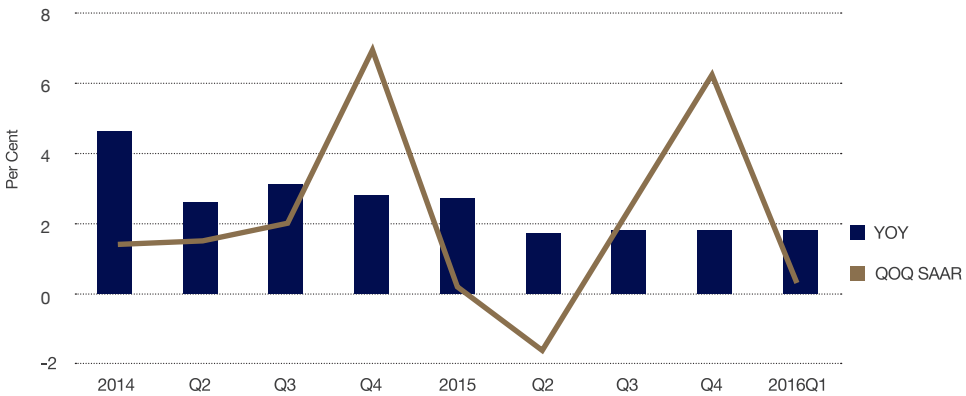
SINGAPORE'S ECONOMIC GROWTH MODERATED IN 2015

Singapore's economic growth drifted down further in 2015, with real GDP expanding by 2.0% from 3.3% in 2014 (see Chart 1). The slower growth momentum was broad-based amid a synchronised downshift in the Chinese and regional economies. However, some production activities were more heavily affected due to higher direct exposure to sector-specific headwinds buffeting the global IT and oil & gas industries. At the same time, manpower-reliant

The Singapore economy expanded by a slower

2.0% **in 2015, compared to 3.3% in 2014**

Chart 1: Singapore's Real GDP Growth



sectors continued to face transitory supply-side constraints as they adjusted to ongoing efforts to boost productivity.

From the domestic sectoral perspective, the moderation stemmed largely from the manufacturing sector, which saw a full-year contraction. The slowdown was particularly pronounced in the electronics and marine & offshore engineering industries, reflecting the impact of a worldwide slowdown in electronics demand and a pullback in global oil exploration and production expenditures, respectively. Financial services also turned in a more modest performance, though still stronger than the rest of the economy, as loan growth to East Asia and the domestic trade-related industries eased. Industries dependent on domestic demand likewise slowed, in part due to continued weakness in private sector construction and softer demand for real estate business services.

Growth momentum in the Singapore economy eased at the start of this year, coming in at 0.2% on a q-o-q SAAR basis in Q1 2016, after an expansion of 6.2% in Q4 2015. The subdued outturn stemmed largely from a cyclical pullback in the financial services sector, following a surge in Q4 2015 when fees and commissions were paid out for the year. Softening regional trade flows also weighed on the trade-related services. In comparison, the manufacturing sector saw a rebound on the back of a boost to output in the pharmaceutical segment. Meanwhile, a pickup in non-residential building activities shored up growth in the domestic-oriented sectors.

Looking ahead, the Singapore economy is expected to continue on a modest and uneven growth path, with further uncertainty arising from recent developments in the UK and the Eurozone. Nonetheless, domestic-oriented sectors will remain generally resilient, buttressed by steady demand for services, such as healthcare and education. For 2016 as a whole, the Singapore economy is projected to expand by 1–3%.

Over the medium term, as productivity growth gains momentum, the economy is expected to settle on a sustainable growth trend underpinned by a skilled labour force, an enhanced capital stock, and technology-intensive production processes.

INFLATION FELL DUE TO LOWER OIL PRICES

MAS Core Inflation, which excludes the costs of accommodation and private road transport, eased to 0.5% in 2015, from 1.9% in 2014. This was mainly due to the sharp decline in the cost of oil-related items amid weaker global oil prices. The disinflationary effects of budgetary[1] and other one-off measures[2], as well as the more modest pass-through of cost increases to consumer prices, also contributed to lower core inflation last year.

CPI-All Items inflation moderated to –0.5% in 2015, from 1.0% in the preceding year, reflecting the more gradual increase in core consumer prices as well as the dampening effects of lower accommodation and private road transport costs. Car prices and housing rentals softened alongside an expansion in Certificate of Entitlement (COE) quotas and the completion of a large number of residential units last year.

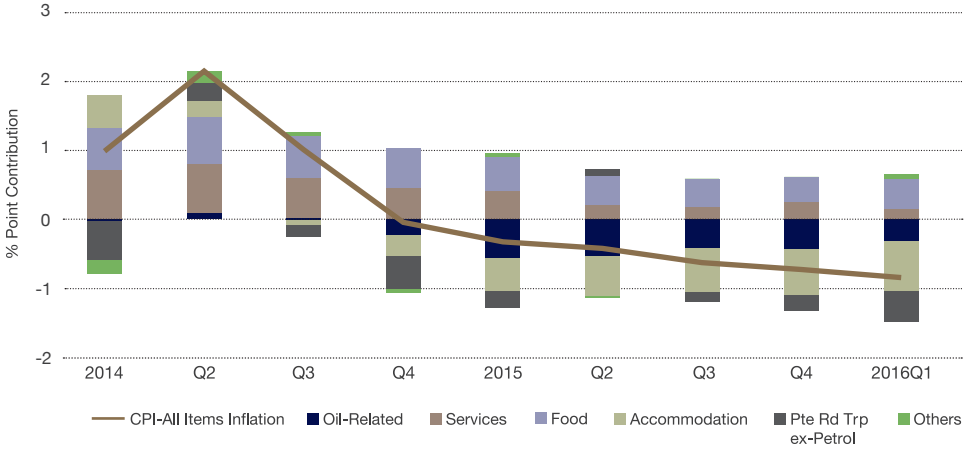
MAS Core Inflation, which excludes the costs of accommodation and private road transport, eased to

0.5% in 2015, from 1.9% in 2014

In the first quarter of 2016, core and overall inflation diverged. MAS Core Inflation picked up to 0.5% from 0.2% in Q4 2015 as temporary disinflationary influences, such as the enhanced medication subsidies introduced at the beginning of 2015, abated. CPI-All Items inflation remained on a downtrend, falling to –0.8% in Q1 2016 from –0.7% in the previous quarter, as a result of larger declines in housing rentals and car prices (see Chart 2).

[1] *The budgetary measures include medical subsidies under the Pioneer Generation Package, the reduction in the concessionary foreign domestic worker levy, as well as the abolition of national examination fees for Singaporeans.*
[2] *These include SG50-related price promotions as well as temporary supermarket discounts in the second half of 2015.*

Chart 2: Contribution to CPI-All Items Inflation



Looking ahead, external sources of inflation are likely to remain subdued, given ample supply buffers in the major commodity markets and weak global demand. Notably, global oil prices are expected to average lower for the whole of 2016 compared to 2015. On the domestic front, softer employment conditions will lead to a slowdown in wage growth. In addition, the pass-through of domestic costs to consumer prices will be constrained by the subdued economic growth environment.

MAS Core Inflation is expected to pick up gradually over the course of this year, reflecting the diminishing drag from oil prices as well as from budgetary and other one-off measures. However, this increase will be milder than earlier anticipated, reflecting the weaker external price outlook and domestic growth prospects, as well as reduced tightness in the labour market.

Meanwhile, the drag to CPI-All Items inflation from non-core components of the CPI basket is expected to intensify this year, as a large supply of car COEs and residential units comes on-stream.

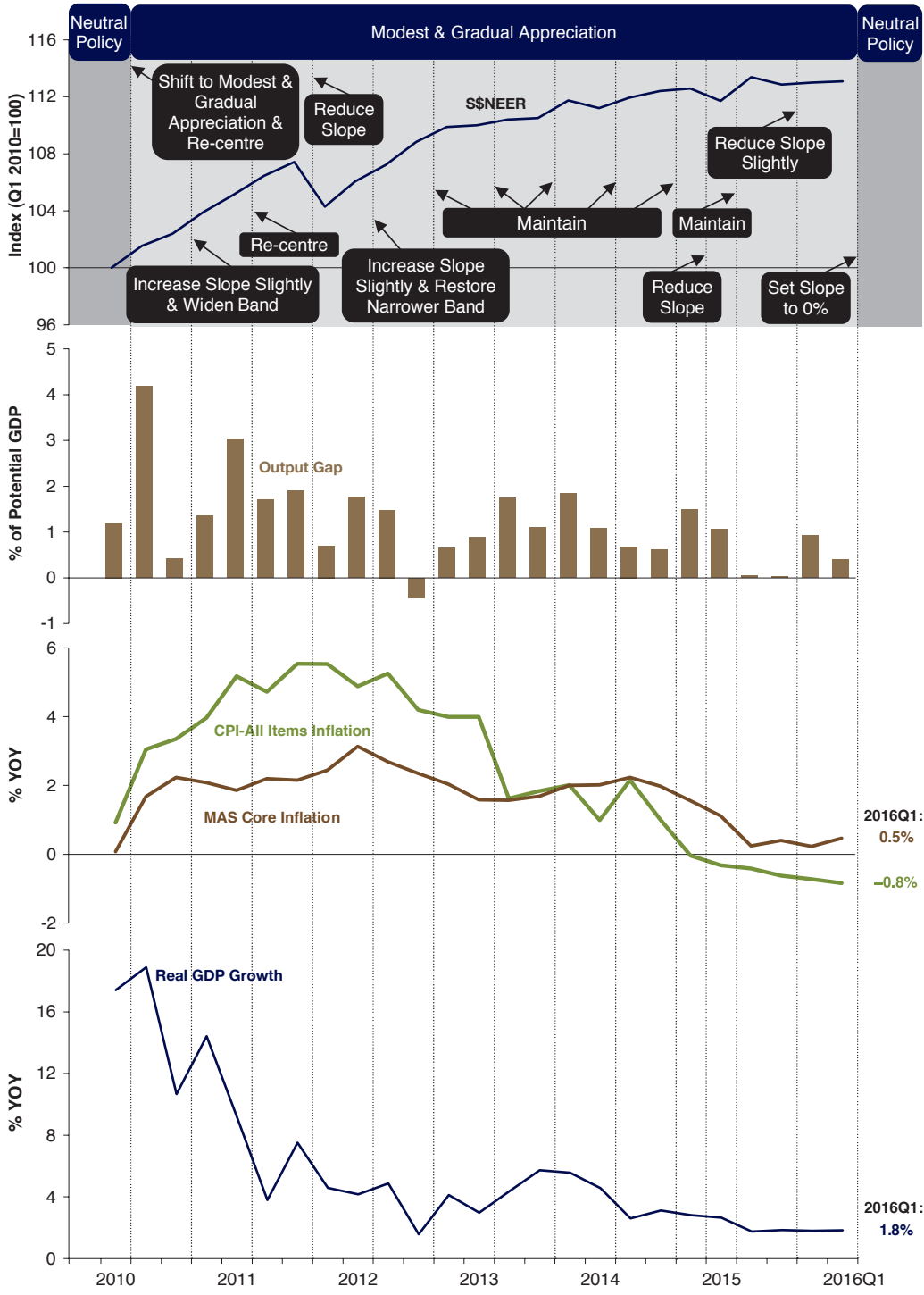
MONETARY POLICY

In 2015, GDP growth in the Singapore economy slowed to 2.0% from 3.3% in 2014. CPI-All Items inflation turned negative and MAS Core Inflation moderated to 0.5% from 1.9% in the previous year. The decline in core inflation was due to the disinflationary effects of lower oil prices, as well as budgetary and other one-off measures.

Singapore's monetary policy was eased in a calibrated manner, in line with the changing macroeconomic environment. Having already reduced the rate of appreciation of the Singapore dollar nominal effective exchange rate (S$NEER) policy band in an off-cycle move in January 2015, MAS maintained the policy stance in April last year. In October 2015, MAS eased policy further by reducing the rate of appreciation of the policy band slightly, in view of reduced price pressures alongside a weaker growth outlook.

Going into 2016, MAS assessed that the tightness in the labour market had eased, and MAS Core Inflation was expected to pick up more gradually than earlier anticipated. At the same time, core inflation was likely to average below 2.0% over the medium term. Singapore's GDP growth outlook had also moderated against a less favourable external environment. Accordingly, in April 2016, MAS set the rate of appreciation of the S$NEER policy band at zero percent. There was no change to the width of the band and the level at which it was centred. This was not a policy to depreciate the domestic currency, but a measured adjustment following the policy easing undertaken last year, and will ensure price stability over the medium term. Chart 3 traces the evolution of monetary policy against the backdrop of changes in key macroeconomic variables in recent years.

Chart 3: Key Macroeconomic Variables and the Monetary Policy Stance



MACROPRUDENTIAL POLICY

Since 2009, MAS has introduced a series of measures to ensure stability in the property market and to encourage financial prudence among borrowers. Private residential property prices have declined gradually. From the peak in Q3 2013, overall prices have declined by an average 0.9% each quarter over 10 consecutive quarters. Alongside the gradual moderation in prices, transaction volumes – across new sales, resales and subsales – have declined and remained subdued. The current transaction activity is less than half of that seen between 2010 and 2012. As a result, the growth in housing loan volumes has continued to moderate and the risk profile of housing loans has improved.

From the peak in Q3 2013, overall private residential property prices have declined by an average

0.9% each quarter

The average tenure of new loans has declined from 30 years in 2012 to 25 years in Q1 2016. The share of new private housing loans with loan-to-value ratios above 70% fell from 77% in Q2 2010 to below 60% in Q1 2016. The improvement in loan profile underpins the banking system's resilience to risks arising from the property market. The rise in mortgage rates remains manageable for the majority of households and does not pose significant repayment risk for banks' housing loan portfolios. Our stress test shows that the banking system would be able to withstand a stress scenario that includes a sharp correction in property prices.

The measured decline in property prices suggests a benign scenario with property prices settling at sustainable levels over time. MAS remains vigilant for signs of renewed froth in the property market on the back of still-elevated prices in certain market segments. At the same time, uncertainties in the financial markets and headwinds in the external outlook could add to risks of a sharper-than-warranted price correction. MAS will continue to monitor the property market carefully for risks to financial stability and take appropriate measures to maintain a stable and sustainable market.

New private housing loans with loan-to-value ratios above 70% fell from 77% in Q2 2010 to

below 60% in Q1 2016

MANAGEMENT OF LIQUIDITY

ENHANCING MAS' STANDING FACILITY

As part of ongoing efforts to enhance MAS' liquidity facilities, the range of acceptable collateral at MAS' Standing Facility was further expanded in May 2015 to include Singapore statutory board debt securities and Japanese Yen cash under the MAS-BOJ cross-border collateral arrangement (CBCA).

Singapore Statutory Board Debt Securities

With the inclusion of SGD debt securities issued by Singapore statutory boards as eligible collateral for MAS' Standing Facility, banks can now hold a broader pool of high quality SGD assets to meet their liquidity needs in times of stress.

Japanese Yen Cash Under MAS-BOJ CBCA

MAS enhanced the MAS-BOJ CBCA to allow banks in Singapore to pledge Japanese Yen cash at MAS' Standing Facility to obtain SGD liquidity. This is in addition to the Japanese Government Bonds and Japanese Treasury Discount Bills that are already accepted under the CBCA. This collaboration reinforces the commitment of MAS and BOJ to support the long-standing economic and financial relationship between Singapore and Japan.

RENEWAL OF THE MAS-PEOPLE'S BANK OF CHINA CURRENCY SWAP

MAS renewed the bilateral currency swap arrangement with the People's Bank of China (PBC) in March 2016 for a further term of

three years. The original arrangement was established in 2010 and first renewed in 2013. The arrangement is a key pillar of cooperation between MAS and the PBC to strengthen economic resilience and financial stability. Under the arrangement, up to RMB 300 billion is available to eligible financial institutions operating in Singapore. The arrangement enhances banks' confidence in carrying out their business in the two markets, and enables both central banks to provide foreign currency liquidity to stabilise financial markets. The arrangement is part of the initiatives announced at the 12th Joint Council for Bilateral Cooperation in October 2015, to broaden the cross-border RMB channels between Singapore and China.

MANAGEMENT OF OFFICIAL FOREIGN RESERVES

As at 31 March 2016, MAS held S$332 billion (US$246 billion) of official foreign reserves (OFR) on its balance sheet.

MAS invests the OFR conservatively in a well-diversified portfolio of cash, bonds and equities that seeks to achieve good long-term returns. The portfolio is diversified across advanced and emerging market economies, with investment-grade bonds in the advanced economies comprising the largest allocation in the portfolio. About three-quarters of the OFR are denominated in the G4 currencies i.e. USD, EUR, JPY and GBP. Within the G4 currencies, the USD forms the bulk. Diversification across markets, assets and currencies helps to enhance the resilience of MAS' portfolio across various market conditions.

In MAS' financial statements, the OFR are accounted for on a lower of cost and market valuation basis. A valuation provision is made against investment gain when the market value of an OFR asset falls below cost. An unrealised gain is not recognised when the market value of an OFR asset rises above cost.

MAS' financial results are reported in SGD. The reported value of the OFR hence depends on the exchange rate movements of the SGD vis-à-vis the foreign currencies in which the reserves are held. Such currency movements will result in translation effects in MAS' financial statements. These translation effects have no impact on the international purchasing power of the OFR, and hence do not affect MAS' ability to conduct exchange rate policy or provide a buffer in the event of a sharp deterioration in Singapore's balance of payments. Accordingly, it would not be meaningful to hedge against the SGD to mitigate currency translation effects.

INVESTMENT PERFORMANCE

Chart 4 shows the investment performance of the OFR for the last five financial years. The gains/losses of OFR, as represented by the gold bars in Chart 4, comprise two separate components – investment gains/losses (blue bars) and currency translation effects (grey bars). Holding the SGD exchange rate constant to strip out currency translation effects, the OFR recorded an investment gain of S$5.2 billion in FY 2015/16. As in previous years, the investment gain was mainly from interest income and realised capital gains from the sale of OFR assets. The investment gain was, however, lower compared to prior years due to higher valuation provisions. The increase in provisions was due mainly to the market values of some equity securities in MAS' portfolio falling below cost, as global equity markets declined in FY 2015/16.

In FY 2015/16, the currency translation effect was negative due primarily to the strengthening of the SGD against the USD and the GBP. The exchange rate movements of the SGD against the G4 currencies for the last five financial years are shown in Table 1.

Taking the investment gains/losses together with the currency translation effects, MAS' annual gains/losses[3] from OFR over the last five financial years ranged from –S$10.1 billion to S$16.5 billion.

[3] *Gross of investment, interest and other expenses.*

Chart 4: Gains/Losses of the OFR

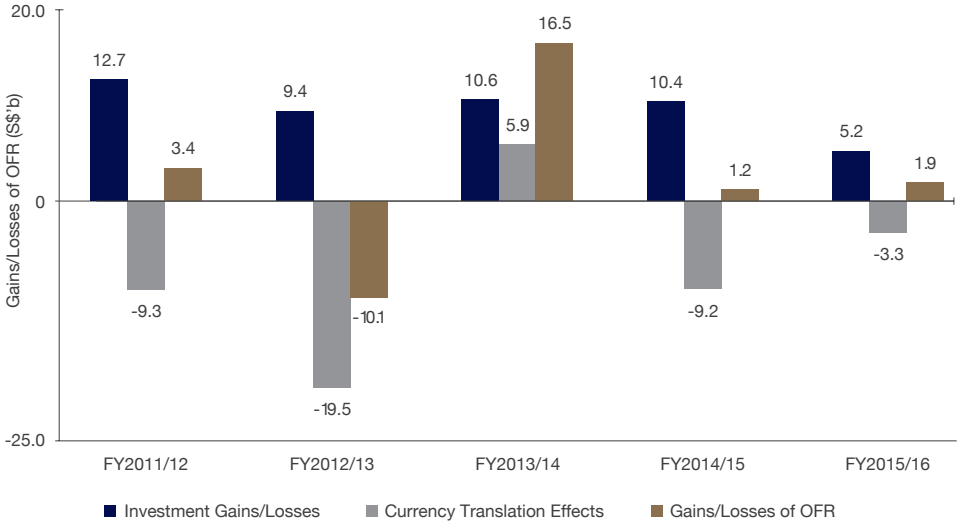


Table 1: Exchange Movements of SGD against G4 Currencies (%)

SGD[4] vs.	FY2011/12	FY2012/13	FY2013/14	FY2014/15	FY2015/16
USD	0.3	1.4	-1.4	-8.3	1.9
EUR	6.8	5.3	-8.3	17.6	-4.0
JPY	-0.4	16.0	7.9	6.7	-4.5
GBP	0.6	6.6	-10.1	3.0	5.2

[4] *Positive figures represent an appreciation of the SGD, while negative figures represent a depreciation of the SGD against the foreign currency over the financial year.*

ROBUST, TRUSTED, DYNAMIC AND PURPOSEFUL FINANCIAL CENTRE

ROBUST, TRUSTED, DYNAMIC AND PURPOSEFUL FINANCIAL CENTRE

A ROBUST FINANCIAL CENTRE

INDUSTRY TESTS

Industry-Wide Stress Tests

MAS conducts annual industry-wide stress tests of financial institutions in Singapore. In 2015, the macroeconomic stress scenario applied across the financial industry incorporated a weakening of the external economic environment stemming from a more aggressive than expected rise in the US policy rate, prolonged slowdown in China, and recession in core Eurozone and Japan. This in turn triggered a slowdown in Singapore's economic growth, including a property market correction. Direct insurers were also subject to insurance-specific stress scenarios such as a flu pandemic. The stress tests showed that Singapore's financial system would remain resilient under the stress scenario. As with previous years, MAS shared the stress test results with participating financial institutions, and engaged them on their results and actions to mitigate the effects from plausible risk events.

Cybersecurity Table-Top Exercise

Cyber Security Agency and MAS jointly organised and conducted a table-top exercise (TTX) in May 2015 to assess the financial sector's capabilities and readiness to detect, respond and recover from cyber attacks. During the TTX, key financial institutions tested their cybersecurity measures and recovery plans across a range of cyber threat scenarios, including the sector's ability to execute a coordinated response. MAS will continue to work with various stakeholders to further strengthen the sector's cyber resilience.

Participants united in response to simulated cyber attacks

Participants sharing their cyber strategies with Dr Yaacob Ibrahim, Minister for Communications and Information and Minister-In-Charge of Cyber Security

ENHANCING THE RESOLUTION REGIME

In June 2015, MAS published a policy consultation on proposals to enhance MAS' resolution regime to promote the orderly and efficient resolution of distressed financial institutions, taking into account the Financial Stability Board (FSB)'s Key Attributes of Effective Resolution Regimes for Financial Institutions and circumstances in Singapore. MAS proposed recovery and resolution planning requirements for financial institutions that are systemically important or that perform critical functions. These financial institutions are also required to adopt measures to address deficiencies in their recovery plans, and remove impediments to resolvability.

To facilitate orderly resolution, MAS proposed to have powers to impose temporary stays on early termination rights of financial contracts. Temporary stays can also be applied to contracts that are non-financial in nature, but that are necessary to ensure continuity of essential services and functions of

a financial institution. We also proposed to have powers to recapitalise a financial institution by writing down its unsecured subordinated creditor claims or by converting them into equity stakes in the financial institution.

MAS also consulted on a creditor compensation framework, and proposed to fund costs relating to resolution expenses through ex-post funding arrangements.

BANKING

Strengthening Resilience

In April 2015, MAS issued a framework for identifying and supervising domestic systemically important banks (D-SIBs) in Singapore, and the inaugural list of D-SIBs. D-SIBs are banks that can have a significant impact on the stability of the financial system and the proper functioning of the broader economy. D-SIBs are required to comply with policy measures to address the risks that they can pose. These include local incorporation of retail operations for foreign bank branches with a significant retail presence, higher loss absorbency, recovery and resolution planning, and liquidity coverage ratio requirements.

In 2015, MAS conducted a thematic inspection of several banks in Singapore to assess the credit underwriting standards and practices of their corporate lending business. Overall, we observed that the banks' underwriting standards and practices were generally sound, though there were areas for improvement. In February 2016, we issued an information paper to share our observations from the thematic inspection with the industry.

Introducing Countercyclical Capital Buffer

MAS introduced the Countercyclical Capital Buffer (CCyB) on 1 January 2016. The CCyB is a part of the Basel III capital framework, and is intended to mitigate pro-cyclicality and protect the banking sector during stress periods. MAS supports the Basel Committee on Banking Supervision's objective to address the build-up of systemic risks from excessive broad-based credit growth, and has included the CCyB in its macroprudential toolkit. Based on prevailing economic and financial conditions, we have set a CCyB rate of 0% for Singapore.

Enhancing Regulatory and Licensing Frameworks

MAS continues to review and enhance our regulatory framework for banks, benchmarking it against international standards. In 2016, MAS proposed amendments to the Banking Act to enhance depositor protection by strengthening prudential safeguards, corporate governance, and risk management controls of banks. The amendment Act was passed in Parliament in February 2016.

In June 2015, MAS also announced that we will remove the accounting divide between the Domestic Banking Unit (DBU) and the Asian Currency Unit (ACU). The DBU-ACU framework was implemented in 1968 to safeguard financial stability while facilitating growth of the Asian Dollar Market. While it has served us well, recent developments have reduced its relevance. Regulatory developments since the global financial crisis have broadly aligned the rules that govern banks' offshore activities and those for domestic banking businesses in Singapore. We will therefore remove the DBU-ACU divide to reduce administrative burden on banks.

MAS has streamlined the bank licensing framework by phasing out the Offshore Bank licence. The revised two-tier licensing framework distinguishes between Full Banks with access to the retail market and Wholesale Banks that specialise in wholesale business. MAS has stopped issuing Offshore Bank licenses since April 2016, and we will convert all existing Offshore Banks to Wholesale Banks over time.

INTERNATIONAL SUPERVISORY COOPERATION

Consolidated Supervision and Cooperation with Foreign Regulators

MAS continues to participate in several insurance group supervisory colleges as host supervisor. Participation in these meetings strengthens MAS' cooperation with the home supervisors of foreign insurers. It also allows MAS to better understand the activities of the insurance groups in other jurisdictions which may have an impact on their operations in Singapore.

MAS also participates in supervisory college meetings of international and regional banks.

MAS hosted the 2015 APAC Recovery and Resolution Planning Workshop for UBS and Credit Suisse, two Global Systemically Important Banks (G-SIBs), from 13 to 14 August 2015. The workshop facilitated information exchanges between home and host supervisors to support recovery and resolution planning of these banks. In addition, MAS and the ECB Joint Supervisory Team hosted the annual Deutsche Bank APAC-Americas supervisory college in Singapore for non-EU supervisors from 23 to 25 November 2015.

MAS is also a member of the LCH supervisory college. The college, chaired by the Bank of England, discusses supervisory issues pertaining to LCH's operations in the various jurisdictions.

Crisis Management Group Meetings

MAS is a member of the Crisis Management Group (CMG) of six of the G-SIBs that have significant operations in Singapore and participates in their CMG meetings. The meetings facilitate information exchanges between home and host authorities and the establishment of institution-specific cross-border cooperation agreements to support recovery and resolution planning. They enhance preparedness and cross-border coordination for crisis management, including recovery and resolution planning, for these institutions.

MAS is also a member of the CMG of one Global Systemically Important Insurer (G-SII) and a member of the sub-CMG of one G-SII.

SECURITIES, FUTURES AND OVER-THE-COUNTER DERIVATIVES

Crowdfunding for Small and Medium Enterprises

In June 2016, MAS published its responses to the feedback received from a public consultation on facilitating securities-based crowdfunding (SCF). MAS' responses seek to help start-ups, and small and medium enterprises access alternative methods of raising funds through SCF, while ensuring that there are sufficient safeguards for investors.

Amendments to the Singapore Code on Take-overs and Mergers

In February 2016, on the advice of the Securities Industry Council (SIC), MAS revised the Singapore Code on Take-overs and Mergers to keep pace with market developments and evolving international practices. The key amendments included providing greater clarity on the applicable procedures and timelines for competing offers and the conduct of a company's board of directors when faced with an offer. SIC will continue to review take-over rules and practices to ensure the regime is in line with international best practices.

Market Structure and Practices

The minimum trading price requirement of 20 cents for Mainboard listed issuers was introduced on 1 March 2015. The Singapore Exchange (SGX) continued to work closely with affected Mainboard companies to explore options to meet the minimum trading price of 20 cents. The objective of the requirement is to improve the overall quality of the securities market and address risks of low-priced securities being more susceptible to excessive speculation and potential market manipulation.

Other securities market initiatives, which were extensively consulted in 2014, will be introduced in phases, with intervals of at least six to 12 months between major initiatives. Short position reporting will be introduced in 2017, followed by collateralised trading in 2018. This will provide market participants with adequate time to adjust to the changes, and also allow MAS and SGX to work closely with the industry to educate the investing public of the upcoming initiatives.

MAS has completed a review of the self-regulatory roles performed by exchanges. Starting from 2016, MAS will be primarily responsible for supervision and inspection of exchange members' compliance with statutory requirements. Exchanges will continue to supervise their members for risk management and operational requirements. This arrangement will lead to greater supervisory efficiency and effective oversight of risks posed by intermediaries.

MAS will also enhance our surveillance capabilities to monitor trading activities within and across exchanges to detect potential misconduct and market abuse. The new surveillance capabilities will facilitate early detection of misconduct, and support more expedient investigations and tough enforcement actions.

As the sole securities exchange operator, SGX will retain its role as listing authority. This role has been enhanced with the 15 September 2015 establishment of the SGX Listings Advisory Committee, Listings Disciplinary Committee and Listings Appeals Committee to strengthen the listing policymaking and review process, and enhance how Listing Rules are enforced.

Over-The-Counter Derivatives Reforms

MAS remains fully committed to meeting the Group of 20/FSB over-the-counter (OTC) derivative reforms. We have made good progress in implementing the reforms in Singapore.

MAS expects to complete the mandatory trade reporting requirement by 1H 2017. Following the commencement of the reporting regime for interest rate and credit derivatives contracts in 2014, banks started the mandatory reporting of foreign exchange (FX) derivatives in May 2015. In January 2016, MAS consulted on proposals to implement the reporting of the remaining asset classes, namely commodity and equity derivatives contracts. The consultation also included proposed revisions to fine-tune the reporting obligations for certain non-bank financial institutions, while maintaining effective data coverage of OTC derivative activities in Singapore.

MAS issued a public consultation in June 2015 setting out proposed requirements for the regulation of OTC derivative intermediaries. In July 2015, MAS also consulted on mandatory clearing requirements for OTC derivatives. The consultation proposed to start the clearing mandate with SGD and USD interest rate swaps, as these are the most widely traded interest rate derivatives in Singapore. Proposals to implement margin requirements for non-centrally cleared OTC derivatives followed in October 2015. Margin requirements would complement MAS' mandatory clearing requirements for OTC derivatives to better manage potential systemic risks posed by the OTC derivatives sector.

MAS has also focused on ensuring that the financial market infrastructure is in place to support the OTC derivatives reforms. To ensure that clearing infrastructures are in place for mandatory clearing, central counterparties (CCPs) in Singapore have gained the requisite recognition from both EU and US authorities. In addition to the Singapore Exchange Derivatives Clearing Limited (SGX-DC) being registered with the US Commodities Futures Trading Commission as a Derivatives Clearing Organisation since December 2013, SGX-DC and ICE Clear Singapore were also recognised by the European Securities and Markets Authority as eligible third-country CCPs in 2015. In Singapore, MAS recognised CCPs from the UK (LCH. Clearnet Limited) and US (Chicago Mercantile Exchange Inc.) as Recognised Clearing Houses in February 2016 and May 2016 respectively. MAS expects to recognise more CCPs, which will strengthen accessibility to clearing infrastructure from Singapore.

MAS continues to review other aspects of our OTC derivatives regulatory regime, including conducting an in-depth study on the conditions that would be appropriate for a trading mandate to be implemented in Singapore.

Financial Market Infrastructure

MAS issued the Notice on Financial Market Infrastructure (FMI) Standards in August 2015, setting out the principles in the Committee on Payments and Market Infrastructures (CPMI)-International Organisation of Securities Commissions (IOSCO) Principles for Financial Market Infrastructures (PFMI) for which licensed trade repositories and approved clearing houses regulated by MAS are required to comply.

With the transfer of provisions governing the Central Depository System (CDS) from the Companies Act to the Securities and Futures Act (SFA), MAS issued the Notice on FMI Standards for Central Securities Depositories which sets out the PFMI standards for CDS in June 2016.

Supervisory Action

On 24 June 2015, MAS reprimanded SGX for lapses related to SGX's market outages on 5 November 2014 and 3 December 2014. MAS also directed SGX to improve its recovery capabilities and processes, including:

- Strengthening its monitoring system capabilities to allow timely and accurate problem identification when incidents occur;

- Strengthening its business continuity management and disaster recovery procedures to improve crisis preparedness; and

- Improving its crisis communications processes to provide prompt information to all stakeholders.

MAS is reviewing SGX's implementation of the remedial measures, which have been verified by an independent expert. Until MAS is satisfied with the completion of these measures, SGX will not increase fees for the securities and derivatives markets. SGX also contributed S$1 million to its Investor Education Fund.

Review of Regulatory Safeguards for Investors

To enhance regulatory safeguards for investors investing in capital markets products, MAS announced in September 2015 that we will proceed with proposals to:

- Extend capital market regulatory safeguards to investors in certain non-conventional investment products that are in substance capital raising products; and

- Give investors who meet certain wealth thresholds the choice whether to be treated as an accredited investor with the consequent reduction of regulatory safeguards.

MAS is finalising the legislative amendments to implement these proposals, following a public consultation and further engagement with key stakeholders, for tabling in Parliament in 2H 2016.

ENFORCEMENT

Enforcement Actions

In April 2015, the highest civil penalty quantum ever imposed by MAS in a single case was announced. Civil penalty action was taken against an individual and his niece for committing insider trading while they were in possession of price-sensitive and non-public information relating to a share acquisition and a mandatory general offer. The individual had also admitted to false trading contraventions. The total civil penalty imposed was S$11,838,000.

In another case, MAS took civil penalty action against a former Managing Director of a foreign bank for insider trading after he traded on price-sensitive and non-public information relating to a proposed acquisition. The defendant had acquired this information in the course of his work. He paid a civil penalty of S$434,912. This case was significant as the defendant, who also headed the foreign bank's investment banking operations at the time of the contravention, was based overseas and had committed the offence of insider trading by trading through his wife's bank account in Singapore.

MAS also took action against two remisiers. The first case was a civil penalty action against a remisier for insider trading after he traded on price-sensitive and non-public information regarding a proposed delisting and cash offer. He paid a civil penalty of S$110,000 and was also prohibited from engaging in regulated activities for a period of two years. In the second case, MAS had reason to believe that a remisier had engaged in a deceptive act when he traded in a client's securities accounts for his own benefit. To prevent possible further misconduct, MAS prohibited the remisier from engaging in regulated activities for a period of two years.

Between April 2015 and March 2016, MAS took a total of 368 regulatory and enforcement actions against companies and individuals for breaches under the SFA and the Financial Advisers Act (FAA). These actions included reprimands, composition fines, civil penalties and prohibition orders. Where they involve significant breaches of law and regulations in relation to conduct issues, MAS publishes details of our market conduct regulatory actions. In this regard, MAS published a total of eight formal regulatory and enforcement actions against companies and individuals under the SFA and FAA.

Between April 2015 and March 2016, MAS took a total of

368 regulatory and enforcement actions against companies and individuals breaching the Securities and Futures Act and the Financial Advisers Act

SECTORAL SECURITY OPERATIONS CENTRE

To enhance the overall cyber security situation awareness of the financial sector, MAS has embarked on the implementation of a Sectoral Security Operations Centre (SOC). The SOC will actively monitor and analyse logs from Critical Infocomm Infrastructure Operators (CIIOs) for early warnings of cyber threats targeting the CIIOs.

INSURANCE

Accident and Health Regulatory Framework

Following the MediShield Life Review Committee's recommendation to enhance the regulatory and accountability framework for Integrated Shield Plans (IPs), MAS worked with the Ministry of Health and life insurance industry to enhance disclosure requirements for insurance policies, strengthen protection for policyholders and improve the conduct of intermediaries for IPs. MAS also reviewed the disclosure requirements for other accident and health policies, including short term policies.

MAS has refined the proposals based on the feedback received from its public consultation on the proposed accident and health regulatory framework. With effect from 1 November 2015:

- Only Medisave-approved policies may have the word "Shield" in their product names to avoid confusion with non Medisave-approved policies;
- Insurance intermediaries are required to understand their clients' financial commitments and affordability concerns (including their clients' hospital ward preferences) to help their clients identify the appropriate coverage;
- Insurance intermediaries are required to highlight free-look periods, exclusions and disclaimers as part of their disclosures; and
- Insurance intermediaries who provide advice on IPs need to undergo specific training.

Certain disclosure requirements for non Medisave-approved policies took effect on 30 June 2016 to give insurers sufficient time for implementation.

Risk Based Capital Framework

Following the second consultation and first comprehensive quantitative impact study (QIS) for the Risk Based Capital (RBC) 2 framework in 2014, MAS has engaged various stakeholders such as insurers, industry associations, external auditors and actuaries to exchange views on RBC 2.

MAS has further refined the proposed RBC 2 framework after reviewing the results of the first QIS and the extensive feedback received. Although the results showed that insurers were well-capitalised, some adjustments were needed to avoid any unintended consequences.

In particular, asset and operational risk charges have been recalibrated and more diversification benefits recognised. MAS has also widened the criteria for the application of a matching adjustment for life business. For cases where a matching adjustment cannot be used, other broader adjustments that similarly recognise the illiquid nature of long-term liabilities have been introduced. These changes will allow insurers to better carry out their important roles in the economy and society on a sustainable basis.

MAS is conducting the third consultation setting out the revised enhancements and second QIS in Q3 2016. Overall, MAS does not expect the insurance industry on the whole to hold higher levels of capital under RBC 2.

A TRUSTED FINANCIAL CENTRE

PREVENTING MONEY LAUNDERING AND TERRORISM FINANCING

Singapore is committed to the global effort to combat transnational crime. Singapore is a member of the Financial Action Task Force (FATF) and a founding member of the Asia-Pacific Group on Money Laundering.

In April 2015, MAS issued a revised set of Notices and Guidelines to financial institutions on anti-money laundering and countering the financing of terrorism (AML/CFT). These enhancements reflect MAS' prevailing supervisory expectations and are benchmarked to global best practices and standards.

In June 2015, the MAS Act was amended to enhance the effectiveness of Singapore's AML/CFT regime, particularly in relation to international cooperation. The amendments are aligned with the standards set by FATF and the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision.

In October 2015, MAS issued the "Guidance on AML/CFT Controls in Trade Finance and Correspondent Banking" to help financial institutions improve their risk management practices in these areas.

MAS has dedicated significant resources towards AML/CFT supervision and enforcement. In 2015, MAS conducted 54 AML/CFT inspections covering banks, insurance companies, money-changers, remittance agents, capital markets services licensees, licensed trust companies, stored value facility holders and non-bank credit card issuers. MAS also engaged external auditors to conduct AML/CFT inspections on 100 money-changers and remittance agents.

MAS engaged external auditors to conduct AML/CFT inspections on

100

money-changers and remittance agents

From these inspections, we found that AML/CFT controls were generally in place for most financial institutions. There was also greater industry awareness of money laundering, terrorism financing and proliferation financing risks in trade finance and correspondent banking, and controls in these areas had been enhanced. Financial institutions had also incorporated "high tax risk" indicators in their customer due diligence policies, procedures and controls.

However, there were several areas for improvement. MAS has asked financial institutions to continue to strengthen their transaction monitoring systems to ensure that they are able to detect unusual and suspicious trends, patterns and activities over time. These systems should also be enhanced to monitor activities in multiple accounts belonging to the same beneficial owner. Where there is suspicion of money laundering or terrorism financing, suspicious transaction reports should be filed promptly.

In addition, a few financial institutions did not conduct customer due diligence measures commensurate with the risks presented by higher risk businesses or customers. Some financial institutions, particularly money-changers and remittance agents, were required to strengthen their customer due diligence processes, including the documentation of the due diligence done. MAS had required the relevant financial institutions to promptly address all deficiencies noted and take steps to strengthen their controls and risk management framework.

MAS takes a serious view of breaches of AML/CFT regulations and failure by financial institutions to institute a robust AML/CFT control framework. Sanctions are imposed on financial institutions for regulatory contraventions and deficiencies in AML/CFT measures. These include formal warnings, reprimands, restrictions on operations, financial penalties and revocation of licences. In 2015, MAS issued 19 warnings and reprimands to financial institutions. MAS also imposed financial penalties on 16 financial institutions with amounts up to S$800,000.

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CLOSURE OF BSI BANK LIMITED

In June 2016, MAS withdrew its approval for BSI Bank to operate as a merchant bank in Singapore due to serious breaches of AML requirements, extensive control failures, ineffective senior management oversight, and acts of gross misconduct by certain bank staff. The last time MAS shut down a merchant bank was in 1984, 32 years ago. In addition, MAS imposed a financial penalty of S$13.3 million for 41 breaches of AML regulations. MAS also referred six members of the bank's senior management and staff to the Public Prosecutor to evaluate if there were

criminal offences committed by these individuals. In taking these actions, MAS reminded financial institutions to take their AML responsibilities seriously, and that MAS is resolved to ensure that Singapore remains a clean and trusted financial centre.

In June 2016, MAS withdrew its approval for BSI Bank Limited to operate as a merchant bank in Singapore. The last time MAS shut down a merchant bank was in 1984, 32 years ago.

ENHANCING EXCHANGE OF TAX INFORMATION FRAMEWORK

Singapore continued its efforts to promote international tax transparency to combat cross-border tax offences. The first transmission of information under the Foreign Account Tax Compliance Act Model 1 Intergovernmental Agreement between Singapore and the US took place in September 2015.

In January 2016, Singapore ratified the Convention on Mutual Administrative Assistance in Tax Matters. The multilateral agreement expands Singapore's network of partners for exchange of information on request to over 100.

Singapore also endorsed the new global standard of Automatic Exchange of Information (AEOI) and committed to implementing AEOI by 2018. Legislative amendments will be made by the end of 2016. Singapore will explore entering into bilateral AEOI arrangements with appropriate partners, subject to:

- Partners having a robust framework of law to maintain the confidentiality of information exchanged and confine its use for tax purposes;
- AEOI being implemented among all key financial centres to create a level playing field; and
- Reciprocity in terms of the scope of information exchanged between jurisdictions.

A DYNAMIC AND PURPOSEFUL FINANCIAL CENTRE

FINANCIAL SECTOR GROWTH REMAINS RESILIENT

The Singapore financial sector remained resilient in 2015, growing 5.3% compared to GDP growth of 2% for the overall economy.

The Singapore financial sector remained resilient in 2015, growing

5.3%

BOX 1

DEDICATED DEPARTMENTS TO COMBAT MONEY LAUNDERING AND STRENGTHEN ENFORCEMENT

On 13 June 2016, MAS announced that it would set up dedicated departments to combat money laundering and strengthen enforcement.

The Anti-Money Laundering Department will streamline the existing responsibilities for regulatory policies relating to money laundering and other illicit financing risks. A dedicated supervisory team will also be set up to monitor these risks and carry out onsite supervision of how financial institutions manage these risks. These functions used to be carried out by different departments in MAS; the new structures will enhance supervisory focus.

The Enforcement department will continue to jointly investigate capital markets misconduct offences with the Commercial Affairs Department. It will also be responsible for enforcement actions arising from regulatory breaches of MAS' banking, insurance and capital markets regulations.

The changes will take effect on 1 August 2016.

Some key highlights include:

Banking

Total assets in the banking sector held steady at S$2.3 trillion, while trade financing declined on the back of a slowdown in the Chinese economy and a moderation in trade flows.

Asset Management

Singapore's asset management industry posed 9% growth in 2015, with assets under management reaching S$2.6 trillion. Approximately 80% of these assets were sourced from investors outside of Singapore, while two-thirds were invested into the Asia Pacific, reflecting Singapore's role as a regional investment gateway.

Singapore's asset management industry grew 9% in 2015, with assets under management reaching

S$2.6 trillion

Insurance

Despite the challenging market conditions posed by excess capacity and low investment returns, total non-life gross written premiums grew by 10.4% y-o-y in 2015 to reach S$13.4 billion. This was driven by good growth in the offshore business, which grew by 13.8% and raised the share of offshore non-life insurance to 68% in 2015.

Total non-life gross written premium grew by 10.4% y-o-y in 2015 to reach

S$13.4 billion,

driven by good growth in the offshore business

STRENGTHENING CAPITAL MARKETS AND INCREASING PRODUCT DIVERSITY

Capital Markets

In 2015, SGD outstanding debt volumes remained resilient with a growth rate of 8.5% while non-SGD outstanding debt volumes saw a modest fall of 2.4%. The bond market continued to grow in diversity. DBS issued the first covered bond in Singapore in USD, while UOB became the first bank in Asia to issue a EUR covered bond in March 2016. UOB was also the first global issuer to publish its Harmonised Transparency Template under the Global Covered Bond Label Initiative[5].

Real Estate Investment Trust Market

In July 2015, MAS refined its proposals to strengthen Singapore's real estate investment trust (REIT) market, in response to industry feedback. The enhancements aim to accord REIT unitholders better protection and greater accountability, while providing REIT Managers increased operational flexibility. The enhancements will be phased in to facilitate smooth implementation by the industry. As of December 2015, there were a total of 39 REITs and property trusts listed on SGX, with a market capitalisation of more than S$65 billion.

Foreign Exchange, Commodities and Derivatives

Singapore continued to grow as a trading hub for FX, commodities and derivatives.

Average daily OTC turnover of FX reached US$401 billion in October 2015[6]. This was a 5% increase from US$381 billion in April 2015, led by growth in FX and cross currency swaps. In response to greater demands for risk management and market transparency, total volume of listed FX, commodity and equity derivatives in Singapore increased by 53% y-o-y to reach 180 million contracts in 2015.

Average daily over-the-counter turnover of foreign exchange reached

US$401 billion

in October 2015

[5] *The Covered Bond Label is a market benchmark enhancing transparency of covered bonds by establishing core standards for covered bonds (https://coveredbondlabel.com/).*

[6] *Singapore Foreign Exchange Market Committee Survey on over-the-counter market activity.*

- Growth in listed FX derivatives was driven by the Indian Rupee (INR) futures contract, which grew six times in 2015 to over four million contracts being traded.

- In commodity derivatives, the volume of cleared iron ore derivatives doubled to six million contracts, while the volume of benchmark rubber futures traded grew 34% to 650,000 contracts over the year. SGX launched Liquefied Natural Gas (LNG) derivatives in January 2016 to facilitate risk management of physical LNG trading.

In November 2015, ICE Futures Singapore and ICE Clear Singapore commenced operations, broadening the suite of listed derivatives products in Singapore and strengthening Singapore's value proposition as a risk management hub.

Bond Trading Platform

MAS recognised SGX Bond Trading Pte Ltd (SGX-BT) as a Recognised Market Operator in November 2015. The electronic bond trading platform facilitates price discovery and trade matching for dealers and clients. SGX-BT aims to improve liquidity in the trading of Asian bonds by aggregating liquidity providers on its platform.

ENHANCING THE RMB ECOSYSTEM

At the occasions of the 12th Joint Council for Bilateral Cooperation in October 2015 and President Xi Jinping's visit to Singapore in November 2015, MAS announced key RMB initiatives to further strengthen RMB cooperation with China. These initiatives include:

- Extending existing cross-border RMB initiatives[7] to the cities of Chongqing, Suzhou and Tianjin;

- Allowing companies in the three cities that issue RMB bonds in Singapore to fully repatriate the proceeds raised; and

- Doubling Singapore's quota under the RMB Qualified Foreign Institutional Investor (RQFII) scheme from RMB 50 billion to RMB 100 billion.

At the same time, Singapore and China also agreed to enhance capital market cooperation, which adds a new dimension to bilateral financial cooperation. Specifically, there was agreement to institute a regular high-level dialogue between MAS and the China Securities Regulatory Commission (CSRC). MAS and CSRC also agreed to explore product collaboration to broaden capital market offerings. The first MAS-CSRC Regulatory Roundtable was held on 28 April 2016.

STRENGTHENING INFRASTRUCTURE FINANCING

While the pace of growth has moderated, population growth in ASEAN will still require about US$60 billion worth of investment into basic infrastructure each year. To meet the growing need for infrastructure financing, MAS is actively consulting the industry on the setup of an infrastructure debt takeout facility to improve institutional investors' access to infrastructure debt investment opportunities. We will also seek to create usable infrastructure asset performance benchmarks to encourage greater investment allocation into infrastructure, and enhance project bankability through promulgating consistent project documentation (see Box 3).

HARNESSING TECHNOLOGY AND INNOVATION

Financial Sector Technology and Innovation Scheme

In June 2015, MAS launched the Financial Sector Technology & Innovation (FSTI) scheme, which would commit S$225 million over five years to support the creation of a vibrant ecosystem for innovation. FSTI funds can be used for three purposes:

- Innovation centres: To attract financial institutions to set up their R&D and innovation labs in Singapore

- Institution-level projects: To catalyse the development by financial institutions of innovative solutions that have the potential to promote growth, efficiency, or competitiveness

[7] *The existing cross-border RMB initiatives include allowing:*
(i) banks in Singapore to lend RMB to corporates in Suzhou, Tianjin and Chongqing;
(ii) corporates in Suzhou, Tianjin and Chongqing to issue RMB bonds in Singapore and to repatriate the proceeds onshore;
(iii) equity investment funds in Suzhou, Tianjin and Chongqing to make direct investment in Singapore and the ASEAN region; and
(iv) individuals in Suzhou, Tianjin and Chongqing to conduct RMB remittances to settle current account transactions and direct investment in corporates in Singapore.

- Industry-wide projects: To support the building of industry-wide technology infrastructure that is required for the delivery of new, integrated services

Several financial institutions have already set up their innovation centres or labs in Singapore, some under the FSTI, including DBS, OCBC, UOB, Allianz, Aviva, Citibank, Credit Suisse, Metlife, and UBS.

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Development of the FinTech Ecosystem

MAS commissioned a study to identify the conditions needed to support a thriving FinTech ecosystem in Singapore, and to develop strategic projects to accelerate technology adoption and performance in established players within the financial sector.

The study found that Singapore has the resources and capabilities to become a Smart Financial Centre, based on benchmarking interviews with the industry and secondary research.

To strengthen Singapore's proposition as a hub for the development, deployment and export of FinTech solutions, MAS will focus on opportunities in know-your-customer solutions, greater use of Application Programming Interface (API) gateways in financial systems, and establishing innovation laboratories with industry partners and other government agencies. New incentive schemes will be made available to encourage more experimentation such as proof-of-concept projects and to recognise innovative solutions to industry challenges. As the FinTech ecosystem in Singapore grows and attracts venture capital, there will be more funding options available for start-ups.

MAS intends to make Singapore the destination of choice for innovative FinTech companies by easing

BOX 2

FORMATION OF THE FINTECH & INNOVATION GROUP

On 1 August 2015, MAS formed the FinTech & Innovation Group (FTIG). FTIG is responsible for regulatory policies and development strategies to facilitate the use of technology and innovation to better manage risks, enhance efficiency, and strengthen competitiveness in the financial sector.

FTIG comprises:

Payments and Technology Solutions Office, which formulates regulatory policies and develops strategies for simple, swift and secure payments and other technology solutions for financial services.

Technology Infrastructure Office, which is responsible for regulatory policies and strategies for developing safe and efficient technology enabled infrastructures for the financial sector, in areas such as cloud computing, big data, and distributed ledgers.

Technology Innovation Lab, which scans the horizon for cutting-edge technologies with potential application to the financial industry and works with the industry and relevant parties to test-bed innovative new solutions.

the process of starting an innovative financial business. These firms will need a ready pool of skilled FinTech professionals as they grow. MAS will work in conjunction with the industry and academic community to design new curricula and introduce opportunities for internships and attachments to meet this demand.

Enhancing Payments Efficiency

MAS' vision for Singapore is for a retail payment landscape that is swift, simple, and secure – where interoperable electronic payment options are accessible to and acceptable by all in Singapore. In 2016, MAS commissioned a study to take stock of Singapore's payments framework and landscape and create a roadmap to achieve our vision. The findings of this study will guide MAS' payments strategy in the years to come.

MAS, together with the Ministry of Finance (MOF), is co-leading a government-wide effort to increase the adoption of electronic payments in Singapore. In 2015, MAS and MOF identified two core thrusts: streamlining payment card acceptance infrastructure at merchants through unified Points-of-Sale (POS), and enhancing access to real-time payments through the Fast and Secure Transfers (FAST) system.

A unified POS would enhance merchant efficiency by simplifying front-to-back process integration and enhance customer experience. Separately, FAST membership has grown from 14 to 19 banks since its launch in 2014, and the limit on FAST transfers has been raised from S$10,000 to S$50,000. This has allowed more people to pay for more transactions in real-time.

MAS is also working with the Association of Banks in Singapore (ABS) to develop a Centralised Addressing Scheme that will allow anyone in Singapore to pay someone else via FAST using only his or her mobile number as a proxy.

Cooperation Agreements with the Financial Conduct Authority and Australian Securities and Investments Commission

MAS signed co-operation agreements on FinTech with the Financial Conduct Authority (FCA) and the Australian Securities and Investments Commission (ASIC) on 11 May 2016 and 16 June 2016 respectively. The agreements will enable MAS and its counterparts in the UK and Australia to refer to one another innovative FinTech businesses that would like to enter each other's market. Following the referral, the regulators will support the businesses through the initial discussion phase and provide advice on required licences, thus helping to reduce regulatory uncertainty and time to market. The agreements also set out how regulators plan to share and use information on emerging market trends on FinTech. In addition, the MAS-ASIC agreement includes a commitment by both regulators to explore joint innovation projects.

Singapore FinTech Festival

Mr Tharman Shanmugaratnam, Deputy Prime Minister and Chairman of MAS, launched the inaugural Singapore FinTech Festival, to be held in Singapore from 14 to 18 November 2016, at a Singapore FinTech roadshow in New York City on 12 April 2016. MAS also announced the 100 problem statements submitted by the industry for the Global FinTech Hackcelerator at a FinTech event in Singapore on 31 May 2016. The event was attended by more than 1,000 members of the FinTech community, including bank

Mr Tharman Shanmugaratnam, Deputy Prime Minister and Chairman of MAS, launches the inaugural Singapore FinTech Festival in New York City on 12 April 2016. Also in photo: Mr Ravi Menon, Managing Director of MAS, and Mr Sopnendu Mohanty, Chief FinTech Officer

The audience at the announcement of the industry problem statements for the Global FinTech Hackcelerator

and investment executives, FinTech start-ups, technology experts, and innovation practitioners.

DEVELOPING GLOBALLY COMPETITIVE TALENT

MAS has embarked on several initiatives to develop a strong pool of future-ready talent under the SkillsFuture framework for the financial sector.

First, to build a pipeline of job-ready graduates, we are strengthening the linkages with tertiary institutions to enhance the relevance of curriculum and create greater internship opportunities. We will be piloting an Earn and Learn Programme in the area of retail banking to provide polytechnic graduates an opportunity to learn the ropes within key retail banks and at the same time gain recognised qualifications.

Second, we have also put in place initiatives to deepen skills and increase the versatility of our financial sector workforce. To build a deeply skilled workforce, we have launched the Financial Sector Study Awards to support a wider range of specialist skills and programmes. In February 2016, we announced the formation of the Financial Sector Tripartite Committee (FSTC), bringing together the industry associations, labour movement and government to help the financial workforce address the changing needs of the industry (see Box 4). The FSTC has also set up the Financial Industry Career Advisory Centre (FiCAC) to facilitate intra and cross-sector mobility.

Third, we continue our efforts to build a strong pipeline of Singaporean leaders in finance. In May 2015, the Asian Financial Leaders Programme was launched by the Singapore Management University (SMU) and Temasek Management Services. The Programme will equip finance professionals aspiring to take on C-suite roles in Asian financial institutions with the knowledge to navigate the diverse business, regulatory, and legal environment in the region. The National University of Singapore (NUS) had also launched its Asia Leaders in Financial Institutions programme in September 2015 to contribute towards building a strong network of future financial leaders with global perspective for Asia.

UNLOCKING LONG TERM FINANCING FOR INFRASTRUCTURE

BOX 3

Asia's infrastructure needs are set to rise rapidly over the next decade, nearing US$5.3 trillion by 2025[8]. To keep up with this immense demand, Asia must unlock new sources of financing and diversify beyond government funding and bank lending.

Institutional investors can be deep sources of long term financing. While infrastructure assets can offer long-dated and inflation-protected returns, many investors have held back due to information asymmetry and lack of access to bankable opportunities.

To develop infrastructure as an investible asset class for institutional investors, Singapore has launched three partnerships to address the key bottlenecks:

Consistent project documentation and proper risk allocation to improve bankability

Investors have shied away from infrastructure projects due to poorly-structured contracts that leave them exposed to unnecessary non-commercial risks. In partnership with the World Bank Group and the G20's Global Infrastructure Hub, Singapore is promoting the adoption of essential contractual clauses and risk allocation matrices for projects in Asia to improve the quality of project documentation and enhance bankability.

Creating infrastructure asset benchmarks

To allow institutional investors to objectively evaluate infrastructure investment opportunities, MAS supported the establishment of the EDHEC Infrastructure Institute-Singapore *(*EDHEC*infra)*. EDHEC*infra* will create usable performance benchmarks for privately held infrastructure debt and equity investments. These benchmarks aim to provide investors with enhanced data on the return and risk characteristics, as well as facilitate performance comparisons of privately held infrastructure debt and equity against other asset classes.

Developing infrastructure debt as a significant asset class for institutional investors

To improve institutional investors' access to infrastructure debt in Asia, MAS is actively consulting the industry on the setup of an infrastructure debt takeout facility, which will facilitate the transfer of infrastructure debt from banks to institutional investors beyond the greenfield stage. This will also help banks to recycle capital for new greenfield investments.

[8] *Source: PwC, July 2015.*

FORMATION OF THE FINANCIAL SECTOR TRIPARTITE COMMITTEE

BOX 4

Top row (L-R): Ong Puay See (IBF), Julia Ng (WDA), Sylvia Choo (NTUC), Ong-Ang Ai-Boon (ABS), Leong Sing Chiong (MAS), Vicky Wong (e2i), Carolyn Neo (MAS)
Bottom row (L-R): Max Lim (NTUC), Michael Zink (Citi), Wee Ee Cheong (ABS, UOB), Jacqueline Loh (MAS), Patrick Tay (NTUC), Piyush Gupta (DBS), Lim Cheng Teck (SCB), Nora Kang (NTUC)
Absent with apologies: Samuel Tsien (OCBC)

In February 2016, MAS and the National Trades Union Congress (NTUC) announced the formation of the Financial Sector Tripartite Committee (FSTC). The FSTC is co-chaired by Ms Jacqueline Loh, Deputy Managing Director, MAS, and Mr Patrick Tay, Assistant Secretary-General, NTUC.

SkillsFuture was first announced by Deputy Prime Minister Tharman Shanmugaratnam in Budget 2015, and it aims to provide Singaporeans with opportunities to develop their fullest potential throughout life, regardless of their starting points. To achieve the SkillsFuture objective, tripartism is key. The FSTC brings together the industry associations, government and labour movement, to build a financial sector workforce that is versatile and well-equipped to embrace the opportunities and changing needs of the financial industry. For a start, the FSTC aims to achieve the following:

Enhance versatility

The FSTC will collaborate with the Institute of Banking and Finance (IBF) to continually review the IBF Standards and identify new cross-functional competencies needed, such as in data analytics and risk management. Structured progression pathways will also be developed for evolving job segments including Consumer Banking, to encourage continuous learning and upskilling.

Facilitate mobility

In April 2016, the FSTC set up a financial sector-specific one-stop career advisory facility known as the Financial Industry Career Advisory Centre (FiCAC). Supported by various agencies, including MAS, IBF and Workforce Development Agency, FiCAC will provide guidance to professionals who are keen to join the financial industry, as well as those looking to move to new jobs within the industry.

Build resilience

In March 2016, the FSTC partnered NTUC e2i (Employment & Employability Institute) to pilot a change management programme that will help the financial sector workforce embrace new mindsets towards skills upgrading. This will strengthen workers' motivations to reskill, upskill and acquire new skills, thereby helping to build a more resilient workforce that can adapt quickly as the job roles and technology in the financial services sector evolve.

SERVING THE PUBLIC, ENGAGING STAKEHOLDERS

SERVING THE PUBLIC,
ENGAGING STAKEHOLDERS

SERVING THE PUBLIC

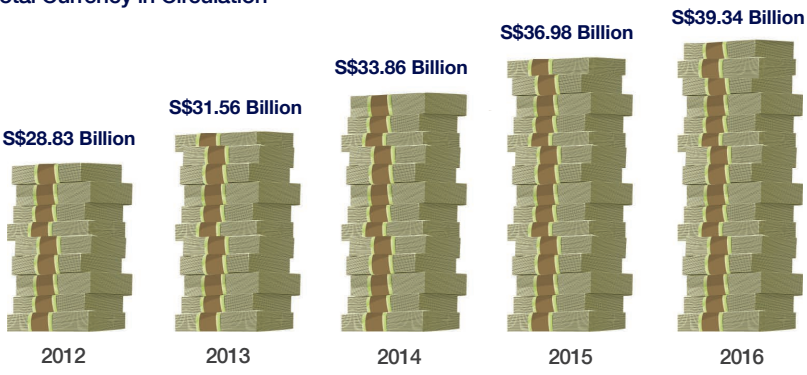
MANAGING DOLLARS AND CENTS

As at 31 March 2016, the total currency in circulation was S$39.3 billion (see Chart 5). This was an increase of 6.4% from a year ago, with S$56.9 billion worth of notes and coins issued to banks and S$54.5 billion returned for the financial year.

MAS continued with the "good-as-new" S$2 notes initiative for the fourth year. With this initiative, the quantity of brand new S$2 notes issued for the 2016 Lunar New Year fell further by another 6.2 million pieces (7.4%) from last year.

In June 2016, MAS issued the Splendour of Native Orchids Series coin set as a finale to the popular Native Orchids of Singapore coin series issued from 2011 to 2015. The set, which has a limited mintage of 4,000, comprises 10 miniature S$1 silver proof coins, each featuring the same species of orchids from the Native Orchids of Singapore coin series in full colour.

Chart 5: Total Currency in Circulation



Total Currency in Circulation (S$Billion)	2012	2013	2014	2015	2016
Notes	27.58	30.27	32.52	35.59	37.89
Coins	1.25	1.29	1.34	1.39	1.45
Total	28.83	31.56	33.86	36.98	39.34

The Splendour of Native Orchids Series Coin Set

SG50 COMMEMORATIVE CURRENCY

BOX 5

To celebrate Singapore's 50th year of independence, MAS issued a set of three commemorative coins in May 2015 followed by a set of commemorative currency notes in August 2015. The commemorative coins consisted of a S$2 cupro-nickel proof-like coin, a S$5 silver proof coin and a S$50 gold proof coin, while the commemorative notes comprised a S$50 polymer note and five S$10 polymer notes. To meet collectors' demand, a collection of seven limited edition numismatic currency sets was also available for sale.

The coins were themed "Education, Building our Nation Together", reflecting the fundamental role that education played in the transformation of a young nation. The S$50 note highlights Singapore's history, transformation and future. The five S$10 notes have a common front design and different back designs, each reflecting a value or an aspiration that depicts the theme "Vibrant Nation, Endearing Home". Both the S$50 and S$10 notes have security features that are the first of their kind in the world to be used in a currency note. MAS won the "Best New Currency Feature or Product" award for the lens-based wide security stripes on the S$50 and S$10 notes at the 2016 Excellence in Currency Technical Awards by the International Association of Currency Affairs.

Commemorative Coins

S$50 Commemorative Note

S$10 Commemorative Notes

MONEYSENSE

MoneySENSE, the national financial education programme, equips Singaporeans with the knowledge and capabilities to make informed financial decisions. The programme reaches out to people from all walks of life through different channels and strategies.

Educating the General Public

MoneySENSE continued to engage members of the public directly through talks, seminars, workshops and community events. We also ran advertorials in the newspapers, and worked with partners to deliver content through television and radio.

The MoneySENSE-Singapore Polytechnic Institute for Financial Literacy (IFL) conducted 840 talks and workshops in 2015, educating more than 26,000 participants on topics ranging from basic money management to retirement planning. Since its launch in 2012, the IFL has conducted over 2,400 talks and workshops that have benefitted close to 76,000 people.

An IFL workshop conducted in September 2015 for staff of the Health Sciences Authority, on how to manage CPF money for retirement

INSTITUTE FOR FINANCIAL LITERACY
MONEYSENSE - SINGAPORE POLYTECHNIC

The MoneySENSE-Singapore Polytechnic Institute for Financial Literacy (IFL) conducted 840 talks and workshops in 2015, educating more than 26,000 participants

MoneySENSE engaged residents of Moulmein-Kallang and Whampoa at the PAssionArts Festival in July 2015, and reached out to the public at the Council for Third Age's 50plus Expo in May 2015. Through such community events, we educated Singaporeans on issues such as prudent investing and retirement planning.

MoneySENSE reached out to members of the public at the PAssionArts Festival in July 2015

Empowering the Youth

As we continue to focus on the youth segment, we started the My Money @ Campus seminar series to reach out to tertiary students. The inaugural seminar was held at SMU on 21 October 2015 and attracted about 340 undergraduates. Mr Piyush Gupta, CEO of DBS Group Holdings Ltd, shared his personal investment journey while other industry experts and academics shared tips on how to build an affordable portfolio.

My Money @ Campus seminar at SMU in October 2015. A dialogue with Mr Piyush Gupta, CEO of DBS Group Holdings Ltd (right), moderated by Assistant Professor Aurobindo Ghosh from SMU (left)

The second My Money @ Campus seminar was held at NUS on 17 March 2016. About 380 students learned the importance of planning

ahead and managing investment risks from Mr Michael Zink, Citi's Head of ASEAN and Country Officer for Singapore. Given the success of My Money @ Campus seminars, we intend to hold more editions at other universities and institutes of higher learning (IHLs) in the upcoming months.

My Money @ Campus seminar at NUS in March 2016. Mr Michael Zink, Citi's Head of ASEAN and Country Officer for Singapore, addressing the crowd

The inaugural My Money @ Campus seminar was held at the Singapore Management University on 21 October 2015 and attracted about 340 undergraduates

My Money
Smart Investing For Everyone.

MoneySENSE also participated in several events organised by IHLs to educate their students on money management. We reached out to undergraduates at a financial literacy carnival organised by the NUS Students' Union in March 2015, and supported the MoneySENSE-Central Provident Fund Board Financial Literacy Week organised for Ngee Ann Polytechnic students in November 2015.

MoneySENSE utilised a gamification strategy to educate the young about personal finance in a fun and interactive way:

- We worked with Nanyang Polytechnic and the National Council for Problem Gambling to organise the Singapore Games Creation Competition. More than 500 students from 50 secondary schools as well as the Institute of Technical Education created web-based games and mobile applications with important messages on spending money wisely and the dangers of gambling.

- MoneySENSE partnered with Wellington Primary School to organise the National Primary Games Creation Competition. The theme of the competition was "A Community of Savvy Savers" and key messages in the games included identifying needs and wants. More than 400 pupils from 40 primary schools took part in the competition.

PROMOTING FINANCIAL LITERACY THROUGH ISLAND-WIDE CAMPAIGNS

BOX 6

MoneySENSE conducted three large-scale educational campaigns in 2015. The goals of the campaigns were to:

- Raise awareness of two key initiatives resulting from the Financial Advisory Industry Review (FAIR) – compareFIRST and Direct Purchase Insurance (DPI)

- Encourage consumers to adopt sensible spending and borrowing habits and use unsecured credit responsibly

- Highlight the importance of regular and long term saving and investing, and educate the public on low-cost investment products

To maximise outreach, educational messages were featured on various media platforms, including newspapers, public transport, television, radio, and mobile and online platforms such as Facebook, Google and YouTube. To help the public recall as many of the messages as possible, each campaign featured a distinct theme.

(continued on next page)

PROMOTING FINANCIAL LITERACY THROUGH ISLAND-WIDE CAMPAIGNS *continued*

BOX 6

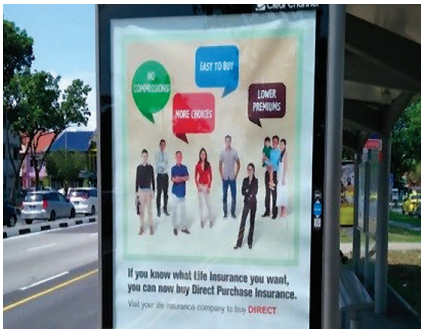
"You Can Now Buy Direct" and "Compare First" Campaign

compareFIRST is an interactive online portal that enables consumers to compare the premiums, features and benefits of life insurance products. This helps them make more informed decisions about which life insurance policy to buy. DPI offers consumers access to a distinct class of term life and whole life insurance products sold directly by life insurers without financial advice and commissions.

The "You Can Now Buy Direct" and "Compare First" campaign ran from April 2015 to August 2015. It encouraged members of the public to visit compareFIRST before making a life insurance purchase and highlighted the key features and benefits of DPI to consumers.

The educational campaign helped register healthy interest in compareFIRST and DPI. As of 31 March 2016, more than 300,000 visitors have used compareFIRST and about 223,000 product summaries have been downloaded through the portal. In addition, more than 850 DPI policies have been sold.

Message about compareFIRST on a taxi



Educational message about DPI at a bus shelter

"Spend Within Your Means" Campaign

The "Spend Within Your Means" campaign ran from July 2015 to October 2015 and featured baits modelled after luxury items placed on mousetraps resembling credit cards. The aim was to encourage consumers to watch their spending and use unsecured credit prudently.

The campaign tied in with regulatory changes to help consumers avoid debt problems by limiting the amount of unsecured credit they can take out.

Advertisements in the newspapers, encouraging consumers to use unsecured credit responsibly

"I Save and Invest for Our Future" Campaign

The "I Save and Invest for Our Future" campaign encouraged the public to take a life cycle approach to investing, and highlighted the benefits of saving and investing from young. The campaign, which ran from August 2015 to February 2016, also educated consumers on simple, low-cost investment products such as Singapore Savings Bonds, retail corporate bonds and exchange-traded funds.

The campaign included a television commercial showing a man going through different life stages and reaching his goals in life thanks to planning ahead from young.

Educational message on a bus showing an individual going through the different stages of life, and eventually reaping the benefits of saving and investing from young

FACILITATING RETAIL ACCESS TO SIMPLE LOW-COST INVESTMENT PRODUCTS

Singapore Savings Bonds

MAS launched the Singapore Savings Bonds programme in the second half of 2015. The first Savings Bond was open for public application on 1 September 2015, and issued on 1 October 2015. The public reception has been encouraging, with 32,000 individuals investing S$810 million in Savings Bonds over the first six issuances from October 2015 to March 2016. This represented a significant increase in retail investors' participation in the Singapore Government Securities (SGS) market.

S$810 million
in Savings Bonds allotted to
32,000
individuals from October 2015 to March 2016

Singapore Savings Bonds are a new type of SGS that offer individual investors a safe, long-term and flexible product to meet their savings and investment needs.

- Safe: Savings Bonds are fully backed by the Singapore Government. Investors can always get their investment amount back in full with no capital losses.

- Long-term: Savings Bonds have a term of up to 10 years, and pay interest that increases over time. The longer the savings period, the higher the return.

- Flexible: Investors may choose to exit their investment in any given month, with no penalties. There is no need to commit to a specific investment period at the start.

MAS will continue with public outreach efforts to generate greater awareness of Savings Bonds.

Facilitating Bond Offerings to Retail Investors

Following public consultations, MAS issued two new regulations on 19 May 2016 to facilitate retail investors' greater access to corporate bonds through the Seasoning Framework and Exempt Bond Issuer Framework:

- Under the Seasoning Framework, wholesale bonds issued by corporates that satisfy specified eligibility criteria (such as size, listing track record and credit profile) may be re-denominated into smaller lot sizes after the bonds have been listed for six months. Eligible corporates will also be exempted from providing a prospectus for additional offers to retail investors of new bonds with the same terms as the re-denominated bonds.

- Under the Exempt Bond Issuer Framework, bonds issued by corporates that satisfy even stricter eligibility criteria can be offered directly to retail investors without a prospectus.

- Issuers using these frameworks would still be required to provide to investors a summary of the key information on the risks and features of the bonds.

These frameworks are part of MAS' overall efforts to give retail investors better access to simple investment products that can be used to build their investment portfolio.

Improve Retail Access to Exchange Traded Funds

In April 2015, MAS made changes to its regulatory framework to allow fund managers to re-classify relatively less complex Exchange Traded Funds (ETFs) which make limited use of derivatives as Excluded Investment Products (EIP). These previously had to be classified as Specified Investment Products and sold to retail investors with enhanced regulatory safeguards, including requirements for intermediaries to first assess their investment knowledge or experience in derivatives. As at April 2016, 85% of the total assets under management of SGX-listed ETFs were classified as EIP-ETFs, which investors can purchase as easily as individual shares.

PROTECTING CONSUMERS

FINANCIAL ADVISORY INDUSTRY REVIEW

On 11 May 2015, MAS completed the policy and legislative consultations on recommendations under the Financial Advisory Industry Review (FAIR). The objective of FAIR is to raise the standards of the financial advisory (FA) industry and improve efficiency in the distribution of life insurance and investment products in Singapore.

Key changes were made to the FAA, Insurance Act and subsidiary legislation in 2015. The following initiatives were implemented on 1 January 2016:

Balanced Scorecard Remuneration Framework for Representatives and Supervisors

This framework seeks to promote a culture of fair dealing by subjecting a significant proportion of a representative's remuneration to non-sales key performance indicators. Under the Balanced Scorecard (BSC) framework, the representative is assessed based on whether he has understood the customer's needs, recommended suitable products, made adequate disclosures and conducted himself professionally and ethically. There was a one year transition period from January 2015 for FA firms to familiarise themselves with the BSC requirements, before the framework was legally effected on 1 January 2016.

Restrictions on Non-Financial Advisory Activities for Representatives and Standalone Financial Advisory Firms

MAS implemented legislation restricting the types of non-FA activities which representatives and standalone FA firms may conduct to maintain a high level of professionalism and competence in the FA industry. Any non-FA activities conducted by these persons should not be in conflict with their FA roles, result in a neglect of their FA duties or bring disrepute to the FA industry. Representatives are also prohibited from conducting moneylending businesses, promoting junkets for casinos, acting as real estate agents and marketing products that are not regulated under the FAA as investments.

Banning of Short-Term Incentives

MAS banned the payment and receipt of short-term incentives in the FA industry. This will better align the interests of FA firms and their representatives with those of their customers and ensure that FA firms and their representatives are not influenced by such incentives when recommending investment products to their customers.

Continuing Professional Development

MAS prescribed Continuing Professional Development (CPD) training requirements for FA representatives to ensure that they remain current and up-to-date in their knowledge of market and regulatory developments. FA representatives are required to fulfil a minimum of 30 CPD training hours annually, of which 12 hours are to be in Ethics, and Rules and Regulations.

MAS will monitor the effectiveness of these initiatives in meeting the objectives of FAIR.

ENCOURAGING PRUDENT BORROWING AND LENDING BEHAVIOUR

Implementation of Unsecured Credit Measures

To encourage prudent borrowing, MAS announced in 2013 that financial institutions would be disallowed from granting further unsecured credit to a borrower if the borrower's total interest bearing unsecured debt exceeds an industry-wide borrowing limit for three consecutive months. The borrowing limit was to be set at the borrower's annual income, and was to take effect on 1 June 2015. To allow borrowers more time to adjust to the borrowing limit, MAS announced in April 2015 that it would be phased-in over four years. The limit was set at an initial level of 24 times a borrower's monthly income from June 2015. This will be lowered progressively to 18 times from June 2017 and 12 times from June 2019.

To help borrowers affected by MAS' unsecured credit measures, we worked closely with ABS, credit card issuers and Credit Counselling Singapore to develop coordinated repayment solutions for these borrowers. MAS accompanied the introduction of the new measures with an educational campaign to help borrowers understand the phasing in of the borrowing limit and repayment solutions, and to educate the public on the consequences of overspending.

Enhancement of Credit Information in the Credit Bureaus

MAS has been working closely with the consumer credit bureaus to enhance information residing with them. With effect from April 2015, a borrower's unsecured debt balances are broken down into interest bearing and non-interest bearing components. The enhanced information empowers borrowers and financial institutions to make more prudent borrowing and lending decisions respectively.

Resetting of Motor Vehicle Financing Restrictions

In 2013, MAS had re-introduced motor vehicle financing restrictions as a cyclical response to the strong demand for cars and the consequent pressures on inflation. In addition, they serve as a structural measure to foster financial prudence among borrowers.

As at Q1 2016, premiums on COEs have fallen significantly and inflationary pressures have receded. The contribution of private road transport (excluding petrol) to CPI-All Items inflation eased from +1.3% points in 2011-2012 to -0.5% point in Q1 2016. Outstanding motor vehicle loans have moderated alongside the fall in demand, declining by 32% from S$14.13 billion in Q1 2013 to S$9.55 billion in Q1 2016. In view of these developments, MAS reset the financing restrictions in May 2016 by raising the maximum loan-to-value limit and tenure to 70% and seven years respectively. The recalibrated rules will continue to limit excessive borrowing and support the move towards a car-lite society over the long term.

ENHANCING PROSPECTUS DISCLOSURE RULES FOR SECURITIES OFFERS

Improving the Readability of Prospectuses

On 7 July 2015, MAS published a set of guidelines on good drafting practices for prospectuses. The guidelines encourage and provide guidance to issuers and their professional advisers on the use of plain English and the presentation of information in prospectuses in a clear, concise and logical manner. The guidelines apply to all prospectuses and profile statements lodged with MAS from 1 February 2016. Issuers and their advisers are also encouraged to follow the guidelines' principles for other types of offer disclosure documents.

PARTNERING ACADEMIA

Every year, MAS hosts distinguished academics and former senior policymakers under its Eminent Visitor Programme and through other platforms. As part of their engagement, these visitors meet with MAS' senior management, deliver lectures, and conduct in-house seminars and discussion sessions with MAS staff.

In FY 2015/16, MAS welcomed Professor Paul Romer (New York University) and Dr Claudio Borio (Bank for International Settlements). In their lectures, both visitors challenged the conventional frameworks used in macroeconomic analysis. Professor Romer argued that academic researchers have increasingly invoked mathematical concepts with no observable analogues in the real world, and that such "mathiness" was impeding the progress of macroeconomics as a science. Dr Borio's lecture explored how prevailing macroeconomic frameworks needed to be adjusted to account for the interactions between financial and business cycles. Professor Romer's lecture was moderated by Professor Lawrence Christiano (Northwestern University), who also served as MAS Term Professor in Economics and Finance in FY 2015/16 (see Box 7).

Prof Paul Romer (right) delivers his lecture, moderated by Prof Lawrence Christiano (left)

MAS, together with the NUS Business School and the University of Chicago's Booth School of Business, also invited Professors Barry Eichengreen (University of California at Berkeley) and Hélène Rey (London Business School) to participate in the 2015 Asian Monetary Policy Forum (see Box 8). Professor Eichengreen is the George C. Pardee and Helen N. Pardee Professor of Economics and Political Science, and an eminent authority on economic history and international economics. Professor Rey is

well-known for her work on financial imbalances and the international monetary system.

Following past practice, MAS invited the Eminent Visitors, Term Professors, and other academics to contribute articles to its Macroeconomic Review. In 2015, Dr Donald Kohn (Brookings Institution), former Vice-Chair of the Board of Governors of the US Federal Reserve System, wrote about the nexus between monetary and macroprudential policies. Professor Ichiro Sugimoto (Soka University of Japan) presented newly constructed estimates of Singapore's GDP and its components for the period 1900–60 in a Special Feature for the Review, and analysed the broad trends in the colonial economic data. Professor Anthony Tay (SMU) also contributed an article on density forecasting in macroeconomics.

BOX 7

MAS TERM PROFESSORSHIP IN ECONOMICS AND FINANCE AT THE NATIONAL UNIVERSITY OF SINGAPORE

Since 2009, MAS has sponsored a Term Professorship in Economics and Finance at NUS. The professorship programme, which was extended for another five years in 2014, appoints top scholars from prestigious universities to teach and conduct research at NUS. It aims to strengthen Singapore's financial and economic research infrastructure and contribute to a vibrant research community and culture at local universities. Term Professors also meet with MAS' senior management and conduct discussions with MAS staff. In 2015, Professors Andrew Rose (Haas School of Business, University of California at Berkeley) and Lawrence Christiano (Northwestern University) were appointed Term Professors.

Prof Andrew Rose (left) interacts with Prof Deng Yongheng (right) from NUS during his public lecture at NUS

Professor Rose is the Bernard T. Rocca, Jr. Chair in International Business & Trade at Berkeley, and is a world-renowned researcher on open economy macroeconomics. During his appointment, he met with faculty members and taught students through seminars and workshops at NUS. He also engaged senior management at MAS on recent developments in international macroeconomics and finance. In addition, he delivered a public lecture titled "Domestic Bond Markets and Inflation", which focused on his latest findings on the relationship between inflation and domestic bond markets. Professor Rose also participated in the activities of the Annual Conference of the Asian Bureau of Finance and Economics Research (ABFER), as well as the Asian Monetary Policy Forum (AMPF), which were held in May 2015.

Professor Christiano is the Alfred W. Chase Chair in Business Institutions and Professor of Economics at Northwestern University, and is highly regarded for his ground-breaking work on economic modelling and policy analysis. During his tenure as MAS Term Professor, he interacted with faculty and students at NUS and also delivered a public lecture titled "The Great Recession: Earthquake for Macroeconomics". The lecture shed light on how the field of macroeconomics has been profoundly affected by the Global Financial Crisis.

VALUED PARTNER ON THE INTERNATIONAL FRONT

VALUED PARTNER
ON THE INTERNATIONAL FRONT

INTERNATIONAL FINANCE

INTERNATIONAL FINANCIAL REGULATORY REFORMS

MAS continues to contribute to international work on regulatory reforms as an active member of various committees and standard setting bodies.

Financial Reforms and Implementation Monitoring

MAS has chaired the FSB's Standing Committee on Standards Implementation (SCSI) since 2013. In 2015, the key initiatives for SCSI are as follows:

- Developed the implementation monitoring 'dashboard' for the first annual report to the G20 on the implementation and effects of financial regulatory reforms;
- Launched the thematic peer review on the implementation of the FSB policy framework for shadow banking entities other than money market funds; and
- Completed reviews on supervisory frameworks and approaches for G-SIBs, OTC derivatives trade reporting, and resolution regimes.

Banking

MAS contributes to the work of the Basel Committee on Banking Supervision (BCBS) through the following:

- Task Force on the Standardised Approach for Credit Risk – MAS has co-chaired this task force since 2015. The task force reviews the standardised approach for credit risk for internationally-active banks that are not using the advanced approaches to ensure that credit risk is appropriately captured in the capital framework;
- Working Group on Supervisory Colleges – MAS co-chairs this working group, which seeks to strengthen the co-operation of home and host regulators in the supervision of internationally active banks;
- Coherence and Calibration Task Force – This task force assesses the coherence of banking sector regulatory reforms and helps inform the BCBS' measures to address excessive variability in risk-weighted assets, as well as the design and calibration of the leverage ratio; and
- Task Force for Interest Rate Risk in the Banking Book – The task force developed and published the finalised capital framework and enhanced supervisory guidance for interest rate risk in the banking book in April 2016.
- Task Force on Sovereign Exposures – MAS also participates in the review of the regulatory treatment of sovereign risk, which seeks to address the risks posed by sovereign exposures and is being conducted in a careful, holistic and gradual manner.

Insurance

MAS is actively involved in key committees and working groups of the International Association of Insurance Supervisors, including the working group tasked with developing the global Insurance Capital Standards, as well as the FSB's Insurance Cross-Border Crisis Management Group.

Securities

At the IOSCO, MAS participates in the standards-setting work of various Policy Committees, Task Forces and Working Groups. In 2015, we also joined the Policy Committee on Enforcement and the Exchange of Information, and the newly formed Task Force on Market Conduct.

Financial Market Infrastructures

MAS actively participates in the CPMI and is involved in working groups such as the Working Group on Retail Payments and Working Group on Digital Innovations. As a member of the CPMI-IOSCO Steering Committee, MAS also participates in the various CPMI-IOSCO initiatives, including:

- Co-chairing of the Working Group on Cyber Resilience, which published a set of cyber resilience guidelines for FMIs for public consultation in November 2015
- Implementation Monitoring Standing Group, which assesses the timely, complete and consistent implementation of the CPMI-IOSCO Principles for FMIs
- Policy Standing Group, which develops policies relating to FMIs

MAS also takes part in the joint Study Group on Central Clearing Interdependencies (comprising members from BCBS, CPMI, FSB and IOSCO), to identify and analyse interdependencies between CCPs and financial institutions. The Study Group aims to support other international streams of work to enhance resilience, recovery and resolvability of CCPs.

INTERNATIONAL COOPERATION

MAS participated in the peer review among 28 jurisdictions with authorities that are members of the FSB, CPMI and/or IOSCO. The peer review assessment in 2015 covered authorities' implementation of five responsibilities for authorities set out in the CPMI-IOSCO PFMI, across all FMI types. MAS was assessed to have observed all responsibilities across all FMI types.

MAS also participated in the BCBS' Regulatory Consistency Assessment Programme as an assessor for Mexico and South Korea's implementation of the Basel liquidity coverage ratio.

PROMOTING GLOBAL GROWTH AND STABILITY

At the invitation of the G20 Chairs, Singapore has continued to participate in the G20 Finance Ministers and Central Bank Governors meetings where we contributed to discussions on the global economy, financial regulation and stability. MAS is also an active member of the G20 Green Finance Study Group and G20 International Financial Architecture Working Group.

REGIONAL FORUMS

ASEAN FINANCIAL INTEGRATION

MAS actively supports financial integration within ASEAN.

ASEAN Senior Level Committee

Under MAS and the Bank of Thailand's co-chairmanship of the ASEAN Senior Level Committee, ASEAN central banks and monetary authorities developed Strategic Action Plans for ASEAN financial integration from 2016 to 2025. These covered banking integration, financial services liberalisation, capital account liberalisation, capital market development, financial inclusion, payment and settlement systems, and capacity building.

ASEAN Working Committee on Capital Markets Development

MAS chaired the ASEAN Working Committee on Capital Market Development, which seeks to promote the development of regional bond markets. This is complemented by the work of the ASEAN Capital Markets Forum, where MAS works closely with fellow securities regulators and the private sector to promote the strengthening and greater integration of regional capital markets.

ASEAN+3

The ASEAN+3 Macroeconomic Research Office (AMRO) held its official opening ceremony in the MAS Building on 19 February 2016.

AMRO is the independent macroeconomic surveillance unit of the Chiang Mai Initiative Multilateralisation (CMIM) Agreement, which is a US$240 billion currency swap arrangement among the Finance Ministries and Central Banks of the

ASEAN+3 Member States to provide financial support in times of liquidity need. AMRO provides economic and financial surveillance and analysis of the region to support effective decision-making for the CMIM.

AMRO Official Opening Ceremony

EXECUTIVES' MEETING OF EAST ASIA-PACIFIC CENTRAL BANKS

MAS hosted the 20th Executives' Meeting of East Asia-Pacific Central Banks (EMEAP) Governors' and 4th EMEAP Governors-Heads of Supervisory Authorities meeting in Singapore from 29 to 30 May 2015. From 2014 to 2016, MAS was co-vice chair of the Working Group on Financial Markets, and spearheaded work on issues related to recovery and cross-border resolution of financial institutions for the Working Group on Banking Supervision.

TECHNICAL COOPERATION

REGIONAL AND BILATERAL TRAINING

MAS contributes to the capacity building of regional central banks and regulatory authorities through structured training and technical cooperation programmes.

In July 2015, the Central Bank of Myanmar (CBM) and MAS entered into an MOU that includes technical cooperation and training. MAS hosted CBM Governor U Kyaw Kyaw Maung to a study visit in August 2015. In February 2016, MAS conducted a three-day workshop on interbank markets and banking supervision for over 30 CBM participants in Yangon.

MAS was invited to share its enterprise risk management practices at Bank Indonesia's Annual Risk Management Conference in Bali in September 2015 and with the Autoriti Monetari Brunei Darussalam in Brunei in January 2016.

In 2015, over 100 participants from 29 countries attended the 21st and 22nd MAS Banking Supervisors' Training Programme, the 6th MAS Information Technology Supervision Workshop and the 9th MAS-Toronto Centre Regional Leadership Programme for Securities Regulators. Close to 100 participants from countries such as Brunei, China, Korea, Myanmar and Vietnam took part in MAS' in-country training programmes and study visits.

In other technical cooperation programmes, MAS collaborated with partners such as the Lee Kuan Yew School of Public Policy, Civil Service College and South East Asian Central Banks (SEACEN) Research and Training Centre. For instance, in April 2015, MAS hosted the 10th SEACEN-BOJ Payments and Settlements System Course in Singapore. MAS also contributed resource speakers to various programmes organised by the SEACEN Centre, IMF-Singapore Regional Training Institute and Financial Stability Institute.

Regional participants and trainers at the 6th MAS Information Technology Supervision Workshop, 16-20 November 2015, Singapore

IMF-SINGAPORE REGIONAL TRAINING INSTITUTE

MAS contributes to the funding of the International Monetary Fund-Singapore Regional Training Institute (IMF-STI), which is the IMF's training centre in the Asia-Pacific region. The STI furthers the work of the Singapore Cooperation Programme, which coordinates the resources available in Singapore for technical cooperation with other countries. The Institute contributes to regional growth and stability by providing high-quality training on macroeconomic and financial management, and related legal and statistical issues to government officials from the region. In 2015, the STI provided training to more than 800 officials. Over the 18 years since it was established, the Institute has provided training to more than 10,000 officials from over 40 countries.

MAS HOSTS THREE HIGH-LEVEL CONFERENCES

BOX 8

MAS hosted three high-level events in May 2015, which were attended by distinguished academics, central bank governors and heads of supervisory authorities from the Asia-Pacific region. The forums discussed financial and regulatory issues critical to Asia, economic and monetary issues faced in the region, and provided a platform to facilitate research collaboration.

2015 Symposium on Asian Banking and Finance

This symposium, co-hosted by the Federal Reserve Bank of San Francisco and MAS for the first time, brought together notable academics and Asia-Pacific CEOs of major financial institutions. Held on 28 May 2015, the discussions covered three main themes:

- Looking back at the global financial crisis and assessing measures taken to strengthen the financial sector
- Examining emerging financial system risks and policy responses in the current macro-financial environment
- Looking ahead to analyse long-term developments which will shape the opportunities and risks in Asian finance, and how supervisors and central banks should respond

Asian Monetary Policy Forum

Prof Barry Eichengreen delivers his lecture at the Asian Monetary Policy Forum

The Asian Monetary Policy Forum (AMPF) convened for a second year in Singapore on 29 May 2015, in conjunction with the Annual Conference of ABFER. It was co-organised by the NUS Business School, the University of Chicago's Booth School of Business and MAS.

The conference line-up included prominent speakers such as Mr Tharman Shanmugaratnam, Deputy Prime Minister and Chairman of MAS, Professor Carmen Reinhart (Harvard Kennedy School of Government), Professor Barry Eichengreen (University of California at Berkeley) and Dr Jacob Frenkel (Chairman of JP Morgan Chase International). Professor Eichengreen presented the commissioned paper on "Financial Development in Asia: The Role of Policy and Institutions, with Special Reference to China". The forum also included a panel discussion on the latest economic developments and policy issues confronting Asia, chaired by Mr Ravi Menon, MAS' Managing Director.

20th Executives' Meeting of East Asia-Pacific Central Banks Governors' Meeting

20th EMEAP Governors' Meeting and 4th Informal Meeting of EMEAP Governors and Heads of Supervisory Authorities

MAS hosted the 20th EMEAP Governors' Meeting on 30 May 2015. Governors from the 11 EMEAP member central banks and monetary authorities exchanged views on the global economy, and growth prospects for the EMEAP region. They also discussed updates from the Monetary and Financial Stability Committee on its surveillance outcomes and research activities, and progress made on EMEAP projects in banking supervision, financial markets, payment and settlement systems, and information technology. MAS prepared several research pieces for the Meeting, including a special paper on "Medium-Term Growth in EMEAP Economies and Some Implications for Monetary Policy" (MAS Staff Paper No. 53).

ASEAN FINANCIAL REGULATORS' EXECUTIVE PROGRAMME

BOX 9

The inaugural ASEAN Financial Regulators' Executive Programme was held from 24 to 27 January 2016.

Jointly organised by MAS and the Lee Kuan Yew School of Public Policy, with funding from the Temasek Foundation, the three-and-a-half-day executive programme brought together senior officials of the central banking and financial regulatory authorities from the ASEAN countries, to discuss and provide insights to governance and leadership challenges in financial regulation.

It was attended by 23 high level officials from 10 ASEAN countries, and featured a list of distinguished speakers including:

- Lord Adair Turner, former Chair of the UK Financial Services Authority;
- Andrew Sheng, Distinguished Fellow at Asia Global Institute, University of Hong Kong and Chief Adviser to the China Banking Regulatory Commission;
- Teo Swee Lian, former Deputy Managing Director of MAS; and
- Anoop Singh, former director of the IMF's Asia-Pacific Department.

The next run of the programme will take place in 2017.

Faculty and participants at the inaugural ASEAN Financial Regulators' Executive Programme

ONE MAS: INTEGRATED AND COHESIVE

ONE MAS:
INTEGRATED AND COHESIVE

CELEBRATING 45 YEARS

MAS celebrated our 45th anniversary this year with the opening of the MAS Gallery in February 2016 (see Box 10). The Gallery is open to the public and showcases MAS' role in maintaining price stability and developing a trusted, safe and progressive financial centre. The 45th anniversary theme will be featured in key MAS events such as our Annual Dinner and National Day celebrations. We also took the occasion to pay tribute to veteran MAS staff such as Zainal Abidin B Abni and Sapuan B Basari for their invaluable service over the years (see Box 11).

THE MAS GALLERY

BOX 10

The MAS Gallery was officially launched by Mr Tharman Shanmugaratnam, Deputy Prime Minister and Chairman of MAS on 16 February 2016. The opening of the Gallery this year takes on added significance as MAS celebrates its 45th anniversary. The 480-sqm Gallery was conceived to help visitors better understand MAS' mission, values and functions. It comprises two sections – Insights@MAS and Reflections@MAS.

Insights@MAS offers visitors an overview of MAS' functions. Through interactive games, videos, and stylised displays, visitors will learn how MAS conducts monetary policy to manage inflation, manages the official foreign reserves, issues currency notes and coins, regulates and supervises the financial sector, and promotes Singapore as a sound and progressive financial centre. Insights@MAS also highlights MAS' efforts in raising financial literacy among Singaporeans, and offers a glimpse into how technology and innovation might transform future financial services and everyday life.

(L-R): Mr Lee Ek Tieng (past MD, November 1989 - December 1997), Mr Michael Wong Pakshong (past MD, December 1970 - February 1981), Mr Tharman Shanmugaratnam (Deputy Prime Minister and Chairman of MAS), Mr Goh Chok Tong (past Chairman, August 2004 - May 2011), Mr J.Y. Pillay (past MD, April 1985 - October 1989), Mr Ravi Menon (MD of MAS), at the MAS Gallery launch

(continued on next page)

THE MAS GALLERY *continued*

BOX 10

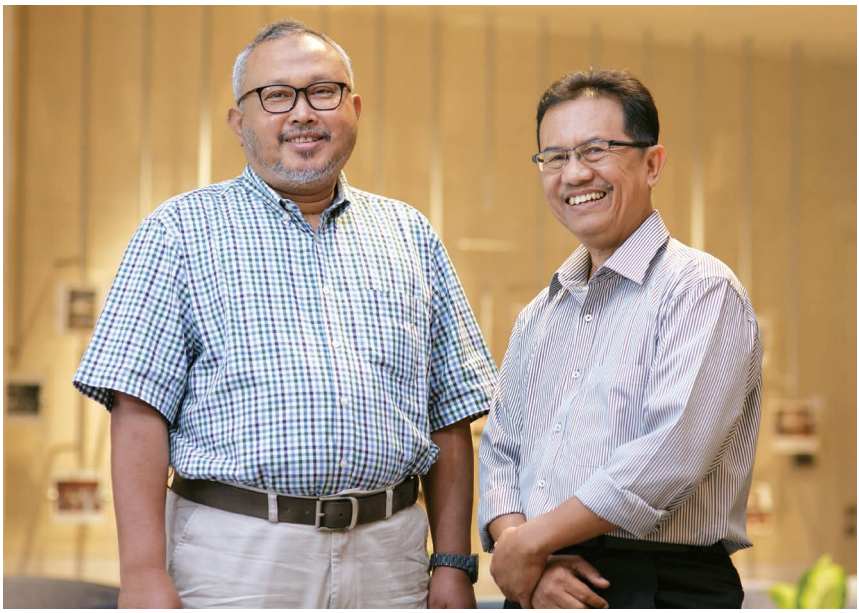
Reflections@MAS highlights MAS' mission and values, its leaders and people through a compilation of videos and photographs.

Admission to the MAS Gallery is free and self-guided. The Gallery is open on weekdays from 9.30am to 5.30pm, and on Saturdays from 9.30am to 1.30pm (only for group visits). For more information on the MAS Gallery, please visit: www.mas.gov.sg/insights.

Tour of the MAS Gallery

45 YEARS IN MAS: AN INTERVIEW WITH SAPUAN AND ZAINAL

BOX 11



Zainal Abidin B Abni (left) and Sapuan B Basari (right)

At 16, he was looking for work to support his parents, when his uncle informed him of a job opening as a messenger at the soon-to-be-formed Monetary Authority of Singapore (MAS) and encouraged him to apply. Sapuan B Basari did just that, as did Zainal Abidin B Abni, who was also 16 years old.

Little did they realise that they would embark on careers that would eventually span 45 years in MAS.

After passing their interviews at the Board of Commissioners of Currency Singapore Building at Empress Place, where MAS' administration office was originally located, they immediately started work the next day as messengers, joining the first batch of staff to serve in MAS in 1971, when it was first formed. Sapuan was posted to the Economic Intelligence Department, and Zainal to the Investment and Exchange Control Department (IEC), formerly the Department of Overseas Investments in the Ministry of Finance. Both departments were located at Fullerton Building then.

They rose through the ranks in MAS and have been tasked with increased responsibilities over the years. Sapuan is now an administrative officer with the Specialist Risk Department, while Zainal is a finance executive with the Finance Department.

In Sapuan's current role, he takes charge of preparing and submitting his department's annual budget proposal, monitoring the usage of funds and processing the department's payments. He also manages the office operations and logistical requirements. Prior to this appointment, he was a research officer in the then Supervisory Policy Department, where he undertook research and daily monitoring of the developments in foreign jurisdictions. Beyond his official duties, Sapuan is also Chairperson of the MAS Staff Branch – a union under the Amalgamated Union of Public Employees. His committee

(continued on next page)

45 YEARS IN MAS: AN INTERVIEW WITH SAPUAN AND ZAINAL *continued*

BOX 11

of nine looks after the welfare of more than 200 members, and they hold regular meetings to discuss plans on expanding its membership base and maintaining good union-management rapport. As for Zainal, he takes charge of accounts processing in his current role. He is also responsible for monitoring receipt of income and payment of expenses. Aside from his official duties, Zainal was also the Sports secretary of the MAS Recreation Club where he organised fun sporting activities for MAS staff.

The two men, who will turn 62 this year, recalled the days when they used to make deliveries on foot to the various departments in MAS that were located in City Hall, Empress Place, OUE Building and Colombo Court. Sapuan said: "We were young and fit, so we could deliver letters from City Hall up to Shenton Way."

They also had to contend with travelling to distant locations to deliver mail, added Zainal. He used to deliver the daily financial report and the Financial Times to the late Dr Goh Keng Swee, who was then stationed at the Ministry of Defence, near the Botanic Gardens.

It was in 1972 that Sapuan saw an opening for a clerk in another department and applied for the post. Meanwhile, Zainal followed suit in 1973 by applying for a clerical position in IEC, which later became the International Department when exchange control was abolished. It is now called the Finance Department.

"In those days, from '71 to the '80s, we were like a family. Because most of us who came in were really young, we clicked really well. We were even invited to many birthday parties back then."

Over the years, the two have also become close friends; having lunch together or with friends from other departments before performing the afternoon prayers at a mosque near MAS. When asked about their happy memories in MAS, both men speak of the relationships with friends and colleagues that have kept them going.

Sapuan said: "In those days, from '71 to the '80s, we were like a family. Because most of us who came in were really young, we clicked really well. We were even invited to many birthday parties back then."

"There were no barriers and everyone was very easy-going with each other," Zainal added with a smile.

They still keep in touch with former colleagues, with whom they used to watch movies and play soccer with after work.

"It's like another family, maybe even closer than our own family," said Sapuan with a laugh.

RISK MANAGEMENT AND BUSINESS CONTINUITY

BUSINESS CONTINUITY, DISASTER RECOVERY AND MEPS+ RESILIENCY

MAS conducts several exercises a year to ensure the operational readiness of staff and resiliency of its infrastructure under its Business Continuity and Disaster Recovery plans. In March 2015, an enterprise-wide mobilisation exercise to test the organisation's business continuity plan was successfully conducted with MAS management and over 300 staff. MAS also conducts regular contingency exercises with the participants of MAS Electronic Payment System (MEPS+), CLS Bank and Society for Worldwide Interbank Financial Telecommunication (SWIFT) to ensure that the national payment system remains stable and resilient to minimise market disruption. MAS also reviewed its crisis management structure to strengthen our analytical capabilities to support crisis decision making and to facilitate a more seamless transition to crisis management.

INTERNATIONAL OPERATIONAL RISK WORKING GROUP

On the international front, MAS joined the International Operational Risk Working Group that discusses risk management approaches to address operational risks faced by central banks. MAS' participation provided opportunities to benchmark its practices against our counterparts, and to exchange good risk management practices.

FINANCIAL INDUSTRY SECURITY PROGRAMME

At the industry level, MAS continued to work with the Singapore Police Force, and representatives from the financial industry under the Financial Industry Security Programme to enhance physical security (prevent crime and counter terrorism) and contingency preparedness within the industry.

MAS' WHISTLEBLOWING POLICY

MAS has zero tolerance towards fraud. We encourage the public to report any fraud, unethical behaviour or breaches in our Code of Conduct by our staff. MAS will look into all feedback received (www.mas.gov.sg/Contact-Information.aspx), and will treat any feedback provided with strict confidence.

Key Principles of MAS' Code of Conduct

- Personal and professional behaviour: We uphold the highest standards of conduct and behaviour in and outside MAS to safeguard MAS' reputation and interests. In all our dealings, we are guided by the principles of fairness, integrity, and professionalism.
- Duty of confidentiality: We safeguard, at all times, the confidentiality of documents and information obtained during the course of our employment with MAS and even after we leave MAS.
- Conflicts of interest: We avoid situations that may give rise to actual, potential, or perceived conflicts of interest. We take appropriate steps to mitigate potential conflicts of interest where such conflicts are unavoidable.
- Use of MAS' resources: We use all MAS' resources, including financial, intellectual and electronic assets, in a responsible and appropriate manner.

CONTROLS AND OPERATIONS

AUDIT ASSURANCE

The Internal Audit Department (IAD) conducts an extensive programme of risk-focused audits to provide audit assurance and ascertain the efficacy of operational processes and controls. During the year, IAD embarked on a review of our audit rating framework to give greater clarity to stakeholders on the state of control environment of the audited activity. Our internal quality assurance review concluded that our audit practices continue to be in line with established standards. We will continue to step up efforts to seek technology solutions to enhance audit processes and strengthen data analytics capabilities to attain a wider audit coverage and more in-depth analysis.

PROCUREMENT MANAGEMENT

Ensuring a transparent, open and fair procurement process is of paramount importance. MAS has reviewed its procurement practices and put in place new controls to further enhance its procedures.

SECURITY AND FIRE SAFETY

We have enhanced our security surveillance capability by doubling our CCTV coverage. We have also introduced video analytics to identify breaches more effectively.

BUILDING SERVICES AND INFRASTRUCTURE

MAS is in the process of compacting offices to optimise space usage and enhance work synergies between functional work units. The project is expected to be completed by Q3 2016.

As part of whole-of-government environmental sustainability efforts, other building infrastructures and services will be progressively upgraded by 2017 to meet new building requirements and energy standards.

MAS was one of the top performing Government offices in the 2014 Building and Construction Authority (BCA) Building Energy Benchmarking exercise (notified in 2015). MAS also achieved the BCA Green Mark Award (Platinum) in 2015.

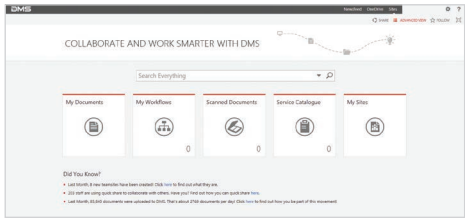
ENHANCING PRODUCTIVITY AND BUILDING CAPABILITIES

STAFF MOBILITY AND PRODUCTIVITY

Improving staff and organisational productivity continues to be an important focus in MAS. To achieve this, we introduced the following initiatives:

- The Document Management Solution (DMS), which allows staff to create, manage, find and share information easily. The DMS brings together corporate documents previously stored in various locations into a central repository, enhancing knowledge sharing capabilities in MAS. It is also an integrated collaboration platform where staff can share and co-author documents, as well as initiate document approval workflows from one location.

- Personal Mobility and Protection Suite, comprising OneDrive, a collaboration and mobility tool that allows staff to share documents and collaborate with colleagues, or to work with documents offline, and be able to synchronise them to the corporate network when back in office; MyBackUp, a data protection tool with self-help recovery functions to protect staff from accidental data loss.



DMS homepage

REINFORCEMENT OF MAS' IT SECURITY INFRASTRUCTURE

As part of MAS' continuous efforts to strengthen its cyber defences and protect valuable information assets, MAS' IT security infrastructure was reinforced with capabilities to detect anomalies and improve resilience against advanced cyber attacks. These defences will be enhanced to safeguard MAS against emerging cyber threats.

DATA GOVERNANCE AND ANALYTICS

Strengthening Data Governance Processes

MAS believes that a sound data governance framework provides the foundation for consistent, reliable and useful data, and expands the potential for analytics within and beyond MAS. With the setting up of the Data Governance and Analytics Unit in April 2015, we have been focused on strengthening our internal data governance processes. We are fine-tuning our data management policies, which will lay out clear processes to aid the access, collection and quality of data.

Growing Analytics Capabilities

MAS' roles as an economic policy maker, integrated supervisor overseeing financial institutions and operator of Singapore's national payment system require it to collect, store and analyse massive and varied data from many different sources. With an increasing demand to derive quicker and deeper insights from this wealth of data, we have embarked on several analytics-related projects to facilitate cross-functional analysis of data, enable new insights and enhance surveillance through better data visualisation and discovery tools.

MAS is also continuously growing our data analytics capabilities. We started a sponsorship programme for Massive Open Online Courses in data science to give staff good grounding in data science concepts and tools for their daily work.

Engaging Public Agencies

MAS collaborates actively with other public agencies on various whole-of-government initiatives. We are working with the Infocomm Development Authority (IDA) on the provision of MAS' datasets on the revamped data.gov.sg, with the aim of making our data more relevant and accessible to both the industry and general public. We have also collaborated with IDA on the Personal Data Protection Challenge, where a total of 13 teams submitted their solutions to MAS' challenge statement.

BUILDING A STRONG MAS FAMILY

EMPLOYEE ENGAGEMENT SURVEY

MAS conducted an Employee Engagement Survey (EES) in October 2015, to gauge the level of staff engagement and identify areas for improvement within the organisation. The survey, the fourth since 2008, drew a strong participation rate of 95%. The EES was followed by a series of town halls, with discussions involving all MAS staff and management.

The EES process highlighted several areas of strengths in the organisation, in particular staff's strong connection to the values of MAS and a spirit of collaboration across departments. MAS is taking steps to address key issues arising from the EES, such as improving productivity and streamlining work processes, in our continuing efforts to make MAS a better workplace for all staff.

Staff at the EES Town Hall sessions

BRINGING OUR PEOPLE CLOSER, CELEBRATING SG50

The 43rd and 44th MAS Recreation Club Committees continued to create opportunities for staff to come together and bond meaningfully. These included special events organised in 2015 as part of Singapore's Golden Jubilee celebrations. We saw greater staff participation in performances, sports events and support for our adopted beneficiaries. This allowed staff to build connections outside of the office while celebrating Singapore's 50th year of independence.

MAS Carnival & Community Service Day 2015

The inaugural MAS Carnival was held on 9 June 2015 at Toa Payoh Stadium and Sports Hall. About 900 staff attended the Carnival to cheer on over 250 colleagues competing against each other

in multiple sporting activities and tele-matches. These included track and field, tug-of-war, netball, dodgeball and flag football. Community Service Day 2015 was also held in conjunction with the Carnival, with participating departments organising innovative activities (e.g. a Cold Splash challenge) alongside sales of delicious food and beverages to raise funds for MAS' adopted beneficiaries.

Community Service

MAS continued to organise activities in support of our adopted beneficiaries – Lions Befrienders, Grace Orchard School and the New Horizon Centre. Our volunteers held block parties and excursion trips for elderly folks to events such as the ASEAN Para Games, and helped spring clean their homes over Chinese New Year. We also conducted mock interviews for special needs children, as well as organised a special outing to Jurong Bird Park for them and their families which incorporated staff-run games stations.

Our thanks go out to all staff who participated in MAS fundraising events. Through Community Service Day, Heartstrings Walk and the Care & Share pledge cards, staff contributed more than $30,000 to ComChest in 2014. In recognition of the funds raised, MAS was awarded the Corporate Bronze Award by ComChest in 2015, one of two government agencies to receive the award since its inception in 2011. MAS also continued to support other initiatives such as the annual Share-A-Gift initiative by Boys' Brigade, and Red Cross disaster relief for the victims of the 2015 Nepal earthquake.

Annual Dinner 2015

On 24 July 2015, MAS staff gathered at the Raffles City Convention Centre for an unforgettable evening, reminiscing local television classics and celebrating Singaporean icons through the years. Themed "Spectacular, Spectacular!", the event involved everyone through costume competitions, staff emcees and performances, and even a surprise management performance.

SG50 National Day Celebrations

MAS staff were treated to a special National Day Celebration on 6 August 2015. The Golden Jubilee commemoration event was themed "It All Started With A Dream", to celebrate how far we have come as a nation in the last 50 years. Staff were moved by the "Resilience" video which reviewed some of the key events of the organisation through staff interviews. They also enjoyed the games and performances by the newest officers, and a buffet lunch. The contributions of long-serving colleagues were also recognised and celebrated in an awards ceremony.

Inter-Central Bank Games 2015

The 39th Inter-Central Bank Games (ICBG) took place from 18 to 21 September 2015 in Kota Kinabalu, Malaysia. MAS' representatives competed with our regional counterparts in Vertical Run, Basketball, Flag Football, Darts, Virtual Games and the ICBG-Got-Talent competition. MAS finished in 4th place overall.

Kidz@Work 2015

On 24 December 2015, over 100 children of MAS staff enjoyed themselves at the annual MAS Kidz@Work event. The party kicked off with a magic show and a staff-choreographed musical performance. The children were then treated to a carnival with free-flow popcorn and candy floss, a photo booth, balloon sculpting, and a wide range of games stations.

Family Day 2016

MAS' annual Family Day took place at the Jurong Bird Park on 12 March 2016. Themed "It's gonna be Birdy Good!", the event attracted over 500 staff and their families for a morning of fun and bonding amid our feathered friends. The entertainment included an interactive bird show, snack stalls, variety games, a magic show and a lucky draw.

PEOPLE DEVELOPMENT

Building Technical Competencies

To keep up with growing complexities of the industry, improve productivity, and maximise our potential, MAS encourages staff to continually develop and deepen their skills. Development opportunities include on-the-job and classroom training, scholarships for post-graduate studies, educational sponsorships, postings to complementary functions within MAS, and external secondments and attachments. The external secondments and attachments to supranational organisations, foreign central banks and supervisory authorities, as well as leading financial institutions provide our officers with valuable opportunities to acquire technical expertise, industry knowledge and best practices.

General Development Training

A broad suite of general development training programmes based on the Capacity, Leadership, Interpersonal skills, and Personal attributes (CLIP) framework are also offered to staff. These include a good range of courses that equip staff with written and verbal communication skills, personal effectiveness, and tools for effective engagement and leadership.

Functional Training

The MAS Academy offers technical programmes to build and strengthen functional competencies required across the organisation, as guided by MAS' Professional Requisites and Outcomes Framework (PROF). The types of training include classroom programmes, as well as talks by experienced professionals, industry experts and academics on emerging trends and areas of specialisation relevant to MAS.

MAS Diploma

The MAS Academy offers the MAS Diploma – a three-year flagship programme, which gives a broad-based education on MAS' key functions. The compulsory modules cover the foundations

of central banking, financial regulation, supervision and development. Participants also choose elective modules covering a wide range of specialised topics depending on their interests. To attain the Diploma, they are also required to complete a final year project to contribute to the knowledge building and sharing culture within MAS. In FY 2015/16, there were 39 graduates from the programme.

LEADERSHIP DEVELOPMENT

MAS Leadership Programmes

The MAS Leader Development Programme is designed for Division Heads and Specialist Leaders, and focuses on areas such as leadership development, policy formulation and stakeholder engagement. The MAS Manager Development Programme comprises programmes that are targeted at staff who are newly appointed into a managerial role, and those who are experienced managers respectively.

RECOGNITION OF STAFF

Service Appreciation Awards

The Service Appreciation Award (SAA) recognises and celebrates the loyalty and contributions of our dedicated staff. The awards ceremony was held on 6 August 2015. In all, 189 staff received the SAA for service in MAS ranging from five years to 40 years. Thirteen staff received the 40-year award.

National Day Awards

In 2015, 15 MAS staff were honoured for their contributions and service to the nation. Among the recipients were Assistant Managing Director Chia Der Jiun and Assistant Managing Director Wong Nai Seng who were conferred the Public Administration (Silver) Medal. We extend our heartiest congratulations to all our National Day Award recipients.

PARTNERSHIP WITH UNION

MAS was conferred the Plaque of Commendation Award at the NTUC May Day Awards 2015, under the nomination of our union, the Amalgamated Union of Public Employees. The honour is given to companies that have made significant contributions to the Labour Movement and signifies our strong partnership with the union developed over the years through mutual trust and respect.

Guest of Honour, Mr Tharman Shanmugaratnam, Deputy Prime Minister and Chairman of MAS at the NTUC May Day Dinner 2015 and representatives from MAS at the NTUC May Day Awards 2015, with MAS' Plaque of Commendation Award

FINANCIAL
STATEMENTS

The Authority's total assets, including the Currency Fund's assets, decreased by 0.6% over the financial year ended March 2016, to $385.1 billion, as foreign financial assets translated to stronger Singapore dollar terms, contracted. Total liabilities also declined, by 0.7% to $344.3 billion, mainly due to the $19.3 billion reduction in outstanding MAS bills issued, offset partially by the $9.2 billion increase in the Singapore Government's balances with the Authority and other smaller increases in liabilities. The currency-in-circulation grew by 6.4%.

The Currency Fund's net external assets grew by 5.6% to $48.8 billion, backing the higher currency-in-circulation by 124%, compared to 125% a year ago.

The Authority recorded a net profit of $0.2 billion in the financial year ended March 2016 (FY15), as total income increased by 27.6% to $1.9 billion whilst total expenditure rose by 44.4% to $1.7 billion. The SGD translation effect was negative due mainly to the strengthening of the SGD against the USD and GBP by 1.9% and 5.2% respectively which was offset partly by the weakening of the SGD against the Euro and Yen by 4.0% and 4.5% respectively.

The Authority's total expenditure increase was attributable to higher investment and interest expenditure. Whilst the Authority's borrowings were reduced significantly during the year, Singapore dollar interest rates averaged higher, compared to the previous year. General and administrative expenditure was higher, arising mainly from costs related to the SG50 commemorative note issuance.

Based on the framework for Contributions to Consolidated Fund, no contribution to the Consolidated Fund is required for this financial year as the net profit for the year was offset by carried forward losses from previous financial years. The net profit for the year will be added to the Authority's reserves, in accordance with the Monetary Authority of Singapore Act.

STATEMENT BY DIRECTORS
FOR THE FINANCIAL YEAR ENDED 31 MARCH 2016

In the opinion of the directors,

(a) the consolidated financial statements of the Authority and its wholly-owned subsidiary, Singapore Sukuk Pte Ltd, as set out on pages 86 to 110 are drawn up so as to present fairly the state of affairs of the Authority as at 31 March 2016, the results and changes in equity of the Authority for the financial year ended on that date, and of the cash flows of the Authority for the financial year then ended; and

(b) at the date of this statement, there are reasonable grounds to believe that the Authority will be able to pay its debts as and when they fall due.

On behalf of the Board of Directors,

THARMAN SHANMUGARATNAM
Chairman

RAVI MENON
Managing Director

24 June 2016

INDEPENDENT AUDITOR'S REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS OF THE MONETARY AUTHORITY OF SINGAPORE

FOR THE FINANCIAL YEAR ENDED 31 MARCH 2016

The accompanying financial statements of the Monetary Authority of Singapore (the "Authority"), its subsidiary and Currency Fund, set out on pages 86 to 110, have been audited under my direction. These financial statements comprise the consolidated balance sheet as at 31 March 2016, the consolidated statement of comprehensive income, consolidated statement of changes in equity, consolidated cash flow statement and statement of backing of currency in circulation for the financial year then ended, and a summary of significant accounting policies and other explanatory information.

MANAGEMENT'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

The management is responsible for the preparation and fair presentation of these financial statements in accordance with the provisions of the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition) and Currency Act (Cap. 69, 2002 Revised Edition) and applicable Singapore Financial Reporting Standards as explained in Note 3.1(a) to the consolidated financial statements, and for such internal controls as management determines are necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

AUDITOR'S RESPONSIBILITY

My responsibility is to express an opinion on these financial statements based on the audit. The audit was conducted in accordance with the provisions of the Monetary Authority of Singapore Act and Currency Act and having regard to Singapore Standards on Auditing. Those standards require that ethical requirements be complied with, and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls. An audit also includes evaluating, within the context of applicable laws, the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

OPINION

As disclosed in Note 3.1(a) to the consolidated financial statements, the Authority, in preparing these financial statements, is allowed under section 34(3) of the Monetary Authority of Singapore Act and section 21(10) of the Currency Act to comply with accounting standards to the extent that it is, in the opinion of the Authority, appropriate to do so, having regard to its objects and functions. As also disclosed in Note 3.1(a), the Authority has considered its responsibilities for managing the Singapore dollar exchange rate and the Official Foreign Reserves and is of the view that, for effective management of Singapore's monetary policy, it would be appropriate not to meet, in some respects, the Singapore Financial Reporting Standards. The financial statements accordingly disclose less information than would be required under those Standards.

Having regard to the power given to the Authority under section 34(3) of the Monetary Authority of Singapore Act and section 21(10) of the Currency Act, in my opinion, the consolidated financial statements present fairly, based on the framework of accounting standards adopted by the Authority, the state of affairs of the Authority and its subsidiary as at 31 March 2016 and the financial transactions of the Authority and its subsidiary for the financial year ended on that date.

TAN YOKE MENG WILLIE
AUDITOR-GENERAL
SINGAPORE

24 June 2016

CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME

For the year ended 31 March in $ millions	Note	General Reserve Fund		Currency Fund		Total	
		2016	2015	2016	2015	2016	2015
Income/(Loss) from Foreign Operations [after transfers to/from provisions]	4	433	(1,877)	1,451	3,072	1,884	1,195
Income/(Loss) from Domestic and Other Operations	5	(5)	266	3	11	(2)	277
Non-operating Income	6	10	11	1	–	11	11
Total Income/(Loss) [after transfers to/from provisions]		**438**	**(1,600)**	**1,455**	**3,083**	**1,893**	**1,483**
Less:							
Investment, Interest and Other Expenses	7	1,302	798	106	102	1,408	900
Personnel Expenditure	8	224	220	–	–	224	220
General and Administrative Expenditure	9	81	60	–	–	81	60
Depreciation/Amortisation	16	23	22	–	–	23	22
Total Expenditure		**1,630**	**1,100**	**106**	**102**	**1,736**	**1,202**
Profit/(Loss) for the Year [after transfers to/from provisions]		**(1,192)**	**(2,700)**	**1,349**	**2,981**	**157**	**281**
Less:							
Contribution to Consolidated Fund	19.2	–	–	–	–	–	–
Net Profit/(Loss) and Total Comprehensive Income/ (Loss) for the Year [after transfers to/from provisions]		**(1,192)**	**(2,700)**	**1,349**	**2,981**	**157**	**281**

The accompanying notes form an integral part of these financial statements.

CONSOLIDATED BALANCE SHEET

As at 31 March in $ millions	Note	2016	2015
CAPITAL AND RESERVES			
Issued and Paid-up Capital	10	25,000	25,000
General Reserve Fund	11	6,396	6,455
Currency Fund Reserves	12	9,418	9,202
		40,814	**40,657**
Represented by:			
ASSETS			
Cash and Bank Balances		861	876
Singapore Dollar Securities	13	8,661	7,723
Foreign Financial Assets	14	361,150	363,644
Gold		285	290
Other Assets	15	13,974	14,668
Property and Other Fixed Assets	16	190	184
		385,121	387,385
Less:			
LIABILITIES			
Currency in Circulation		39,339	36,979
Deposits of Financial Institutions	17	26,823	25,783
MAS Bills	18	77,982	97,281
Foreign Financial Liabilities	14	19,972	17,841
Provisions and Other Liabilities	18	54,892	52,729
Amounts Due to Singapore Government	19	125,299	116,115
		344,307	346,728
NET ASSETS OF THE AUTHORITY		**40,814**	**40,657**

The accompanying notes form an integral part of these financial statements.

CONSOLIDATED STATEMENT OF CHANGES IN EQUITY

in $ millions	Issued and Paid-up Capital	General Reserve Fund	Currency Fund Reserves	Total
Balance as at 1 April 2014	25,000	6,115	9,261	40,376
Total Comprehensive Income/(Loss) for the Year (after transfers to/from provisions)	–	(2,700)	2,981	281
Transfer of Reserves from Currency Fund	–	3,040	(3,040)	–
Balance as at 31 March 2015	25,000	6,455	9,202	40,657
Total Comprehensive Income/(Loss) for the Year (after transfers to/from provisions)	–	(1,192)	1,349	157
Transfer of Reserves from Currency Fund	–	1,133	(1,133)	–
Balance as at 31 March 2016	25,000	6,396	9,418	40,814

The accompanying notes form an integral part of these financial statements.

CONSOLIDATED CASH FLOW STATEMENT

For the year ended 31 March in $ millions	2016	2015
Cash Flows from Operating Activities		
Profit for the Year (after transfers to/from provisions)	157	281
Adjustments for:		
Depreciation/Amortisation of Fixed Assets and Other Assets	23	22
Profit before Working Capital Changes	180	303
(Increase)/Decrease in		
Singapore Dollar Securities	(938)	(716)
Foreign Financial Assets	2,494	(3,618)
Gold	5	(24)
Other Assets	694	(2,575)
Increase/(Decrease) in		
Deposits of Financial Institutions	1,040	(8,574)
MAS Bills	(19,299)	20,944
Foreign Financial Liabilities	2,131	908
Provisions and Other Liabilities	2,169	(10,131)
Amounts due to Singapore Government (excluding Contribution to Consolidated Fund and Return of Profit to Singapore Government)	9,184	384
Net Cash used in Operating Activities	(2,340)	(3,099)
Cash Flows from Investing Activities		
Purchase of Fixed Assets	(35)	(27)
Net Cash used in Investing Activities	(35)	(27)
Cash Flows from Financing Activities		
Increase in Currency in Circulation	2,360	3,120
Net Cash from Financing Activities	2,360	3,120
Net Decrease in Cash and Bank Balances	(15)	(6)
Cash and Bank Balances as at beginning of the year	876	882
Cash and Bank Balances as at end of the year	861	876

The accompanying notes form an integral part of these financial statements.

STATEMENT OF BACKING OF CURRENCY IN CIRCULATION

The Currency Fund is established under Section 21 of the Currency Act (Cap. 69, 2002 Revised Edition). Section 22 of the Act states that the external assets of the Currency Fund shall not be less than 100% of the face value of the Currency in Circulation.

As at 31 March in $ millions	Note	2016	2015
The value of External Assets and the Currency in Circulation are:			
Currency in Circulation	12.2	39,339	36,979
External Assets	12.2	52,153	48,039
Less:			
Foreign Financial Liabilities	12.2	2,925	1,668
Provisions and Other Liabilities	12.2	471	190
		3,396	1,858
Net External Assets		48,757	46,181

The accompanying notes form an integral part of these financial statements.

These notes form an integral part of and should be read in conjunction with the accompanying consolidated financial statements.

1 GENERAL

1.1 The Monetary Authority of Singapore (the "Authority") is a statutory board established in Singapore under the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition) on 1 January 1971 and is located at 10 Shenton Way, MAS Building, Singapore 079117.

1.2 The consolidated financial statements presented relate to those of the Authority and its wholly-owned subsidiary, Singapore Sukuk Pte Ltd (SSPL). The financial statements of the Authority are not materially different from the consolidated financial statements and have not been presented separately.

1.3 The Authority, subject to the directions of the Minister, controls and administers the Financial Sector Development Fund (the "Fund"), a fund established under Section 30A of the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition) for the objects and purposes set out in Section 30B of the Monetary Authority of Singapore Act. The audited financial statements of the Fund, prepared in accordance with the provisions of the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition) and the Singapore Financial Reporting Standards, are available on the Authority's website at http://www.mas.gov.sg.

2 PRINCIPAL ACTIVITIES

2.1 The principal activities of the Authority are:

a) the conduct of monetary policy, issuance of currency, management of the official foreign reserves and acting as the banker to and financial agent of the Government; and

b) the supervision of the banking, insurance, securities and futures industries, and development of strategies in partnership with the private sector to promote Singapore as an international financial centre.

2.2 The Authority's subsidiary, SSPL, is a special purpose entity incorporated in Singapore, to issue Sukuk certificates as Shariah-compliant assets to Islamic financial institutions to meet regulatory requirements.

3 SIGNIFICANT ACCOUNTING POLICIES

3.1 Compliance with the Monetary Authority of Singapore Act, Currency Act and Singapore Financial Reporting Standards

a) The consolidated financial statements of the Authority, are prepared in accordance with the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition), Currency Act (Cap. 69, 2002 Revised Edition) and applicable Singapore Financial Reporting Standards (FRS). Section 34(3) of the Monetary Authority of Singapore Act and Section 21(10) of the Currency Act provide that the Authority, in preparing its consolidated financial statements, may comply with accounting standards to the extent that it is, in the opinion of the Authority, appropriate to do so, having regard to the objects and functions of the Authority. The Authority, having considered its responsibilities for managing the Singapore dollar exchange rate and the official foreign reserves, is of the opinion that, for effective management of Singapore's monetary policy, it is appropriate not to meet, in some respects, the Singapore Financial Reporting Standards. The consolidated financial statements accordingly disclose less information than would be required under those Standards.

b) The new or revised FRSs applicable in the current financial year do not have a significant impact on the Authority's consolidated financial statements.

c) The preparation of consolidated financial statements in conformity with FRS requires management to exercise its judgement in the process of applying the Authority's accounting policies, having regard to the objects and functions of the Authority. It also requires the use of accounting estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of income and expenditure during the financial year. Although these estimates are based on management's best knowledge of current events and actions, actual results may ultimately differ from these estimates.

3.2 Basis of Accounting

The consolidated financial statements have been prepared under the historical cost convention and on an accrual basis, except as otherwise disclosed.

3.3 Basis of Consolidation

a) Subsidiaries are entities (including structured entities) over which the Authority has control. The Authority controls an entity when it is exposed to, or has rights to, variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity.

b) A subsidiary is consolidated from the date control is established, acquired or transferred to the Authority to the date control ceases. The cost of an acquisition is measured as the fair value of the assets given, equity instruments issued or liabilities incurred or assumed at the date of exchange.

c) Balances and transactions between the Authority and its subsidiary, together with any unrealised profits and losses arising from these transactions are eliminated, in preparing the consolidated financial statements.

3.4 Foreign Currency Translation

a) The consolidated financial statements are presented in Singapore dollars, the Authority's functional currency, and rounded to the nearest million, unless otherwise stated.

b) Transactions in foreign currency are measured at the exchange rate prevailing at the date of transaction. Foreign currency gains or losses resulting from the settlement of such transactions are recognised in the consolidated statement of comprehensive income.

c) Assets and liabilities denominated in foreign currencies are translated into Singapore dollars, at the exchange rate prevailing on the balance sheet date, except for shareholdings in Bank for International Settlements (BIS) and Society for Worldwide Interbank Financial Telecommunication (SWIFT) which are converted at the rates of exchange prevailing on the acquisition dates. Exchange differences arising from the translation are recognised in the consolidated statement of comprehensive income.

3.5 Recognition and Derecognition

Purchases and sales of investments are recognised on the trade date when the Authority commits to purchase or sell the asset. Investments are derecognised when the rights to receive cash flows from the financial assets have expired or have been transferred and the Authority has transferred substantially all risks and rewards of ownership.

3.6 Income Recognition

a) Dividend income is recognised when the right to receive payment is established.

b) Interest income is recognised on a time-proportionate basis using the effective interest method. The effective interest rate is the rate that discounts estimated future cash payments or receipts through the expected life of the financial instrument or, where appropriate, a shorter period to the net carrying amount.

c) Profits/losses on disposal of investments are taken to the consolidated statement of comprehensive income.

d) Licence fee income is recognised on a straight-line basis over the period of the licence.

3.7 Singapore Dollar Securities

Singapore Government Treasury bills and bonds and corporate bonds held are stated at cost. Provision has been made for diminution in value, if any, based on the lower of cost and market value on an individual investment basis.

3.8 Gold

Gold is a long-term investment stated at cost. Provision for diminution in value would be made in the event of a decline other than temporary in its value.

3.9 Foreign Financial Assets and Liabilities

Foreign financial assets and liabilities represent the Authority's investments in a global diversified portfolio and are stated at cost. Provision has been made for diminution in value, if any, based on the lower of cost and market value on an individual investment basis.

3.10 Financial Derivatives

Financial derivatives include forwards, swaps, futures and options and are included in foreign financial assets and foreign financial liabilities. Other than financial instruments that are subject to margin requirements or central clearing which are fair valued, provision has been made for diminution in value, if any, of other financial derivatives based on the lower of cost and market value on an individual investment basis.

3.11 Repurchase and Reverse Repurchase Agreements ("Repos" and "Reverse Repos")

Reverse repos are treated as collateralised borrowings and the amounts borrowed are included in "Provisions and Other Liabilities". The securities sold under reverse repos are treated as pledged assets and remain on the consolidated balance sheet. Repos are treated as collateralised lending and the amounts lent are included in "Other Assets". The difference between the amount received and the amount paid under repos and reverse repos is recognised as interest income and interest expense respectively.

3.12 Property, Other Fixed Assets and Depreciation

a) Property and other fixed assets are stated at cost less accumulated depreciation and impairment losses, if any. The cost includes expenditure that is directly attributable to the acquisition of the items. Depreciation is calculated on a straight-line basis to write off the cost less residual value of the fixed assets over their estimated useful lives as follows:

	Useful lives
Leasehold Land	Period of lease
Buildings	50 years or period of lease whichever is lower
Building Improvements	10 years
Computer Hardware and Software	3 to 5 years
Furniture, Fixtures, Motor Vehicles and Other Equipment	3 to 5 years

The residual values and useful lives are reviewed and adjusted as appropriate, at each balance sheet date.

b) Computer software costs of less than $100,000 and other assets costing $1,000 and below are expensed off in the year of purchase. Any computer software costs not written off, are included in fixed assets.

c) Property and other fixed assets are reviewed for impairment whenever there is any indication that these assets may be impaired. If such indication exists, the recoverable amount of the asset is estimated to determine the amount of impairment loss. The impairment loss is recognised in the consolidated statement of comprehensive income for the period.

Reversal of impairment losses recognised in prior years is recorded when there is an indication that the impairment losses recognised for the asset no longer exist or have decreased. The reversal, if any, is recognised in the consolidated statement of comprehensive income. However, the increased carrying amount of an asset due to a reversal of an impairment is recognised to the extent that it does not exceed the carrying amount that would have been determined (net of depreciation or amortisation) had no impairment losses been recognised for the asset in prior years.

d) On disposal of fixed assets, the difference between the net disposal proceeds and its carrying amount is taken to the consolidated statement of comprehensive income.

3.13 Operating Leases

a) Leases where substantially all the rewards and risks of ownership remain with the lessors are accounted for as operating leases. Rental receipts or payments under operating leases are accounted for in the consolidated statement of comprehensive income on an accrual basis according to the terms of the agreements.

b) When an operating lease is terminated before the lease period has expired, any payment required to be made to the lessor by way of penalty is recognised as an income or expense in the period in which termination takes place.

3.14 Employee Benefits

a) Defined contribution plans

Defined contribution plans are post-employment benefit plans under which the Authority pays fixed contributions into entities such as the Central Provident Fund, and will have no legal or constructive obligation to pay further contributions. The Authority's contributions to defined contribution plans are recognised in the financial year to which they relate.

b) Employee leave entitlement

Employee entitlements to annual leave are recognised when they accrue to employees. A provision is made for annual leave as a result of services rendered by employees up to the balance sheet date.

4 INCOME/(LOSS) FROM FOREIGN OPERATIONS

Income/(Loss) from foreign operations includes interest, dividends, profit/loss on disposal of investments, foreign exchange gain/loss and write-back of/additional provision for diminution in value of investments.

5 INCOME/(LOSS) FROM DOMESTIC AND OTHER OPERATIONS

Income/(loss) from domestic and other operations includes mainly interest, write-back of/additional provision for diminution in value of Singapore Dollar Securities and other income/(loss) from Singapore dollar money market transactions, licence and inspection fees, revenue from currency-related operations, custody fee and revenue from services rendered to banks and financial institutions on MAS Network and MAS Electronic Payment System which provides real-time gross settlement of payments.

Income/(loss) from Singapore dollar currency swaps has been reclassified from "Income/(Loss) from Foreign Operations" to "Income/(Loss) from Domestic and Other Operations" in the financial year ended 31 March 2016 to better reflect its function. The comparative amount in the preceding year has also been reclassified to be consistent with the presentation in the current financial year.

6 NON-OPERATING INCOME

Non-operating income includes rental and carpark income, liquidated damages and management service fees.

7 INVESTMENT, INTEREST AND OTHER EXPENSES

Investment and interest expenses include management fees, futures/options commissions, bank, custody and other charges arising from foreign operations, and interest paid on borrowings and reverse repurchase agreements arising from domestic and other operations. Other expenses include costs of printing of currency notes and coin operations.

8 PERSONNEL EXPENDITURE

8.1 This includes the following:

in $ millions	2016	2015
Salaries	190	187
Employer's Contribution to the Central Provident Fund	20	18
Staff Benefits and Training	10	10

The Minister-in-charge of the Authority is not paid a salary by the Authority. Directors' fees for the year totalled $0.14 million (2015: $0.12 million). All Ministers serving on the Authority's Board of Directors do not receive directors' fees.

8.2 The key management personnel compensation is as follows:

in $ millions	2016	2015
Salaries and Other Short-term Employee Benefits	21	20
Other Long-term Employee Benefits	4	4

Post-employment benefits of $0.7 million (2015: $0.6 million) were also provided to key management personnel.

Executive Directors, Department Heads and above, are considered as key management personnel for this purpose.

9 GENERAL AND ADMINISTRATIVE EXPENDITURE

This includes the following:

in $ millions	2016	2015
Information Technology	15	12
Publishing and Printing	13	–
Consultancy, Legal and Other Fees	8	4
Information Resources	6	6
Rental and Maintenance	6	5
Subscription to Organisations	5	4
Travel and Accommodation	5	5
IT Operating Lease	2	5
Audit Fee	1	1

10 CAPITAL AND RESERVES

10.1 The issued and paid-up capital is wholly-owned by the Government of the Republic of Singapore.

10.2 The Authority manages its capital and reserves at an appropriate and adequate level, in pursuit of the Authority's principal objects, as set out in Section 4 of the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition) that is, to maintain price stability conducive to sustainable economic growth, foster a sound and reputable financial centre, grow Singapore as an internationally competitive financial centre and ensure prudent and effective management of the official foreign reserves of Singapore. As required by the Constitution of the Republic of Singapore, the Authority has to determine and safeguard the past reserves of the Authority which were not accumulated during the current term of office of the Government.

10.3 Taking into consideration the Authority's capital and reserves needs for its principal objects, the Authority conducts capital and reserves adequacy assessment regularly. It includes a comprehensive assessment of risks that the Authority is exposed to, the measurement, monitoring and stress testing of these risks and an evaluation of the adequacy of the Authority's capital and reserves in relation to these risks.

10.4 The return of profit to the Singapore Government, from the General Reserve Fund and/or from the net profit for each financial year, is determined by the Authority and the remainder of the net profit, if any, is credited to the General Reserve Fund, in accordance with Section 6 of the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition).

11 GENERAL RESERVE FUND

The General Reserve Fund is established under Section 6(1) of the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition).

12 CURRENCY FUND RESERVES

12.1 The Currency Fund, established under Section 21 of the Currency Act (Cap. 69, 2002 Revised Edition), is maintained and managed by the Authority in the manner prescribed by the Act.

12.2 The assets and liabilities of the Currency Fund as at 31 March are as follows:

in $ millions	Note	2016	2015
External Assets			
Gold		223	227
Foreign Investments	14.1(a)	51,930	47,812
		52,153	48,039
Less:			
Liabilities			
Active Currency in Circulation		38,506	36,130
Currency Held by the Authority		833	849
Currency in Circulation		39,339	36,979
Foreign Financial Liabilities	14.1(a)	2,925	1,668
Provisions and Other Liabilities		471	190
		3,396	1,858
		42,735	38,837
Currency Fund Reserves		9,418	9,202

13 SINGAPORE DOLLAR SECURITIES

Singapore Dollar Securities comprise:

in $ millions	2016	2015
Singapore Government Bonds	8,609	7,713
Singapore Dollar Corporate Bonds	52	10
	8,661	7,723

14 FOREIGN FINANCIAL ASSETS AND LIABILITIES

14.1(a) These comprise the following:

		General Reserve Fund		Currency Fund		Total	
in $ millions	**Note**	**2016**	**2015**	**2016**	**2015**	**2016**	**2015**
Foreign Investments							
Bank Balances and Deposits		47,311	48,305	5,864	5,079	53,175	53,384
Securities (including Treasury Bills, Bonds and Equities)		251,221	257,089	44,390	40,981	295,611	298,070
Other Foreign Investments		6,773	7,375	1,676	1,752	8,449	9,127
International Monetary Fund (IMF) Assets	14.2						
Reserve Tranche		2,175	1,058	–	–	2,175	1,058
Special Drawing Rights (SDRs)		1,412	1,654	–	–	1,412	1,654
Loans under New Arrangements to Borrow	21.1(c)	224	247	–	–	224	247
Poverty Reduction and Growth Facility – Heavily Indebted Poor Countries		8	8	–	–	8	8
Shareholding in Bank for International Settlements (BIS)	14.3	96	96	–	–	96	96
Foreign Financial Assets		309,220	315,832	51,930	47,812	361,150	363,644
Foreign Borrowings and Other Liabilities		15,635	14,765	2,925	1,668	18,560	16,433
IMF SDR Allocations	14.1(b)	1,412	1,408	–	–	1,412	1,408
Foreign Financial Liabilities		17,047	16,173	2,925	1,668	19,972	17,841

14.1(b) The Authority's allocations of Special Drawings Rights in IMF has been reclassified more appropriately from "Provision and Other Liabilities" to "Foreign Financial Liabilities" in the financial year ended 31 March 2016 and its comparative has also been reclassified accordingly to be consistent with the presentation in the current financial year.

14.2 International Monetary Fund (IMF) Assets

The Reserve Tranche represents the amount of the paid-up portion of the Singapore quota. Special Drawing Rights (SDRs) are interest-yielding balances with IMF that can be exchanged for convertible currencies. Singapore participates in the Poverty Reduction and Growth Facility-Heavily Indebted Poor Countries (PRGF-HIPC). The PRGF-HIPC outstanding balance as at 31 March 2016 is SDR4.0 million [$7.7 million] (31 March 2015: SDR4.0 million [$7.7 million]), being the balance in Post-Special Contingent Account-2 with IMF which was transferred to the PRGF-HIPC on 24 April 2001 as an interest-free deposit maturing at the end of 2018.

14.3 Bank for International Settlements (BIS)

The Authority's shareholding in the BIS comprises the 25% paid-up value of 4,285 (31 March 2015: 4,285) shares with a nominal value of SDR5,000 ($9,488) (31 March 2015: SDR5,000 [$9,462]) each.

15 OTHER ASSETS

These comprise the following:

in $ millions	2016	2015
Loans, Deposits and Other Receivables	6,630	6,484
Receivable from MAS Bills Issued	4,293	5,387
Repurchase Agreements with Singapore Government	3,051	2,797
	13,974	14,668

16 PROPERTY AND OTHER FIXED ASSETS

in $ millions	Leasehold Land	Buildings	Building Improve-ments	Computer Hardware and Software	Furniture, Fixtures, Motor Vehicles and Other Equipment	Work-in-Progress	Total
COST							
As at 1.4.2014	48	171	94	117	29	24	483
Additions	–	–	–	4	1	26	31
Disposals	–	–	–	(6)	(2)	–	(8)
Transfers	–	–	13	13	–	(26)	–
As at 31.3.2015	48	171	107	128	28	24	506
ACCUMULATED DEPRECIATION							
As at 1.4.2014	17	88	91	85	26	–	307
Disposals	–	–	–	(6)	(1)	–	(7)
Depreciation Charge	1	4	3	12	2	–	22
As at 31.3.2015	18	92	94	91	27	–	322
NET BOOK VALUE AS AT 31.3.2015	30	79	13	37	1	24	184
COST							
As at 1.4.2015	48	171	107	128	28	24	506
Additions	–	–	–	1	–	28	29
Disposals	–	–	(1)	(2)	(4)	–	(7)
Transfers	–	–	14	11	4	(29)	–
As at 31.3.2016	48	171	120	138	28	23	528
ACCUMULATED DEPRECIATION							
As at 1.4.2015	18	92	94	91	27	–	322
Disposals	–	–	(1)	(2)	(4)	–	(7)
Depreciation Charge	1	4	2	14	2	–	23
As at 31.3.2016	19	96	95	103	25	–	338
NET BOOK VALUE AS AT 31.3.2016	29	75	25	35	3	23	190

17 DEPOSITS OF FINANCIAL INSTITUTIONS

in $ millions	2016	2015
Banks	23,303	22,635
Finance Companies	381	359
Securities Companies	10	9
	23,694	23,003
International Financial Institutions	960	459
Foreign Central Banks and Others	2,169	2,321
	26,823	25,783

Deposits from banks and finance companies in Singapore include the minimum cash balances maintained by banks and finance companies with the Authority as required under the Banking Act (Cap. 19, 2008 Revised Edition) and the Finance Companies Act (Cap. 108, 2011 Revised Edition) respectively. Deposits from securities companies represent statutory deposits from holders of capital markets services licences required under the Securities and Futures (Licensing and Conduct of Business) Regulations.

18 MAS BILLS, PROVISIONS AND OTHER LIABILITIES

18.1 As part of the Authority's money market operations to manage the liquidity in the banking system, the Authority issues its own short-term bills.

18.2 Provisions have been made for contingencies under Section 6(2) of the Monetary Authority of Singapore Act (Cap. 186, 1999 Revised Edition). Other liabilities include borrowings from banks, borrowings under reverse repurchase agreements, creditors, Sukuk payable, accounts payable and accruals.

18.3 During the financial year ended 31 March 2016, SSPL, a wholly-owned subsidiary of the Authority, issued $140 million (2015: $140 million) Sukuk trust certificates with one year maturity and an income distribution rate of 1.28% (2015: 0.39%) per annum. The Sukuk issuance by SSPL is structured on the sale-and-leaseback or Al Ijarah of property assets of the Authority. Under agreements with SSPL, the Authority will sell, leaseback, provide a purchase undertaking of the property assets and receive from and make periodic payments to SSPL.

19 AMOUNTS DUE TO SINGAPORE GOVERNMENT

19.1 The amounts due to the Singapore Government comprise the following:

in $ millions	2016	2015
Amounts due to Singapore Government, arising from Repurchase Agreements	3,051	2,797
Balances and Deposits of Singapore Government	122,248	113,318
	125,299	116,115

19.2 Contribution to the Consolidated Fund is in accordance with the Statutory Corporations (Contributions to Consolidated Fund) Act (Cap. 319A, 2004 Revised Edition) and is based on 17% (2015: 17%) of the net profit for the year. In the financial year ended 31 March 2016, no contribution to the Consolidated Fund (2015: $nil) is payable as the cumulative loss from previous financial years is brought forward and offset against the net profit for the year.

20 STATUTORY DEPOSITS OF INSURANCE COMPANIES, REMITTANCE LICENSEES AND CAPITAL MARKETS SERVICES LICENSEES

Statutory bank deposits, guarantees and Singapore Government bonds of insurance companies, remittance licensees and capital markets services licensees, are retained by the Authority under the Insurance Act (Cap. 142, 2002 Revised Edition), the Money-changing and Remittance Businesses Act (Cap. 187, 2008 Revised Edition) and the Securities and Futures Act (Cap. 289, 2006 Revised Edition) respectively, and in the events specified, dealt with accordingly under the respective Acts.

21 COMMITMENTS

21.1 International Monetary Fund (IMF)

a) On 15 December 2010, the IMF's Board of Governors passed a resolution that would double the Fund's total quotas and result in a major realignment of quota shares among members. In February 2016, Singapore paid up 25% of its full quota increase. As at 31 March 2016, the unpaid portion of the Singapore quota due to IMF under Section 4 of Article III of the Articles of Agreement is $5,328 million (31 March 2015: $1,669 million).

b) On 20 April 2012, the Authority announced that Singapore would make a bilateral contingent loan of US$4.0 billion ($5.4 billion) (31 March 2015: US$4.0 billion [$5.5 billion]) to the IMF as part of the broader international effort to boost IMF's resources and strengthen global economic and financial stability.

c) As a participant in the IMF's 'New Arrangements to Borrow' (NAB), the Authority undertakes to provide a credit line in the event of a financial emergency as specified by the NAB. With the quota increase paid in February 2016, Singapore's NAB commitment decreased from SDR1,277 million to SDR649 million. As at 31 March 2016, the loans granted by the Authority under the NAB totalled SDR118 million ($224 million) (31 March 2015: SDR131 million [$247 million]). The remaining undrawn credit is SDR531 million ($1,007 million) as at 31 March 2016 (31 March 2015: SDR1,146 million [$2,169 million]).

d) During the financial year ended 31 March 2014, the Authority received SDR10.3 million ($20.1 million) being Singapore's share of the second distribution of SDR1,750 million ($3,402 million) by IMF arising from the profits made in the IMF's gold sales. Together with the Authority's share of SDR4.1 million ($8 million) from the first distribution received during the financial year ended 31 March 2013, Singapore pledged to contribute its share of both distributions to the Poverty Reduction and Growth Trust ("PRGT") subsidy account, subject to legislative amendments.

21.2 Bank for International Settlements (BIS)

The Authority has a commitment, amounting to SDR16.1 million ($30.6 million) as at 31 March 2016 (31 March 2015: SDR16.1 million [$30.5 million]), in respect of the uncalled portion of its shareholding in the BIS.

21.3 Repurchase Agreements with Central Banks and Monetary Authority

The Authority entered into bilateral repurchase agreements totalling US$5,500 million ($7,406 million) (31 March 2015: US$5,500 million [$7,545 million]) with various Asian central banks and a monetary authority to provide liquidity assistance in times of emergency. For the financial year ended 31 March 2016, there was no request for liquidity assistance from any counterpart.

21.4 Currency Swap Arrangements with Central Banks and Monetary Authority

a) The Authority renewed the bilateral currency swap arrangement of CNY300 billion ($64 billion) with the People's Bank of China for a further term of three years with effect from 7 March 2016. The arrangement allows the Authority to provide Chinese Yuan liquidity to financial institutions in Singapore for trade and financial stability purposes. As at 31 March 2016, the Authority has a currency swap of CNY10 billion ($2.1 billion) (31 March 2015: CNY10 billion [$2.2 billion]) with the People's Bank of China.

b) The Authority is Singapore's Swap Providing / Requesting Party in the Chiang Mai Initiative Multilateralisation (CMIM) Agreement involving the ASEAN member states, China (including the Hong Kong Monetary Authority, China), Japan and Korea. The CMIM Agreement, effective from 24 March 2010, provides financial support through

currency swap transactions, to address balance of payments and short-term liquidity difficulties in the region, and supplements existing international financial arrangements. In May 2012, the Chiang Mai Initiative Multilateralisation (CMIM) members agreed to strengthen the regional financial safety net and double the total size of the currency swap transactions with members to US$240 billion. The Authority's commitment is US$9,104 million ($12,259 million) (31 March 2015: US$9,104 million [$12,489 million]) and the Authority can swap Singapore dollars for US dollars up to 2.5 times Singapore's commitment.

c) The Authority and the Bank of Japan, acting as the agent for the Minister of Finance of Japan, signed the third Bilateral Swap Arrangement (BSA) on 21 May 2015. Under the agreement, the Authority can swap Singapore dollars for US dollars up to US$3,000 million ($4,040 million) while the Bank of Japan can swap Japanese Yen for up to US$1,000 million ($1,347 million).

d) The Authority is a participant in the multilateral ASEAN Swap Arrangement (ASA) together with other ASEAN central banks and a monetary authority to provide short-term foreign exchange liquidity support for member countries that may experience balance of payments difficulties. In November 2015, the ASA was renewed for an additional two years up to 16 November 2017. Under this agreement, the Authority's commitment is US$300 million ($404 million) (31 March 2015: US$300 million [$412 million]).

e) Aside from the CNY swap with the People's Bank of China, there was no other drawdown of any of the currency swap arrangements, in note 21.4, in financial years ended 31 March 2015 and 31 March 2016.

21.5 Liquidity Loan Facility

The Authority entered into an agreement with the Singapore Deposit Insurance Corporation Limited (SDIC) on 9 February 2012 where the Authority may provide the SDIC a contingent liquidity facility of up to $20 billion (31 March 2015: $20 billion), in the event a Deposit Insurance Scheme member fails and liquidity is needed for compensation payments to insured depositors. There was no request and drawdown on the facility in financial years ended 31 March 2015 and 31 March 2016.

21.6 Capital Expenditure Commitments

Capital expenditure relating to fixed assets not provided for in the consolidated financial statements is as follows:

in $ millions	2016	2015
Amount contracted for	21	19

21.7 Leases

a) Future minimum lease payments under non-cancellable operating leases are as follows:

in $ millions	2016	2015
Less than 1 year	2	1
1 to 5 years	2	2
	4	3

b) Future minimum lease rental receipts under non-cancellable operating leases are as follows:

in $ millions	2016	2015
Less than 1 year	7	8
1 to 5 years	7	6
	14	14

22 FINANCIAL RISK MANAGEMENT

22.1 The Risk Committee, chaired by an independent Board Director, assists the Board of Directors in providing oversight and guidance over the management of risks assumed by the Authority. This encompasses the management of financial risks inherent in the Authority's investment portfolios, amongst other organisational risks faced by the Authority.

22.2 The Risk Management Department provides senior management and the Risk Committee with regular reports of the risk profiles of the Authority's investments. These reports cover risk measurement and analysis of the Authority's investment portfolios. The department also formulates risk policies and controls, and performs independent risk monitoring of the portfolios in accordance with the stipulated investment guidelines.

22.3 Market Risk

a) Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices and includes currency, interest rate and other price risks.

i) Currency risk is the risk of loss on foreign assets and liabilities arising from changes in foreign exchange rates.

ii) Interest rate risk is the risk of loss arising from changes in market interest rates.

iii) Other price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk or currency risk), whether those changes are caused by factors specific to the individual financial instrument or its issuer, or factors affecting all similar financial instruments traded in the market.

b) Market risk is managed through regular monitoring of the market risk exposure of the Authority's investments, the diversification of the Authority's investments across different markets, and the establishment of investment risk tolerance and controls at both the aggregate and individual portfolio levels.

22.4 Credit Risk

a) Credit risk is the risk of loss arising from a party's failure to discharge an obligation under a financial contract and includes counterparty and issuer credit risk.

b) The Authority's credit risks are managed by transacting with entities of acceptable creditworthiness within assigned limits. Credit risks are also mitigated by diversifying credit exposures across counterparties and issuers and through collateral arrangements with counterparties whom the Authority has signed the International Swaps and Derivatives Association (ISDA) Credit Support Annex.

c) The Authority manages issuer credit risk by imposing minimum credit rating requirements on the investment of fixed income securities. Single issuer limits are placed to control the credit exposure to any one issuer and to mitigate the extent of loss resulting from a default.

22.5 Country Risk

The Authority's foreign assets are exposed to country credit risk arising from political, economic and financial events in the country of investment. Country limits are established to control the Authority's credit risk exposure to individual countries.

22.6 Liquidity Risk

Liquidity risk is the risk arising from the inability to sell a financial asset at close to its fair value at short notice due to inadequate market depth or market disruptions. The Authority manages liquidity risk by investing mostly in liquid financial instruments and markets, and imposing limits on investments to ensure sufficient diversification and through regular monitoring of the liquidity profile of the Authority's investments.

23 RELATED PARTY TRANSACTIONS

23.1 The Financial Sector Development Fund (the "Fund") maintains a non-interest bearing current account with the Authority to facilitate grant disbursements. The Fund's current account balance with the Authority as at 31 March 2016 was $0.7 million (31 March 2015: $0.4 million).

23.2 The Authority also accepted deposits from the Fund, in the ordinary course of business and at arm's length, incurring interest expense disclosed below:

in $ thousands	2016	2015
Interest Expense	557	282

The Fund's deposit balance with the Authority as at 31 March 2016 was $nil million (31 March 2015: $126 million).

24 SEGMENT REPORTING

Owing to their integrated nature, the Authority's operations, including those of its subsidiary, SSPL, comprise one main operating segment only, i.e. the conduct of monetary policy, issuance of currency, management of the official foreign reserves and acting as the banker to and financial agent of the Government, for segment reporting purposes. In addition, the Authority's operations are mainly in one geographical area, Singapore. All other segment information are below the quantitative thresholds for separate disclosure.

25 NEW OR REVISED ACCOUNTING STANDARDS AND INTERPRETATIONS

New or revised accounting standards and interpretations to existing standards have been issued that are relevant for the Authority's accounting periods beginning after 1 April 2015 or later periods and which the Authority has not early adopted. The Authority does not expect the following revised accounting standards that are applicable, to have a significant impact on the Authority's consolidated financial statements.

Effective for annual periods beginning on or after 1 January 2016

Amendments to FRS 1 Presentation of Financial Statements: Disclosure Initiative

The amendments to FRS 1 clarify guidance on materiality and aggregation, the presentation of subtotals, the structure of financial statements and the disclosure of accounting policies.

Amendments to FRS 16 Property, Plant and Equipment

The amendments to FRS 16 explicitly state that revenue-based methods of depreciation are not appropriate for property, plant and equipment as they may reflect factors other than the diminution of economic benefits of the asset such as technical or commercial obsolescence or wear and tear while an asset remains idle.

Effective for annual periods beginning on or after 1 January 2017

Amendments to FRS 7 Statement of Cash Flows: Disclosure Initiative

The amendments to FRS 7 require additional disclosures to enable the user of financial statements to evaluate changes in liabilities arising from financing activities, such as providing a reconciliation between opening and closing balances in the balance sheet for liabilities arising from financing activities, and its link to the statement of cash flows.

26 AUTHORISATION OF CONSOLIDATED FINANCIAL STATEMENTS

The consolidated financial statements for the year ended 31 March 2016 were authorised by the Board of Directors for issuance and signed by Chairman and Managing Director on 24 June 2016.

STATISTICAL
ANNEXES

A.1 MONETARY STATISTICS:
MONEY SUPPLY

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Money Supply (M1)	63,938.6	75,703.8	93,472.1	112,487.0	130,591.9	140,709.1	154,597.3	160,217.7	160,445.8	159,733.9
Currency in active circulation[1]	16,668.5	18,997.4	20,216.5	22,299.5	24,690.3	26,361.3	28,851.6	31,506.9	34,042.3	34,609.6
Demand deposits	47,270.1	56,706.4	73,255.6	90,187.5	105,901.6	114,347.8	125,745.7	128,710.8	126,403.5	125,124.3
Quasi-money	233,620.3	257,707.3	277,735.8	290,609.1	312,766.2	334,683.4	341,310.5	352,213.1	359,793.9	373,310.3
Fixed deposits	151,731.7	155,121.9	156,731.1	154,417.3	160,699.6	175,270.8	171,989.3	172,712.0	174,465.4	186,098.4
Savings and other deposits	81,822.9	102,567.4	121,004.7	136,171.8	151,901.6	159,322.4	168,838.4	179,110.3	184,606.5	186,620.2
S$NCDs	65.7	18.0	0.0	20.0	165.0	90.2	482.8	390.8	722.0	591.7
Money Supply (M2)	297,558.9	333,411.1	371,207.9	403,096.1	443,358.1	475,392.5	495,907.8	512,430.8	520,239.7	533,044.2
Net deposits with finance companies	9,196.0	8,976.4	7,318.1	7,013.2	8,308.2	10,522.9	10,992.2	11,735.6	12,704.8	12,480.8
Money Supply (M3)	306,754.9	342,387.5	378,526.0	410,109.3	451,666.3	485,915.4	506,900.0	524,166.4	532,944.5	545,525.0

1 Figures exclude commemorative, numismatic and bullion coins issued by the Monetary Authority of Singapore and cash held by commercial banks and other financial institutions. The Board of Commissioners of Currency, Singapore, merged with the Monetary Authority of Singapore in October 2002.

A.2 MONETARY STATISTICS:
OFFICIAL FOREIGN RESERVES [1]

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Total Foreign Reserves	234,545.6	250,346.0	263,955.4	288,954.1	308,403.2	316,744.2	344,729.2	340,438.1	350,990.8	331,526.1
Gold & Foreign Exchange	233,913.1	249,546.1	261,374.6	286,563.3	305,589.5	313,987.3	341,734.8	337,676.1	348,420.5	328,694.3
Reserve Position in the IMF	128.6	255.8	375.5	421.0	1,080.8	1,115.8	1,296.7	1,084.1	852.6	1,419.5
Special Drawing Rights (SDRs)	503.9	544.1	2,205.3	1,969.8	1,732.9	1,641.1	1,697.7	1,677.9	1,717.7	1,412.3
Total Foreign Reserves (US$ million)	162,956.8	174,196.3	187,809.1	225,754.2	237,737.0	259,307.1	273,065.1	256,860.4	247,747.4	246,195.8

1 With effect from May 1999, the book value of foreign reserve assets are translated at market exchange rates prevailing at the end of each reporting month.

A.3 MONETARY STATISTICS:
EXCHANGE RATES

S$ Per Foreign Currency

Period Average	2007	2008	2009	2010	2011	2012	2013	2014	2015	1st Qtr 2016
US Dollar	1.5071	1.4148	1.4545	1.3635	1.2579	1.2497	1.2513	1.2671	1.3748	1.4049
100 Japanese Yen	1.2806	1.3738	1.5562	1.5543	1.5780	1.5672	1.2840	1.1996	1.1364	1.2185
Euro	2.0638	2.0771	2.0242	1.8095	1.7495	1.6071	1.6621	1.6837	1.5267	1.5484
Pound Sterling	3.0161	2.6162	2.2737	2.1073	2.0161	1.9803	1.9573	2.0873	2.1023	2.0110
Swiss Franc	1.2563	1.3090	1.3407	1.3089	1.4201	1.3332	1.3503	1.3859	1.4295	1.4129
Australian Dollar	1.2624	1.2016	1.1473	1.2524	1.2971	1.2940	1.2107	1.1431	1.0339	1.0126
100 Korean Won	0.1622	0.1306	0.1143	0.1180	0.1135	0.1109	0.1144	0.1204	0.1215	0.1168
100 New Taiwan Dollar	4.5870	4.4874	4.4023	4.3292	4.2798	4.2262	4.2155	4.1812	4.3298	4.2390
Hong Kong Dollar	0.1932	0.1817	0.1876	0.1755	0.1616	0.1611	0.1613	0.1634	0.1773	0.1807
Malaysian Ringgit	0.4384	0.4247	0.4126	0.4234	0.4111	0.4046	0.3973	0.3873	0.3534	0.3344
Thai Baht	0.0436	0.0424	0.0424	0.0430	0.0413	0.0402	0.0408	0.0390	0.0402	0.0394
100 Indonesian Rupiah	0.0165	0.0147	0.0140	0.0150	0.0143	0.0133	0.0120	0.0107	0.0103	0.0104

Note: Currencies quoted are those frequently requested from the Authority.

A.4 MONETARY STATISTICS:
DOMESTIC INTEREST RATES

Per Cent Per Annum

Period Average	2007	2008	2009	2010	2011	2012	2013	2014	2015	1st Qtr 2016
Banks[1]										
Prime Lending Rate	5.33	5.38	5.38	5.38	5.38	5.38	5.38	5.35	5.35	5.35
Fixed Deposit Rate										
3-month	0.53	0.42	0.29	0.21	0.17	0.14	0.14	0.14	0.17	0.19
6-month	0.64	0.54	0.37	0.30	0.24	0.19	0.20	0.21	0.23	0.25
12-month	0.85	0.73	0.56	0.48	0.40	0.30	0.32	0.32	0.33	0.35
Savings Deposit Rate	0.25	0.23	0.18	0.14	0.12	0.11	0.10	0.11	0.12	0.14
Finance Companies[2]										
Fixed Deposit Rate										
3-month	0.75	0.49	0.29	0.22	0.16	0.16	0.19	0.18	0.22	0.30
6-month	1.09	0.59	0.33	0.27	0.23	0.24	0.26	0.25	0.29	0.38
12-month	1.57	0.90	0.62	0.54	0.50	0.48	0.53	0.53	0.55	0.58
Savings Deposit Rate	0.33	0.26	0.25	0.25	0.22	0.17	0.17	0.17	0.17	0.17
S$ SIBOR										
1-month	2.66	1.14	0.44	0.38	0.30	0.31	0.32	0.36	0.81	1.09
3-month	2.76	1.33	0.70	0.56	0.41	0.39	0.38	0.41	0.92	1.24
US$ LIBOR										
1-month	5.25	2.67	0.33	0.27	0.23	0.24	0.19	0.16	0.20	0.43
3-month	5.30	2.91	0.69	0.34	0.34	0.43	0.27	0.23	0.32	0.62
6-month	5.25	3.04	1.12	0.52	0.51	0.69	0.41	0.33	0.48	0.87

1 Average of 10 leading banks.
2 Average of all finance companies.

Note: Interest rates for banks (except for Prime Lending Rate) and finance companies refer to average of end of month rates.
Note: Domestic interbank rates have been discontinued with effect from 1 January 2014 and replaced with S$ SIBOR. US$ SIBOR rates have been also replaced with the US$ LIBOR, the most widely-used US$ interest rate benchmark, so as to align with the larger global US$ market.

B.1 COMMERCIAL BANKS:
ASSETS AND LIABILITIES

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Assets										
Cash in hand	1,772.9	1,739.8	2,026.8	2,219.9	2,796.4	2,756.0	2,807.5	2,917.1	4,396.2	3,673.5
Balances with MAS	9,530.4	13,466.0	13,999.9	15,878.7	17,815.3	19,503.3	32,107.0	20,311.6	22,218.5	23,255.6
S$NCDs held	0.0	0.0	0.0	0.0	9.9	201.8	210.0	0.0	425.0	237.5
Amounts due from banks	194,828.8	217,089.8	227,923.9	232,272.3	216,223.0	184,902.7	142,986.5	183,016.5	170,139.1	189,021.4
In Singapore	59,924.1	52,572.1	57,188.2	77,972.8	58,857.6	44,059.5	27,601.4	32,391.8	26,960.5	32,304.0
ACUs	58,945.9	73,134.5	87,208.0	69,152.1	62,125.1	44,061.6	29,216.8	46,889.1	51,660.2	55,875.4
Outside Singapore	75,958.8	91,383.2	83,527.7	85,147.4	95,240.3	96,781.5	86,168.3	103,735.6	91,518.4	100,842.0
Investments	91,943.8	98,715.0	122,968.0	130,081.3	137,711.5	153,318.2	167,478.7	184,960.5	194,890.5	198,824.7
In Singapore	78,349.4	84,826.2	98,742.6	107,526.2	118,078.4	129,130.0	139,193.4	154,168.8	149,350.6	151,065.2
Government securities	59,934.1	66,696.1	81,318.8	84,853.4	91,417.5	98,422.4	98,213.9	106,234.3	108,845.3	110,292.1
Others	18,415.3	18,130.1	17,423.8	22,672.8	26,660.9	30,707.6	40,979.5	47,934.5	40,505.3	40,773.1
Outside Singapore	13,594.3	13,889.0	24,225.6	22,555.2	19,633.2	24,188.2	28,285.3	30,791.9	45,539.8	47,759.3
Loans and advances to non-bank customers	233,393.9	272,175.4	281,296.8	322,743.8	420,455.5	490,706.5	574,274.4	607,200.5	599,756.0	590,578.7
of which bills financing	9,035.2	9,489.7	11,308.5	20,050.4	44,582.2	56,292.0	79,657.4	75,343.9	52,846.8	42,070.6
Fixed and other assets	51,389.2	65,112.3	58,598.7	78,411.4	60,799.7	59,620.6	53,362.6	61,236.0	65,695.4	69,427.7
Liabilities										
Paid-up capital and reserves	41,436.9	51,315.7	54,967.6	62,441.7	64,845.4	66,305.4	66,291.7	70,995.6	76,103.1	84,633.3
Deposits of non-bank customers	314,985.8	347,507.4	391,495.1	433,757.8	483,110.3	518,840.7	537,582.9	550,363.9	560,011.5	573,399.3
S$NCDs issued	65.7	18.0	0.0	20.0	175.0	292.0	692.8	390.8	1,147.0	829.2
Amounts due to banks	165,520.8	184,405.1	176,394.4	188,564.9	226,427.6	244,892.2	293,986.6	339,195.4	318,251.5	311,520.9
In Singapore	17,225.7	18,283.9	13,869.4	14,189.7	9,900.5	12,088.7	11,244.2	12,876.3	11,353.0	12,982.4
ACUs	95,867.3	92,313.0	113,588.1	119,350.8	147,478.7	162,746.8	206,129.6	224,430.8	211,980.9	204,075.9
Outside Singapore	52,427.8	73,808.1	48,936.9	55,024.4	69,048.4	70,056.7	76,612.7	101,888.2	94,917.6	94,462.6
Bills payable	1,254.3	904.0	1,023.4	1,096.3	1,495.7	1,778.4	1,624.2	1,515.8	1,652.8	1,786.2
Other liabilities	59,595.5	84,148.2	82,933.6	95,726.8	79,757.3	78,900.3	73,048.7	97,180.8	100,354.8	102,850.2
Total Assets/Liabilities	582,859.0	668,298.4	706,814.2	781,607.4	855,811.4	911,009.0	973,226.8	1,059,642.3	1,057,520.6	1,075,019.1

B.2 COMMERCIAL BANKS:
LOANS AND ADVANCES BY INDUSTRIAL CLASSIFICATION

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Agriculture, mining and quarrying	232.1	283.2	260.3	382.2	1,719.7	2,104.3	4,905.9	5,536.0	5,611.6	5,747.2
Manufacturing	10,225.8	11,786.1	10,547.3	10,917.6	19,023.5	27,166.3	31,601.6	29,614.7	26,000.9	26,972.1
Building and construction	37,508.9	50,006.6	48,940.6	53,593.9	67,304.4	78,704.0	91,274.7	103,712.6	119,405.2	119,983.6
Housing and bridging loans	73,139.1	79,587.0	91,429.5	112,381.3	131,106.5	152,003.0	166,542.0	177,434.6	184,680.6	185,372.9
General commerce	22,269.0	24,861.6	23,357.4	30,982.9	48,809.6	57,349.8	75,888.3	78,082.4	65,954.1	56,798.3
Transport, storage and communication	9,129.8	9,211.7	10,612.3	9,018.1	11,883.2	13,089.2	17,162.7	20,045.3	20,810.4	19,252.9
Non-bank financial institutions	31,360.4	33,506.1	32,465.3	37,984.6	55,550.9	64,895.1	76,387.4	80,984.1	68,697.9	70,488.7
Professional and private individuals	35,070.9	37,872.3	39,476.3	42,396.1	52,669.8	60,451.0	65,688.0	68,751.3	67,493.3	66,153.7
Others	14,458.1	25,060.6	24,208.0	25,087.2	32,387.8	34,943.8	44,823.9	43,039.5	41,101.8	39,809.3
Total	233,393.9	272,175.4	281,296.8	322,743.8	420,455.5	490,706.5	574,274.4	607,200.5	599,756.0	590,578.7

B.3 COMMERCIAL BANKS:
TYPES OF LOANS AND ADVANCES TO NON-BANK CUSTOMERS

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Overdrafts	10,437.2	10,264.5	9,973.0	8,918.7	8,591.8	9,322.5	9,986.6	9,264.5	9,525.3	8,960.0
Bills discounting	9,035.2	9,489.7	11,308.5	20,050.4	44,582.2	56,292.0	79,657.4	75,343.8	52,846.9	42,070.6
Trust receipts	6,431.8	6,504.0	4,874.3	5,374.6	6,727.3	7,429.4	8,819.7	8,376.0	9,419.6	8,654.8
Term loans and others	207,489.8	245,917.2	255,140.9	288,400.2	360,554.2	417,662.6	475,810.7	514,216.2	527,964.2	530,893.3
Total	233,393.9	272,175.4	281,296.8	322,743.8	420,455.5	490,706.5	574,274.4	607,200.5	599,756.0	590,578.7

B.4 COMMERCIAL BANKS:
TYPES OF DEPOSITS INCLUDING S$NCDS

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Demand	52,080.2	62,100.4	81,047.0	100,394.2	120,133.3	130,965.7	142,676.7	147,007.3	141,953.0	141,612.2
Fixed	175,421.2	175,646.9	179,571.8	185,564.8	197,609.5	213,657.9	210,490.5	207,959.3	216,838.7	228,977.5
Savings	86,496.0	109,033.5	129,995.1	146,802.5	163,782.5	171,785.5	181,865.7	192,101.8	197,140.1	198,664.5
S$NCDs (net)	65.7	18.0	0.0	20.0	165.0	90.2	482.8	390.8	722.0	591.7
Others	988.5	726.6	881.3	996.3	1,585.1	2,431.7	2,549.9	3,295.4	4,079.6	4,145.1
Total	315,051.6	347,525.4	391,495.1	433,777.8	483,275.3	518,930.9	538,065.7	550,754.7	560,733.5	573,991.0

B.5 COMMERCIAL BANKS: LIQUIDITY POSITION

Period Average	S$ Million 1st Qtr 2016*
Liquid Assets	
(a) Minimum Requirement	167,843.0
(b) Total Actual Liquid Assets	310,538.6
(c) Free Liquid Assets (b) - (a)	142,695.6

* *In view of changes to the local liquidity regulations from 1 Jan 2016, the content of Table B.5 is updated accordingly. Please contact us at webmaster@mas.gov.sg if you have any queries.*

C.1 FINANCE COMPANIES:
ASSETS AND LIABILITIES

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Assets										
Reserves with MAS	274.9	274.8	220.1	215.1	251.9	318.0	328.2	357.9	385.7	381.2
Deposits with banks and other financial institutions	881.7	988.5	1,809.4	1,885.0	1,176.2	1,810.1	1,369.2	1,495.4	1,895.9	1,804.1
Banks	881.7	988.5	1,809.4	1,885.0	1,176.2	1,810.1	1,369.2	1,495.4	1,895.9	1,804.1
Other institutions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Loans and advances	10,179.7	9,743.1	8,092.0	8,058.2	9,460.2	11,311.5	11,653.9	12,385.4	13,251.7	13,077.2
Housing loans	1,767.1	1,587.6	1,226.4	1,485.5	1,517.1	1,402.8	1,394.0	1,448.4	1,475.8	1,465.0
Hire purchase	2,713.1	2,755.6	2,361.3	2,069.9	2,037.7	2,089.9	1,891.5	1,779.4	1,978.1	2,009.5
Lease finance	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Others	5,699.4	5,399.9	4,504.3	4,502.8	5,905.4	7,818.8	8,368.4	9,157.6	9,797.9	9,602.7
Securities and equities	1,277.7	1,456.9	1,453.7	1,259.3	1,161.9	1,414.7	1,522.5	1,613.0	1,735.6	1,745.3
Other assets	167.9	123.0	116.7	106.0	115.1	113.1	112.0	124.0	140.9	115.7
Liabilities										
Capital and reserves	1,683.3	1,713.0	1,824.9	1,926.2	1,999.2	2,104.8	2,109.6	2,214.2	2,242.4	2,272.2
Deposits	10,087.2	9,975.7	9,111.0	8,891.4	9,481.0	12,347.6	12,396.1	13,295.7	14,667.1	14,350.1
Fixed	9,939.5	9,799.7	8,861.1	8,614.6	9,218.7	11,909.9	11,887.0	12,897.2	14,313.5	14,022.4
Savings	140.0	162.4	238.2	266.6	252.7	220.9	240.3	217.3	197.9	193.5
Others	7.7	13.6	11.7	10.2	9.7	216.8	268.7	181.2	155.8	134.1
Borrowings	256.9	134.9	97.5	79.6	45.6	22.6	17.0	6.9	4.3	3.6
Other liabilities	754.5	762.8	658.5	626.4	639.5	492.5	463.0	458.9	496.0	497.6
Total Assets/Liabilities	12,781.8	12,586.4	11,691.9	11,523.6	12,165.3	14,967.5	14,985.7	15,975.7	17,409.8	17,123.5

D.1 MERCHANT BANKS:
CONSOLIDATED ASSETS AND LIABILITIES [1]

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Assets										
Amounts due from banks	36,261.8	32,093.5	22,327.0	22,604.2	22,815.1	21,646.5	21,226.5	19,532.4	25,050.5	24,745.2
In Singapore	660.5	1,262.2	1,488.4	2,254.7	2,567.3	3,170.6	3,433.8	3,556.6	2,803.5	2,617.2
Asian Currency Units	20,688.9	13,853.3	7,153.9	5,097.9	4,615.0	5,300.3	5,212.7	7,432.7	9,345.2	9,953.7
Outside Singapore	14,912.3	16,978.0	13,684.7	15,251.7	15,632.8	13,175.6	12,580.0	8,543.2	12,901.8	12,174.3
Loans and advances to non-bank customers	28,157.1	21,754.6	23,451.1	25,976.8	29,095.7	26,832.3	25,533.8	26,640.2	23,322.0	22,009.8
Securities and equities	21,072.0	13,182.7	24,484.6	36,100.0	28,618.0	38,303.3	32,642.1	43,415.1	50,320.9	37,222.0
Other assets	3,579.3	5,571.5	6,091.7	5,079.2	7,322.2	5,628.9	5,542.5	6,669.1	7,889.8	8,099.3
Liabilities										
Capital and reserves	9,164.4	8,443.2	8,855.7	9,510.2	9,983.6	12,168.2	12,381.3	12,560.9	13,024.6	12,484.0
Amounts due to banks	36,478.5	35,698.1	37,963.7	51,264.3	46,928.5	55,045.1	51,658.0	63,112.6	70,528.6	55,971.6
In Singapore	1,463.7	530.7	3,265.6	3,101.8	585.8	615.2	408.6	406.4	514.3	624.3
Asian Currency Units	19,614.0	17,419.1	13,138.0	22,920.9	23,772.5	22,413.9	20,349.2	21,296.9	23,184.9	19,108.7
Outside Singapore	15,400.7	17,748.2	21,560.0	25,241.5	22,570.2	32,016.0	30,900.2	41,409.4	46,829.4	36,022.5
Borrowings from non-bank customers	36,904.2	22,781.3	23,824.0	21,249.1	22,623.4	17,741.8	13,600.6	12,564.7	13,291.2	13,184.0
Other liabilities	6,523.2	5,679.7	5,711.0	7,736.8	8,315.7	7,456.0	7,305.0	8,018.6	9,738.7	10,436.8
Total Assets/Liabilities	89,070.2	72,602.3	76,354.4	89,760.3	87,851.1	92,411.0	84,944.9	96,256.8	106,583.2	92,076.3

1 Data are derived from the consolidation of merchant banks' domestic and Asian dollar operations.

D.2 MERCHANT BANKS:
ASSETS AND LIABILITIES OF DOMESTIC UNIT OPERATIONS [1]

S$ Million

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Assets										
Amounts due from banks	4,387.4	5,323.1	5,528.5	5,886.6	6,718.5	7,564.1	8,105.6	8,288.7	8,065.1	7,701.2
In Singapore	659.6	1,261.8	1,488.4	2,254.6	2,567.0	3,109.2	3,414.5	3,478.1	2,800.0	2,616.6
Asian Currency Units	3,112.0	3,062.9	2,988.7	2,368.8	2,539.6	2,894.1	3,520.2	4,063.2	4,558.0	4,369.3
Outside Singapore	615.8	998.4	1,051.3	1,263.2	1,611.9	1,560.8	1,170.9	747.3	707.1	715.4
Loans and advances to non-bank customers	1,138.5	781.7	845.6	1,917.8	1,660.0	1,738.0	1,475.6	1,428.6	1,434.1	1,290.9
Securities and equities	1,641.2	1,221.1	3,067.1	3,024.9	3,043.1	2,663.9	2,388.7	1,977.0	1,740.4	1,770.4
Other assets	1,170.7	1,469.6	769.0	601.1	715.6	792.8	554.9	565.4	839.8	949.5
Liabilities										
Capital and reserves	2,745.3	3,262.9	3,138.4	3,564.6	3,219.2	4,025.9	3,440.8	3,032.0	3,701.4	3,853.1
Amounts due to banks	3,944.6	3,647.8	6,039.7	6,453.8	7,439.2	7,318.0	7,639.8	7,709.2	6,972.4	6,482.8
In Singapore	1,449.3	527.9	1,340.2	649.2	553.3	578.5	389.7	386.6	500.1	610.8
Asian Currency Units	1,642.6	1,482.4	1,948.4	2,796.1	3,462.1	3,050.0	4,941.8	6,067.7	5,346.4	4,761.9
Outside Singapore	852.7	1,637.5	2,751.1	3,008.5	3,423.8	3,689.5	2,308.4	1,254.9	1,125.9	1,110.1
Borrowings from non-bank customers	521.9	341.6	318.2	360.9	457.7	395.3	332.2	297.4	282.0	283.8
Other liabilities	1,126.1	1,543.2	713.9	1,051.1	1,021.2	1,019.5	1,111.9	1,221.1	1,123.5	1,092.3
Total Assets/Liabilities	8,337.8	8,795.5	10,210.2	11,430.4	12,137.2	12,758.7	12,524.7	12,259.7	12,079.3	11,712.0

1 Corporate financial advisory services, underwriting activities and operations in the gold market are not reflected in the data.

E.1 INSURANCE INDUSTRY:
ASSETS AND PREMIUMS

S$ Million

	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Total Assets of Insurance Industry (End Period)	128,777.4	115,047.7	135,801.3	149,335.3	161,114.8	174,860.1	179,692.7	197,401.9	209,581.4	210,652.9
Direct Insurers	118,860.0	104,487.9	123,585.0	136,028.0	143,019.7	156,802.6	161,597.3	177,415.2	187,627.7	191,753.7
Professional Reinsurers	7,960.1	8,655.2	9,950.4	10,827.6	15,277.2	15,022.1	14,886.3	16,322.2	18,214.5	18,899.2
Captive Insurers	1,957.3	1,904.6	2,265.9	2,479.7	2,817.9	3,035.4	3,209.1	3,664.5	3,739.2	N.A.
General Business: Gross Premiums[1]										
Total General Business	6,105.4	6,829.3	7,436.2	8,580.0	9,820.4	10,416.5	11,102.4	11,768.1	12,996.8	3,157.6
Domestic Business	2,621.9	2,962.5	2,940.8	3,230.6	3,423.6	3,626.7	3,738.1	3,850.5	3,999.1	1,156.4
Offshore Business	3,483.5	3,866.8	4,495.4	5,349.4	6,396.8	6,789.8	7,364.3	7,917.6	8,997.7	2,001.2
Life Business: Premiums										
Premiums in Force (End Period)	7,660.8	8,347.5	9,719.1	11,374.9	12,412.7	13,663.6	15,073.2	16,587.7	18,862.1	20,080.1
New Business Premiums										
Annual Premium Policies	1,121.9	1,459.2	1,840.7	3,014.8	2,466.4	2,453.7	3,114.6	2,812.3	3,652.0	804.2
Single Premium Policies										
Life Insurance	9,031.7	8,038.2	6,501.6	7,276.7	7,253.4	6,423.6	7,397.1	9,038.1	10,118.6	2,227.9
Annuity	402.9	554.2	189.4	152.2	168.2	171.1	36.8	29.3	16.1	3.3

1 *Figures for March 2016 does not include general captives and marine mutual insurers.*

N.A: Not available

F.1 NON-BANK FINANCIAL INSTITUTIONS:
CENTRAL PROVIDENT FUND BOARD

S$ million

	2007	2008	2009	2010	2011	2012	2013	2014	2015	1st Qtr 2016**
Excess of contributions over withdrawals	6,555.1	9,265.1	9,404.4	12,374.2	14,184.8	14,321.6	13,666.8	12,423.3	13,323.9	5,215.8
Contributions (net of refunds) by members[1]	18,117.8	20,232.3	20,124.9	21,992.7	24,628.4	26,048.4	28,530.0	29,722.1	32,049.1	9,952.1
Withdrawals (net of refunds) by members[2]	11,562.7	10,967.2	10,720.5	9,618.5	10,443.6	11,726.8	14,863.2	17,298.8	18,725.2	4,736.3
Approved housing schemes[3]	5,867.9	5,847.0	5,836.5	4,852.7	6,810.9	7,993.7	8,341.4	9,598.3	10,380.5	2,778.3
Under Section 15 and Section 25 of CPF Act	3,081.0	2,799.8	2,622.9	2,628.9	2,909.4	3,112.2	3,967.0	4,265.6	5,155.9	1,231.2
Medical schemes[4]	1,076.7	1,302.9	1,476.4	1,645.4	1,792.1	1,840.4	2,381.1	2,501.7	2,737.9	595.7
Others	1,537.1	1,017.5	784.7	491.5	-1,068.8	-1,219.5	173.7	933.2	450.9	131.1
Interest credited to members	4,228.0	5,455.1	6,092.6	6,709.8	7,472.7	8,290.6	9,144.2	9,971.9	10,834.5	2,944.6
Advance deposits with MAS[5]	17,874.2	14,167.3	15,408.0	18,765.9	19,935.0	19,119.1	18,636.3	20,327.6	20,838.8	6,101.1
Interest earnings from investments[6]	4,432.1	5,651.4	6,276.3	6,978.9	7,792.7	8,646.9	9,571.6	10,481.3	11,445.5	3,097.9
Holdings of Government Securities[7]	128,626.5	141,325.5	157,446.7	176,142.0	197,245.5	219,037.6	241,428.2	263,134.6	286,792.0	298,443.1
Members' accounts	136,586.9	151,307.1	166,804.0	185,888.0	207,545.5	230,157.7	252,968.6	275,363.9	299,522.4	307,682.8

Source: Central Provident Fund Board

1 Contributions include dividends from Special Discounted Shares and Government Grants.

2 Withdrawals include transfers to / from Reserve Account / general moneys of the Fund.

3 Approved housing schemes include Public Housing and Residential Properties schemes.

4 Medical schemes includes Medisave, MediShield, Private Medical Insurance and ElderShield schemes.

5 Deposits placed with MAS during the year excludes: a) interests on bonds & interest on Advance Deposits retained as deposits by MAS; and b) conversions and redemptions of Government bonds.

6 Includes interest earned from investments held in funds that are administered by the CPF Board. This includes the Central Provident Fund, Lifelong Income Fund, MediShield Fund, Home Protection Fund and Dependants' Protection Residual Fund.

7 Holdings exclude advance deposits with MAS.

** *Provisional figures (unaudited)*

G.1 DOMESTIC CAPITAL MARKET:
NET FUNDS RAISED IN THE DOMESTIC CAPITAL MARKET

S$ Million

	2007	2008	2009	2010	2011	2012	2013	2014	2015	1st Qtr 2016
A Net funds raised by Government	22,837.3	17,526.1	16,793.2	23,742.4	41,075.2	39,864.3	60,985.5	59,242.2	11,581.5	6,356.4
1) Gross issue of Government securities [1]	35,930.9	38,097.7	41,201.3	60,383.4	49,609.3	50,826.4	57,291.6	59,107.1	58,524.5	306,655.7
Less:										
Redemption of Government securities	21,022.5	21,898.7	21,180.0	36,589.0	23,815.5	25,515.5	28,293.8	30,309.5	24,667.0	289,310.5
Conversion from accumulated advance deposits	9,708.4	12,699.0	17,121.3	20,194.4	21,593.9	22,110.9	25,597.8	24,697.6	26,059.0	13,157.6
2) New advance deposits	16,222.3	13,526.1	15,164.2	18,402.4	19,280.2	18,284.3	18,545.5	20,246.2	20,683.0	6,088.8
3) Net issues of statutory boards' securities[2]	1,415.0	500.0	-1,271.0	1,740.0	17,595.0	18,380.0	39,040.0	34,896.0	-16,900.0	-4,020.0
B New capital raised by the private sector	22,650.2	9,839.0	24,452.8	12,673.4	16,887.8	6,019.8	13,767.1	11,298.6	7,307.6	390.9
1) Public issues of shares	7,805.9	5,538.6	3,209.9	6,744.4	10,420.2	2,315.1	6,315.0	3,522.0	595.8	48.7
2) Rights issues	6,709.6	3,365.0	17,216.2	2,143.4	3,834.8	1,438.3	3,143.9	5,425.6	4,326.7	197.0
3) Private placements of listed shares	8,134.7	935.4	4,026.8	3,785.7	2,632.8	2,266.4	4,308.2	2,351.0	2,385.1	145.2
C Issues of debt securities	29,986.7	15,494.3	15,320.5	25,880.7	24,800.7	32,780.8	25,499.5	26,025.3	26,675.9	4,522.7
1) Listed bonds, debentures and loan stocks [3]	17,940.2	8,804.0	6,816.6	17,793.0	15,797.0	26,708.0	18,427.7	19,072.0	15,008.0	3,086.0
2) Unlisted bonds [4]	12,046.5	6,690.3	8,503.9	8,087.7	9,003.7	6,072.8	7,071.8	6,953.3	11,667.9	1,436.7
Total net funds raised (A+B+C)	75,474.2	42,859.4	56,566.5	62,296.5	82,763.7	78,664.9	100,252.1	96,566.1	45,565.0	11,270.0

1 Government securities excluding treasury bills.
2 Statutory board securities including MAS Bills.
3 Singapore dollar-denominated bonds listed on the Singapore Exchange (SGX).
4 This includes bonds that are not listed on the SGX but listed on other exchanges.

H.1 ASIAN DOLLAR MARKET:
ASSETS AND LIABILITIES

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	US$ Million March 2016
Assets										
Loans to non-bank customers	197,823.1	214,381.9	219,614.4	268,081.7	312,814.0	340,914.0	400,597.0	433,648.4	407,968.8	400,512.0
Interbank funds	532,674.6	498,669.6	460,726.4	501,891.4	528,823.2	562,970.6	614,645.6	569,140.4	536,726.3	543,864.7
In Singapore	66,398.3	64,140.5	80,941.5	92,715.5	113,361.8	133,171.6	162,830.7	169,487.9	149,080.8	151,008.4
Inter-ACU	53,610.7	54,620.3	41,678.4	53,762.1	53,383.9	53,768.7	56,274.7	51,138.2	60,510.7	59,632.2
Outside Singapore	412,665.5	379,908.9	338,106.5	355,413.7	362,077.5	376,030.3	395,540.2	348,514.3	327,134.9	333,224.1
NCDs held	2,520.4	1,052.5	1,187.7	1,111.3	686.1	1,745.6	4,883.3	7,312.6	6,748.1	6,807.9
Other assets	173,972.9	198,635.4	187,871.2	200,215.0	177,209.6	187,634.3	160,577.7	180,530.4	204,379.4	214,930.8
Liabilities										
Deposits of non-bank customers	275,256.9	262,162.1	269,370.2	273,980.3	296,376.6	327,863.5	365,141.3	393,116.8	395,070.2	400,407.0
Interbank funds	540,688.3	523,690.5	502,232.6	584,218.2	599,568.3	628,109.0	648,170.8	615,078.7	574,762.8	573,166.0
In Singapore	50,438.6	62,600.9	87,208.3	79,206.4	77,629.4	75,466.9	60,529.3	62,608.9	63,393.3	57,937.9
Inter-ACU	53,670.1	54,848.7	41,778.1	53,812.3	53,603.0	53,934.8	56,261.1	51,721.6	60,595.7	60,200.1
Outside Singapore	436,579.6	406,240.9	373,246.2	451,199.5	468,335.9	498,707.3	531,380.3	500,748.2	450,773.8	455,027.9
NCDs issued	3,652.1	1,593.9	1,416.2	1,780.4	1,686.8	3,572.8	9,916.7	12,682.5	6,658.6	7,690.9
Other liabilities	87,393.7	125,292.9	96,380.6	111,320.5	121,901.2	133,719.3	157,474.7	169,753.8	179,331.0	184,851.4
Total Assets/Liabilities	906,991.0	912,739.4	869,399.6	971,299.4	1,019,532.9	1,093,264.6	1,180,703.6	1,190,631.8	1,155,822.6	1,166,115.3

H.2 ASIAN DOLLAR MARKET:
MATURITY TRANSFORMATION BY ASIAN CURRENCY UNITS

US$ Billion

End of Period	2007	2008	2009	2010	2011	2012	2013	2014	2015	March 2016
Net Position [1]										
Up to 6 months	-162.6	-169.1	-160.8	-178.5	-178.1	-154.3	-169.8	-179.3	-154.1	-159.0
Over 6 months to 1 year	27.0	21.7	15.6	28.7	33.3	20.4	28.1	25.8	16.1	17.6
Over 1 to 3 years	46.8	50.8	60.4	67.2	58.4	56.9	56.9	60.0	51.8	53.5
Over 3 years	83.9	83.4	73.0	79.6	75.3	67.8	76.3	79.5	70.5	76.2
Claims [1]										
Up to 6 months	603.3	570.3	561.6	621.9	642.1	701.1	764.4	758.7	734.9	741.8
Over 6 months to 1 year	55.3	52.4	42.6	54.4	68.0	65.2	78.2	75.0	74.0	80.2
Over 1 to 3 years	71.7	80.9	85.0	101.9	109.5	115.6	121.5	138.8	136.4	131.4
Over 3 years	117.7	117.4	105.8	122.4	126.8	129.9	135.7	142.8	134.0	140.0
Liabilities [1]										
Up to 6 months	765.9	739.4	722.4	800.4	820.2	855.4	934.2	938.0	889.0	900.8
Over 6 months to 1 year	28.3	30.7	27.0	25.7	34.7	44.8	50.1	49.2	57.9	62.6
Over 1 to 3 years	24.9	30.1	24.6	34.7	51.1	58.7	64.6	78.8	84.6	77.9
Over 3 years	33.8	34.0	32.8	42.8	51.5	62.1	59.4	63.3	63.5	63.8

1 *Data exclude those claims or liabilities with unallocated maturity periods. Therefore the sum of all the maturity categories for claims may not be equal to the sum of all the maturity categories for liabilities.*

GLOSSARY

GLOSSARY

AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
ASEAN	Association of Southeast Asian Nations
ASEAN-4	ASEAN (Indonesia, Malaysia, Thailand and the Philippines)
ASEAN+3	ASEAN plus China, Japan and South Korea
BOJ	Bank of Japan
CNY	Chinese Yuan
COE	Certificate of Entitlement
CPI	Consumer Price Index
ECB	European Central Bank
EUR	Euro
FinTech	Financial Technology
FSB	Financial Stability Board
FY	Financial Year
G20	Group of Twenty
G3	Group of Three
GBP	British Pound
GDP	Gross Domestic Product
IMF	International Monetary Fund
INR	Indian Rupee
IT	Information Technology
JPY	Japanese Yen
LIBOR	London Interbank Offered Rate
MOU	Memorandum of Understanding
NEA-3	Northeast Asia (Hong Kong, Taiwan and South Korea)
PBC	People's Bank of China
q-o-q	Quarter-on-Quarter
RMB	Renminbi
S$/SGD	Singapore Dollar
S$NEER	Nominal Effective Exchange Rate
SAAR	Seasonally Adjusted Annualised Rate
SGX	Singapore Exchange
SIBOR	Singapore Interbank Offered Rate
y-o-y	Year-on-Year
US$/USD	United States Dollar

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OBJECTIVES AND PRINCIPLES OF FINANCIAL SUPERVISION IN SINGAPORE

Monetary Authority of Singapore

April 2004

(revised in September 2015)

OBJECTIVES AND PRINCIPLES OF FINANCIAL SUPERVISION IN SINGAPORE

Contents ***Page***

MONETARY AUTHORITY OF SINGAPORE

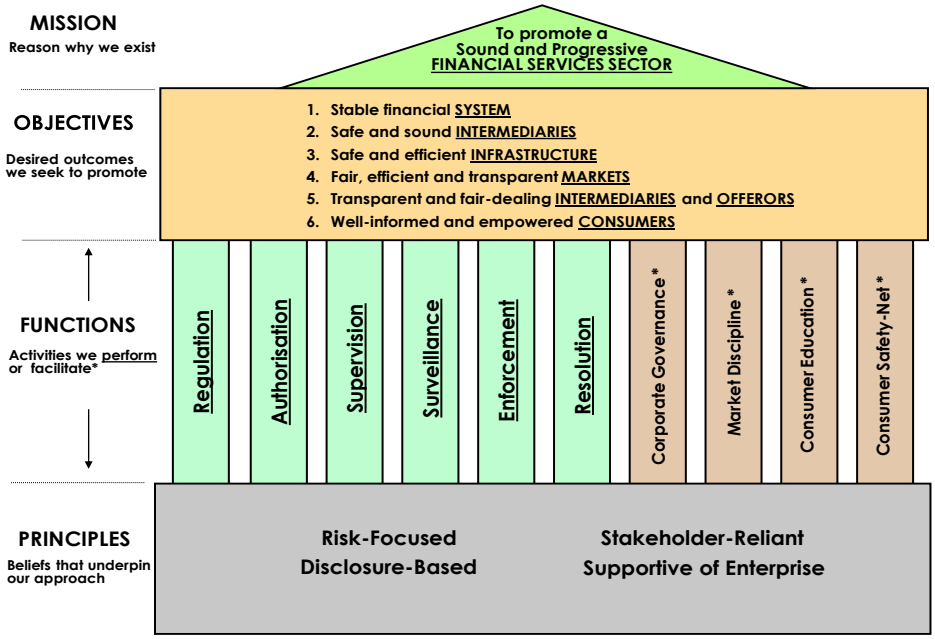
APRIL 2004 (revised in September 2015)

1 Introduction

1 The ***mission*** of the Monetary Authority of Singapore (MAS) is "to promote sustained and non-inflationary economic growth, and a sound and progressive financial services sector". To carry out this mission, MAS conducts exchange rate policy, manages the official foreign reserves, regulates and supervises the financial sector, and works with the industry to develop Singapore as an international financial centre.

2 This document focuses on the supervisory aspect of MAS' mandate, namely, to promote a sound and progressive financial services sector through regulation and supervision.[1] It sets out MAS' ***objectives*** or desired outcomes of supervision, the ***functions*** it performs directly or facilitates to achieve these outcomes, and the ***principles*** that guide its supervisory approach.

3 The schematic representation below illustrates how the various functions of MAS, based on a foundation of guiding principles, help to support the achievement of MAS' objectives and mission to promote a sound and progressive financial services sector.



[1] ***Regulation*** refers to the establishment of specific rules of behaviour and ***supervision*** means the more general monitoring of the behaviour of financial institutions, including compliance with rules and regulations. When the term "supervision" is used in isolation in this note, we intend it to mean the broad oversight that includes both regulation and supervision.

2 A Sound and Progressive Financial Services Sector

1 A sound and progressive financial services sector is a vital part of any modern economy. This is particularly so in the case of a small and open economy like Singapore. Apart from its direct and significant contribution to gross domestic product, the financial services sector intermediates between savers and borrowers, allocates financial resources efficiently, and thereby enhances economic growth and job creation. Promoting a sound and progressive financial services sector is an integral part of ensuring the success and resilience of the Singapore economy.

2 Confidence and stability are fundamental to a well-functioning financial system. Only when there is confidence in the system would corporates and individuals transact in the financial markets to invest and to raise capital. Without confidence and stability, the economy's ability to mobilize savings for economic use will be compromised.

3 Experience has shown that, left to themselves, financial systems and institutions can be prone to bouts of instability and loss of confidence. The social and economic costs of such instability can be significant, as demonstrated by the economic fallout from financial crises. Even advanced economies are not immune to financial crises or instability.

4 MAS is concerned with both the stability of the financial system as a whole and the soundness of individual institutions. Working with other stakeholders, principally the boards and managers of financial institutions, MAS encourages the effective management and mitigation of risks taken by financial institutions. We aim to do so in a way that does not unnecessarily hinder the competitiveness and dynamism of financial institutions, or the efficiency of financial markets. While we seek to detect excessive risk-taking and apply the brakes in a sensible manner, we must do so in a way that avoids moral hazard and does not smother innovation and enterprise.

5 MAS seeks to promote a sound and progressive financial services sector through both financial supervision and developmental initiatives. We supervise the banking and insurance industries, as well as the capital markets. At the same time, we work in partnership with the private sector to identify and implement strategies for developing Singapore as an international financial centre.

Are supervision and development compatible?

Are MAS' dual roles as supervisor and promoter of the financial sector compatible? On the surface, there appear to be inherent tensions between the two. Supervision is concerned with the effective monitoring and mitigation of risks. Promotion focuses on facilitating business innovation and enterprise, which often entails the taking of risk.

But in a deeper sense, supervision and development are not incompatible. In fact, they are complementary. A well-regulated and supervised financial services sector is not an end in itself. We promote financial soundness because it is a vital component of economic growth and development. Financial institutions come to Singapore to do business in large part because of the well-regulated, stable and sound financial system Singapore offers. Supervision and development work hand in hand to promote a sound and progressive financial services sector.

At the same time, MAS recognises that there could well be tensions between the supervisory and developmental roles in some situations. This is why there is clear separation between these two functions within MAS.

Officers involved in prudential or market conduct supervision are not charged with initiating and implementing developmental initiatives. There are separate and dedicated departments within MAS for financial supervision and financial centre development. Any potential tensions or trade-offs between supervision and development are resolved at the senior management level which has collective responsibility for MAS' dual mandate.

This arrangement has worked well in practice, as evidenced by the financial reforms launched since 1998 amidst challenging economic and financial conditions. The reforms have helped promote greater competition, efficiency and growth in the financial sector without compromising the safety and soundness of institutions or the resilience and stability of the system.

Our experience has been that effective cooperation between the supervisor and developer is vital, so that our rules or regulations take into account business efficacy and market realities without compromising industry best practices or undermining the basic principles of good supervision. We believe that the delicate balance between the supervisory and developmental roles is best achieved within one organisation with a shared purpose rather than separate agencies with possibly conflicting goals.

3 Objectives of Supervision

1 We believe that fulfilling our mission of a sound and progressive financial services sector requires achieving six distinct objectives. The objectives or desired outcomes of MAS' supervisory activities are:

- a stable financial ***system***;
- safe and sound financial ***intermediaries***;
- safe and efficient financial ***infrastructure***;
- fair, efficient and transparent organised ***markets***;
- transparent and fair-dealing ***intermediaries*** and ***offerors***; and
- well-informed and empowered ***consumers***.

Objective 1
Stable financial system

2 Stability is fundamental to a well-functioning financial system. It provides the basis for participants to trade in the financial markets and use the services of financial institutions with confidence. Promoting a ***stable*** system is thus the overarching objective of MAS' financial supervision. It requires MAS to meet the other five objectives with respect to intermediaries, infrastructure, markets, offerors and consumers.

Can and should MAS seek to prevent failure?

Our desired outcome is financial stability. But in seeking to promote and preserve stability in the financial system, we do not aim to prevent the failure of any financial institution. Such a "zero failure" regime is neither feasible nor desirable.

Risk is the life-blood of the financial system. It is the business of financial institutions to intermediate risks and to take on risks. Institutions can incur substantial losses if risks are not well-managed, or if risk events turn out to be more severe than anticipated. Regulation or supervision cannot completely prevent losses without making it impossible for financial institutions to operate effectively.

Instead, MAS seeks to reduce the risk and impact of a failure. MAS does this by requiring institutions to have sound risk management systems and adequate internal controls. It also requires institutions to have appropriate contingency arrangements to address risks that may materialise in stress conditions, and to maintain prudent levels of capital to buffer against possible losses. For key financial institutions, the contingency arrangements include recovery plans to restore financial strength and viability when the institution comes under severe stress. With these measures, we seek to reduce the risk of a failure. But we cannot and should not guarantee the soundness of individual financial institutions.

This is especially true in Singapore, where most financial institutions, banks in particular, operate as branches of organisations incorporated in other jurisdictions. Their global operations are influenced by factors beyond MAS' control. Our supervision of these institutions is limited to their operations in Singapore, even though the risks to their viability may arise from any part of their global network. While MAS has a rigorous admission policy that seeks to allow only well-managed and reputable institutions to operate in Singapore, it is difficult for us to detect and resolve problems or mishaps occurring in the global operations of these institutions. With respect to locally-incorporated institutions, MAS has greater supervisory influence. Even so, given the growing scope and complexity of financial business, it is impossible for MAS to prevent financial distress or collapse in all circumstances.

Even if it were possible to prevent failure in all instances, it would be undesirable to seek to do so. Any such supervisory and regulatory regime would be excessively burdensome for financial institutions and severely undermine their competitiveness, innovation and enterprise. This would be inconsistent with MAS' mission of promoting a progressive financial services sector.

A "zero-failure" regime would also be inconsistent with the principle that owners and managers of institutions, together with consumers, must be responsible for their own actions. Considerable moral hazard would arise if consumers and market participants believed that no institution would ever be allowed to collapse or go out of business, or no investor would lose his savings through imprudent investment. The incentive for boards of directors and managers to take due care in managing the risks of institutions under their charge would be eroded. The best defence against financial instability is to maximise the incentives for boards, management and market participants to identify and pre-empt problems rather than provide an official guarantee against failure of any single institution.

Objective 2
Safe and sound financial intermediaries

3 The focus of much of MAS' regulation and supervision is on the ***safety*** and ***soundness*** of financial intermediaries such as banks, insurance companies, and broker-dealer and fund management firms. There are two reasons for this.

4 Firstly, the distress or collapse of key financial institutions, especially large banks, can have potentially damaging consequences for systemic stability by transmitting problems from one institution to another or undermining confidence in general. Secondly, depositors, policyholders and retail investors are usually not in a position to make fully informed judgments about the risks facing the institutions with which they enter into financial contracts. This information asymmetry can be reduced through greater disclosure, but it cannot be eliminated entirely. MAS, therefore, has a role in actively encouraging financial institutions to identify, monitor and mitigate the risks facing them. For key financial institutions, this extends to the development and ongoing review of robust and credible recovery and resolution plans which take into account the specific circumstances of the institution. MAS assesses the adequacy of these financial institutions' recovery and resolution plans and seeks improvements if deficiencies are identified. In the case of financial institutions headquartered in other jurisdictions, MAS will coordinate with the relevant supervisors and authorities from those jurisdictions wherever possible on these assessments and follow-up actions.

5 At the same time as it supervises the safety and soundness of financial institutions, MAS also requires institutions to have in place robust systems and procedures to combat money laundering and terrorism financing (ML/TF). This is because financial institutions are vulnerable to abuse for criminal purposes, such as money laundering and terrorism financing. Besides contributing to the international effort to curb crimes that generate illegal proceeds or support terrorism activities, MAS' supervision in this regard seeks to detect, deter and prevent abuses that pose significant legal and reputational risks to the institutions, which could also impact on their safety and soundness, and affect Singapore's standing as an international financial centre.

What is MAS' role in combating money laundering and terrorism financing?

As an international financial centre, Singapore actively supports global efforts to combat ML/TF as well as proliferation financing. Singapore has zero tolerance for the use of its financial system as a conduit or sanctuary for illicit funds. Singapore is firmly committed to detect, deter and prevent illegal financial activities.

Singapore was one of the first jurisdictions in Asia to join the Financial Action Task Force (FATF), the global standard setting body for fighting ML/TF, and a founding member of the Asia/Pacific Group on Money Laundering. In addition, MAS participates in the Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Expert Group under the Basel Committee on Banking Supervision that develops international standards in this area.

MAS' role in Singapore's AML/CFT regime pertains to four key areas: strict regulation, rigorous supervision, effective enforcement, and cross-border co-operation.

Regulation

All financial institutions in Singapore are required to put in place strong AML/CFT controls and conduct rigorous checks. This includes customer due diligence, regular account reviews, and monitoring and reporting any suspicious transactions. MAS undertakes regular reviews to identify emerging risks and strengthen its AML/CFT regime. The latest review resulted in MAS issuing an enhanced set of AML/CFT regulatory notices in April 2015. This was accompanied by a set of AML/CFT guidelines to further clarify MAS' expectations.

Supervision
MAS determines whether financial institutions have adequate AML/CFT controls and are compliant with our regulations and requirements. This is done through regular inspections, off-site reviews and by leveraging on audits conducted by internal and external auditors. The frequency and scope of MAS' AML/CFT inspections are based on our assessment of each institution's ML/TF risks, regardless of the size of the institution.

Following each inspection, MAS issues a detailed report on any control gaps and weaknesses identified and will instruct the financial institution to undertake remedial measures within a specified timeframe. For a foreign financial institution operating in Singapore, MAS also shares its inspection reports with the institution's head office and home regulator, to promote more effective remediation.

In addition, MAS requires the auditors of the financial institutions to verify the remediation measures undertaken by the institutions and report to MAS on the adequacy of the rectifications made.

Enforcement
MAS takes firm and appropriate enforcement actions against financial institutions that breach our AML/CFT regulations. Enforcement actions include formal warnings, reprimands, restrictions on operations, financial penalties and revocation of licences.

Cross-border Co-operation
Recognising the cross-border nature of ML/TF offences, relevant agencies in Singapore, such as the Suspicious Transaction Reporting Office (Singapore's Financial Intelligence Unit), law enforcement agencies (e.g. Commercial Affairs Department) and the Attorney-General's Chambers (Singapore's central authority for mutual legal assistance) have established channels to cooperate with foreign counterparts and assist in investigations. MAS also maintains channels to cooperate with our foreign supervisors on AML/CFT matters. These include facilitating effective consolidated supervision of financial institutions, exchanging supervisory information including sharing AML/CFT inspection reports and fit and proper assessments, supporting on-site AML/CFT inspections by home supervisors as well as participating in and hosting supervisory colleges.

MAS continually strengthens its AML/CFT regulations and supervisory framework to keep pace with emerging risks and evolving market developments as part of our commitment to enforce a robust regulatory and supervisory AML/CFT regime in Singapore.

Objective 3
Safe and efficient financial infrastructure

6 Financial infrastructure refers to the platforms that provide the services and facilities underpinning financial market activities, such as exchanges, clearing houses, and payment and settlement systems.[2]

7 These platforms are important nodes in the financial system. Their failure may amplify systemic risks by seizing up financial flows, undermining the fulfilment of obligations and transmitting shocks from one institution to another. The ***safe*** operation of financial infrastructure, including under stress conditions, is therefore essential for preserving stability in the financial system. These platforms are therefore expected to have contingency arrangements to help ensure that the markets they serve continue to function effectively.

8 Financial infrastructure should also be ***efficient*** in helping to reduce friction, lower costs, and maximise the economic benefits of financial intermediation. Improvements to the safety and reliability of financial infrastructure must be judiciously balanced against the costs of doing so.

Objective 4
Fair, efficient and transparent organised markets

9 Confidence in the financial system and effective intermediation of financial flows require that capital markets be fair, efficient and transparent.

10 A ***fair*** market is characterised by proper trading practices, fair access to market facilities and information, and structures that do not tilt the playing field in favour of some market users over others. As part of its mandate, MAS seeks to deter, detect and penalise market rigging, market manipulation, insider trading, fraud, deceit and other unfair trading conduct.

11 Price formation and discovery are intrinsic to any well-functioning market that matches buyers and sellers. An ***efficient*** market is one where this process is reliable and unhindered. This requires material information likely to affect market prices to be disseminated in a timely and organised manner.

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[2] ***Clearing*** is broadly concerned with the establishment and risk management of contractual obligations while ***settlement*** is concerned with the discharge of obligations.

12 Information asymmetries are at the root of most market inefficiencies and misconduct. A ***transparent*** market is one where information about trading is made publicly available on a real-time basis. Pre-trade information, such as bids and offers, should be made available to enable investors to know whether they can deal and at what prices. Post-trade information on executed trades should be similarly publicised to reflect the market price of concluded transactions.

Objective 5
Transparent and fair-dealing intermediaries and offerors

13 MAS' market conduct supervision focuses on promoting ***transparency*** and ***fair-dealing*** by financial institutions and offerors in the conduct of their business with customers. This involves prescribing disclosure requirements, conducting fit and proper tests to promote honesty and integrity among financial institutions and their representatives, setting competency requirements for those providing financial services in the capital markets, and instilling fair business practices in the marketing and distribution of financial services and products.

14 Market intermediaries are expected to uphold high professional standards when dealing with customers. MAS penalises, through criminal and civil sanctions, instances of market misconduct (e.g. front running, insider trading, market rigging, market manipulation and misleading disclosure). Offerors are required to make full, prompt and continuing disclosure of material information, to help ensure market transparency and equip investors with the necessary knowledge to make informed decisions.

15 While MAS expects financial institutions to adopt fair business practices and high standards of disclosure when dealing with consumers, matters such as commercial service standards and pricing of products and services are normally outside MAS' purview. But institutions should provide consumers with the necessary information on these matters to enable them to make well-informed decisions.

Objective 6
Well-informed and empowered consumers

16 Consumers bear the principal responsibility for protecting their own interests. They should exercise due care in their selection of financial products and service providers. MAS does not and cannot protect consumers from the risk that their investments will not deliver anticipated returns.

17 MAS does play a role, however, in helping to ensure that consumers are ***well-informed*** and ***empowered*** to assume principal responsibility for their own protection. MAS seeks to address risks to consumers stemming from insufficient, false or misleading disclosure, conflicts of interest, mis-selling and mis-representation.

18 MAS requires financial institutions and offerors of investments to make full, prompt and accurate disclosure of material information to consumers. But a disclosure-based regime cannot work if consumers do not know how to make good use of the information disclosed to them. Consumer education helps to empower consumers to make informed choices. MAS works with other public sector agencies and industry associations in helping to equip consumers with basic money management, financial planning and investment skills.

19 It is also important that in the event of market misconduct or improper behaviour, consumers have recourse to an impartial and efficient dispute resolution mechanism. MAS facilitates the setting up of fair, efficient and affordable industry dispute resolution mechanisms as alternatives to resolutions through court litigation.

4 Principles of Good Supervision

1 MAS is guided by twelve key principles which collectively characterise our supervisory approach as one that is ***risk-focused***, ***stakeholder-reliant***, ***disclosure-based*** and ***supportive of enterprise.***

Risk-Focused

Principle 1
Emphasise risk-focused supervision rather than one-size-fits-all regulation

2 Our emphasis is on risk-focused supervision, rather than prescriptive one-size-fits-all rules. The latter approach, whereby a supervisor prescribes activities and risks that institutions can and cannot take, is increasingly ineffective in a rapidly changing environment, and also unnecessarily restrictive for the stronger institutions. With risk-focused supervision, MAS evaluates the risk profile of an institution, taking into account the quality of the institution's internal risk management systems and processes. This approach allows us to give greater business latitude to well-managed institutions while retaining higher requirements or tighter restrictions for weaker ones.

Principle 2
Assess the adequacy of an institution's risk management in the context of its risk and business profiles

3 MAS takes a proportionate approach to assessing an institution's risks. Rather than having a fixed view of what constitutes an acceptable level of business risks or risk management standards, MAS assesses whether risk management systems, internal controls, and contingency arrangements are commensurate with the institution's risk and business profiles. Institutions engaging in complex financial businesses must be able to demonstrate that their risk management capabilities match their risk appetite and operations, while institutions engaging in less complex or risky financial activities may find simpler risk management processes adequate for their purpose. Key financial institutions are therefore expected to have effective recovery measures to deal with situations of severe stress.

Principle 3
Allocate scarce supervisory resources according to impact and risks

4 We allocate supervisory resources among financial institutions according to the potential impact they would have on Singapore's financial system, economy and reputation in the event of a significant mishap (e.g. financial failure, and prolonged disruption of business operations), and also the likelihood of these significant mishaps occurring. Institutions are placed in distinct supervisory categories which are differentiated in terms of the scope and intensity of our supervision. More resources are channelled towards supervising systemically-important institutions and institutions with higher risk profiles.

5 In the case of AML/CFT supervision, more resources are allocated to financial institutions posing higher ML/TF risk, notwithstanding that they may be of lower systemic importance.

Principle 4
Ensure institutions are supervised on an integrated (across industry) and consolidated (across geography) basis

6 As the home supervisor of local financial groups, MAS takes an integrated supervisory approach, evaluating them on a whole-of-group basis across their banking, insurance and securities activities. We also supervise these financial groups on a consolidated basis, taking into account both their Singapore and overseas operations.

7 For foreign banks and insurance companies operating in Singapore, we ensure that they are subject to consolidated supervision by their home regulators. For these institutions, MAS cooperates and shares information with foreign supervisors through bilateral exchanges and supervisory colleges for effective cross-border supervision and handling of crises. MAS incorporates home supervisor information in setting supervisory plans for the relevant Singapore operations.

Principle 5
Maintain high standards in financial supervision, including observing international standards and best practices

8 MAS continually strives to maintain high standards in financial supervision, benchmarking itself against international standards and best practices. As an international financial centre with a strong stake in global financial stability, MAS participates actively in regional and international initiatives to enhance regulatory standards and supervisory training.

Principle 6
Seek to reduce the risk and impact of failure rather than prevent the failure of any institution

9 MAS does not aim to prevent all failures. We require financial institutions to observe prudential standards, such as appropriate capitalisation, liquidity and exposure limits. We have the power to intervene if we believe that the interests of depositors, policyholders or investors are at risk. But we cannot (due to the complexity of financial activities) and should not (due to moral hazard and the undesirable consequences of excessive regulatory burden) guarantee the soundness of financial institutions.

10 Consumers should recognise that there are risks involved in dealing with financial institutions. One challenge that MAS faces, like other regulators, is to educate the public about this reality and to manage their expectations. Deposit insurance and policy owners' protection schemes will make explicit the level of protection available to depositors and policy owners. They will also help to make consumers realise that risks are inherent in financial transactions.

11 While we cannot prevent failures, we are conscious of the systemic impact that failures can have and the damage they can do to consumers and Singapore's reputation as a financial centre. MAS will seek to reduce the risk of failure of institutions through increased supervision where it is appropriate and effective. We also require key financial institutions to draw up recovery plans that set out options for early action to restore long-term viability. In the case where increased supervision is ineffective, we will take measures to limit the impact of a failure. These measures include an effective resolution regime that provides for a broad range of powers and tools to resolve a non-viable financial institution in an orderly manner that protects the interests of depositors, policy owners and investors; and putting in place an ongoing process for resolution planning for key financial institutions. For financial institutions with cross-border operations, MAS

will also work with foreign resolution authorities towards a coordinated resolution where such action takes into account MAS' aim of maintaining financial stability.

Stakeholder-Reliant

Principle 7
Place principal responsibility for risk oversight on the institution's board and management

12 The primary responsibility for the prudential soundness and professional market conduct of a financial institution lies with its board of directors and senior management. Our supervisory approach seeks to reinforce the responsibility of the board and management to deal fairly with customers, ensure compliance with regulatory standards, and maintain adequate risk oversight of its business activities. By working to encourage best practices by boards and management, we minimise the need to interfere with institutions' business decisions.

Principle 8
Leverage on relevant stakeholders, professionals, industry associations and other agencies

13 MAS is not the only party interested in the integrity, safety and soundness of financial institutions. There are other stakeholders such as their shareholders, creditors, counterparties, depositors, policyholders and home supervisors who also have an interest in the institutions' continued financial health and stability. Likewise, professionals such as external auditors, internal auditors and actuaries, as well as credit rating agencies, are specialists in assessing the risks inherent in the institutions and the adequacy of risk management and internal control systems. In addition, many financial institutions here are members of their respective industry associations.

14 MAS leverages on these relationships and the work of some of these parties. We interact and work closely with some of them, including the home supervisors, financial infrastructure performing a frontline regulatory role, auditors and industry associations, to complement our own supervision of the institutions. MAS also works in cooperation with other agencies, such as the Council on Corporate Disclosure and Governance, the Ministry of Finance, and the Accounting and Corporate Regulatory Authority, to strengthen corporate governance and disclosure standards.

Disclosure-Based

Principle 9
Rely on timely, accurate and adequate disclosure by institutions rather than merit-based regulation of products to protect consumers

15 MAS has moved from prescriptive, merit-based regulation to a more disclosure-based regime. Under the merit-based regime, the regulator assesses the suitability of a product before it is allowed to be introduced in the marketplace. Under a disclosure-based regime, the consumer makes well-informed decisions when purchasing financial products and services based on material information being made available to the consumer. A disclosure-based regime encourages innovation and facilitates the development of a more sophisticated body of consumers. The role of MAS is therefore to put in a place a regulatory framework that facilitates timely, accurate and meaningful disclosure of material information that consumers could reasonably rely on in making financial decisions.

Principle 10
Empower consumers to assess and assume for themselves the financial risks of their financial decisions

16 A disclosure-based regime is meaningless if consumers do not know how to make use of disclosed information in making financial decisions. Consumers should understand the nature of different financial products and the considerations that they should look out for in making their financial decisions. MAS works in partnership with other public sector agencies and industry bodies on consumer education to facilitate this.

Supportive of Enterprise

Principle 11
Give due regard to competitiveness, business efficiency and innovation

17 MAS seeks to undertake supervision in a way that does not unnecessarily impair the competitiveness and dynamism of individual institutions and Singapore's financial services sector. We take into account the business and operational concerns of the institutions and industry, so as not to hinder enterprise and innovation as long as these are accompanied by good governance and risk management, and supported by sensible, sustainable, long-term strategies. In our dealings with institutions, we seek to be professional and to respond to their requests in a timely manner.

Principle 12
Adopt a consultative approach to regulating the industry

18 MAS adopts a consultative approach to regulating the industry. We actively seek feedback from market practitioners and the public, so as to help us develop regulations that take into account market realities and industry practices. Consultation also helps to pre-empt implementation problems, minimise unintended consequences, and foster better industry understanding and support. In the end, it is the combined efforts of MAS and the industry that contribute to financial stability and resilience while promoting enterprise and innovation.

5 Oversight Functions of MAS

1 MAS performs six distinct oversight functions to achieve its objectives, namely ***regulation***, ***authorisation***, ***supervision***, ***surveillance***, ***enforcement and resolution***.

2 But MAS' oversight in itself is insufficient for achieving the mission of a sound and progressive financial services sector. Sound ***corporate governance***, effective ***market discipline***, a high level of ***consumer education*** and a basic ***consumer safety-net*** are also necessary. These are functions principally carried out by other entities, with MAS playing a facilitating role.

Regulation

3 As a regulator, MAS determines the scope of financial services activities that should be regulated, and sets the rules and standards governing the behaviour of financial markets and institutions. MAS' prudential regulation focuses on the safety and soundness of financial institutions, seeking to safeguard the value of the assets that underpin the ability of these institutions to fulfil their financial contracts, such as bank deposits and insurance policies. It involves setting risk-based capital and prudential requirements. MAS' market conduct regulation focuses on how financial firms and their representatives carry out business dealings with consumers, and seeks to promote fair dealing. It involves setting requirements and standards for sound business conduct practices. MAS' AML/CFT regulations focus on protecting the integrity of the financial sector by preventing it from being used as a conduit for illicit funds and financing of terrorism. It involves setting regulations relating to customer due diligence, record keeping, ongoing monitoring and reporting of suspicious transactions, amongst others.

Authorisation

4 MAS is the "gatekeeper" for institutions that wish to offer financial services in Singapore. MAS assesses these institutions to ensure that they satisfy the necessary authorisation or licensing criteria. These include having the relevant track record, adequate financial resources and sound operational processes to ensure orderly and fair conduct of business. MAS also assesses whether financial institutions and their representatives are of sound

repute, and meet the fit and proper criteria to conduct regulated activities. Offerors seeking to raise funds in the capital markets are also required to register prospectuses that provide full and fair disclosure of material information to potential investors.

Supervision

5 MAS is responsible for the prudential and AML/CFT supervision of financial institutions. We seek to have a good understanding of an institution's business to identify potential risks that may impact the reputation, safety, and soundness of the institution and to assess the suitability of various supervisory actions. We rely on a variety of supervisory tools to carry out this work. These include on-site inspections as well as continuous off-site supervision such as holding regular meetings with the institutions, reviewing audit reports on the institutions and regulatory returns, and monitoring key indicators and business developments.

6 MAS also supervises the conduct of business by financial institutions and their representatives, to ensure that they adhere to sound market conduct practices, including furnishing adequate information about their products, and providing customers with appropriate advice to purchase products that suit the customers' needs and risk appetite.

Surveillance

7 MAS undertakes various kinds of financial surveillance. From the prudential perspective, we seek to identify non-sustainable trends and potential vulnerabilities in the financial system, as well as transmission linkages within the system that could impair the safety and soundness of financial institutions. From the market conduct perspective, we monitor the efficiency and fairness of market operations, seek to identify market misconduct, and assess financial institutions' compliance with market conduct rules. From the AML/CFT perspective, we assess the ML/TF risk faced by financial institutions due to their business models and practices, products and services offered, and use of new technologies. In addition, MAS requires financial institutions to consider the results of the National Risk Assessment as part of their enterprise-wide ML/TF risk assessment and management.

Enforcement

8 MAS is empowered to take action against those institutions and individuals who breach prudential, AML/CFT and market conduct requirements. Where there is a regulatory breach, MAS may impose administrative and financial sanctions or refer the matter to law enforcement or prosecution authorities. We also investigate and initiate civil penalty actions against those who engage in market misconduct in the capital markets.

Resolution

9 MAS is responsible for exercising resolution powers over financial institutions. MAS has a broad range of powers and resolution tools to maintain financial stability, address serious problems in a financial institution that threaten its viability, and resolve an institution that is no longer viable. MAS seeks to resolve non-viable[3] institutions in an orderly manner that protects the interests of depositors, policy owners and investors, and ensure timely return of segregated client assets.

What is MAS' role in the event of a failure?

The failure of a financial institution can give rise to large negative consequences for the financial system and the real economy. In the absence of robust resolution tools, some regulators had to bail out failing financial institutions or depend on corporate bankruptcy proceedings to deal with the failures during the recent crisis. Both solutions can be costly. A disorderly and long drawn bankruptcy can severely disrupt financial markets; while a bail-out will heighten moral hazard risks and incur large costs that are ultimately borne by the public.

MAS is responsible for exercising resolution powers over financial institutions in Singapore. We have in place a wide range of resolution powers and tools to facilitate various strategies for resolving non-viable financial institutions. For example, the resolution regime empowers MAS to take a variety of measures, including to wind up, take control of, transfer the business/ownership of, or restructure the share capital of a distressed bank, as well as to establish a bridge institution. MAS has also put in place safety-nets such as the Deposit Insurance and Policy Owners' Protection schemes, to protect depositors and insurance policy owners.

[3] ***Non-viable*** refers both to a financial institution which is no longer viable, or likely to be no longer viable, and has no reasonable prospect of becoming viable.

The Singapore Deposit Insurance Corporation Limited administers these schemes and coordinates with MAS to make payment of compensation to insured depositors or policy owners should a scheme member fails.

If a financial institution fails, MAS seeks to achieve an orderly resolution, such that financial stability and the continuity of systemically important financial services, and financial infrastructure, are preserved. In determining the appropriate resolution strategy, MAS will also seek to avoid unnecessary destruction of value and minimise the overall costs of resolution. As far as possible, private sector solutions will be considered first. In the absence of viable private sector alternatives, and publicly-assisted resolution strategies are needed, the use of public funds will be accompanied by strict conditions, to minimise the risk of moral hazard.

As the application of resolution powers to individual components of a cross-border financial group could impact the group as a whole and the financial stability of other jurisdictions, MAS will consider the impact of its resolution actions on financial stability in other jurisdictions, and work with foreign resolution authorities wherever possible, towards a coordinated resolution where such action takes into account MAS' aim of maintaining financial stability. This includes notifying the relevant foreign resolution authority before taking a resolution action, as far as possible. MAS is involved, as both home and host authority, in cross-border crisis management group and supervisory college meetings, which provide a platform for supervisors and resolution authorities from the different jurisdictions to coordinate the development of group recovery and resolution plans.

Corporate Governance

10 The primary responsibility to oversee and manage the risks arising from an institution's activities, as well as to ensure compliance with regulatory standards and requirements rests with the institution's board of directors and senior management. MAS therefore seeks to promote effective and sound corporate governance practices by institutions. MAS also works with other agencies in promoting sound corporate governance practices by listed companies.

Market Discipline

11 MAS promotes timely, adequate and accurate disclosure by financial institutions and offerors to allow consumers and investors to make informed decisions about the products they purchase or invest in. A transparent market fosters market discipline. We also encourage markets to perform effective self-regulatory functions. In addition, MAS seeks to foster effective market discipline by facilitating the establishment of dispute resolution schemes.

Consumer Education

12 The liberalisation of financial markets and shift towards a disclosure-based regime mean that consumers are faced with a growing array of financial products and services. Consumers need to understand the implications of the different financial contracts they enter into when purchasing or investing in financial products and services in order to choose wisely. Under the MoneySENSE national financial education programme, MAS acts as a catalyst for consumer education in Singapore by working closely with industry associations, consumer groups and other public sector organisations to identify the main areas of focus for consumer education efforts and to encourage greater collaboration between the private and public sectors.

Consumer Safety-Net

13 MAS facilitates the establishment of various safety-net schemes such as the Deposit Insurance Scheme and the Policy owners' Protection Scheme. Both are privately funded by the participating banks and insurance companies, respectively. The establishment of such safety-net schemes is important given that MAS cannot prevent all failures. Consumers can then know exactly how much of their money will be fully protected or whether their losses arising from insured perils will be compensated if an institution fails. This will help to strengthen market discipline and dispel any public misperception of a government guarantee in the event of a failure. MAS requires approved exchanges to maintain a fidelity fund to give a certain level of protection to investors trading on these exchanges against acts of defalcation and default on the part of the broker/dealers.

Monetary Authority of Singapore

GUIDELINES ON OUTSOURCING

27 JUL 2016

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1 INTRODUCTION

1.1 While outsourcing arrangements can bring cost and other benefits, it may increase the risk profile of an institution due to, for example, reputation, compliance and operational risks arising from failure of a service provider in providing the service, breaches in security, or the institution's inability to comply with legal and regulatory requirements. An institution can also be exposed to country risk when a service provider is located overseas and concentration risk when more than one function is outsourced to the same service provider. Outsourcing does not diminish the obligations of an institution, and those of its board and senior management to comply with relevant laws and regulations in Singapore, it is thus important that an institution adopts a sound and responsive risk management framework for its outsourcing arrangements.

1.2 These Guidelines[1] on Outsourcing ("Guidelines") set out the Monetary Authority of Singapore's ("MAS") expectations of an institution that has entered into any outsourcing arrangement or is planning to outsource its business activities[2] to a service provider. An institution should conduct a self-assessment of all existing outsourcing arrangements against these Guidelines[3].

2 APPLICATION OF GUIDELINES

2.1 These Guidelines provide guidance on sound practices on risk management of outsourcing arrangements. The Guidelines do not affect, and should not be regarded as a statement of the standard of care owed by institutions to their customers. The extent and degree to which an institution implements the Guidelines should be commensurate with the nature of risks in, and materiality of, the outsourcing arrangement. An institution should ensure that outsourced services (whether provided by a service provider or its sub-contractor) continue to be managed as if the services were still managed by the institution. In supervising an institution, MAS will review the implementation of these Guidelines by an institution to assess the quality of its board and senior management oversight and governance, internal controls and risk management. MAS is particularly interested in material outsourcing arrangements.

[1] Please refer to MAS' website (www.mas.gov.sg) for details of the classification of instruments issued by MAS.

[2] Any reference in these Guidelines to "business activities" of an institution is to be construed as a reference to the business and operational functions and processes of the institution.

[3] This includes institutions which are bound by outsourcing arrangements as a result of an acquisition of the business of another institution.

2.2 Annex 1 provides a non-exhaustive list of examples of outsourcing arrangements to which these Guidelines are applicable, and arrangements that are not intended to be subject to these Guidelines. It should also not be misconstrued that arrangements not defined as outsourcing need not be subject to adequate risk management and sound internal controls. Annex 2 provides guidance to an institution in assessing whether an arrangement would be considered a material outsourcing arrangement. Annex 3 provides a template for an institution to maintain a register of its outsourcing arrangements which is to be submitted to MAS, at least annually or upon request.

2.3 An institution incorporated in Singapore should also consider the impact of outsourcing arrangements by its branches and any corporation under its control, including those located outside Singapore, on its consolidated operations. Institutions incorporated in Singapore should ensure that these Guidelines are observed by branches and corporations under their control by applying a group-wide outsourcing risk management framework that complies with the Guidelines.

2.4 The practices articulated in these Guidelines are not intended to be exhaustive or override any legislative provisions. They should be read in conjunction with the provisions of the relevant legislation, the subsidiary legislation made under the relevant legislation, as well as written directions, notices, codes and other guidelines that MAS may issue from time to time pursuant to the relevant legislation and subsidiary legislation.

3 DEFINITIONS

3.1 In these Guidelines on Outsourcing, unless the context otherwise requires:

"board" or "board of directors" means –

(a) in the case of an institution incorporated in Singapore, the board of directors; and

(b) in the case of an institution incorporated or established outside Singapore, a management committee or body beyond local management charged with oversight and supervision responsibilities for the institution in Singapore;

"bridge-institution" means an institution, whether incorporated in Singapore or outside Singapore, to temporarily take over and maintain certain assets, liabilities and operations of a distressed financial institution, as part of a resolution Authority's exercise of a resolution power;

"business relations" –

(a) In relation to an insurer, means
    (i) the issuance of a policy or reinsurance cover by the insurer to; or
    (ii) the provision of financial advice by the insurer to,
    a person (whether a natural person, legal person or legal arrangement);

(b) In relation to a bank, means
    (i) the opening or maintenance of an account by the bank in the name of; or
    (ii) the provision of financial advice by the bank to,
    a person (whether a natural person, legal person or legal arrangement);

(c) In relation to a CMI, means
    (i) the opening or maintenance of an account by the CMI in the name of;
    (ii) the provision of financial advice by the CMI to; or
    (iii) the provision of fund management services by the CMI to,
    a person (whether a natural person, legal person or legal arrangement);

(d) in relation to a financial adviser, means
    (i) the opening or maintenance of an account by the financial adviser in the name of; or

(ii) the provision of financial advice by the financial adviser to,

a person (whether a natural person, legal person or legal arrangement);

(e) in relation to a credit card or charge card licensee licensed under section 57B of the Banking Act (Cap. 19), means the opening or maintenance of an account by the credit card or charge card licensee in the name of a person (whether a natural person, legal person or legal arrangement);

"CMI" means a person holding a capital markets services licence under the Securities and Futures Act (Cap. 289) ("SFA"), a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations ("SF(LCB)R") or a person exempted from the requirement to hold such a licence under paragraph 7(1)(b) of the Second Schedule to the SF(LCB)R;

"customer" means –

(a) in relation to any trustee for a collective investment scheme authorised under section 286 of the SFA, that is approved under that Act, the managers and participants of the collective investment scheme;

(b) in relation to an approved exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, and central depository system under the SFA, a person who may participate in one or more of the services provided by such entities;

(c) in relation to a licensed trust company under the Trust Companies Act (Cap. 336), a trust for which the trust company provides trust business services and includes the settlor and any beneficiary under the trust;

(d) in relation to a bank, means a person (whether a natural person, legal person or legal arrangement) −

(i) with whom the bank establishes or intends to establish business relations; or

(ii) for whom the bank undertakes or intends to undertake any transaction without an account being opened;

(e) in relation to an insurer, means a person (whether a natural person, legal person or legal arrangement) with whom the insurer establishes or intends to establish business relations, including, in the case of a group policy, the owner of the master policy issued or intended to be issued;

(f) in relation to an insurance intermediary, means a person (whether a natural person, legal person or a legal arrangement) with whom the insurance intermediary arranges or intends to arrange for such persons, contracts of insurance in Singapore with one or more insurers;

(g) in relation to a financial adviser, means a person (whether a natural person, legal person or a legal arrangement) with whom the financial adviser establishes or intends to establish business relations and includes in the case where the financial adviser arranges a group life insurance policy, the owner of the master policy;

(h) in relation to a CMI, means a person (whether a natural person, legal person or a legal arrangement) –

(i) with whom the CMI establishes or intends to establish business relations;

(ii) for whom the CMI undertakes or intends to undertake any transaction without an account being opened; or

(iii) who invests into an investment vehicle to which the CMI provides the regulated activities of fund management and real estate investment trust management;

(i) in relation to a credit card or charge card licensee licensed under section 57B of the Banking Act (Cap. 19), means a person (whether a natural person, legal person or legal arrangement) with whom the credit card or charge card licensee establishes or intends to establish business relations;

(j) in relation to money-changers and remittance businesses, means a person (whether a natural, legal person or legal arrangement) –

(i) with whom the licensee establishes or intends to establish an account relationship; or

(ii) for whom the licensee undertakes or intends to undertake a relevant business transaction without an account being opened, including in the case of an inward remittance transaction, the person to whom the licensee pays out funds in cash or cash equivalent in Singapore and the person on behalf of whom such funds are paid out in Singapore;

"customer information" means –

(a) in relation to an approved exchange, recognised market operator, approved clearing house and recognised clearing house, "user information" as defined in section 2 of the SFA;

(b) in relation to a licensed trade repository and licensed foreign trade repository, "user information" and "transaction information" as defined in section 2 of the SFA; or

(c) in the case of any other institution, information that relates to its customers and these include customers' accounts, particulars, transaction details and dealings with the financial institutions, but does not include any information that is public, anonymised, or encrypted in a secure manner such that the identities of the customers cannot be readily inferred;

"financial adviser" means a licensed financial adviser under the FAA or a person exempt, under section 23(1)(f) of the FAA read with regulation 27(1)(d) of the FAR, from holding a financial adviser's licence to act as a financial adviser in Singapore in respect of any financial advisory service;

"institution" means any financial institution as defined in section 27A of the Monetary Authority of Singapore Act (Cap. 186);

"material outsourcing arrangement" means an outsourcing arrangement –

(a) which, in the event of a service failure or security breach, has the potential to either materially impact an institution's–
    (i) business operations, reputation or profitability; or
    (ii) ability to manage risk and comply with applicable laws and regulations,

or

(b) which involves customer information and, in the event of any unauthorised access or disclosure, loss or theft of customer information, may have a material impact on an institution's customers;

"legal arrangement" means a trust or other similar arrangement;

"legal person" means an entity other than a natural person that can establish a permanent customer relationship with a financial institution or otherwise own property;

"outsourcing agreement" means a written agreement setting out the contractual terms and conditions governing relationships, obligations, responsibilities, rights and expectations of the contracting parties in an outsourcing arrangement;

"outsourcing arrangement" means an arrangement in which a service provider provides the institution with a service that may currently or potentially be performed by the institution itself and which includes the following characteristics–

(a) the institution is dependent on the service on an ongoing basis; and

(b) the service is integral to the provision of a financial service by the institution or the service is provided to the market by the service provider in the name of the institution;

"relevant business transaction" –

(a) in relation to a holder of a money-changer's licence means –
    (i) a money-changing transaction of an aggregate value not less than S$5,000; or
    (ii) an inward remittance transaction from another country or jurisdiction to Singapore; or

(b) in relation to a holder of a remittance license means, a remittance transaction whether from Singapore to another country or jurisdiction or from another country or jurisdiction to Singapore;

"service provider" means any party which provides a service to the institution, including any entity within the institution's group[4], whether it is located in Singapore or elsewhere;

"sub-contracting" means an arrangement where a service provider which has an outsourcing arrangement with an institution, further outsources the services or part of the services covered under the outsourcing arrangement to another service provider.

[4] This refers to the institution's Head Office or parent institution, subsidiaries, affiliates, and any entity (including their subsidiaries, affiliates and special purpose entities) that the institution exerts control over or that exerts control over the institution.

4 ENGAGEMENT WITH MAS ON OUTSOURCING

4.1 Observance of the Guidelines

4.1.1 An institution should be ready to demonstrate to MAS its observance of these Guidelines. This should include submission of its outsourcing register in the template set out in Annex 3 at least annually or upon request.

4.1.2 Where MAS is not satisfied with the institution's observance of the Guidelines, MAS may require the institution to take additional measures to address the deficiencies noted. MAS may also take such non-compliance into account in its assessment of the institution, depending on the potential impact of the outsourcing on the institution and the financial system, severity of the deficiencies noted, the institution's track record in internal controls and risk management, and also on the circumstances of the case. MAS may directly communicate with the home or host regulators of the institution and the institution's service provider, on their ability and willingness to cooperate with MAS in supervising the outsourcing risks to the institution.

4.1.3 MAS may require an institution to modify, make alternative arrangements or re-integrate an outsourced service into the institution where one of the following circumstances arises:

(a) An institution fails or is unable to demonstrate a satisfactory level of understanding of the nature and extent of risk arising from the outsourcing arrangement;
(b) An institution fails or is unable to implement adequate measures to address the risks arising from its outsourcing arrangements in a satisfactory and timely manner;
(c) Adverse developments arise from the outsourcing arrangement that could impact an institution;
(d) MAS' supervisory powers over the institution and ability to carry out MAS' supervisory functions in respect of the institution's services are hindered; or
(e) The security and confidentiality of the institution's customer information is lowered due to changes in the control environment of the service provider.

4.2 Notification of Adverse Developments

4.2.1 An institution should notify MAS as soon as possible of any adverse development arising from its outsourcing arrangements that could impact the institution. Such adverse developments include any event that could potentially lead to prolonged service failure or disruption in the outsourcing arrangement, or any breach of security and confidentiality of the institution's customer information. An institution should also notify MAS of such adverse development encountered within the institution's group.

5 RISK MANAGEMENT PRACTICES

5.1 Overview

5.1.1 In supervising an institution, MAS will review its implementation of these Guidelines, the quality of its board and senior management oversight and governance, internal controls and risk management with regard to managing outsourcing risks.

5.2 Responsibility of the Board and Senior Management

5.2.1 The board and senior management of an institution play pivotal roles in ensuring a sound risk management culture and environment. While an institution may delegate day-to-day operational duties to the service provider, the responsibilities for maintaining effective oversight and governance of outsourcing arrangements, managing outsourcing risks, and implementing an adequate outsourcing risk management framework, in accordance with these Guidelines, continue to rest with the institution, its board and senior management. The board and senior management of an institution should ensure there are adequate processes to provide a comprehensive institution-wide view of the institution's risk exposures from outsourcing, and incorporate the assessment and mitigation of such risks into the institution's outsourcing risk management framework.

5.2.2 The board, or a committee delegated by it, is responsible for:

(a) approving a framework to evaluate the risks and materiality of all existing and prospective outsourcing arrangements and the policies that apply to such arrangements;

(b) setting a suitable risk appetite to define the nature and extent of risks that the institution is willing and able to assume from its outsourcing arrangements;

(c) laying down appropriate approval authorities for outsourcing arrangements consistent with its established strategy and risk appetite;

(d) assessing management competencies for developing sound and responsive outsourcing risk management policies and procedures that are commensurate with the nature, scope and complexity of the outsourcing arrangements;

(e) ensuring that senior management establishes appropriate governance structures and processes for sound and prudent risk management, such as a management body that reviews controls for consistency and alignment with a comprehensive institution-wide view of risk; and

(f) undertaking regular reviews of these outsourcing strategies and arrangements for their continued relevance, and safety and soundness.

5.2.3 Senior management is responsible for:

(a) evaluating the materiality and risks from all existing and prospective outsourcing arrangements, based on the framework approved by the board;

(b) developing sound and prudent outsourcing policies and procedures that are commensurate with the nature, scope and complexity of the outsourcing arrangements as well as ensuring that such policies and procedures are implemented effectively;

(c) reviewing regularly the effectiveness of, and appropriately adjusting, policies, standards and procedures to reflect changes in the institution's overall risk profile and risk environment;

(d) monitoring and maintaining effective control of all risks from its material outsourcing arrangements on an institution-wide basis;

(e) ensuring that contingency plans, based on realistic and probable disruptive scenarios, are in place and tested;

(f) ensuring that there is independent review and audit for compliance with outsourcing policies and procedures;

(g) ensuring that appropriate and timely remedial actions are taken to address audit findings; and

(h) communicating information pertaining to risks arising from its material outsourcing arrangements to the board in a timely manner.

5.2.4 Where the board delegates its responsibility to a committee as described in paragraph 5.2.2, the board should establish communication procedures between the board and the committee. This should include requiring the committee to report to the board on a regular basis, and ensuring that senior management is held responsible for implementation of the guidelines as elaborated in paragraphs 5.2.3 (a) to 5.2.3 (h). Notwithstanding the delegation of responsibility to a committee, the board shall remain responsible for the performance of its responsibilities by that committee.

5.2.5 For an institution incorporated or established outside Singapore, the functions of the board described in paragraph 5.2.2 may be delegated to and performed by a management committee or body beyond local management that is charged to functionally oversee and supervise the local office (e.g., a regional risk management committee). The functions of senior management in paragraph 5.2.3 lie with local management. Local management of an institution incorporated or established outside Singapore should continue to take necessary steps to enable it to discharge its obligations to comply with the relevant laws and regulations in Singapore, including expectations under these Guidelines. Local management cannot abrogate its governance responsibilities to run the institution in a prudent and professional manner.

5.3 Evaluation of Risks

5.3.1 In order to be satisfied that an outsourcing arrangement does not result in the risk management, internal control, business conduct or reputation of an institution being compromised or weakened, the board and senior management would need to be fully aware of and understand the risks arising from outsourcing. The institution should establish a framework for risk evaluation which should include the following steps:

(a) identifying the role of outsourcing in the overall business strategy and objectives of the institution;

(b) performing comprehensive due diligence on the nature, scope and complexity of the outsourcing arrangement to identify and mitigate key risks;

(c) assessing[5] the service provider's ability to employ a high standard of care in performing the outsourced service and meet regulatory standards as expected of the institution, as if the outsourcing arrangement is performed by the institution;

[5] Please see paragraph 5.4 on assessment of service providers.

(d) analysing the impact of the outsourcing arrangement on the overall risk profile of the institution, and whether there are adequate internal expertise and resources to mitigate the risks identified;

(e) analysing the institution's as well as the institution's group aggregate exposure to the outsourcing arrangement, to manage concentration risk; and

(f) analysing the benefits of outsourcing against the risks that may arise, ranging from the impact of temporary disruption to service to that of a breach in security and confidentiality, and unexpected termination in the outsourcing arrangement, and whether for strategic and internal control reasons, the institution should not enter into the outsourcing arrangement.

5.3.2 Such risk evaluations should be performed when an institution is planning to enter into an outsourcing arrangement with an existing or a new service provider, and also re-performed periodically on existing outsourcing arrangements, as part of the approval, strategic planning, risk management or internal control reviews of the outsourcing arrangements of the institution.

5.4 Assessment of Service Providers

5.4.1 In considering, renegotiating or renewing an outsourcing arrangement, an institution should subject the service provider to appropriate due diligence processes to assess the risks associated with the outsourcing arrangements.

5.4.2 An institution should assess all relevant aspects of the service provider, including its capability to employ a high standard of care in the performance of the outsourcing arrangement as if the service is performed by the institution to meet its obligations as a regulated entity. The due diligence should also take into account the physical and IT security controls the service provider has in place, the business reputation and financial strength of the service provider, including the ethical and professional standards held by the service provider, and its ability to meet obligations under the outsourcing arrangement. Onsite visits to the service provider, and where possible, independent reviews and market feedback on the service provider, should also be obtained to supplement the institution's assessment. Onsite visits should be conducted by persons who possess the requisite knowledge and skills to conduct the assessment.

5.4.3 The due diligence should involve an evaluation of all relevant information about the service provider. Information to be evaluated includes the service provider's:

(a) experience and capability to implement and support the outsourcing arrangement over the contracted period;

(b) financial strength and resources (the due diligence should be similar to a credit assessment of the viability of the service provider based on reviews of business strategy and goals, audited financial statements, the strength of commitment of major equity sponsors and ability to service commitments even under adverse conditions);

(c) corporate governance, business reputation and culture, compliance, and pending or potential litigation;

(d) security and internal controls, audit coverage, reporting and monitoring environment;

(e) risk management framework and capabilities, including technology risk management [6] and business continuity management [7] in respect of the outsourcing arrangement;

(f) disaster recovery arrangements and disaster recovery track record;

(g) reliance on and success in dealing with sub-contractors;

(h) insurance coverage;

(i) external environment (such as the political, economic, social and legal environment of the jurisdiction in which the service provider operates); and

(j) ability to comply with applicable laws and regulations and track record in relation to its compliance with applicable laws and regulations.

[6] Standards should be commensurate with that expected of the institution as set out in MAS' Technology Risk Management Guidelines.

[7] Standards should be commensurate with that expected of the institution as set out in MAS' Business Continuity Management Guidelines. Please also see paragraph 5.7 of the Guidelines on Outsourcing for more guidance.

5.4.4 The institution should ensure that the employees of the service provider undertaking any part of the outsourcing arrangement have been assessed to meet the institution's hiring policies for the role they are performing, consistent with the criteria applicable to its own employees. The following are some non-exhaustive examples of what should be considered under this assessment:

(a) whether they have been the subject of any proceedings of a disciplinary or criminal nature;

(b) whether they have been convicted of any offence (in particular, that associated with a finding of fraud, misrepresentation or dishonesty);

(c) whether they have accepted civil liability for fraud or misrepresentation; and

(d) whether they are financially sound.

Any adverse findings from this assessment should be considered in light of their relevance and impact to the outsourcing arrangement.

5.4.5 Due diligence undertaken during the assessment process should be documented and re-performed periodically as part of the monitoring and control processes of outsourcing arrangements. The due diligence process may vary depending on the nature, and extent of risk of the arrangement and impact to the institution in the event of a disruption to service or breach of security and confidentiality (e.g., reduced due diligence may be sufficient where the outsourcing arrangements are made within the institution's group[8]). An institution should ensure that the information used for due diligence evaluation is sufficiently current. An institution should also consider the findings from the due diligence evaluation to determine the frequency and scope of audit on the service provider.

5.5 Outsourcing Agreement

5.5.1 Contractual terms and conditions governing relationships, obligations, responsibilities, rights and expectations of the contracting parties in the outsourcing arrangement should be carefully and properly defined in written agreements. They should also be vetted by a competent authority (e.g., the institutions' legal counsel) on their legality and enforceability.

[8] Please see paragraph 5.11 on arrangements relating to outsourcing within a group.

5.5.2 An institution should ensure that every outsourcing agreement addresses the risks identified at the risk evaluation and due diligence stages. Each outsourcing agreement should allow for timely renegotiation and renewal to enable the institution to retain an appropriate level of control over the outsourcing arrangement and the right to intervene with appropriate measures to meet its legal and regulatory obligations. It should at the very least, have provisions to address the following aspects of outsourcing:

(a) scope of the outsourcing arrangement;

(b) performance, operational, internal control and risk management standards;

(c) confidentiality and security[9];

(d) business continuity management[10];

(e) monitoring and control[11];

(f) audit and inspection[12];

(g) Notification of adverse developments
An institution should specify in its outsourcing agreement the type of events and the circumstances under which the service provider should report to the institution in order for an institution to take prompt risk mitigation measures and notify MAS of such developments under paragraph 4.2.1;

(h) Dispute resolution
An institution should specify in its outsourcing agreement the resolution process, events of default, and the indemnities, remedies and recourse of the respective parties in the agreement. The institution should ensure that its contractual rights can be exercised in the event of a breach of the outsourcing agreement by the service provider;

(i) Default termination and early exit
An institution should, have the right to terminate the outsourcing agreement in the event of default, or under circumstances where:
(i) the service provider undergoes a change in ownership;
(ii) the service provider becomes insolvent or goes into liquidation;
(iii) the service provider goes into receivership or judicial management whether in Singapore or elsewhere;

[9] Refer to paragraph 5.6

[10] Refer to paragraph 5.7

[11] Refer to paragraph 5.8

[12] Refer to paragraph 5.9

(iv) there has been a breach of security or confidentiality; or

(v) there is a demonstrable deterioration in the ability of the service provider to perform the contracted service.

The minimum period to execute a termination provision should be specified in the outsourcing agreement. Other provisions should also be put in place to ensure a smooth transition when the agreement is terminated or being amended. Such provisions may facilitate transferability of the outsourced services to a bridge-institution or a third party. Where the outsourcing agreement involves an intra-group entity, the agreement should be legally enforceable against the intra-group entity providing the outsourced service;

(j) Sub-contracting

An institution should retain the ability to monitor and control its outsourcing arrangements when a service provider uses a sub-contractor. An outsourcing agreement should contain clauses setting out the rules and limitations on sub-contracting. An institution should include clauses making the service provider contractually liable for the performance and risk management practices of its sub-contractor and for the sub-contractor's compliance with the provisions in its agreement with the service provider, including the prudent practices set out in these Guidelines. The institution should ensure that the sub-contracting of any part of material outsourcing arrangements is subject to the institution's prior approval;

(k) Applicable Laws

Agreements should include choice-of-law provisions, agreement covenants and jurisdictional covenants that provide for adjudication of disputes between the parties under the laws of a specific jurisdiction.

5.5.3 Each agreement should be tailored to address issues arising from country risks and potential obstacles in exercising oversight and management of the outsourcing arrangements made with a service provider outside Singapore[13].

5.6 Confidentiality and Security

5.6.1 As public confidence in institutions is a cornerstone in the stability and reputation of the financial industry, it is vital that an institution satisfies itself that the service provider's

[13] Refer to paragraph 5.10.

security policies, procedures and controls will enable the institution to protect the confidentiality and security of customer information.

5.6.2 An institution should be proactive in identifying and specifying requirements for confidentiality and security in the outsourcing arrangement. An institution should take the following steps to protect the confidentiality and security of customer information:

(a) State the responsibilities of contracting parties in the outsourcing agreement to ensure the adequacy and effectiveness of security policies and practices, including the circumstances under which each party has the right to change security requirements. The outsourcing agreement should also address:
   (i) the issue of the party liable for losses in the event of a breach of security or confidentiality and the service provider's obligation to inform the institution; and
   (ii) the issue of access to and disclosure of customer information by the service provider. Customer information should be used by the service provider and its staff strictly for the purpose of the contracted service;

(b) Disclose customer information to the service provider only on a need-to-know basis;

(c) Ensure the service provider is able to protect the confidentiality of customer information, documents, records, and assets, particularly where multi-tenancy[14] arrangements are present at the service provider; and

(d) Review and monitor the security practices and control processes of the service provider on a regular basis, including commissioning audits or obtaining periodic expert reports on confidentiality, security adequacy and compliance in respect of the operations of the service provider, and requiring the service provider to disclose to the institution breaches of confidentiality in relation to customer information.

5.7 Business Continuity Management

5.7.1 An institution should ensure that its business continuity is not compromised by outsourcing arrangements, in particular, of the operation of its critical systems as stipulated under the Technology Risk Management Notice. An institution should adopt the sound

[14] Multi-tenancy generally refers to a mode of operation adopted by service providers where a single computing infrastructure (e.g., servers, databases etc.) is used to serve multiple customers (tenants).

practices and standards contained in the Business Continuity Management ("BCM") Guidelines issued by MAS, in evaluating the impact of outsourcing on its risk profile and for effective BCM.

5.7.2 In line with the BCM Guidelines, an institution should take steps to evaluate and satisfy itself that the interdependency risk arising from the outsourcing arrangement can be adequately mitigated such that the institution remains able to conduct its business with integrity and competence in the event of a service disruption or failure, or unexpected termination of the outsourcing arrangement or liquidation of the service provider. These should include taking the following steps:

(a) Determine that the service provider has in place satisfactory business continuity plans ("BCP") that are commensurate with the nature, scope and complexity of the outsourcing arrangement. Outsourcing agreements should contain BCP requirements on the service provider, in particular, recovery time objectives ("RTO"), recovery point objectives ("RPO"), and resumption operating capacities;

(b) Proactively seek assurance on the state of BCP preparedness of the service provider, or participate in joint testing, where possible. It should ensure the service provider regularly tests its BCP plans and that the tests validate the feasibility of the RTO, RPO and resumption operating capacities. Such tests would serve to familiarise the institution and the service provider with the recovery processes as well as improve the coordination between the parties involved. The institution should require the service provider to notify it of any test finding that may affect the service provider's performance. The institution should also require the service provider to notify it of any substantial changes in the service provider's BCP plans and of any adverse development that could substantially impact the service provided to the institution; and

(c) Ensure that there are plans and procedures in place to address adverse conditions or termination of the outsourcing arrangement such that the institution will be able to continue business operations and that all documents, records of transactions and information previously given to the service provider should be promptly removed from the possession of the service provider or deleted, destroyed or rendered unusable.

5.7.3 For assurance on the functionality and effectiveness of its BCP plan, an institution should design and carry out regular, complete and meaningful BCP testing that is commensurate with the nature, scope and complexity of the outsourcing arrangement. For tests to be complete and meaningful, the institution should involve the service provider in the validation of its BCP and assessment of the awareness and preparedness of its own staff. Similarly, the institution should take part in its service providers' BCP and disaster recovery exercises.

5.7.4 The institution should consider worst case scenarios in its business continuity plans. Some examples of these scenarios are unavailability of service provider due to unexpected termination of the outsourcing agreement, liquidation of the service provider and wide-area disruptions that result in collateral impact on both the institution and the service provider. Where the interdependency on an institution in the financial system is high[15], the institution should maintain a higher state of business continuity preparedness. The identification of viable alternatives for resuming operations without incurring prohibitive costs is also essential to mitigate interdependency risk.

5.8 Monitoring and Control of Outsourcing Arrangements

5.8.1 An institution should establish a structure for the management and control of its outsourcing arrangements. Such a structure will vary depending on the nature and extent of risks in the outsourcing arrangements. As relationships and interdependencies in respect of outsourcing arrangements increase in materiality and complexity, a more rigorous risk management approach should be adopted. An institution also has to be more proactive in its relationship with the service provider (e.g., having frequent meetings) to ensure that performance, operational, internal control and risk management standards are upheld. An institution should ensure that outsourcing agreements with service providers contain clauses to address the institution's monitoring and control of outsourcing arrangements.

[15] In MAS' BCM Guidelines, these institutions are referred to as Significantly Important Institutions.

5.8.2 An institution should put in place all the following measures for effective monitoring and control of any material outsourcing arrangement:

(a) Maintain a register of all material outsourcing arrangements and ensure that the register is readily accessible for review by the board and senior management of the institution. Information maintained in the register should include those set out in Annex 3. The register should be updated promptly and form part of the oversight and governance reviews undertaken by the board and senior management of the institution, similar to those described in paragraph 5.2;

(b) Establish multi-disciplinary outsourcing management groups with members from different risk and internal control functions including legal, compliance and finance, to ensure that all relevant technical issues and legal and regulatory requirements are met. The institution should allocate sufficient resources, in terms of both time and skilled manpower, to the management groups to enable its staff to adequately plan and oversee the entire outsourcing lifecycle;

(c) Establish outsourcing management control groups to monitor and control the outsourced service on an ongoing basis. There should be policies and procedures to monitor service delivery and the confidentiality and security of customer information, for the purpose of gauging ongoing compliance with agreed service levels and the viability of the institution's operations. Such monitoring should be regular and validated through the review of reports by auditors of the service provider or audits commissioned by the institution;

(d) Periodic reviews, at least on an annual basis, on all material outsourcing arrangements. This is to ensure that the institution's outsourcing risk management policies and procedures, and these Guidelines, are effectively implemented. Such reviews should ascertain the adequacy of internal risk management and management information systems established by the institution (e.g., assessing the effectiveness of processes and metrics used to evaluate the performance and security of the service provider) and highlight any deficiency in the institution's systems of control;

(e) Reporting policies and procedures

Reports on the monitoring and control activities of the institution should be reviewed by its senior management [16] and provided to the board for information. The institution should ensure that monitoring metrics and performance data are not aggregated with those belonging to other customers of the service provider. The institution should also ensure that any adverse development arising in any outsourcing arrangement is brought to the attention of the senior management of the institution and service provider, or to the institution's board, where warranted, on a timely basis. When adverse development occurs, prompt actions should be taken by an institution to review the outsourcing relationship for modification or termination of the agreement; and

(f) Perform comprehensive pre- and post- implementation reviews of new outsourcing arrangements or when amendments are made to the outsourcing arrangements. If an outsourcing arrangement is materially amended, a comprehensive due diligence of the outsourcing arrangement should also be conducted.

5.9 Audit and Inspection

5.9.1 An institution's outsourcing arrangements should not interfere with the ability of the institution to effectively manage its business activities or impede MAS in carrying out its supervisory functions and objectives.

5.9.2 An institution should include, in all its outsourcing agreements for material outsourcing arrangements, clauses that:

(a) allow the institution to conduct audits on the service provider and its sub-contractors, whether by its internal or external auditors, or by agents appointed by the institution; and to obtain copies of any report and finding made on the service provider and its sub-contractors, whether produced by the service provider's or its sub-contractors' internal or external auditors, or by agents appointed by the service provider and its sub-contractor, in relation to the outsourcing arrangement;

[16] Refer to paragraph 5.2.3.

(b) allow MAS, or any agent appointed by MAS, where necessary or expedient, to exercise the contractual rights of the institution to:

(i) access and inspect the service provider and its sub-contractors, and obtain records and documents, of transactions, and information of the institution given to, stored at or processed by the service provider and its sub-contractors; and

(ii) access any report and finding made on the service provider and its sub-contractors, whether produced by the service provider's and its sub-contractors' internal or external auditors, or by agents appointed by the service provider and its sub-contractors, in relation to the outsourcing arrangement.

5.9.3 Outsourcing agreements for material outsourcing arrangements should also include clauses that require the service provider to comply, as soon as possible, with any request from MAS or the institution, to the service provider or its sub-contractors, to submit any reports on the security and control environment of the service provider and its sub-contractors to MAS, in relation to the outsourcing arrangement.

5.9.4 An institution should ensure that these expectations are met in its outsourcing arrangements with the service provider as well as any sub-contractor that the service provider may engage in the outsourcing arrangement, including any disaster recovery and backup service providers. MAS will provide the institution reasonable notice of its intent to exercise its inspection rights and share its findings with the institution where appropriate.

5.9.5 An institution should ensure that independent audits and/or expert assessments of all its outsourcing arrangements are conducted. In determining the frequency of audit and expert assessment, the institution should consider the nature and extent of risk and impact to the institution from the outsourcing arrangements. The scope of the audits and expert assessments should include an assessment of the service providers' and its sub-contractors' security[17] and control environment, incident management process (for material breaches, service disruptions or other material issues) and the institution's observance of these Guidelines in relation to the outsourcing arrangement.

[17] The security environment refers to both the physical and IT security environments.

5.9.6 The independent audit and/or expert assessment on the service provider and its sub-contractors may be performed by the institution's internal or external auditors, the service provider's external auditors[18] or by agents appointed by the institution. The appointed persons should possess the requisite knowledge and skills to perform the engagement, and be independent of the unit or function performing the outsourcing arrangement. Senior management should ensure that appropriate and timely remedial actions are taken to address the audit findings[19]. Institutions and the service providers should have adequate processes in place to ensure that remedial actions are satisfactorily completed. Actions taken by the service provider to address the audit findings should be appropriately validated by the institution before closure. Where necessary, the relevant persons who possess the requisite knowledge and skills should be involved to validate the effectiveness of the security and control measures taken.

5.9.7 Significant issues and concerns should be brought to the attention of the senior management of the institution and service provider, or to the institution's board, where warranted, on a timely basis. Actions should be taken by the institution to review the outsourcing arrangement if the risk posed is no longer within the institution's risk tolerance.

5.9.8 Copies of audit reports should be submitted by the institution to MAS. An institution should also, upon request, provide MAS with other reports or information on the institution and service provider that is related to the outsourcing arrangement.

5.10 Outsourcing Outside Singapore

5.10.1 The engagement of a service provider in a foreign country, or an outsourcing arrangement whereby the outsourced function is performed in a foreign country, may expose an institution to country risk - economic, social and political conditions and events in a foreign country that may adversely affect the institution. Such conditions and events could prevent the service provider from carrying out the terms of its agreement with the institution. In its risk management of such outsourcing arrangements, an institution should take into account, as part of its due diligence, and on a continuous basis:

(a) government policies;

(b) political, social, economic conditions;

[18] An institution should conduct its own audits to supplement the audits performed by the service provider's auditors, where necessary.

[19] Please refer to para 5.2 on Responsibilities of Board and Senior Management

(c) legal and regulatory developments in the foreign country; and

(d) the institution's ability to effectively monitor the service provider, and execute its business continuity management plans and exit strategy.

The institution should also be aware of the disaster recovery arrangements and locations established by the service provider in relation to the outsourcing arrangement. As information and data could be moved to primary or backup sites located in foreign countries, the risks associated with the medium of transport, be it physical or electronic, should also be considered.

5.10.2 Material outsourcing arrangements with service providers located outside Singapore should be conducted in a manner so as not to hinder MAS' efforts to supervise the Singapore business activities of the institution (i.e., from its books, accounts and documents) in a timely manner, in particular:

(a) An institution should, in principle, enter into outsourcing arrangements only with service providers operating in jurisdictions that generally uphold confidentiality clauses and agreements.

(b) An institution should not enter into outsourcing arrangements with service providers in jurisdictions where prompt access to information by MAS or agents appointed by MAS to act on its behalf, at the service provider, may be impeded by legal or administrative restrictions. An institution must at least commit to retrieve information readily from the service provider should MAS request for such information. The institution should confirm in writing to MAS, that the institution has provided, in its outsourcing agreements, for MAS to have the rights of inspecting the service provider, as well as the rights of access to the institution and service provider's information, reports and findings related to the outsourcing arrangement, as set out in paragraph 5.9.

(c) An institution should notify MAS if any overseas authority were to seek access to its customer information or if a situation were to arise where the rights of access of the institution and MAS set out in paragraph 5.9, have been restricted or denied.

5.11 Outsourcing Within a Group

5.11.1 These Guidelines are applicable to outsourcing arrangements with parties within an institution's group. The expectations may be addressed within group-wide risk management policies and procedures. The institution would be expected to provide, when requested, information demonstrating the structure and processes by which its board and senior management discharge their role in the oversight and management of outsourcing risks on a group-wide basis. For an institution incorporated or established outside Singapore, the roles and responsibilities of the local management are set out in paragraph 5.2.5.

5.11.2 Due diligence on an intra-group service provider may take the form of evaluating qualitative aspects of the service provider's ability to address risks specific to the institution, particularly those relating to business continuity management, monitoring and control, audit and inspection, including confirmation on the right of access to be provided to MAS, to retain effective supervision over the institution, and compliance with local regulatory standards. The respective roles and responsibilities of each office in the outsourcing arrangement should be documented in writing in a service level agreement or an equivalent document.

5.12 Outsourcing of Internal Audit to External Auditors

5.12.1 Where the outsourced service is the internal audit function of an institution, there are additional issues that an institution should deliberate upon. One of these is the lack of independence or the appearance of impaired independence, when a service provider is handling multiple engagements for an institution, such as internal and external audits, and consulting work. There is doubt that the service provider, in its internal audit role, would criticise itself for the quality of the external audit or consultancy services provided to the institution. In addition, as operations of an institution could be complex and involve large transaction volumes and amounts, it should ensure service providers have the expertise to adequately complete the engagement. An institution should address these and other relevant issues before outsourcing the internal audit function. In addition, as a sound practice, institutions should not outsource their internal audit function to the institution's external audit firm[20].

5.12.2 Before outsourcing the internal audit function to external auditors, an institution should satisfy itself that the external auditor would be in compliance with the relevant auditor independence standards of the Singapore accounting profession.

[20] Any departure from this best practice should be limited to small institutions and should remain within the bounds of the applicable ethical standards for the statutory or external auditor.

6 CLOUD COMPUTING

6.1 Cloud services ("CS") are a combination of a business and delivery model that enable on-demand access to a shared pool of resources such as applications, servers, storage and network security. The service is typically delivered in the form of Software as a Service ("SaaS"), Platform as a Service ("PaaS") and Infrastructure as a Service ("IaaS").

6.2 CS can potentially offer a number of advantages, which include economies of scale, cost-savings, access to quality system administration as well as operations that adhere to uniform security standards and best practices. CS may also be used to provide the flexibility and agility for institutions to scale up or pare down on computing resources quickly as usage requirements change, without major hardware and software outlay as well as lead-time. In addition, the distributed nature of CS may enhance system resilience during location-specific disasters or disruptions.

6.3 It has been noted that more and more institutions are adopting CS to fulfil their business and operational requirements. These CS deployments may be operated in-house or off-premises by service providers. While the latter can take the form of a private[21] or public[22] cloud, there is a growing trend for institutions to adopt a combination of private and public clouds to create a hybrid cloud. The different cloud models provide for distinct operational and security trade-offs.

6.4 In the recent years, cloud technology has evolved and matured considerably and CS providers have become aware of the technology and security requirements of institutions to protect sensitive customer data. In this regard, a number of CS providers have implemented strong authentication, access controls, tokenisation techniques and data encryption to bolster security to meet institutions' requirements.

[21] A cloud infrastructure operated solely for an organisation

[22] A cloud infrastructure made available to the general public or an industry group, and is owned by a third party service provider

6.5 MAS considers CS operated by service providers as a form of outsourcing and recognises that institutions may leverage on such a service to enhance their operations and service efficiency while reaping the benefits of CS' scalable, standardised and secured infrastructure.

6.6 The types of risks in CS that confront institutions are not distinct from that of other forms of outsourcing arrangements. Institutions should perform the necessary due diligence and apply sound governance and risk management practices articulated in this set of guidelines when subscribing to CS.

6.7 Institutions should be aware of CS' typical characteristics such as multi-tenancy, data commingling and the higher propensity for processing to be carried out in multiple locations. Hence, institutions should take active steps to address the risks associated with data access, confidentiality, integrity, sovereignty, recoverability, regulatory compliance and auditing. In particular, institutions should ensure that the service provider possesses the ability to clearly identify and segregate customer data using strong physical or logical controls. The service provider should have in place robust access controls to protect customer information and such access controls should survive the tenure of the contract of the CS.

6.8 Institutions are ultimately responsible and accountable for maintaining oversight of CS and managing the attendant risks of adopting CS, as in any other form of outsourcing arrangements. A risk-based approach should be taken by institutions to ensure that the level of oversight and controls are commensurate with the materiality of the risks posed by the CS.

Annex 1

EXAMPLES OF OUTSOURCING ARRANGEMENTS

1 The following are examples of some services that, when performed by a third party, would be regarded as outsourcing arrangements for the purposes of these Guidelines although they are not exhaustive:

(a) application processing (e.g., loan origination, credit cards);

(b) white-labelling arrangements such as for trading and hedging facilities;

(c) middle and back office operations (e.g., electronic funds transfer, payroll processing, custody operations, quality control, purchasing, maintaining the register of participants of a collective investment scheme (CIS) and sending of accounts and reports to CIS participants, order processing, trade settlement and risk management);

(d) business continuity and disaster recovery functions and activities;

(e) claims administration (e.g., loan negotiations, loan processing, collateral management, collection of bad loans);

(f) document processing (e.g., cheques, credit card and bill payments, bank statements, other corporate payments, customer statement printing);

(g) information systems hosting (e.g., software-as-a-service, platform-as-a-service, infrastructure-as-a-service);

(h) information systems management and maintenance (e.g., data entry and processing, data centres, data centre facilities management, end-user support, local area networks management, help desks, information technology security operations);

(i) investment management (e.g., discretionary portfolio management, cash management);

(j) management of policy issuance and claims operations by managing agents;

(k) manpower management (e.g., benefits and compensation administration, staff appointment, training and development);

(l) marketing and research (e.g., product development, data warehousing and mining, media relations, call centres, telemarketing);

(m) professional services related to the business activities of the institution (e.g., accounting, internal audit, actuarial, compliance); and

(n) support services related to archival, storage and destruction of data and records.

2 The following arrangements would generally not be considered outsourcing arrangements:

(a) Arrangements in which certain industry characteristics require the use of third-party providers

(i) maintenance of custody account with specified custodians as required under Regulation 27 of the Securities and Futures (Licensing and Conduct of Business) Regulations;

(ii) telecommunication services and public utilities (e.g., electricity, SMS gateway services);

(iii) postal services;

(iv) market information services (e.g., Bloomberg, Moody's, Standard & Poor's);

(v) common network infrastructure (e.g., Visa, MasterCard, MASNET+);

(vi) clearing and settlement arrangements between clearing houses and settlement institutions and their members, and similar arrangements between members and non-members;

(vii) global financial messaging infrastructure which are subject to oversight by relevant regulators (e.g., SWIFT); and

(viii) correspondent banking services.

(b) Introducer arrangements and arrangements that pertain to principal-agent relationships

(i) sale of insurance policies by agents, and ancillary services relating to those sales;

(ii) acceptance of business by underwriting agents; and

(iii) introducer arrangements (where the institution does not have any contractual relationship with customers).

(c) Arrangements that the institution is not legally or administratively able to provide

(i) statutory audit and independent audit assessments;

(ii) discreet advisory services (e.g., legal opinions, independent appraisals, trustees in bankruptcy, loss adjuster); and

(iii) independent consulting (e.g., consultancy services for areas which the institution does not have the internal expertise to conduct)

Annex 2

MATERIAL OUTSOURCING

1 An institution should assess the materiality in an outsourcing arrangement. In assessing materiality, MAS recognises that qualitative judgment is involved and the circumstances faced by individual institutions may vary. Factors that an institution should consider include:

(a) importance of the business activity to be outsourced (e.g., in terms of contribution to income and profit);

(b) potential impact of the outsourcing on earnings, solvency, liquidity, funding and capital, and risk profile;

(c) impact on the institution's reputation and brand value, and ability to achieve its business objectives, strategy and plans, should the service provider fail to perform the service or encounter a breach of confidentiality or security (e.g., compromise of customer information);

(d) impact on the institution's customers, should the service provider fail to perform the service or encounter a breach of confidentiality or security;

(e) impact on the institution's counterparties and the Singapore financial market, should the service provider fail to perform the service;

(f) cost of the outsourcing as a proportion of total operating costs of the institution;

(g) cost of outsourcing failure, which will require the institution to bring the outsourced activity in-house or seek similar service from another service provider, as a proportion of total operating costs of the institution;

(h) aggregate exposure to a particular service provider in cases where the institution outsources various functions to the same service provider; and

(i) ability to maintain appropriate internal controls and meet regulatory requirements, if the service provider faces operational problems.

2 Outsourcing of all or substantially all of its risk management or internal control functions, including compliance, internal audit, financial accounting and actuarial (other than performing certification activities) is to be considered a material outsourcing arrangement.

3 An institution should undertake periodic reviews of its outsourcing arrangements to identify new outsourcing risks as they arise. An outsourcing arrangement that was previously not material may subsequently become material from incremental services outsourced to the same service provider or an increase in volume or change in nature of the service outsourced to the service provider. Outsourcing risks may also increase when the service provider sub-contracts the service or makes significant changes to its sub-contracting arrangements.

4 An institution should consider materiality at both the institution's level and as a group, i.e., together with the institution's branches and corporations under its control.

Annex 3

REGISTER OF OUTSOURCING ARRANGEMENTS

1 An institution should maintain an updated register of all existing outsourcing arrangements in the format as per the template available from MAS website.

AMSTERDAM ATLANTA CALGARY CHICAGO HOUSTON LONDON NEW YORK SINGAPORE WINNIPEG

ICE FUTURES SINGAPORE
FBOT APPLICATION

ANNEX D-2(2)(ii) -
BLOCK TRADE POLICY

Updated 20 June 2017

GUIDANCE

ICE Futures Singapore Block Trade

23 September 2016

Contents

ICE Futures Singapore Guidance on Block Trades

This Guidance contains details on the ICE Block Facility ("ICE Block") and on the method of reporting Block Trades to ICE Futures Singapore (the "Exchange" or "IFSG") for registration and subsequent clearing by ICE Clear Singapore (the "Clearing House").

1. GENERAL

i) ICE Block enables Members to report for clearing, high volume trades arranged and executed by Members away from the Exchange in specific Contracts designated by the Exchange.

ii) For the purposes of this Guidance, and in accordance with the Rules, a Member shall include all registered General Participants, Trade Participants, General Participants ICE Block, Trade Participants ICE Block, and all Member's Representatives.

iii) Each Member and its representatives should ensure that it is appropriately authorised and holds all necessary licenses and consents in accordance with Exchange Rule B.3.1(h); and that it has appropriate systems and controls in place in order to conduct business on the ICE Platform. Members must also ensure that Block Trades are reported in accordance with Exchange Rule F.7 and Trading Procedure 17, Failure to do so may render the Member liable to disciplinary action by the Exchange and potentially the MAS or another Regulatory Authority

iv) Members must ensure that they act with due skill, care and diligence and that the interests of client(s) are not prejudiced at all times, including when using ICE Block. Members must be mindful of applicable regulatory requirements as well as any fiduciary requirements under law when conducting business on the ICE Platform.

2. ELIGIBLE CONTRACTS

i) Block Trades may take place in respect of Futures Contracts designated by the Exchange from time to time as Block Trade Contracts.

ii) Block Trades may be for single outright contract months, intra-commodity spreads (e.g. calendar spreads), inter-commodity spreads and any other types of trades or combination of trades permitted by the Exchange from time to time.

iv) Block Trades are identifiable by a 'K' trade type code.

3. TRADING HOURS AND FEES

i) Block Trades may, pursuant to Rule F.7.1, only be arranged during specific trading hours and on specific ICE Futures Singapore Trading Days as notified by the Exchange from time to time. Currently this means normal trading hours and all Trading Days.

ii) Block Trades may not be arranged at any other times or after the expiry of the relevant contract month.

iii) Block Trades will be charged the premium Exchange transaction fee as published by Circular.

4. MINIMUM VOLUME THRESHOLDS

i) The minimum volume threshold is the minimum number of lots, as determined by the Exchange from time to time that can be traded as a Block Trade.

ii) Table 1 sets out the minimum volume threshold for a Block Trade.

iii) Table 2 sets out the overall requirements that apply to outright block trades and any other types of block trades.

iv) An order for a Block Trade for calendar spreads in Futures Contracts may be matched with Block Trade orders for individual contract months provided that all orders involved meet or exceed the minimum volume threshold for that Contract. Please see Part 6 for more details on aggregation of orders.

v) Members not meeting the minimum volume threshold may be subject to disciplinary action under Exchange Rules.

Table 1 - Minimum Volume Threshold

Contract	Block Minimum Volume Threshold
Mini Brent Crude Oil Futures	100
Mini Low Sulphur Gasoil Futures	100
Mini WTI Crude Futures	50
Mini US Dollar Index® Futures	75
Kilo Gold Futures	10
All Currency Pairs	5

Mini Brent Futures/Mini WTI Crude Futures	**50**
Mini Brent Futures/Mini Low Sulphur Gasoil Futures	**ICE Mini Brent Leg - 75** **ICE Mini Gasoil Leg - 100**

Table 2 - Block Trading Requirements

Block Trade Type	Description	Block Minimum Volume Threshold	Reporting Time
1. Outright	One maturity of any IFSG Futures Contract	Minimum threshold applicable to the Contract being traded as published by the Exchange	15 minutes
2. Intra-commodity IFSG Futures Contract	Two or more contract months of the same IFSG Futures Contract	Sum of the legs of the Block Trade must meet the minimum volume threshold applicable to the Contract being traded	15 minutes
3. Inter-commodity IFSG Futures Contract	Two or more contract months of two or more different IFSG Futures Contracts	Sum of the legs of the Block Trade must meet the larger of the minimum volume thresholds applicable to the Contracts being traded B	15 minutes
4. Ratio	Standard crack spreads listed on the ICE Platform; or, non-standard crack spreads which involve months other than those listed on the ICE Platform; or, crack spreads with a ratio other than 4:3	Sum of the legs of the Block Trade must meet the larger of the minimum volume thresholds applicable to the Contracts being traded	15 minutes
5. Cross Exchange	Any of Block Trade types 2, 3 or 4 (non-standard crack spreads) where one or more of the legs is executed on an Exchange other than IFSG.	Treated as Block Type 3 as set out above.	15 minutes

Notes to Table 2

i) These notes give illustrative examples of how the above rules apply.

ii) *Examples of a "Type 2" block - two or more contract months of the same IFSG Futures Contract.*

- For a time spread such as February / March Brent Crude Mini spreads, each leg must be at least 50 lots, so that the sum is 100, which equals the minimum size for Brent.

iii) *Examples of a "Type 3" block - two or more contract months of two or more different IFSG Futures contracts*

Where the products being blocked are not the same, there will often be different minimum sizes, one for each product. In these cases the legs can be added up, but must sum to the largest threshold among the products involved.

- For a spread between Contract A and Contract B, the threshold for Contract A is 100 lots and for Contract B is 50 lots. The legs must sum up to 100 lots in any proportion.

iii) *Examples of a "Type 4" block - standard crack spreads listed on the ICE Platform; or, non-standard crack spreads which involve months or a combination of months other than those listed on the ICE Platform; or, crack spreads with a ratio other than 4:3*

- For a spread between Contract A and Contract B, the threshold for Contract A is 100 lots and for Contract B the threshold is 10 lots; the legs must sum to 100, but taking into account the unequal size of the respective lots, Contract A can be 57 lots and the Contract B leg can be 43 lot for a total of 100.

iv) *Examples of a "Type 5" block - any of Block Trade types 2, 3, or 4 where one or more of the legs are executed on an Exchange other than IFSG.*

Where one or more legs are executed on another exchange, these are treated as Block Trade Type 3, i.e. encompassing two or more different commodities.

- For a Brent arbitrage trade where one trade is executed on ICE and an opposite quantity elsewhere, i.e. a switch trade, applying this constitutes a Type 3 block trade because two different commodities are involved. Hence the legs must sum to the highest ICE threshold. For a Brent switch trade the ICE leg would need to be at least 50 lots, and the sum of the legs 100.
- For a Brent-WTI arbitrage trade where the Brent leg is executed on ICE and the WTI elsewhere, the ICE leg would need to be 50 lots and the sum of the legs 100(the larger threshold of the two)

All block trades must be reported to the Exchange within the specified reporting time in Table 1 after concluding the bilateral negotiations.

Aggregation of orders in connection with minimum volume thresholds

i) Members must not aggregate separate client orders in order to meet the minimum volume thresholds, except in the following circumstances:

   (a) The separate orders have the same beneficial owners;

   (b) The separate orders have different beneficial owners provided that each such order individually meets or exceeds the applicable minimum volume;

   (c) The orders are for funds which are operated by the same Fund Manager and traded by the same Fund Manager, pursuant to the same strategy.

ii) Members must ensure that aggregating orders in this way is not to the detriment of any client order.

5. BLOCK TRADE PARTICIPATION

i) Block trades may only be reported to the Exchange by ICE Futures Singapore Members who have been permitted to enter Block Trades as appropriate by the Exchange or by their client's Clearing Member. Where more than one Exchange Member is involved in the arrangement, execution and subsequent clearing of a Block Trade, each Member must ensure that the business conducted by it or through it shall not cause it or the Exchange to be in breach of any applicable Laws and Regulations.

ii) Affiliate or group companies may be eligible to arrange, execute and report Block Trades on behalf of an Exchange Member, provided the specific written permission of the Member to that effect has first been lodged with the Exchange. In such cases, the affiliate or group company is a Representative of the Exchange Member and must comply with all applicable Exchange and regulatory requirements.

iii) If a Member is licenced or otherwise authorised by a Regulatory Authority, it must ensure that Block Trades may only be arranged on behalf of clients by a Member's representative who has the necessary registration in accordance with the regulations of the Regulatory Authority, where applicable.

iv) Members are reminded of their responsibility under Rule A.9 for the conduct of their Member's Representatives.

6. PROHIBITIONS

i) A Member must not disclose the identity of the party to a Block Trade order to potential counterparties unless the Member has previously received that party's permission to do so. Members may disclose the terms of Block Trade orders in furtherance of bilateral negotiations, which may include indicating that the negotiations have ended.

ii) Members are reminded of Rule E.2.2A which states that any behaviour amounting to market abuse (including wash trades, where appropriate)as set out in relevant market abuse legislation will constitute a breach of Exchange Rules.

iii) Members must not share specific, material and non-public information with other Market participants, except in the normal course of business.

7. PRICE

i) Members must ensure, when arranging Block Trades, that the price of any Block Trade being quoted represents the fair market value for that trade. This is the price that the Member considers to be the best available for a trade of that kind and type at the time of arranging.

ii) On each occasion of quoting a Block Trade price, the Member must, at the times, make it clear to the potential counterparty(ies), whether a Member or a client who is not a Member of the Exchange, that the price being quoted is a Block Trade price and is not the prevailing Market price.

iii) When determining a Block Trade price, a Member should, in particular, take into account the prevailing price and volume currently available in the Market, the liquidity of the Market and general Market conditions. The Member is not obliged to obtain prices from other Members, unless this would be appropriate in the circumstances.

iv) Block Trades are neither included in the determination or calculation of any settlement price, index or marker published by the Exchange, nor do they affect the daily published high and low trades.

8. REPORTING TO THE EXCHANGE AND REGISTRATION

i) Once a Block Trade has been organised the Members must report the Block Trade details to the Exchange in accordance with ICE Futures Singapore Trading Procedure 17.

ii) Block Trades may be reported to the Exchange by the entry of the Block Trade details to ICE Block (or by any other means determined by the Exchange from time to time).

a. Members may post a Block Trade by entering into ICE Block both the buy and sell sides of the trade as a "cross trade" in accordance with Trading Procedure 17.

b. Where the Block Trade is agreed between two separate Members ("Non-crossed Trade") one of the Members party to a Non-crossed Trade inputs into ICE Block its own side of the deal (i.e. either the buy or sell side of the trade) alleging the counterparty Member to the deal. The counterparty Member to the deal is required to accept the alleged Non-crossed Trade in ICE Block within the specified time period. Once the Non-crossed Trade has been accepted by the counterparty it flows through to the ICE Systems in the normal manner.

   i. In order to facilitate the swift matching of Non-crossed Trades the submitting Member must complete mandatory Order Reference and Contact Number fields in ICE Block to assist any queries prior to acceptance by the counterparty Member.

   ii. Unless otherwise agreed by the relevant Members, Non-crossed Trades shall be entered by the buying Member in respect of Non-crossed Trades in single contract months.

c. Members may also directly allocate trades executed on behalf of its clients into the clients' accounts at the relevant clearing Member(s) through ICE Block. Members must have the permission of the relevant clearing Member(s) to execute business on behalf of its client and been set up in the system before arranging the Block Trade.

d. Members who do not have direct access to ICE Block may report the details of agreed Block Transactions to the ICE Help Desk for entry into ICE Block provided that the Member, or the client(s) on whose behalf the Member is acting, has a clearing account with a Clearing Member.

iii) Details of a Block Trade must be entered into ICE Block within the specified time limit after verbal agreement on the terms of the Block Trade was reached between the parties. In the case of Non-crossed Trades, the details of the Block Trade must be both entered into ICE Block and accepted by the other Member within the specified time limit. The time of the arrangement of the Block Trade must be recorded by the arranging Members on the order slip.

iv) If technical difficulties prevent prompt entry, Members should contact the Exchange or the ICE Help Desk to ensure the fact and time of the trade are recorded while the technical issue is resolved.

v) Participants who do not have the relevant permissions from the Exchange or from their client's Clearing Member to enter Block Trades on their behalf are prohibited from doing so. Parties arranging or seeking to enter Block Trades must ensure that prior to executing a transaction with a client, all appropriate permissions are in place to ensure the trade can be entered and that Exchange Rules are complied with.

9. POST TRADE CONFIRMATION

i) Subject to such details being within relevant clearing risk limits, the trade details will flow through to the ICE Systems and an ICE Futures Singapore Contract shall arise. The process will not continue if there are any issues with limits; in such instance, the affected party should contact its Clearing Member to remedy the issue and inform the Exchange as per 9(iv) above.

ii) In the event that the details of a Block Trade are reported to and entered into ICE Block by the ICE Help Desk, both parties to the Block Trade will receive a confirmatory email. For such trades, parties must respond to the email as soon as possible if they disagree with any of the details booked on the trade. Note that if no objection is received within the reporting time period both parties to the Block Trade will be deemed to have accepted the trade.

iii) ICE Block assigns each new trade a unique deal ID and provides an audit of all actions undertaken on ICE Block for that particular day

iv) The Exchange may check the validity of the Block Trade details submitted by the parties to the Block Trade. If the Exchange (following consultation, where necessary, with ICE Clear Singapore and subject to their right to refuse registration) is not satisfied that all such details are valid, it will void the Block Trade. Any decision by the Exchange not to register a Block Trade is final.

v) Registration of a transaction does not preclude the Exchange from instigating disciplinary procedures in the event that the transaction is subsequently found to have been made other than in compliance with the Rules.

vi) The Block Trade price and volume will be broadcast to the Market via the ICE Platform.

vii) The Block Trade is registered under the executing Members' company mnemonic (for those crossed trades that are entered into a client's clearing account directly, the trade will be registered in the respective clearing members' mnemonics) with a trade type of 'K'.

10. CANCELLATION AND AMENDMENT OF BLOCK TRADES

i) A Member may cancel Block Trades Reported to the Exchange through ICE Block. The self-cancellation of Block Trades will only be permitted for cross trades, or trades where both sides have been entered by the same Member, which were entered earlier on the same Clearing Day ("Top Day Trades"). Members using this facility must ensure they enter a reason for the Block Trade cancellation when confirming the request for cancellation.

ii) Members should contact ICE Futures Singapore Market Supervision regarding cancellation requests for all other Non-crossed Trades.

ii) Adjustment of Block trades entered via ICE Block is also available at any time on the Clearing Day following the reporting of the block trade to the Exchange. This Next-Day adjustment establishes an offsetting trade and a new trade with the corrected details.

iv) The amendment will only be implemented by an Exchange member or by the ICE Helpdesk on the instruction of an Exchange member. Member must provide a valid reason when amending a trade via ICE Block.

v) The Exchange will monitor all requests for trade cancellations and may take disciplinary action against Members that make excessive requests compared to the level of business they undertake. Deliberate submission of inaccurate trades would be regarded as potentially manipulative and amounting to serious misconduct.