

Money-changing and Remittance Businesses (Amendment) Bill

Bill No. 15/2005.

Read the first time on 18th July 2005.

A BILL

intituled

An Act to amend the Money-changing and Remittance Businesses Act
(Chapter 187 of the 1996 Revised Edition).

Be it enacted by the President with the advice and consent of the
Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Money-changing and Remittance Businesses (Amendment) Act 2005 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of long title

2. The long title to the Money-changing and Remittance Businesses Act (referred to in this Act as the principal Act) is amended by deleting the words “or remittance business” and substituting the words “business and companies which carry on remittance business”.

10 Amendment of section 2

3. Section 2(1) of the principal Act is amended —

(a) by inserting, immediately after the definition of “licence”, the following definition:

15 “ “licensee” means the holder of a money-changer’s licence or a remittance licence, as the case may be;”;

(b) by inserting, immediately after the definitions of “partner” and “manager”, the following definition:

20 “ “place of business” means each place or location in Singapore used by a licensee for carrying on money-changing business or remittance business, whether within a single building, at a single business address, or otherwise;”;

(c) by inserting, immediately after the words “another country” in the definition of “remittance business”, the words “or a territory outside Singapore”; and

25

(d) by deleting the full-stop at the end of the definition of “remittance licence” and substituting a semi-colon, and by inserting immediately thereafter the following definition:

30 “ “substantial shareholder” has the same meaning as in section 81 of the Companies Act (Cap. 50).”.

Amendment of section 5

4. Section 5(2) of the principal Act is amended —

- (a) by deleting “\$50,000” and substituting “\$100,000”; and
- (b) by deleting “\$1,000” and substituting “\$10,000”.

5 **Amendment of section 6**

5. Section 6(2) of the principal Act is amended —

- (a) by deleting “\$50,000” and substituting “\$100,000”; and
- (b) by deleting “\$1,000” and substituting “\$10,000”.

Repeal and re-enactment of section 7 and new sections 7A and 7B

10 6. Section 7 of the principal Act is repealed and the following sections substituted therefor:

“Application for and renewal of money-changer’s licence

15 7.—(1) Any person who desires to obtain or renew a money-changer’s licence shall submit an application to the Authority in such form, and shall furnish the Authority with such information, as the Authority may require.

20 (2) An application made to the Authority for the grant or renewal of a money-changer’s licence shall be accompanied by a non-refundable application fee of a prescribed amount, which shall be paid in the manner specified by the Authority.

(3) Upon receiving an application for a money-changer’s licence under subsection (1), the Authority shall consider the application and may —

- 25 (a) grant a money-changer’s licence with or without conditions;
or
- (b) refuse to grant a money-changer’s licence.

(4) In considering any application for a money-changer’s licence, the Authority may require to be satisfied as to —

- 30 (a) the good character of the applicant or, if the applicant is a company, the general character of the management of the company;

(b) the financial condition of the applicant; and

(c) whether the public interest will be served by the granting of the money-changer's licence.

5 (5) The Authority may at any time vary or revoke any of the existing conditions of a money-changer's licence or impose new conditions.

10 (6) An application for the renewal of a money-changer's licence shall be made not later than one month, or such other period as the Authority may prescribe, before the expiry of the money-changer's licence.

15 (7) The Authority may renew the money-changer's licence of a person even though he does not submit an application for the renewal of his money-changer's licence within the time required by subsection (6), if the person pays a late renewal fee not exceeding \$50 for every day or part thereof that the application for renewal is late, subject to a maximum of \$1,500.

20 (8) Where a person submits an application for the renewal of his money-changer's licence, whether or not within the time required by subsection (6), his money-changer's licence shall continue in force until the date on which the licence is renewed or the application for its renewal is refused, as the case may be.

(9) No application for renewal of a money-changer's licence shall be made after the expiry of the licence.

Application for or renewal of remittance licence

25 **7A.**—(1) Any person who desires to obtain or renew a remittance licence shall submit an application to the Authority in such form, and shall furnish the Authority with such information, as the Authority may require.

30 (2) An application made to the Authority for the grant or renewal of a remittance licence shall be accompanied by a non-refundable application fee of a prescribed amount, which shall be paid in the manner specified by the Authority.

35 (3) Upon receiving an application for a remittance licence under subsection (1), the Authority shall consider the application and may —

(a) subject to section 7B, grant a remittance licence with or without conditions; or

(b) refuse to grant a remittance licence.

(4) In considering any application for a remittance licence, the Authority may require to be satisfied as to —

(a) the general character of the management of the applicant;

(b) the financial condition of the applicant; and

(c) whether the public interest will be served by the granting of the remittance licence.

(5) The Authority may at any time vary or revoke any of the existing conditions of a remittance licence or impose new conditions.

(6) An application for the renewal of a remittance licence shall be made not later than one month, or such other period as the Authority may prescribe, before the expiry of the remittance licence.

(7) The Authority may renew the remittance licence of a person even though he does not submit an application for the renewal of his remittance licence within the time required by subsection (6), if the person pays a late renewal fee not exceeding \$50 for every day or part thereof that the application for renewal is late, subject to a maximum of \$1,500.

(8) Where a person submits an application for the renewal of his remittance licence, whether or not within the time referred to in subsection (6), his remittance licence shall continue in force until the date on which the licence is renewed or the application for his renewal is refused, as the case may be.

(9) No application for renewal of a remittance licence shall be made after the expiry of the licence.

Criteria for granting, renewal or holding of remittance licence

7B.—(1) No remittance licence shall be granted to or renewed for any person, and no person shall continue to hold a remittance licence, unless the person —

(a) is a company;

(b) has a minimum capital of \$100,000 or such other sum as may be prescribed by the Authority; and

(c) has furnished and maintains with the Authority the security required under section 8.

(2) Any person who holds a remittance licence in contravention of the minimum capital requirement in subsection (1)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(3) Notwithstanding subsection (1), a person who holds a remittance licence which is in force on the eve of the appointed day shall be exempt from subsection (1)(a) and (b) for a period of 12 months starting from the appointed day (referred to in this section as the exemption period).

(4) The remittance licence of a person referred to in subsection (3) which is renewed during the exemption period shall be valid for the duration of the licence unless —

(a) by the end of the exemption period, the holder of the licence does not comply with the requirements of subsection (1), in which case the licence shall lapse on the anniversary of the appointed day; or

(b) the licence is earlier revoked under section 14.

(5) In this section, “appointed day” means the date of commencement of the Money-changing and Remittance Businesses (Amendment) Act 2005.”.

Repeal and re-enactment of sections 8 and 9 and new sections 9A and 9B

7. Sections 8 and 9 of the principal Act are repealed and the following sections substituted therefor:

“Security

8.—(1) Every licensee which carries on remittance business shall maintain with the Authority security of the value of \$100,000, or such other amount as may be prescribed, in respect of its place of business, for the due performance of its obligations to those persons who will deposit or have deposited moneys with the licensee for remittance purposes.

(2) Where a licensee carries on remittance business at more than one place of business, the licensee shall maintain with the Authority such amount of additional security as may be prescribed in respect of each additional place of business.

5 (3) The security referred to in subsection (1) or (2) shall be —

(a) in the form of a cash deposit;

(b) in the form of a bank guarantee specified by the Authority;
or

10 (c) in such other form as the Authority may, in any particular case, allow.

(4) All moneys deposited by a licensee which carries on remittance business under this section shall be treated as a single security and may be applied by the Authority, in respect of that licensee, for the purposes of subsection (5).

15 (5) Where a licensee which carries on remittance business has surrendered its licence or its licence has lapsed or expired or has been revoked, it shall be lawful for the Authority to enforce the security referred to in subsection (1) or (2) to the extent required to pay any sums outstanding and claimed by the customers of the licensee who
20 had given money to the licensee for remittance purposes; and if the security is insufficient to cover all sums claimed by such customers, the Authority may pay part of the sums claimed by such customers.

(6) For the avoidance of doubt, where the security referred to in subsection (1) or (2) is provided in the form of a bank guarantee, it
25 shall be lawful for the Authority to call on the bank guarantee for the purposes of subsection (5) notwithstanding that a closure certificate required under section 14A has not been submitted to the Authority.

(7) Where a licensee which carries on remittance business has surrendered its licence or its licence has lapsed or expired or has been
30 revoked, the Authority shall, upon being satisfied that there is no outstanding claim by any customer of the licensee and upon receiving the closure certificate required under section 14A, release the security or the remainder thereof, as the case may be, to the licensee.

35 (8) Any security furnished by a licensee which carries on remittance business under this section shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or

claim whatsoever, and if the holder is declared insolvent or is wound up by an order of the court, the security shall be deemed not to form part of the property of the licensee.

Place of business of licensee

5 **9.**—(1) No licensee shall operate a money-changing business or remittance business, as the case may be, unless he or it has a permanent place of business.

10 (2) No licensee shall carry on money-changing business or remittance business at any additional place of business other than the licensee's permanent place of business referred to in subsection (1) except with the approval of the Authority.

15 (3) A licensee which intends to commence money-changing business or remittance business at any additional place of business shall, prior to commencing such business at the additional place of business, apply in writing to the Authority for approval, and the Authority may approve the additional place of business subject to such conditions as it thinks fit.

20 (4) The Authority shall not grant its approval under subsection (3) unless the licensee has furnished the Authority with the additional security required under section 8(2) and the additional licence fee required under section 11(2A).

 (5) The Authority may revoke its approval granted under subsection (3) if the licensee breaches any of the conditions imposed on the licensee under that subsection.

25 (6) Every licensee shall notify the Authority of any change in the address of any of the licensee's place of business within 7 days of such change.

30 (7) Any licensee 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 of \$5,000 for every day or part thereof during which the offence continues after conviction.

(8) Where a licensee fails to notify the Authority within the time period specified in subsection (6) of any change in the address of the licensee's place of business, the Authority may impose a late notification fee not exceeding \$50 for every day or part thereof that the notification is late, subject to a maximum of \$1,500.

Approval of partners or directors

9A.—(1) No holder of a money-changer's licence shall —

(a) where the holder is a partnership (including a limited liability partnership), appoint a person as a partner; or

(b) where the holder is a company, appoint a person as its director,

unless the holder has obtained the approval of the Authority.

(2) No holder of a remittance licence shall appoint a person as its director unless it has obtained the approval of the Authority.

(3) Where a licensee has obtained the approval of the Authority to appoint a person as its director under subsection (1)(b) or (2), the person may be re-appointed without break as director of the licensee immediately upon the expiry of his earlier term without the approval of the Authority.

(4) 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) or (2), have regard to such criteria as may be prescribed or specified in written directions.

(5) Any 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.

Approval of substantial shareholdings

9B.—(1) Where a licensee is a company, no person shall become a substantial shareholder of the licensee unless he has obtained the approval of the Authority.

(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 specified in written directions.

(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.”.

Amendment of section 10

5 **8.** Section 10 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

10 “(1) Every licensee shall display or exhibit his or its licence or a certified true copy thereof in a conspicuous place at each of the premises which the licensee carries on money-changing business or remittance business.”.

Amendment of section 11

9. Section 11 of the principal Act is amended —

(a) by inserting, immediately after subsection (2), the following subsection:

15 “(2A) Where a licensee has more than one place of business, the licensee shall pay such additional licence fee as may be prescribed by the Authority for each additional place of business.”; and

20 (b) by deleting the words “cancelled or revoked” in subsection (4) and substituting the words “cancelled, revoked or suspended”.

Amendment of section 13

10. Section 13 of the principal Act is amended by deleting “\$10,000” and substituting “\$50,000”.

Repeal and re-enactment of section 14 and new section 14A

25 **11.** Section 14 of the principal Act is repealed and the following sections substituted therefor:

“Lapsing, surrender, revocation, suspension and expiry of licence

14.—(1) A licence shall lapse —

30 (a) where the licensee is a company, on the date the licensee makes a composition or an arrangement with its creditors, or goes into liquidation, or is wound up or is otherwise dissolved, whether in Singapore or elsewhere;

- 5
- (b) where the licensee is an individual, on the date the licensee dies, becomes mentally incapacitated or has been adjudicated a bankrupt;
- (c) where the licensee is a partnership, on the date the partnership is dissolved;
- (d) where the licensee is a limited liability partnership, on the date the licensee goes into receivership, or is wound up or is otherwise dissolved, whether in Singapore or elsewhere;
- 10 (e) where the licensee has not commenced money-changing business or remittance business, as the case may be, for a continuous period of 3 months (or such longer period as the Authority may allow) after the grant of the licence, upon the expiry of that period;
- 15 (f) where the licensee has ceased to carry on money-changing business or remittance business, as the case may be, and has not resumed money-changing business or remittance business, as the case may be, for a continuous period of 2 months (or such longer period as the Authority may allow) from the date of cessation of business, upon the expiry of
- 20 that period; or
- (g) in the event of such other occurrence or in such other circumstances as may be prescribed by the Authority.

25 (2) Where a licence has lapsed on the ground specified in subsection (1)(e) or (f), the person who held the licence shall, within 14 days of the date on which the licence lapsed, notify the Authority, in such form as may be specified by the Authority, of the lapsing of the licence and shall return the licence to the Authority.

30 (3) Where a licensee has not commenced or has ceased to carry on money-changing business or remittance business, as the case may be, the licensee may, before the licence has lapsed pursuant to subsection (1)(e) or (f), surrender his or its licence by returning the licence to the Authority with a written notice of its surrender in such form as may be specified by the Authority.

35 (4) Upon receipt of the notice and licence referred to in subsection (2) or (3), the Authority shall cancel the licence.

- (5) The Authority may, by order, revoke a licence —
- (a) if the licensee has contravened any of the provisions of this Act;
 - (b) if the licensee has failed to comply with or observe any of the conditions of his or its licence;
 - (c) if the licensee has failed to comply with or observe any written direction issued to him or it by the Authority under this Act;
 - (d) if the licensee has made a false or misleading statement in his or its application for a licence;
 - (e) if the licensee has carried on or is carrying on business in a manner likely to be detrimental to the interests of the public or of his or its customers;
 - (f) where the licensee is an individual, if the licensee has been convicted, whether in Singapore or elsewhere, of an offence —
 - (i) involving fraud or dishonesty; or
 - (ii) the conviction for which involved a finding that he had acted fraudulently or dishonestly;
 - (g) where the licensee is a partnership, if any of its partners has been convicted, whether in Singapore or elsewhere, of an offence —
 - (i) involving fraud or dishonesty; or
 - (ii) the conviction for which involved a finding that he had acted fraudulently or dishonestly;
 - (h) where the licensee is a limited liability partnership, if —
 - (i) 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 licensee; or
 - (ii) any of its partners has been convicted, whether in Singapore or elsewhere, of an offence —
 - (A) involving fraud or dishonesty; or

(B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(i) where the licensee is a company, if —

(i) 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 licensee; or

(ii) the licensee, or any of its directors or substantial shareholders has been convicted, whether in Singapore or elsewhere, of an offence —

(A) involving fraud or dishonesty; or

(B) the conviction for which involved a finding that it or he had acted fraudulently or dishonestly.

(6) The Authority may, if it considers it desirable to do so, by order —

(a) suspend a licence for a specific period instead of revoking it under subsection (5); and

(b) at any time extend or revoke the suspension.

(7) The Authority may revoke a licence on any ground under subsection (5)(f), (g), (h) or (i) or suspend a licence on any such ground under subsection (6), without giving the licensee an opportunity to be heard.

(8) Where the Authority gives a licensee an opportunity to be heard prior to the revocation or suspension of the licence, the Authority shall give a notice to the licensee —

(a) stating the decision the Authority intends to make that affects the licensee and the grounds for the decision; and

(b) inviting the licensee to give to the Authority, within such period as may be specified in the notice (being not less than 10 days from the date the licensee receives the notice), a written statement, accompanied by relevant supporting documents, as to why the Authority should reconsider the decision.

(9) Where a licensee gives the Authority a written statement under subsection (8)(b), the statement shall be signed by the licensee, a duly authorised employee of the licensee, or an advocate and solicitor acting for the licensee.

5 (10) Notwithstanding subsection (8), the Authority may, during the period when the Authority gives the licensee an opportunity to be heard, give a direction under section 30 prohibiting the licensee from entering into any new transaction for money-changing business or remittance business, as the case may be.

10 (11) Any person who is aggrieved by any direction referred to in subsection (10) may, within 10 days after he is given the direction, make representations in writing to the Authority and the Authority may upon such representations, modify or cancel the direction.

15 (12) If no representation is made under subsection (11), the person shall be deemed to have accepted the direction given by the Authority.

(13) An order of revocation shall not take effect until —

(a) the expiration of 30 days after the date the order is served on the licensee; or

20 (b) where the licensee has made an appeal under section 15 —

(i) the order of revocation is confirmed by the Minister; or

(ii) the appeal is withdrawn.

(14) An order of suspension shall take effect on the date the order is served on the licensee.

25 (15) Any licensee who carries on money-changing business or remittance business, as the case may be, after his or its licence has lapsed or has been surrendered, revoked or suspended 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
30 exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(16) Any lapsing, surrender, revocation, suspension or expiry of a licence shall not operate so as to —

35 (a) avoid or affect any agreement, transaction or arrangement relating to the money-changing business or remittance

business, as the case may be, entered into by such licensee, whether the agreement, transaction or arrangement was entered into before or after the lapsing, revocation or suspension of the licence, as the case may be; or

- 5 (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

Closure certificate

10 **14A.** The holder of a remittance licence shall within 45 days, or such longer period as the Authority may allow, of the date on which its remittance licence has lapsed, has been surrendered or revoked or has expired, submit to the Authority a closure certificate issued by its auditors confirming that —

- 15 (a) all moneys received from the licensee’s customers have been received by the intended recipients of such moneys; and
- (b) adequate provision has been made to meet any unforeseen liabilities in respect of the remittance business.”.

Repeal and re-enactment of section 15

20 **12.** Section 15 of the principal Act is repealed and the following section substituted therefor:

“Appeals

25 **15.** Any person who is aggrieved by the revocation of a licence by the Authority may, within 30 days after it is notified of the decision of the Authority, appeal in writing to the Minister whose decision shall be final.”.

Amendment of section 16

13. Section 16 of the principal Act is amended —

- 30 (a) by deleting the words “of all his transactions” in subsection (1) and substituting the words “in the English language of all his or its transactions”;
- (b) by inserting, immediately after the word “he” in subsection (1), the words “or it”; and

- (c) by deleting “\$10,000” in subsection (3) and substituting “\$50,000”.

Amendment of section 17

14. Section 17 of the principal Act is amended —

- 5 (a) by deleting the word “prescribe” in subsection (1) and substituting the word “specify”;
- (b) by deleting “\$5,000” in subsection (2) and substituting “\$50,000”; and
- (c) by deleting “\$1,000” in subsection (2) and substituting “\$5,000”.

Amendment of section 18

15. Section 18(2) of the principal Act is amended —

- (a) by deleting “\$5,000” in the 18th line and substituting “\$50,000”; and
- 15 (b) by deleting “\$1,000” in the penultimate line and substituting “\$5,000”.

Repeal of sections 19 and 20

16. Sections 19 and 20 of the principal Act are repealed.

Amendment of section 21

20 **17.** Section 21 of the principal Act is amended by inserting, immediately after subsection (3), the following subsections:

“(3A) Where it is proved to the satisfaction of the court that any business of the licensee has been carried out with the intention of defrauding any creditor or customer of the licensee or any other person, or for any fraudulent purpose, the court may, on the application of any person who has suffered any loss as a result of the carrying on of the business in the above-mentioned manner, declare that —

- (a) in the case where the licensee is a company —
- 30 (i) any of its directors, whether past or present, who were knowingly parties to the carrying on of the business in the above-mentioned manner; or

(ii) any of its directors, secretaries, managers or other officers, whether past or present, who have caused the business of the licensee to be carried on in the above-mentioned manner; or

5 (b) in the case where the licensee is a limited liability partnership —

(i) any of its partners or managers, whether past or present, who were knowingly parties to the carrying on of the business in the above-mentioned manner; or

10 (ii) any of its partners or managers, whether past or present, who have caused the business of the licensee to be carried on in the above-mentioned manner,

shall be personally responsible, without any limitation of liability, for all or any of the losses suffered by the applicant.

15 (3B) Where the court makes a declaration under subsection (3A) against any person, the amount which such person is liable to pay to any other person pursuant to the declaration shall be enforceable by the second-mentioned person as a judgment debt.”.

Repeal and re-enactment of section 22

20 **18.** Section 22 of the principal Act is repealed and the following section substituted therefor:

“Service of order, etc.

22.—(1) Any notice, order or document required or authorised by this Act to be given to any person may —

25 (a) in the case of an individual —

(i) be delivered to him;

(ii) be left at his place of residence or business; or

(iii) be sent by registered post to his last known address;

(b) in the case of a partnership —

30 (i) be delivered to any of the partners of the partnership;

(ii) be left at the place of business of the partnership; or

(iii) be sent by registered post to the last known address of the place of business of the partnership; or

(c) in the case of a company —

(i) be delivered to the secretary or other like officer of the company at its registered office;

(ii) be left at the place of business or the registered office of the company; or

(iii) be sent by registered post to the last known address of the registered office.

(2) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order or document, as the case may be, would in the ordinary course of post be delivered.

(3) When proving service of any notice, order or document referred to in subsection (2), it shall be sufficient to prove that the envelope containing the notice, order or document, as the case may be, was properly addressed, stamped and posted by registered post.”.

Repeal of section 23

19. Section 23 of the principal Act is repealed.

Amendment of section 25

20. Section 25 of the principal Act is amended —

(a) by deleting subsection (2) and substituting the following subsection:

“(2) A licensee carrying on remittance business shall pay all moneys received from its customers for remittance purposes directly into the account referred to in subsection (1) no later than the next business day following the day on which the moneys were received by it.”; and

(b) by deleting the words “is adjudicated a bankrupt or, being a company,” in subsection (6).

Amendment of section 26

21. Section 26 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

5 “(1) Every licensee shall at his or its own expense appoint annually an auditor to carry out an audit of the transactions in his or its money-changing business or remittance business, as the case may be.”;

10 (b) by deleting the words “and to submit a report of his audit to the Authority” in subsection (2)(b);

(c) by deleting paragraph (d) of subsection (2) and substituting the following paragraph:

15 “(d) to submit to the Authority a report of his audit or a report on any matters referred to in paragraphs (b) and (c).”; and

(d) by deleting subsection (4) and substituting the following subsections:

20 “(4) Where the Authority requires an auditor to submit a report under subsection (2)(d), the licensee shall ensure that the auditor submits the report to the Authority in such form and within such time as may be prescribed by the Authority.

25 (5) The Authority may, if it is of the view that the auditor appointed by the licensee does not carry out his duties to the satisfaction of the Authority, direct the licensee to appoint another auditor and where such direction has been made, the licensee shall comply with the direction.

(6) Any licensee who contravenes subsection (1), (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.”.

30 Amendment of section 27

22. Section 27(1) of the principal Act is amended by deleting the words “not exceeding \$1,000” and substituting the words “of money not exceeding one half of the amount of the maximum fine that is prescribed for the offence”.

New section 27A

23. The principal Act is amended by inserting, immediately after section 27, the following section:

“Power of Authority to publish information

5 **27A.** The Authority may, from time to time and in such form or manner as it considers appropriate, publish such information as the Authority may consider necessary or expedient to publish in the public interest, including information relating to all or any of the following:

- 10 (a) the lapsing, surrender, revocation or suspension of the licence of any person under section 14;
- (b) the acceptance by any person of an offer to compound an offence under section 27;
- (c) the revocation or withdrawal of any exemption granted
15 under this Act;
- (d) the conviction of any person for any offence under this Act;
- (e) any other action taken by the Authority against any person under this Act.”.

Amendment of section 28

20 **24.** Section 28 of the principal Act is amended —

- (a) by inserting, immediately after the word “Act” in subsection (2), the words “, subject to such terms or conditions as may be prescribed”; and
- (b) by inserting, immediately after subsection (2), the following
25 subsections:

 “(3) The Authority may, on the application of any person, by notice in writing, exempt the person from all or any of the provisions of this Act, or the requirements specified in any written direction, if the Authority considers it appropriate to do
30 so in the circumstances of the case.

 (4) An exemption granted under subsection (3) —

- (a) may be granted subject to such terms or conditions as the Authority may specify by notice in writing;

(b) need not be published in the *Gazette*; and

(c) may be withdrawn at any time by the Authority.

(5) Any person who contravenes any term or condition prescribed or specified by the Authority under subsection (2) or (4)(a), respectively, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(6) The Authority may, by notification in the *Gazette*, appoint one or more of its officers to exercise the power to grant an exemption to any person under subsection (3) or to revoke any such exemption.”.

Amendment of section 29

25. Section 29 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) 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 \$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.”.

New section 30

26. The principal Act is amended by inserting, immediately after section 29, the following section:

“Power of Authority to issue directions

30.—(1) The Authority may, by notice in writing, issue to a licensee directions, either of a general or specific nature, for or in respect of every purpose which the Authority considers necessary for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Authority may by such directions —

- (a) require a licensee to display or exhibit such cautionary statements as the Authority thinks fit in a conspicuous place at every place where he or it carries on money-changing business or remittance business, as the case may be;
- 5 (b) require a licensee to provide cautionary statements in writing to the licensee's customers; or
- (c) where a licensee conducts inward remittance business, set out the manner in which the licensee must conduct its dealings with its customers and the procedures for reporting to the Authority of transactions between the licensee and his or its customers in respect of the licensees' inward remittance business.
- 10
- (3) Any licensee who fails to comply with any requirement specified in a written direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 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 \$2,500 for every day or part thereof during which the offence continues after conviction.
- 15
- (4) In this section, "inward remittance business" means the business of accepting moneys from persons in another country or a territory outside Singapore for the purpose of transmitting such moneys to persons resident in Singapore."
- 20

Transitional and savings provisions

- 25 **27.** The Authority may, by regulations, prescribe such transitional and savings provisions as it may consider necessary or expedient within 2 years of the date of commencement of this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Money-changing and Remittance Businesses Act (Cap. 187) for the following main purposes:

- (a) to require the holder of a remittance licence to be incorporated and to have a minimum capital of \$100,000;

- (b) to expand the scope of the Monetary Authority of Singapore's power to revoke a licence granted under the Act, to empower the Monetary Authority of Singapore (the Authority) to suspend a licence in lieu of revocation, and to provide for the circumstances under which a licence will lapse or may be surrendered;
- (c) to remove the powers of the Authority to arrest a person reasonably suspected of having committed an offence under the Act and to conduct proceedings in respect of offences under the Act;
- (d) to make officers or partners of a licensee personally liable under certain circumstances for any loss suffered where the licensee has carried on its business in a fraudulent manner;
- (e) to empower the Authority to issue directions in respect of a licensee's inward remittance business; and
- (f) to increase the quantum of the penalties for certain offences under the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to reflect that only a company may be licensed to carry on remittance business.

Clause 3 amends section 2(1) to insert definitions for "licensee", "place of business" and "substantial shareholder" and to clarify the phrase "another country" in the definition of "remittance business".

Clause 4 amends section 5(2) to increase the penalties for the offence under the section (carrying on unlicensed money-changing business).

Clause 5 amends section 6(2) to increase the penalties for the offence under the section (carrying on unlicensed remittance business).

Clause 6 repeals and re-enacts section 7 and introduces new sections 7A and 7B.

The new section 7 sets out the procedure for applying or renewing a money-changer's licence.

The new section 7A sets out the procedure for applying or renewing a remittance licence.

The new section 7B provides the criteria for the granting, holding or renewal of a remittance licence, and in particular the new requirement that an applicant for or holder of a remittance licence must be incorporated as a company with a minimum capital of \$100,000 or such other sum as the Authority may prescribe. The section also provides that a person who holds a remittance licence which is in force on the eve of the date of commencement of the Money-changing and Remittance Businesses (Amendment) Act 2005 will be exempt from the new requirement for a period of 12 months, and that his licence, if renewed, will lapse on the anniversary of that date if he does not comply with the new requirement by the end of the period.

Clause 7 repeals and re-enacts sections 8 and 9 and introduces new sections 9A and 9B.

The new section 8 requires every licensee which carries on remittance business to maintain security with the Authority. In particular, the section provides that an additional amount of security is required for each additional place of business, that the security maintained under that section may be in the form of a cash deposit, bank guarantee or in such other form as the Authority may allow and that the Authority may call on the bank guarantee under that section before it has received the closure certificate required under the new section 14A. The section further provides that the Authority will release the security or the remainder thereof where the licensee has surrendered its licence, or its licence has lapsed, has been revoked or has expired, after the Authority has received the closure certificate and upon being satisfied that there is no outstanding claim by any customer of the licensee. The clause also makes consequential amendments arising from the requirement for the holder of a remittance licence to be a company.

The new section 9 requires a licensee to have a permanent place of business and to notify the Authority of any change in the address of any of its places of business in Singapore, and increases the penalties for the offence under that section.

The new sections 9A and 9B empower the Authority to approve the appointment of licensees' directors and partners, and substantial shareholdings of licensees which are companies.

Clause 8 makes consequential amendments to section 10(1) arising from the requirement for the holder of a remittance licence to be a company.

Clause 9 amends section 11 to provide for the requirement to pay an additional licence fee in respect of each additional place of business and to make a consequential amendment to that section arising from the amendments made to section 14 by clause 12.

Clause 10 amends section 13 to increase the penalties for the offence under the section.

Clause 11 repeals and re-enacts section 14 to expand the circumstances under which a licence granted under the Act may be revoked. The new section 14 also provides for the lapsing, surrender and suspension of licences. The clause also inserts a new section 14A which requires the holder of a remittance licence to submit a closure certificate to the Authority upon the lapsing, surrender, revocation or expiry of its licence.

Clause 12 repeals and re-enacts section 15. The new section 15 provides for a right of appeal to the Minister by any person who is aggrieved by the revocation of a licence by the Authority.

Clause 13 amends section 16 to require that a licensee keep his or its records of transactions in the English language and makes consequential amendments arising from the requirement for a holder of a remittance licence to be a company. The clause also increases the penalties for the offence under the section.

Clause 14 amends section 17 to remove the requirement for the returns or information to be furnished to the Authority to be prescribed and to increase the penalties for the offence under the section.

Clause 15 amends section 18(2) to increase the penalties for the offence under the section.

Clause 16 repeals sections 19 and 20. Section 19 is no longer necessary in light of the new power of the Authority to issue written directions under the new section 30. Section 20 is repealed to remove the power of the Authority to arrest a person reasonably suspected of having committed an offence under the Act.

Clause 17 amends section 21 to allow the court to declare, where a licensee which is a company or a limited liability partnership has carried out its business with intent to defraud or for any fraudulent purpose, that a director (in the case of a company) or a partner or manager (in the case of a limited liability partnership) of the licensee who was knowingly party to the carrying on of the business in that manner, or any director, secretary, manager or other officer (in the case of a company) or any partner or manager (in the case of a limited liability partnership) of the licensee who has caused the business of the licensee to be carried on in that manner will be personally liable for all or any of the losses suffered. Where such a declaration has been made, the amount which the director, partner, secretary, manager or other officer is liable to pay will be enforceable as a judgment debt.

Clause 18 repeals and re-enacts section 22 to clarify the circumstances under which any notice, order or document is deemed to be duly served in respect of an individual, a partnership and a company.

Clause 19 repeals section 23 to remove the Authority's power to conduct proceedings in respect of offences under the Act.

Clause 20 amends section 25 to change the reference in that section from a "bank business day" to a "business day" and to make consequential amendments arising from the requirement for a holder of a remittance licence to be a company.

Clause 21 amends section 26 to empower the Authority to prescribe the form and time within which a licensee must submit its auditor's report. The clause also makes the breach of the requirement to appoint an auditor, to submit the auditor's report (where required by the Authority) or to comply with the Authority's direction to appoint a different auditor, an offence, as well as makes technical and consequential amendments to that section.

Clause 22 amends section 27(1) to reflect the composition sum as an amount not exceeding one half of the maximum fine for the offence being compounded.

Clause 23 inserts a new section 27A to empower the Authority to publish certain information.

Clause 24 amends section 28 to clarify that the Authority's power to grant exemption by notification in the *Gazette* includes the power to subject such exemptions to terms and conditions. The clause also empowers the Authority to exempt persons from any provision of the Act or any requirement specified in a written direction by notice in writing, on the application of such persons, and to appoint one or more of its officers to exercise the power to grant or revoke such an exemption.

Clause 25 amends section 29 to expressly provide for the power of the Authority to make regulations relating to the provision of offences and penalties under regulations made under the Act.

Clause 26 inserts a new section 30 which empowers the Authority to issue directions to licensees by notice in writing, including directions to licensees who carry out inward remittance business in respect of their manner of conducting dealings and procedures for reporting transactions for their inward remittance business.

Clause 27 enables the Authority to prescribe such other transitional and savings provisions as it may consider necessary or expedient.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
