

# Financial Services and Markets Bill

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**Bill No. 4/2022.**

*Read the first time on 14 February 2022.*

## FINANCIAL SERVICES AND MARKETS ACT 2022

(No. of 2022)

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A BILL

*intituled*

An Act to provide for a financial sector-wide regulation of financial services and markets, the exercise of control over and the resolution of financial institutions and their related entities, the licensing and regulation of digital token service providers, and other incidental and connected matters, to make related and consequential amendments to certain other Acts, and to amend a provision of the Income Tax Act 1947 consequent upon the operation of the Financial Holding Companies Act 2013.

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

## PART 1

## PRELIMINARY

**Short title and commencement**

5       1. This Act is the Financial Services and Markets Act 2022 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**Interpretation**

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

10       “Authority” means the Monetary Authority of Singapore established by the Monetary Authority of Singapore Act 1970;

      “bank” means a bank licensed under the Banking Act 1970;

      “corporation” has the meaning given by section 4(1) of the Companies Act 1967;

15       “financial institution” means —

      (a) any bank;

      (b) any merchant bank licensed under the Banking Act 1970;

20       (c) any finance company licensed under the Finance Companies Act 1967;

      (d) any person that is approved as a financial institution under section 4;

      (e) a person granted a licence under the Payment Services Act 2019;

25       (f) any insurer licensed or regulated under the Insurance Act 1966;

      (g) any insurance intermediary registered or regulated under the Insurance Act 1966;

30       (h) any financial adviser licensed under the Financial Advisers Act 2001;

- (i) any approved holding company, approved exchange, recognised market operator, licensed trade repository, licensed foreign trade repository, approved clearing house, recognised clearing house, authorised benchmark administrator, authorised benchmark submitter, designated benchmark submitter or holder of a capital markets services licence under the Securities and Futures Act 2001; 5
- (j) any trustee for a collective investment scheme authorised under section 286 of the Securities and Futures Act 2001, that is approved under that Act; 10
- (k) any trustee-manager of a business trust that is registered under the Business Trusts Act 2004;
- (l) any licensed trust company under the Trust Companies Act 2005; 15
- (m) any designated financial holding company under the Financial Holding Companies Act 2013;
- (n) any person licensed under the Banking Act 1970 to carry on the business of issuing credit cards or charge cards in Singapore; 20
- (o) any operator of a designated payment system regulated under the Payment Services Act 2019;
- (p) any person licensed under this Act to carry on the business of providing any type of digital token service; and 25
- (q) any other person licensed, approved, authorised, designated, recognised, registered or otherwise regulated under this Act or any other MAS scheduled Act — 30
  - (i) including any person who is exempted under this Act or any other MAS scheduled Act from being licensed, approved, authorised,

designated, recognised, registered or regulated;  
but

- (ii) not including any collective investment scheme that is authorised under section 286, or recognised under section 287, of the Securities and Futures Act 2001,

but does not include (whether in respect of the whole, or any Part or provision, of this Act) such person or class of persons as the Authority may, by regulations made under section 192, prescribe;

“Guidelines on Fit and Proper Criteria” means the Guidelines on Fit and Proper Criteria mentioned in section 188 which are for the time being in force;

“MAS scheduled Act” means any Act set out in the Schedule to the Monetary Authority of Singapore Act 1970.

## PART 2

### GENERAL POWERS OVER FINANCIAL INSTITUTIONS

#### **Power to issue directions to financial institutions**

3.—(1) The Authority may, if the Authority thinks it necessary in the public interest, request information from and make recommendations to such financial institutions as the Authority may, from time to time, determine and issue directions for the purpose of securing that effect is given to any such request or recommendation.

(2) Before issuing any direction under subsection (1), the financial institution or financial institutions concerned must, unless the Authority in respect of any particular direction decides that it is not practicable or desirable, be given an opportunity to make representations with regard to the proposed direction within such time as the Authority specifies.

(3) Upon receipt of any representations mentioned in subsection (2), the Authority must consider the representations and may —



- (a) reject the representations; or
- (b) amend or modify the proposed direction in accordance with the representations, or otherwise,

and in either event, the Authority must thereupon issue a direction in writing to such financial institution or financial institutions (as the case may be) requiring that effect be given to the proposed direction or to the proposed direction as subsequently amended or modified by the Authority within a reasonable time, and the financial institution or financial institutions (as the case may be) must comply with that direction.

(4) A financial institution that fails or refuses to comply with a direction issued under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(5) It is not necessary to publish any direction issued under this section in the *Gazette*.

### **Power to approve financial institutions and control their operations**

4.—(1) The Authority may require any relevant financial institution which operations are considered by the Authority to affect —

- (a) monetary stability and credit and exchange conditions in Singapore;
- (b) the development of Singapore as a financial centre; or
- (c) the financial situation of Singapore generally,

to be approved by the Authority for the purpose of carrying on business in Singapore.

(2) On an application in writing for approval under subsection (1), the Authority may —

- (a) grant approval;
- (b) grant approval subject to such conditions as the Authority sees fit to impose; or
- (c) refuse to grant approval without any obligation to give reasons for its refusal.

(3) Without limiting section 3, the Authority may, if the Authority thinks it necessary or expedient in the public interest, give directions either of a general or special nature to any relevant financial institution approved under subsection (2) in relation to —

5           (a) the range of activities that the relevant financial institution may engage in or the range of services that the relevant financial institution may provide;

10           (b) the terms and conditions under which the relevant financial institution may carry on a particular activity or provide a particular service; and

          (c) all matters in which it appears to the Authority that —

                  (i) the activities that the relevant financial institution engages in; or

15                   (ii) the services that the relevant financial institution provides,

affect or are likely to affect —

                  (iii) monetary or economic policy;

                  (iv) credit conditions; or

                  (v) the development of Singapore as a financial centre,

20 and the relevant financial institution must comply with the directions.

(4) The Authority may, from time to time, issue guidelines to and impose conditions of operation on any relevant financial institution as the Authority thinks fit and may amend or revise those guidelines and conditions.

25 (5) The Authority may withdraw approval of a relevant financial institution if it appears to the Authority that —

          (a) any information required to be provided in connection with an application for approval was false or misleading in a material particular;

30           (b) the relevant financial institution has failed to comply with any direction or guideline issued or condition attached to

an approval or conditions of operation imposed under this section;

- (c) the relevant financial institution has conducted its affairs so as to threaten the interests of its depositors or customers; or
- (d) it is in the public interest to do so.

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(6) Any relevant financial institution that is aggrieved by a decision of the Authority to withdraw approval may appeal against the decision to the Minister whose decision is final.

(7) A relevant financial institution, required under subsection (1) to obtain the Authority's approval, that carries on its business without first obtaining that approval 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 \$3,000 for every day or part of a day during which the offence continues after conviction.

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(8) A relevant financial institution that fails to comply with any direction given under subsection (3) or any condition subject to which an approval is granted under subsection (2)(b) 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 of \$2,000 for every day or part of a day during which the offence continues after conviction.

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(9) It is not necessary to publish any direction given under this section in the *Gazette*.

(10) In this section, "relevant financial institution" means any financial institution or class of financial institutions other than —

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- (a) a financial institution or class of financial institutions licensed, approved, authorised, designated, recognised, registered or otherwise regulated by the Authority under this Act or any other MAS scheduled Act; or
- (b) a financial institution or class of financial institutions exempted from being licensed, approved, authorised, designated, recognised, registered or regulated by the Authority under this Act or any other MAS scheduled Act.

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## Fees

5 **5.**—(1) Every financial institution approved by the Authority under section 4 may be required to pay such fees in respect of anything done under or by virtue of that section as the Authority may by notification in the *Gazette* prescribe.

(2) The Authority may prescribe different fees in respect of different classes of financial institutions and such fees are to apply uniformly to such classes.

(3) The manner of payment is as specified by the Authority.

## PART 3

### PROHIBITION ORDER

#### *Division 1 — General provisions on prohibition order*

### **Interpretation of this Part**

6. In this Part, unless the context otherwise requires —

15 “appointee”, in relation to a financial institution, or any other person who carries on a business or an activity, provides a relevant service or performs a relevant function —

20 (a) means a person, by whatever name called, in the employment of, or acting for, or by arrangement with, the financial institution or other person, who carries on, provides or performs for or on behalf of the financial institution or other person, any activity, business, service or relevant function, whether or not the person is remunerated, and whether the person’s remuneration, if any, is by way of salary, wages, commission or otherwise; and

30 (b) includes any officer of the financial institution or other person who carries on, provides or performs for or on behalf of the financial institution or other person, any activity, business, service or relevant function, whether or not the officer is remunerated,

and whether the officer's remuneration, if any, is by way of salary, wages, commission or otherwise,

but does not include a representative;

“company” has the meaning given by section 4(1) of the Companies Act 1967;

5

“critical system”, in relation to a financial institution, means a system, the failure of which will —

(a) cause significant disruption to the operations of the financial institution; or

(b) materially and adversely impact any service that the financial institution is providing to its customers;

10

“critical system administration” refers to the maintenance or operation of a critical system of a financial institution by persons granted access to the system;

“digital payment token” has the meaning given by section 2(1) of the Payment Services Act 2019;

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“digital payment token instrument” means any password, code, cipher, cryptogram, private cryptographic key or other instrument that enables a person —

(a) to control access to one or more digital payment tokens; or

(b) to execute a transaction involving one or more digital payment tokens;

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“director” includes —

(a) any person occupying the position of director of a corporation by whatever name called;

(b) a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act; and

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(c) an alternate or substitute director;

30

“handling of funds or assets” means any of the following:

- (a) the safeguarding or administration of funds or assets belonging to a customer of a financial institution;
- 5 (b) the safeguarding or administration of funds or assets belonging to a financial institution;
- (c) the safeguarding of a digital payment token belonging to —
  - (i) a customer of a financial institution; or
  - 10 (ii) a financial institution, where the financial institution has control over the digital payment token;
- (d) the carrying out of an instruction relating to a digital payment token for —
  - 15 (i) a customer of a financial institution; or
  - (ii) a financial institution’s own account, where the financial institution has control over the digital payment token;
- (e) the safeguarding of a digital payment token instrument belonging to —
  - 20 (i) a customer of a financial institution; or
  - (ii) a financial institution, where the financial institution has control over one or more digital payment tokens associated with the digital payment token instrument;
- 25 (f) the carrying out of an instruction relating to one or more digital payment tokens associated with a digital payment token instrument for —
  - (i) a customer of a financial institution; or
  - 30 (ii) a financial institution’s own account, where the financial institution has control over the digital payment token instrument;

“officer”, in relation to a corporation, includes —

- (a) a director, a secretary or an employee of the corporation;
- (b) a receiver or manager of any part of the undertaking of the corporation appointed under a power contained in any instrument; and
- (c) the liquidator of the corporation appointed in a voluntary winding up;

5

“relevant function” means any one or more of the following functions in a financial institution, in relation to an activity, a business or a service, the conduct of which is regulated or authorised by the Authority:

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- (a) handling of funds or assets;
- (b) risk taking;
- (c) risk management and control;
- (d) critical system administration;
- (e) any other function critical to the integrity or functioning of financial institutions which the Authority may prescribe for the purpose of protecting trust or deterring misconduct in the financial industry;

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“relevant service”, in relation to a financial institution —

- (a) means any service which the financial institution obtains or receives from another person; but
- (b) does not include —
  - (i) a service provided in the course of employment by an employee of the financial institution; or
  - (ii) a service provided by a director, a representative or an officer of that financial institution in the course of the director’s, representative’s or officer’s appointment;

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“representative” —

(a) in relation to a financial adviser licensed under the Financial Advisers Act 2001, has the meaning given by section 2(1) of that Act; and

5 (b) in relation to an authorised benchmark administrator, exempt benchmark administrator, authorised benchmark submitter, exempt benchmark submitter, designated benchmark submitter, or a person who carries on business in any regulated activity, under  
10 the Securities and Futures Act 2001, has the meaning given by section 2(1) of that Act;

“risk management and control” means any of the following:

(a) the identification, assessment, monitoring and reporting of specified risks arising from a financial  
15 institution’s operations;

(b) the development and implementation of policies and procedures intended to ensure compliance by a financial institution with the relevant legal and regulatory requirements in the jurisdictions that the  
20 financial institution conducts business in;

(c) the monitoring of, auditing of or reporting on compliance with policies and procedures intended to ensure compliance by a financial institution with the relevant legal and regulatory requirements in the  
25 jurisdictions that the financial institution conducts business in;

“risk taking” means the taking of actions that result in a financial institution undertaking any specified risk in the course of the business of the financial institution;

30 “share” has the meaning given by section 4(1) of the Companies Act 1967;

“specified risk” means credit risk, asset risk, liquidity risk, market risk, operational risk, technology risk, market conduct risk, money laundering risk, terrorism financing risk, legal



risk, reputational risk, regulatory risk, or any other risks as may be prescribed by the Authority;

“system” means any hardware, software, network or other information technology component which is part of an information technology infrastructure;

5

“treasury share” —

(a) in relation to a company, has the meaning given by section 4(1) of the Companies Act 1967; and

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

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“voting share” has the meaning given by section 4(1) of the Companies Act 1967.

### **Power of Authority to make prohibition orders**

7.—(1) The Authority may, by written notice, make a prohibition order against any person, if the Authority is satisfied that the person is not a fit and proper person in accordance with the Guidelines on Fit and Proper Criteria to carry out any one or more of the acts mentioned in subsection (2)(a), (b), (c), (d) or (e).

15

(2) A prohibition order made under subsection (1) may prohibit the person, whether permanently or for a specified period, from any one or more of the following:

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(a) carrying on any activity or business, or providing any service, the carrying on or provision (as the case may be) of which is regulated or authorised by the Authority;

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(b) performing any relevant function;

(c) taking part, directly or indirectly, in the management of, or acting as a director, partner or manager of, any financial institution;

(d) becoming a substantial shareholder of any financial institution that is a corporation;

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(e) where the person is a substantial shareholder of a financial institution that is a corporation, acquiring any interest in any voting share in the financial institution other than a voting share in which the person already has an interest.

5 (3) A prohibition order made under subsection (1) may allow the person, subject to any condition specified in the order —

(a) to do a specified act; or

(b) to do a specified act in specified circumstances,

that the order would otherwise prohibit the person from doing.

10 (4) The Authority must 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 the person may, within 30 days after the decision, appeal in writing to the Minister.

15 (6) Where the Authority makes a prohibition order against any person who is an appointed, provisional or temporary representative under the Securities and Futures Act 2001 or an appointed or provisional representative under the Financial Advisers Act 2001, it must indicate against the person's name in the public register of  
20 representatives under the Securities and Futures Act 2001 or the Financial Advisers Act 2001 (as the case may be) that fact, and the indication must remain in the register for the duration that the prohibition order is in force.

25 (7) For the purposes of this section, a person is a substantial shareholder of a financial institution that is a corporation if —

(a) the person has an interest or interests in one or more voting shares (excluding treasury shares) in the financial institution; and

30 (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 financial institution.

(8) For the purposes of this section, a person is a substantial shareholder of a financial institution that is a corporation the share capital of which is divided into 2 or more classes of shares, if —

- (a) the person 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.

(9) In this section, “partner” and “manager”, in relation to a financial institution that is a limited liability partnership, have the meanings given by section 2(1) of the Limited Liability Partnerships Act 2005.

(10) Section 4 of the Securities and Futures Act 2001, with the necessary modifications, applies for the purpose of determining whether a person has an interest in a voting share as if a reference to securities, securities-based derivatives contracts or units in a collective investment scheme is a reference to voting shares.

### **Effect of prohibition orders**

**8.—**(1) A person against whom a prohibition order is made must comply with the prohibition order.

(2) Where a prohibition order is made against a person (*A*), a financial institution must not employ or enter into any arrangement with *A*, or use *A*'s service, whether directly or indirectly —

- (a) to carry on any activity or business, or provide any service, the carrying on or provision (as the case may be) of which is regulated or authorised by the Authority; or
- (b) to perform any relevant function,

to the extent that the activity, business, service or relevant function is prohibited by the order.

(3) A 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) A financial institution that contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

(5) Where a financial institution is charged with an offence for contravening subsection (2) for indirectly employing or entering into an arrangement with *A* or indirectly using *A*'s service, to carry on any activity or business, or provide any service, the carrying on or provision of which is regulated or authorised by the Authority, or to perform any relevant function, that is prohibited by a prohibition order made against *A*, it is a defence for the financial institution to prove —

(a) that the financial institution took all reasonable steps to ensure compliance with subsection (2); and

(b) after doing so, believed on reasonable grounds, that it is not and will not be indirectly employing or entering into an arrangement with, or indirectly using the services of, any person to carry on any activity or business, provide any service, or perform the relevant function, where the person is prohibited by a prohibition order made against the person from carrying on the activity or business, providing the service, or performing the relevant function.

(6) Any person against whom a prohibition order has been issued prohibiting the person from —

(a) carrying on any activity or business, or providing any service the carrying on, or provision (as the case may be) of which is regulated or authorised by the Authority; or

(b) performing any relevant function,

must (by written notice) immediately inform all its representatives or appointees who, for or on behalf of the person, carry on the activity or business, provide the service or perform the relevant function, of the prohibition order and the period for which the prohibition order is to be in force.

(7) Any representative or appointee to whom notice of the prohibition order is given under subsection (6) must cease to carry on any activity or business, provide any service or perform any relevant function, for or on behalf of the person against whom the prohibition order was issued to the same extent that that person is prohibited from carrying on that activity or business, providing that service, or performing that relevant function under the prohibition order. 5

(8) A person who contravenes subsection (6) or (7) 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 of a day during which the offence continues after conviction. 10

(9) A prohibition order does 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 15
- (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement. 20

### **Variation or revocation of prohibition orders**

**9.—**(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. 25

(2) The Authority may vary or revoke a prohibition order under subsection (1) —

- (a) on the Authority's own initiative; or 30
- (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 documents as may be required by the Authority.

(3) An application mentioned in subsection (2)(b) must be accompanied by the prescribed fee, if any.

(4) The Authority must not vary a prohibition order made against a person under subsection (2)(a) without giving the person an opportunity to be heard.

(5) A person who is aggrieved by the decision of the Authority to vary a prohibition order made against the person under subsection (2)(a) may, within 30 days after the decision, appeal in writing to the Minister.

## **Date and effect of prohibition orders**

**10.** A prohibition order, or any variation or revocation of a prohibition order, takes effect on the date specified by the Authority in the order or the notice in section 9(1), as the case may be.

## **Power of Authority to publish information**

**11.** The Authority —

(a) must publish the making of a prohibition order under section 7, and the variation or revocation of a prohibition order under section 9, in such manner as the Authority thinks will secure adequate publicity for the fact that the prohibition order was made, varied or revoked, as the case may be; and

(b) may from time to time and in such form or manner as the Authority thinks fit, publish such other information relating to —

(i) the making of a prohibition order under section 7, or the variation or revocation of a prohibition order under section 9; or

(ii) the person in respect of whom a prohibition order was made under section 7, or varied or revoked under section 9,

as the Authority may consider necessary or expedient to publish in the interest of the public or a section of the public or for the protection of investors.

## **Records of prohibition orders**

**12.—**(1) The Authority must keep, in such form as the Authority thinks fit, records on persons —

- (a) against whom prohibition orders are made under section 7; and
- (b) whose or which prohibition orders are varied or revoked under section 9.

(2) The Authority may publish the records mentioned in subsection (1), or any part of the records, in such manner as the Authority considers appropriate.

(3) Any person may, upon payment of such fee as may be prescribed, inspect the records kept or published by the Authority under subsection (1) or (2), or require a copy of or extract from, such records to be given or certified by the Authority.

(4) A copy of or an extract from any record mentioned in subsection (3) that is certified by the Authority to be a true copy or extract is admissible as prima facie evidence of the matter stated therein in any legal proceedings.

### *Division 2 — Appeals on prohibition orders and miscellaneous*

#### **Appeals to Minister**

**13.—**(1) Where an appeal is made to the Minister under this Part, the Minister may confirm, vary or reverse the decision of the Authority on appeal, or give such directions in the matter as the Minister thinks fit, and the decision of the Minister is final.

(2) Where an appeal is made to the Minister under this Part, the Minister must, within 28 days after the 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.

(3) The Appeal Advisory Committee is to submit to the Minister a written report on the appeal referred to the Committee under subsection (2), and may make such recommendations as the Committee thinks fit.

(4) The Minister must consider the report submitted under subsection (3) in making his or her decision under this section but he or she is not bound by the recommendations in the report.

### **Appeal Advisory Committees**

5     **14.—**(1) For the purpose of enabling Appeal Advisory Committees to be constituted under section 13, the Minister is to appoint a panel (called in this Part the Appeal Advisory Panel) comprising such members from the financial services industry, and the public and private sectors, as the Minister may appoint.

10    (2) A member of the Appeal Advisory Panel is to be appointed for a term of not more than 2 years and is eligible for re-appointment.

15    (3) An Appeal Advisory Committee has the power, in the exercise of its functions, to inquire into any matter or thing relating to the financial services 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.

20    (4) Nothing in subsection (3) compels the production by an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893, of a document or material containing a privileged communication made by or to him or her in that capacity or authorise the taking of possession of any such document or material which is in his or her possession.

25    (5) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893, who refuses to produce any document or other material referred to in subsection (4) is nevertheless obliged to give the name and address (if he or she knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made.

30    (6) For the purposes of this Part, every member of an Appeal Advisory Committee —



(a) is taken to be a public servant for the purposes of the Penal Code 1871; and

(b) in case of any suit or legal proceedings brought against him or her for any act done or omitted to be done in the execution of his or her duty under the provisions of this Part, has the like protection and privileges as are by law given to a Judge in the execution of his or her office.

(7) A person who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(8) Every Appeal Advisory Committee must have regard to the interest of the public, the protection of investors and the safeguarding of sources of information.

(9) Subject to the provisions of this Part, an Appeal Advisory Committee may regulate its own procedure and is not bound by the rules of evidence.

## PART 4

### POWERS REGARDING INTERNATIONAL OBLIGATIONS AND PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING, AND ASSISTANCE TO FOREIGN AUTHORITIES AND DOMESTIC AUTHORITIES CONCERNING MONEY LAUNDERING, TERRORISM FINANCING AND OTHER OFFENCES

#### *Division 1 — Power to issue directions or make regulations*

#### **Directions or regulations to discharge Government's international obligations**

**15.—**(1) The Authority may, from time to time —

(a) issue such directions to a financial institution or class of financial institutions; and

(b) make such regulations under section 192 concerning any financial institution or class of financial institutions or relating to the activities of any financial institution or class of financial institutions,

5 as the Authority considers necessary in order to discharge or facilitate the discharge of any obligation binding on Singapore by virtue of a decision of the Security Council of the United Nations.

10 (2) A financial institution to which a direction is issued under subsection (1)(a) or which is bound by any regulations mentioned in subsection (1)(b) must comply with the direction or regulations despite any other duty imposed on the financial institution by any rule of law, written law or contract.

15 (3) A financial institution in carrying out any act in compliance with any direction or regulations mentioned in subsection (1), is not to be treated as being in breach of any such rule of law, written law or contract.

20 (4) A financial institution must not disclose any direction issued under subsection (1)(a) if the Authority notifies the financial institution that the Authority is of the opinion that the disclosure of the direction is against the public interest.

(5) A financial institution that —

(a) fails or refuses to comply with a direction issued to the financial institution under subsection (1);

25 (b) contravenes any regulations mentioned in subsection (1);  
or

(c) discloses a direction issued to the financial institution in contravention of subsection (4),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million.

30 (6) It is not necessary to publish any direction issued under this section in the *Gazette*.

## **Requirements for prevention of money laundering and terrorism financing**

16.—(1) The Authority may, from time to time, issue such directions, or make such regulations under section 192, concerning any financial institution or class of financial institutions as the Authority considers necessary for the prevention of money laundering or the financing of terrorism. 5

(2) In particular, the directions and regulations mentioned in subsection (1) may provide for —

(a) customer due diligence measures to be conducted by financial institutions to prevent money laundering and the financing of terrorism; and 10

(b) the records to be kept for that purpose.

(3) A financial institution must —

(a) conduct such customer due diligence measures as may be specified by the directions referred to in subsection (2) that are issued to the financial institution, or as may be prescribed by the regulations mentioned in that subsection that are applicable to the financial institution; and 15  
20

(b) maintain records on transactions and information obtained through the conduct of those measures for such period and in such manner as may be specified by the directions referred to in subsection (2) that are issued to the financial institution, or as may be prescribed by the regulations mentioned in that subsection that are applicable to the financial institution. 25

(4) A financial institution that —

(a) fails to comply with a direction issued to the financial institution under subsection (1); 30

(b) contravenes any regulations mentioned in subsection (1);  
or

(c) contravenes subsection (3),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine of \$100,000 for every day or part of a day during which the offence continues after conviction.

(5) It is not necessary to publish any direction issued under this section in the *Gazette*.

*Division 2 — Assistance to foreign authorities and domestic authorities for their supervisory functions and other actions in respect of money laundering, terrorism financing and other offences*

*Subdivision (1) — General provisions*

### **Interpretation of this Division**

17.—(1) In this Division, unless the context otherwise requires —

“agent” means an insurance agent in respect of policies which relate to general business within the meaning of section 3(1)(b) of the Insurance Act 1966;

“AML/CFT authority” or Anti-Money Laundering/Countering the Financing of Terrorism authority means a public authority of a foreign country which is responsible for the supervision of foreign financial institutions in that foreign country;

“AML/CFT requirement” or Anti-Money Laundering/Countering the Financing of Terrorism requirement —

(a) in relation to a foreign country, means a law or regulatory requirement of that foreign country for the detection or prevention of money laundering or the financing of terrorism; or

(b) in relation to Singapore, means a written law, or a regulatory requirement imposed under a written law, for the detection or prevention of money laundering or the financing of terrorism;

“applicable offence” means a drug dealing offence or a serious offence as defined in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992;

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

“chief executive”, in relation to a financial institution, means any person, by whatever name called, who —

- (a) is in the direct employment of, or acting for or by arrangement with, the financial institution; and
- (b) is principally responsible for the management and conduct of the business of the financial institution;

“corresponding authority” means a public authority of a foreign country which exercises a function that corresponds to a regulatory function of the Authority under any prescribed written law;

“director”, in relation to a financial institution, includes —

- (a) any person, by whatever name called, occupying the position of a director of the financial institution;
- (b) a person in accordance with whose directions or instructions the directors of the financial institution are accustomed to act; and
- (c) an alternate director, or a substitute director, of the financial institution;

“domestic authority” means a Law Officer, a ministry or department of the Government, or a statutory body (other than the Authority) established by or under a public Act for a public purpose;

“employee” includes an individual seconded or temporarily transferred from another employer;

“enforcement action” means any civil or criminal action taken by a domestic authority against a person for an applicable offence, including the restraining of dealing with, or the seizure or confiscation of, any property in connection with an applicable offence, and the offer of composition of the offence;

“executive officer”, in relation to a financial institution, means any person, by whatever name called, who —

(a) is in the direct employment of, or acting for or by arrangement with, the financial institution; and

(b) is concerned with or takes part in the management of the financial institution on a day-to-day basis;

“foreign country” means any country or territory other than Singapore;

“foreign financial institution” means an institution that is licensed, approved, registered or otherwise regulated under any law administered by a corresponding authority in a foreign country to carry on any financial activities in that country, or that is exempted from such licensing, approval, registration or regulation for the carrying on of any financial activities in that country;

“information” includes any information, book, document or other record in any form whatsoever (including an electronic form), as well as any container or article containing any information or record;

“insurance agent” has the meaning given by section 2 of the Insurance Act 1966;

“investigation”, in relation to a domestic authority, means an investigation by that authority to determine if a person has committed or is committing an applicable offence;

“Law Officer” means the Attorney-General, a Deputy Attorney-General, the Solicitor-General, a Deputy Public Prosecutor or a legally qualified member of the Attorney-General’s Chambers;

- “office-holder”, in relation to a financial institution, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the financial institution, or acting in an equivalent capacity in relation to that financial institution; 5
- “policy” has the meaning given by the First Schedule to the Insurance Act 1966;
- “prescribed written law” means the following Acts and the subsidiary legislation made under those Acts:
- (a) this Act; 10
  - (b) the Banking Act 1970;
  - (c) the Business Trusts Act 2004;
  - (d) the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;
  - (e) the Finance Companies Act 1967; 15
  - (f) the Financial Advisers Act 2001;
  - (g) the Financial Holding Companies Act 2013;
  - (h) the Insurance Act 1966;
  - (i) the Monetary Authority of Singapore Act 1970;
  - (j) the Payment Services Act 2019; 20
  - (k) the Securities and Futures Act 2001;
  - (l) the Trust Companies Act 2005;
  - (m) such other Act as the Authority may prescribe by regulations made under section 192;
- “protected information” means information that is protected from unauthorised disclosure under any prescribed written law; 25
- “public authority” includes a financial supervisor established as an independent non-governmental authority under a law of a foreign country; 30

“supervision” —

5           (a) in relation to an AML/CFT authority of a foreign country, means the supervision by the AML/CFT authority of foreign financial institutions carrying on any financial activities in that country for compliance with the AML/CFT requirements of that country applicable to those institutions; or

10           (b) in relation to a domestic authority, means the supervision by the domestic authority of persons regulated by it for compliance with the applicable AML/CFT requirements of Singapore;

“supervisory action” —

15           (a) in relation to an AML/CFT authority, means any action taken by the AML/CFT authority for or in connection with its supervision of foreign financial institutions; or

            (b) in relation to a domestic authority, means any action taken by the domestic authority for or in connection with its supervision of persons regulated by it.

20       (2) In this Division, an AML/CFT authority exercises consolidated supervision authority over a financial institution if —

            (a) the financial institution is either —

25           (i) a foreign financial institution established or incorporated in the foreign country of the AML/CFT authority; or

            (ii) a subsidiary of such a foreign financial institution; and

30           (b) the AML/CFT authority carries out consolidated supervision of the foreign financial institution mentioned in paragraph (a)(i) or (ii) (as the case may be) and its subsidiaries, branches, agencies and offices outside that foreign country, for compliance with the AML/CFT requirements of that foreign country that are applicable to the foreign financial institution.



## Purposes of this Division

18. The purposes of this Division are —

- (a) to enable the Authority to provide information to an AML/CFT authority of a foreign country in connection with the AML/CFT authority's supervision of foreign financial institutions carrying on any financial activities in that country for compliance with the AML/CFT requirements of that country applicable to those institutions, including the taking of supervisory action against them for a contravention of those requirements; 5 10
- (b) to enable the Authority to provide information to a domestic authority in connection with —
  - (i) an investigation into the commission or an alleged commission of an applicable offence by a person;
  - (ii) an enforcement action against a person for the commission or an alleged commission of an applicable offence; or 15
  - (iii) a supervisory action against a person regulated by the domestic authority for a contravention of an applicable AML/CFT requirement of Singapore; and 20
- (c) to enable an AML/CFT authority to carry out an inspection in Singapore of a financial institution over which the AML/CFT authority exercises consolidated supervision authority.

*Subdivision (2) — Assistance to AML/CFT authorities* 25

### Conditions for provision of assistance to AML/CFT authority

19.—(1) The Authority may, on the request of an AML/CFT authority of a foreign country, provide the assistance referred to in section 20 to the AML/CFT authority, if the Authority is satisfied that all of the following conditions are fulfilled: 30

- (a) the request is received by the Authority on or after the date of commencement of this Part;

- (b) the assistance is intended to enable the AML/CFT authority to carry out supervision or take supervisory action;
- 5 (c) the AML/CFT authority has given a written undertaking that any information or copy of any information obtained as a result of the request will not be used for any purpose other than a purpose that is specified in the request and approved by the Authority;
- 10 (d) the AML/CFT authority has given a written undertaking that the AML/CFT authority will not disclose to a third party any information or copy of any information obtained as a result of the request, unless the AML/CFT authority is compelled to do so by the law or a court of the foreign country, and that the AML/CFT authority will inform the Authority promptly if the AML/CFT authority is so compelled;
- 15 (e) the AML/CFT authority has given a written undertaking to obtain the prior consent of the Authority before disclosing any information or copy of any information obtained as a result of the request to a third party, and to make such disclosure only in accordance with such conditions as may be imposed by the Authority;
- 20 (f) the AML/CFT authority has given a written undertaking to otherwise protect the confidentiality of any information or copy of any information obtained pursuant to the request;
- 25 (g) the request specifies —
- 30 (i) the purpose of the request and the nature of the assistance being sought;
- (ii) the identity of the financial institution which has in its possession the information requested for;
- (iii) the relevance of the information requested to the supervision or supervisory action (as the case may be) of the AML/CFT authority; and

- (iv) any other information that may assist in giving effect to the request;
  - (h) the type and amount of information requested for is proportionate to, and is of sufficient importance to, the carrying out of supervision or the taking of the supervisory action by the AML/CFT authority; 5
  - (i) the matter to which the request relates is of sufficient gravity;
  - (j) the AML/CFT authority has given or is willing to give an undertaking to the Authority to comply with a future request by the Authority to the AML/CFT authority for similar assistance; 10
  - (k) the rendering of assistance will not be contrary to the national interest or public interest.
- (2) Despite subsection (1)(c), (d), (e) and (f), the Authority may provide the assistance sought without any of the undertakings referred to in one or more of those provisions if — 15
- (a) none of the information requested for is protected information; and
  - (b) the Authority considers it appropriate to provide the assistance in the circumstances of the case. 20
- (3) In considering whether to provide the assistance referred to in section 20 to an AML/CFT authority, the Authority may also have regard to the following:
- (a) if the request concerns a contravention of an AML/CFT requirement of a foreign country, whether the act or omission that is alleged to constitute the contravention would, if it had occurred in Singapore, have constituted a contravention of any direction issued under section 15 or 16, or any regulations made under section 192 for the purpose of section 15 or 16; 25 30
  - (b) whether the AML/CFT authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the assistance.

### **Assistance that may be rendered to AML/CFT authority**

20.—(1) Despite the provisions of any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, the Authority or any person authorised by the Authority may, in relation to a request by an AML/CFT authority for assistance, transmit to the AML/CFT authority any information in the possession of the Authority that is requested by the AML/CFT authority or a copy of the information.

(2) The Authority or any person authorised by the Authority may, in relation to a request by an AML/CFT authority for assistance —

(a) order any financial institution or any person who is or used to be a chief executive or director, or an executive officer, employee, agent or office-holder, of a financial institution to provide to the Authority any information requested by the AML/CFT authority which is in the possession or control of the financial institution or person (as the case may be) or a copy of that information, for transmission to the AML/CFT authority; or

(b) request a domestic authority to provide to the Authority any information that is requested by the AML/CFT authority, or a copy of that information, for transmission to the AML/CFT authority.

(3) An order under subsection (2)(a) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct.

(4) Nothing in this section requires an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893 —

(a) to provide or transmit any information, or a copy of any information, that contains; or

(b) to disclose,

a privileged communication made by or to the advocate and solicitor or legal counsel in that capacity.

(5) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893, who refuses to provide or transmit any information, or a copy of any information, that contains, or to disclose, any privileged communication must nevertheless give the name and address (if known) of the person to whom, or by or on behalf of whom, the privileged communication was made.

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*Subdivision (3) — Assistance to domestic authorities*

**Conditions for provision of assistance to domestic authority**

**21.** The Authority may, on the request of a domestic authority, provide the assistance referred to in section 22 to the domestic authority, if the Authority is satisfied that all of the following conditions, and all such other conditions as the Authority may determine, are fulfilled:

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- (a) the request is received by the Authority on or after the date of commencement of this Part;
- (b) the assistance requested for is intended to enable the domestic authority to carry out any investigation, or take any enforcement action or supervisory action;
- (c) the type and amount of information requested for is proportionate to, and is of sufficient importance to, the investigation or enforcement action or supervisory action;
- (d) the matter to which the request relates is of sufficient gravity.

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**Assistance that may be rendered to domestic authority**

**22.—(1)** Despite the provisions of any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, the Authority or any person authorised by the Authority may, in relation to a request by a domestic authority for assistance, transmit to the domestic authority any information in the possession of the Authority that is requested by the domestic authority or a copy of the information.

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(2) The Authority or any person authorised by the Authority may, in relation to a request by a domestic authority for assistance, order any financial institution or any person who is or used to be a chief executive or director, or an executive officer, employee, agent or office-holder, of a financial institution to provide to the Authority any information requested by the domestic authority which is in the possession or control of the financial institution or person (as the case may be), or a copy of that information, for transmission to the domestic authority.

(3) An order under subsection (2) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct.

(4) Nothing in this section requires an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893 —

(a) to provide or transmit any information, or a copy of any information, that contains; or

(b) to disclose,

a privileged communication made by or to the advocate and solicitor or legal counsel in that capacity.

(5) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893, who refuses to provide or transmit any information, or a copy of any information, that contains, or to disclose, any privileged communication must nevertheless give the name and address (if known) of the person to whom, or by or on behalf of whom, the privileged communication was made.

*Subdivision (4) — Additional provisions for  
Subdivisions (2) and (3)*

**Offences under this Division**

**23.—**(1) A person shall be guilty of an offence if the person —

(a) without reasonable excuse, refuses or fails to comply with an order made under section 20(2)(a) or 22(2);

- (b) without reasonable excuse, refuses or fails to comply with section 20(5) or 22(5); or
- (c) in purported compliance with an order made under section 20(2)(a) or 22(2) or with section 20(5) or 22(5), provides to the Authority any information, or copy of any information, known to the person to be false or misleading in a material particular. 5
- (2) A person who is guilty of an offence under subsection (1)(a) or (b) shall be liable on conviction —
- (a) in any case where the person is an individual, 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 of a day during which the offence continues after conviction; or 10 15
- (b) in any other case, 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 of a day during which the offence continues after conviction.
- (3) A person who is guilty of an offence under subsection (1)(c) shall be liable on conviction — 20
- (a) in any case where the person is an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; or
- (b) in any other case, to a fine not exceeding \$100,000. 25

### **Immunities**

**24.—**(1) No civil or criminal liability is incurred by any person for —

- (a) providing to the Authority any information or copy of any information, if the person had provided the information or copy with reasonable care and in good faith and in compliance with an order under section 20(2)(a) or 22(2) or with section 20(5) or 22(5); or 30

(b) doing or omitting to do any act, if the person had done or omitted to do the act with reasonable care and in good faith and for the purpose of complying with an order under section 20(2)(a) or 22(2) or with section 20(5) or 22(5).

5 (2) A person does not breach any restriction upon the disclosure of information imposed by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, if the person makes the disclosure with reasonable care and in good faith and in  
10 compliance with an order made under section 20(2)(a) or 22(2) or with section 20(5) or 22(5).

### **Authority may provide assistance**

15 **25.** Despite the provisions of any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, the Authority or any person authorised by the Authority may, on the Authority's own motion, and subject to the satisfaction of such conditions as the Authority may determine, transmit any information in the possession of the Authority or a copy of the information, to —

- 20 (a) an AML/CFT authority in connection with any supervision or supervisory action by the AML/CFT authority; or
- (b) a domestic authority in connection with an investigation, an enforcement action or a supervisory action by the domestic authority.

25 *Subdivision (5) — Inspection by AML/CFT authority*

### **Conditions for inspection by AML/CFT authority**

30 **26.—**(1) An AML/CFT authority may, with the prior written approval of the Authority and under conditions of secrecy, conduct an inspection in Singapore of the books of a financial institution in accordance with this section, if all of the following conditions are satisfied:

- (a) the financial institution is one over which the AML/CFT authority exercises consolidated supervision authority, and



the inspection is solely for the purpose of such consolidated supervision;

(b) the AML/CFT authority —

(i) is prohibited by the laws applicable to it from disclosing information obtained by it in the course of the inspection to any other person, except when compelled to do so by the laws or a court of the country or territory where it is established; or

(ii) has given to the Authority such written undertaking to protect the confidentiality of the information obtained as the Authority may require;

(c) the AML/CFT authority has given a written undertaking to the Authority to comply with such conditions as the Authority may impose under subsection (3);

(d) the AML/CFT authority has provided or is willing to provide similar assistance to the Authority.

(2) The Authority may take into account other factors which the Authority considers relevant, besides the satisfaction of the conditions under subsection (1), when deciding whether or not to give its approval under that subsection.

(3) The Authority may at any time, whether before, on or after giving its approval for an inspection under this section, impose conditions on the AML/CFT authority relating to —

(a) the classes of information to which the AML/CFT authority may or may not have access in the course of 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) An AML/CFT authority may, with the prior written approval of the Authority, appoint any person to conduct the inspection under subsection (1), and in such event, this section (other than this

subsection) and sections 27 and 28 apply to the person, as if a reference to the AML/CFT authority in those sections includes a reference to the person.

5 (5) For the purposes of ensuring the confidentiality of any information obtained in the course of an inspection by an AML/CFT authority under this section, each provision set out in a paragraph below applies, with the necessary modifications, to any official of the AML/CFT authority, and any person referred to in subsection (4), as if the official or person were a person set out against that provision in that paragraph:

10 (a) section 47(1) of the Banking Act 1970 — an officer of a bank in Singapore (as defined in section 2(1) of that Act);

15 (b) section 47(1) of the Banking Act 1970 as applied by section 55ZI(1) of that Act — an officer of a merchant bank in Singapore (as defined in section 2(1) of that Act);

(c) section 49(1) of the Trust Companies Act 2005 — an officer of a licensed trust company (as defined in section 2 of that Act) in Singapore.

20 (6) The Authority may, in relation to an inspection by an AML/CFT authority conducted or to be conducted under this section on a financial institution, at any time, by written notice to the financial institution impose such conditions or restrictions on the financial institution as the Authority thinks fit, and the financial institution must comply with such conditions or restrictions.

### 25 **Duty of financial institution under inspection**

**27.—**(1) For the purposes of an inspection under section 26, and subject to subsection (2), the financial institution must —

(a) give the AML/CFT authority access to such of the books of the financial institution; and

30 (b) provide such information (including information relating to the internal control systems of the financial institution) and facilities,

as the AML/CFT authority may require for the inspection.

(2) The financial institution need not give the AML/CFT authority access to the books of the financial institution, or provide information or facilities, at such times or at such places as would unduly interfere with the proper conduct of the normal daily business of the financial institution. 5

(3) Subsection (1) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed on the financial institution or any of its officers by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct. 10

(4) A financial institution that, without reasonable excuse, refuses or neglects to comply with 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 of a day during which the offence continues after conviction. 15

(5) No civil or criminal liability is incurred by a financial institution or any of its officers in respect of any obligation or restriction referred to in subsection (3) for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with subsection (1). 20

(6) A financial institution that or any of its officers who, with reasonable care and in good faith, does or omits to do any act for the purpose of complying with subsection (1) is not to be treated as being in breach of any obligation or restriction referred to in subsection (3). 25

### **Confidentiality of inspection reports**

**28.—**(1) Except as provided in subsection (2), where a written report has been produced by an AML/CFT authority in respect of a financial institution following an inspection under section 26, and is provided by the AML/CFT authority to the financial institution, the report must not be disclosed to any person by — 30

- (a) the financial institution; or
- (b) any officer or auditor of the financial institution.

(2) Disclosure of the report may be made —

(a) by the financial institution to any officer or auditor of that financial institution solely in connection with the performance of the duties of the officer or auditor (as the case may be) in that financial institution;

(b) by any officer or auditor of the financial institution to any other officer or auditor of that financial institution, solely in connection with the performance of their respective duties in that financial institution;

(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 approval for any disclosure under subsection (2)(d), the Authority may impose such conditions or restrictions as the Authority thinks fit on the financial institution, any officer or auditor of that financial institution or the person to whom the disclosure is approved, and that financial institution, officer, auditor or person (as the case may be) must comply with those conditions or restrictions.

(4) The obligations on an officer or auditor under subsections (1) and (3) continue after the termination or cessation of the employment or appointment of the officer or auditor by the financial institution.

(5) A person who contravenes subsection (1), or fails to comply with any condition or restriction imposed by the Authority under subsection (3), shall be guilty of an offence and shall be liable on conviction —

(a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(6) A 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 the person in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
  - (b) in any other case, to a fine not exceeding \$250,000.
- (7) Where a person is charged with an offence under subsection (6), it is a defence for the person to prove that —
- (a) the disclosure was made contrary to the person’s desire;
  - (b) where the disclosure was made in any written or printed form, the person had, as soon as practicable after receiving the report, surrendered, or taken all reasonable steps to surrender, the report and all copies of the report to the Authority; and
  - (c) where the disclosure was made in an electronic form, the person had, as soon as practicable after receiving the report, taken all reasonable steps to ensure the deletion of all electronic copies of the report and the surrender of the report and all copies of the report in other forms to the Authority.

## PART 5

### TECHNOLOGY RISK MANAGEMENT

#### **Power of Authority in relation to technology risk management**

**29.—**(1) The Authority may, from time to time, issue such directions, or make such regulations under section 192, concerning any financial institution or class of financial institutions as the Authority considers necessary for —

- (a) the management of technology risks, including cyber security risks;
- (b) the safe and sound use of technology to deliver financial services; and
- (c) the safe and sound use of technology to protect data.

(2) A financial institution that fails to comply with a direction issued to the financial institution under subsection (1) or contravenes any regulations mentioned in that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine of \$100,000 for every day or part of a day during which the offence continues after conviction.

## PART 6

### DISPUTE RESOLUTION SCHEMES

#### 10 **Interpretation of this Part**

**30.** In this Part, unless the context otherwise requires —

“approved dispute resolution scheme” means a dispute resolution scheme approved by the Authority under section 31(1);

15 “operator”, in relation to a dispute resolution scheme approved under section 31(1), means a person who administers a dispute resolution scheme;

20 “terms of reference”, in relation to an approved dispute resolution scheme, means the terms which define the scope, application, operations and procedures of the approved dispute resolution scheme.

#### **Approval of dispute resolution schemes**

**31.—**(1) For the purposes of this Part, the Authority may approve any dispute resolution scheme for the resolution of disputes arising from or relating to the provision of financial services by financial institutions.

(2) An application for approval of a dispute resolution scheme must —

30 (a) be made by the person who intends to administer the dispute resolution scheme as its operator;

(b) be made in such form and manner as the Authority may specify;

- (c) be accompanied by an application fee (if prescribed);
- (d) be accompanied by the proposed terms of reference for the dispute resolution scheme; and
- (e) provide any information or document as the Authority may require for the purposes of the application. 5

(3) The approval of a dispute resolution scheme on an application made under subsection (2) is subject to such conditions as may be prescribed or as may be specified by the Authority, or both.

(4) The Authority may refuse to approve an application for a dispute resolution scheme made under subsection (2) if — 10

- (a) the applicant of the dispute resolution scheme does not meet the prescribed requirements;
- (b) the proposed terms of reference for the dispute resolution scheme do not meet the prescribed requirements;
- (c) the applicant has not provided the Authority with the information or documents required by the Authority for the purposes of the application; 15
- (d) the applicant has provided to the Authority any false or misleading information or document;
- (e) the Authority has reason to believe that the applicant — 20
  - (i) will not administer the dispute resolution scheme efficiently, honestly or fairly; or
  - (ii) may not act in the interests of the members of the dispute resolution scheme or consumers; or
- (f) the Authority is of the opinion that it would be contrary to the public interest to approve the dispute resolution scheme. 25

### **Approval of chief executive officer and directors of dispute resolution scheme operator**

5 **32.**—(1) It is a condition of an approval for any dispute resolution scheme approved under section 31(1) that the operator of an approved dispute resolution scheme must not appoint a person as its chief executive officer or director without the prior approval of the Authority.

10 (2) Without limiting 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 the Authority may notify in writing to the operator of the dispute resolution scheme.

### **Removal of chief executive officer or director of dispute resolution scheme operator**

15 **33.**—(1) Despite the provisions of any other written law, where the Authority is satisfied that an individual appointed as chief executive officer or director of an operator of an approved dispute resolution scheme is not a fit and proper person under the Guidelines on Fit and Proper Criteria to be a chief executive officer or director (as the case may be) of the operator, the Authority may, by written notice to the operator, direct the operator to remove the chief executive officer or director (as the case may be) from his or her office or employment within such period as may be specified by the Authority in the notice, and the operator must comply with the notice.

25 (2) Without affecting any other matter that the Authority may consider relevant, in assessing whether to direct an operator to remove an individual under subsection (1), the Authority may consider any matter which the Authority considers relevant, including (but not limited to) whether —

- 30 (a) the individual has wilfully contravened or wilfully caused the operator to contravene any provision of this Act;
- (b) the individual has, without reasonable excuse, failed to secure the compliance of the operator with this Act;



- (c) the individual has failed to discharge any of the duties of his or her office or employment; or
- (d) the individual's removal is necessary in the public interest or for the protection of investors.

(3) Before directing an operator to remove an individual under subsection (1), the Authority must give both the operator and the affected individual an opportunity to be heard, except in any of the following circumstances: 5

- (a) the individual is an undischarged bankrupt, whether in Singapore or elsewhere; 10
- (b) the individual has been convicted, whether in Singapore or elsewhere, of an offence, committed before, on or after the date of commencement of this Part —
  - (i) involving fraud or dishonesty or the conviction for which involved a finding that the individual had acted fraudulently or dishonestly; and 15
  - (ii) punishable with imprisonment for a term of 3 months or more.

### **Appeals to Minister**

**34.** An operator, or a chief executive officer or director of an operator, who is aggrieved by a decision of the Authority under section 33(1) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision is final. 20

### **Approval of amendment to constitution of dispute resolution scheme operator**

**35.** It is a condition of an approval for any dispute resolution scheme approved under section 31(1) that the operator of the approved dispute resolution scheme that is a company must not amend its constitution without the prior approval of the Authority. 25

**Requirement for financial institution to be member of approved dispute resolution scheme**

36.—(1) The Authority may, by regulations made under section 192, require a financial institution to be a member of such approved dispute resolution scheme and to comply with such terms of membership of the scheme as may be prescribed.

(2) A financial institution that, without reasonable excuse, contravenes any regulations mentioned in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(3) Where the Authority is satisfied that a financial institution has contravened any regulations mentioned in subsection (1), the Authority may do one or both of the following:

(a) if the Authority thinks it necessary in the public interest or for the protection of consumers, reprimand the financial institution;

(b) impose on the financial institution under this Act or any other MAS scheduled Act under which the financial institution is licensed, approved, authorised, designated, recognised, registered, or otherwise regulated, or exempted from being licensed, approved, authorised, designated, recognised, registered or regulated, such conditions or restrictions, on its licence, approval, authorisation, designation, recognition, registration, or exemption under that Act as the Authority thinks fit, including restricting the scope of the activities which the financial institution is allowed to conduct under that Act; and the financial institution must comply with those conditions or restrictions.

(4) Any power of the Authority under the Act referred to in subsection (3)(b) to impose conditions or restrictions on the licence, approval, authorisation, designation, recognition, registration, or exemption is, despite anything to the contrary in that Act, deemed to include the power to impose the conditions or restrictions referred to in subsection (3)(b).

### **Protection from personal liability**

**37.** No liability shall lie against any mediator, adjudicator or employee of an operator of an approved dispute resolution scheme, for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith in the course of or in connection with any mediation or adjudication of a dispute under the approved dispute resolution scheme.

5

### **Regulations for this Part**

**38.—(1)** Regulations may be made under section 192 —

(a) to provide for the matters that the Authority may have regard to in determining whether to approve a dispute resolution scheme under section 31(1);

10

(b) to prescribe a list of dispute resolution schemes approved under section 31(1);

(c) to provide for the suspension or cancellation of approvals under section 31(1);

15

(d) to provide for the conditions for approval of a dispute resolution scheme including for matters relating to the constitution of the management of an operator of an approved dispute resolution scheme, and the operations of an operator of an approved dispute resolution scheme, including the standards or requirements of its operations, the fees that may be charged for its dispute resolution services, the records that must be kept, the period of retention of the records, the reports that are to be submitted to the Authority, the time for such submission, the terms of membership with the scheme, the procedure for dispute resolution and other matters relating to the administration of the scheme; and

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25

(e) to generally to give effect to or for carrying out the purposes of this Part.

30

(2) Regulations made for the purposes of subsection (1) may provide that any contravention of any specified provision of the

regulations shall be an offence punishable (despite section 192(2)(d)) with a fine not exceeding \$50,000.

## PART 7

### CONTROL OVER FINANCIAL INSTITUTIONS

5

#### *Division 1 — General provisions*

#### **Application and interpretation of this Part**

**39.**—(1) This Part applies to, and in relation to, every relevant financial institution.

(2) In this Part, unless the context otherwise requires —

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“chief executive”, in relation to a relevant financial institution, means any person, by whatever name called, who —

(a) is in the direct employment of, or acting for or by arrangement with, the relevant financial institution; and

15

(b) is principally responsible for the management and conduct of the business of the relevant financial institution;

“Court” means the General Division of the High Court;

20

“director”, in relation to a relevant financial institution, includes —

(a) any person, by whatever name called, occupying the position of director of the relevant financial institution;

25

(b) a person in accordance with whose directions or instructions the directors of the relevant financial institution are accustomed to act; and

(c) an alternate director, or a substitute director, of the relevant financial institution;

30

“executive officer”, in relation to a relevant financial institution, means any person, by whatever name called, who —

(a) is in the direct employment of, or acting for or by arrangement with, the relevant financial institution; and

(b) is concerned with or takes part in the management of the relevant financial institution on a day-to-day basis;

5

“pertinent financial institution” has the meaning given by section 58;

“relevant financial institution” means a financial institution that —

10

(a) is approved by the Authority under section 4; and

(b) belongs to a class of financial institutions that is prescribed by regulations made under section 192 for the purposes of this definition.

(3) In this subsection and sections 41 to 45, unless the context otherwise requires —

15

“business” includes affairs and property;

“office-holder”, in relation to a relevant financial institution, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the relevant financial institution, or acting in an equivalent capacity in relation to the relevant financial institution;

20

“relevant business” means any business of a relevant financial institution —

(a) which the Authority has assumed control of under section 41; or

25

(b) in relation to which a statutory adviser or a statutory manager has been appointed under section 41;

“statutory adviser” means a statutory adviser appointed under section 41;

30

“statutory manager” means a statutory manager appointed under section 41.

(4) In this subsection and sections 46 and 47, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

5 “debenture” has the meaning given by section 4(1) of the Companies Act 1967;

“property” includes property, right and power of every description;

10 “Registrar of Companies” means the Registrar of Companies appointed under the Companies Act 1967 and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

15 “significant business”, in relation to a relevant financial institution, means the usual business of a financial institution belonging to the same class of financial institutions as that relevant financial institution;

20 “transferee” means any person (being a person who is, or who has applied or will be applying to be, approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority, under this Act or any other MAS scheduled Act, to carry on the significant business of the transferor) to which the whole or any part of a transferor’s business is, is to be, or is proposed to be transferred under section 46(1);

25 “transferor” means a relevant financial institution the whole or any part of the business of which is, is to be, or is proposed to be transferred under section 46(1).

### **Information of insolvency, etc.**

30 **40.—**(1) Any relevant financial institution 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, must immediately inform the Authority of that fact.

(2) A relevant financial institution that 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 of a day during which the offence continues after conviction.

**Action by Authority if relevant financial institution unable to meet obligations, etc.**

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**41.—**(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 relevant financial institution 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; 10
- (b) a relevant financial institution becomes unable to meet its obligations, or is insolvent, or suspends payments;
- (c) the Authority is of the opinion that a relevant financial institution — 15
  - (i) is carrying on its business in a manner likely to be detrimental to the interests of such persons as may be prescribed by regulations made under section 192 in relation to the relevant financial institution; 20
  - (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 attached to its approval under section 4; or 25
- (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 relevant financial institution 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; 30

5 (b) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the relevant financial institution on the proper management of such of the business of the relevant financial institution as the Authority may determine; or

10 (c) assume control of and manage such of the business of the relevant financial institution 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.

15 (3) In the case of a relevant financial institution 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 relevant financial institution under subsection (2) must only be in relation to —

(a) the business or affairs of the relevant financial institution carried on in, or managed in or from, Singapore; or

20 (b) the property of the relevant financial institution located in Singapore or reflected in the books of the relevant financial institution in Singapore (as the case may be) in relation to its operations in Singapore.

25 (4) Where the Authority appoints 2 or more persons as the statutory manager of a relevant financial institution, the Authority must 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) must be discharged or exercised by such persons jointly; and

30 (c) must be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), the Authority may, at any time and without



affecting its power under section 4(5)(c) and (d), 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 the Authority 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) A relevant financial institution 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 \$125,000 and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction.

### **Effect of assumption of control under section 41**

**42.—**(1) Upon assuming control of the relevant business of a relevant financial institution, the Authority or statutory manager (as the case may be) must 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 relevant financial institution, the Authority or statutory manager —

(a) must manage the relevant business of the relevant financial institution in the name of and on behalf of the relevant financial institution; and

(b) is treated as an agent of the relevant financial institution.

5 (3) In managing the relevant business of a relevant financial institution, the Authority or statutory manager —

(a) must take into consideration the interests of such persons as may be prescribed by regulations made under section 192 in relation to the relevant financial institution; and

10

(b) has all the duties, powers and functions of the members of the board of directors of the relevant financial institution (collectively and individually) under this Act, the Companies Act 1967 and the constitution of the relevant financial institution, including powers of delegation, in relation to the relevant business of the relevant financial institution; but nothing in this paragraph requires the Authority or statutory manager to call any meeting of the relevant financial institution under the Companies Act 1967 or the constitution of the relevant financial institution.

15

20

(4) Despite any written law or rule of law, upon the assumption of control of the relevant business of a relevant financial institution by the Authority or statutory manager —

25

(a) where the relevant financial institution is established or incorporated in Singapore, any appointment of a person as the chief executive or a director of the relevant financial institution which was in force immediately before the assumption of control; or

- (b) where the relevant financial institution is established or incorporated outside Singapore, any appointment of a person as the chief executive of the relevant financial institution (insofar as the appointment relates to the relevant business of the relevant financial institution) which was in force immediately before the assumption of control, 5

is treated as having been revoked, unless the Authority gives its approval, by written notice to the person and the relevant financial institution, for the person to remain in the appointment. 10

(5) Despite 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 relevant financial institution, except with the approval of the Authority, a person may not be appointed —

- (a) where the relevant financial institution is established or incorporated in Singapore, as the chief executive or a director of the relevant financial institution; or 15

- (b) where the relevant financial institution is established or incorporated outside Singapore, as the chief executive of the relevant financial institution (insofar as the appointment relates to the relevant business of the relevant financial institution). 20

(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 or a director of a relevant financial institution, the Authority may at any time, by written notice to the person and the relevant financial institution, revoke that approval, and the appointment is treated as having been revoked on the date specified in the notice. 25

(7) Despite any written law or rule of law, if any person, whose appointment as the chief executive or a director of a relevant financial institution is revoked under subsection (4) or (6), acts or purports to act after the revocation — 30

(a) where the relevant financial institution is established or incorporated in Singapore, as the chief executive or a director of the relevant financial institution; or

5 (b) where the relevant financial institution is established or incorporated outside Singapore, as the chief executive of the relevant financial institution in relation to the relevant business of the relevant financial institution,

during the period when the Authority or statutory manager is in control of the relevant business of the relevant financial institution —

10 (c) the act or purported act of the person is invalid and of no effect; and

(d) the person shall be guilty of an offence.

(8) Despite any written law or rule of law, if any person who is appointed as the chief executive or a director of a relevant financial institution in contravention of subsection (5) acts or purports to act —

(a) where the relevant financial institution is established or incorporated in Singapore, as the chief executive or a director of the relevant financial institution; or

20 (b) where the relevant financial institution is established or incorporated outside Singapore, as the chief executive of the relevant financial institution in relation to the relevant business of the relevant financial institution,

during the period when the Authority or statutory manager is in control of the relevant business of the relevant financial institution —

25 (c) the act or purported act of the person is invalid and of no effect; and

(d) 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 relevant financial institution —

30 (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, director, member, executive officer, employee, agent or office-holder, or the board of directors, of the relevant financial institution,

the direction or decision referred to in sub-paragraph (i), to the extent of the conflict or inconsistency, prevails over the direction or decision referred to in sub-paragraph (ii); and

- (b) no person may exercise any voting or other right attached to any share in the relevant financial institution 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 is invalid and of no effect.

(10) A person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction.

(11) In this section, “constitution”, in relation to a relevant financial institution, means the memorandum of association and articles of association of the relevant financial institution, or any other instrument under which the relevant financial institution is established or incorporated.

### **Duration of control**

**43.—**(1) The Authority must cease to control the relevant business of a relevant financial institution 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 for the protection of the persons prescribed by regulations made under section 192 for the

purposes of section 41(1)(c)(i) in relation to the relevant financial institution.

(2) A statutory manager is treated as having assumed control of the relevant business of a relevant financial institution on the date of the statutory manager's appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a relevant financial institution 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 for the protection of the persons prescribed by regulations made under section 192 for the purposes of section 41(1)(c)(i) in relation to the relevant financial institution; or

(b) on any other ground,

and upon such revocation, the statutory manager must cease to control the relevant business of the relevant financial institution.

(4) The Authority must, 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 relevant financial institution;

(b) the cessation of the Authority's control of the relevant business of a relevant financial institution;

(c) the appointment of a statutory manager in relation to the relevant business of a relevant financial institution; and

(d) the revocation of a statutory manager's appointment in relation to the relevant business of a relevant financial institution.

**Responsibilities of officers, member, etc., of relevant financial institution**

44.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a relevant financial institution —

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(a) the 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, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the relevant financial institution to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the Court may specify, any property, book, accounts, record or other documents, whether in electronic, print or other form, of the relevant financial institution which is comprised in, forms part of or relates to the relevant business of the relevant financial institution, and which is in the person's possession or control; and

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(b) any person who has ceased to be or who is still any chief executive, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the relevant financial institution must 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 relevant financial institution, within such time and in such manner as may be specified by the Authority or statutory manager.

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(2) A person who —

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(a) without reasonable excuse, fails to comply with subsection (1)(b); or

- (b) in purported compliance with subsection (1)(b), knowingly or recklessly provides 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 \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction.

### **Remuneration and expenses of Authority and others in certain cases**

**45.** The Authority may at any time fix the remuneration and expenses to be paid by a relevant financial institution —

- (a) to a statutory manager or statutory adviser appointed in relation to the relevant financial institution, whether or not the appointment has been revoked; and

- (b) where the Authority has assumed control of the relevant business of the relevant financial institution, to the Authority and any person appointed by the Authority under section 179 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.

### **Voluntary transfer of business of relevant financial institution**

**46.—(1)** A transferor may transfer the whole or any part of its business (including any business that is not the significant business of the transferor) to a transferee, if —

- (a) where the transferor is incorporated in Singapore, the Authority has consented to the transfer;

- (b) where the transferor is incorporated outside Singapore, the business to be transferred is reflected in the books of the transferor in Singapore in relation to its operations in Singapore;



(c) the transfer involves the whole or any part of the business of the transferor that is the significant business of the transferor; and

(d) the Court has approved the transfer.

(2) Subsection (1) does not affect the right of a relevant financial institution to transfer the whole or any part of the relevant financial institution's business under any law. 5

(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 under the Guidelines on Fit and Proper Criteria; and 10

(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 provide a report on, the proposed transfer of a transferor's business (or any part of the business) under subsection (1), whether the transferor is incorporated in or outside Singapore. 15

(5) The remuneration and expenses of any person appointed under subsection (4) must be paid by the transferor and the transferee jointly and severally. 20

(6) The Authority must serve a copy of any report provided under subsection (4) on the transferor and the transferee.

(7) The Authority may require a person to provide, 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 the Authority's duties or functions, or the exercise of the Authority's powers, under this section and section 47. 25

(8) A person who —

(a) without reasonable excuse, fails to comply with any requirement under subsection (7); or 30

(b) in purported compliance with any requirement under subsection (7), knowingly or recklessly provides any information or document that is false or misleading in a material particular,

5 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction.

10 (9) Where a person claims, before providing the Authority with any information or document that the person is required to provide under subsection (7), that the information or document might tend to incriminate the person, the information or document is not admissible in evidence against the person in criminal proceedings other than  
15 proceedings under subsection (8).

### **Approval of transfer of business of relevant financial institution**

20 **47.—**(1) A transferor must 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 section 46(1).

(2) Before making an application under subsection (1) —

- (a) the transferor must lodge with the Authority a report setting out such details of the transfer and provide such supporting documents as the Authority may specify;
- 25 (b) where the transferor is incorporated in Singapore, the transferor must obtain the Authority's consent under section 46(1)(a);
- (c) the transferor and the transferee must, if they intend to serve on their respective customers a summary of the transfer, obtain the Authority's approval of the summary;
- 30 (d) the transferor must, at least 15 days before the application is made but not earlier than one month after the report mentioned 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 by regulations made under section 192;

- (e) the transferor and the transferee must keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report mentioned in paragraph (a) for a period of 15 days after the publication of the notice mentioned in paragraph (d) in the *Gazette*; and
- (f) unless the Court directs otherwise, the transferor and the transferee must serve on their respective customers affected by the transfer, at least 15 days before the application is made, a copy of the report mentioned 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) 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) Where the transferor is incorporated in Singapore, the Court must not approve the transfer if the Authority has not consented to the transfer under section 46(1)(a).

(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) Where the transferee is not approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act, to carry

on in Singapore the significant business of the transferor, the Court may approve the transfer on terms that the transfer is to take effect only in the event of the transferee becoming so approved, authorised, designated, recognised, registered, licensed or regulated, as the case may be.

(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 of the business) of the transferor specified in the order must 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. 5

(10) No order under subsection (7) has 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. 10

(12) Where an order is made under this section, the transferor and the transferee must each lodge within 7 days after the order is made — 15

(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. 20

(13) A transferor or transferee that 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 of a day during which the offence continues after conviction. 25 30

(14) In subsection (13), "officer", in relation to a transferor or transferee, includes —

(a) a director, a secretary or an executive officer of the transferor or transferee, as the case may be;

- (b) a receiver or manager of any part of the undertaking of the transferor or transferee (as the case may be) appointed under a power contained in any instrument; and
- (c) a liquidator of the transferor or transferee (as the case may be) appointed in a voluntary winding up.

**Disqualification or removal of director or executive officer of relevant financial institution**

**48.**—(1) Despite the provisions of any other written law —

- (a) a relevant financial institution must not, without the prior written consent of the Authority, permit a person to act as its executive officer; and
- (b) a relevant financial institution which is established or incorporated in Singapore must not, without the prior written consent of the Authority, permit a person to act as its director,

if the person —

- (c) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of this Part, being an offence —
  - (i) involving fraud or dishonesty;
  - (ii) the conviction for which involved a finding that he or she had acted fraudulently or dishonestly; or
  - (iii) that is specified in the Third Schedule to the Registration of Criminals Act 1949;
- (d) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (e) has had an enforcement order against him or her in respect of a judgment debt returned unsatisfied in whole or in part;
- (f) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his or her creditors, being a compromise or scheme of arrangement that is still in operation;

- (g) has in force against him or her a prohibition order; or
- (h) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

- (i) which is being or has been wound up by a court; or

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- (ii) 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.

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(2) Despite the provisions of any other written law, where the Authority is satisfied that a director of a relevant financial institution which is established or incorporated in Singapore, or an executive officer of a relevant financial institution —

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- (a) has wilfully contravened or wilfully caused the relevant financial institution to contravene any provision of this Act;

- (b) has, without reasonable excuse, failed to secure the compliance of the relevant financial institution with this Act or any other MAS scheduled Act; or

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- (c) has failed to discharge any of the duties of his or her office, the Authority may, if the Authority thinks it necessary in the public interest or for the protection of such persons as may be prescribed by regulations made under section 192 for the purposes of this subsection in relation to the relevant financial institution, by written notice to the relevant financial institution, direct the relevant financial institution to remove the director or executive officer (as the case may be) from his or her office or employment within such period as may be specified by the Authority in the notice, and the relevant financial institution must comply with the notice.

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(3) Without affecting any other matter that the Authority may consider relevant, the Authority must, when determining whether a director or an executive officer of a relevant financial institution has

failed to discharge the duties of his or her office for the purposes of subsection (2)(c), have regard to such criteria as may be prescribed by regulations made under section 192.

5 (4) Before directing a relevant financial institution to remove a person from his or her office or employment under subsection (2), the Authority must —

(a) give the relevant financial institution and the person written notice of the Authority's intention to do so; and

10 (b) in the notice mentioned in paragraph (a), call upon the relevant financial institution 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 relevant financial institution and the person mentioned in subsection (4) —

15 (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,

20 the Authority may direct the relevant financial institution to remove the person under subsection (2).

25 (6) Any relevant financial institution which, or any director or executive officer of a relevant financial institution 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 is final.

30 (7) A relevant financial institution that 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 \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(8) No civil or criminal liability is incurred by a relevant financial institution, or any person acting on behalf of the relevant financial institution, 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 the obligations of the relevant financial institution under this section.

(9) In this section —

“prohibition order” means —

- (a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of this Act; 5
- (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of this Act, and as continued by section 217(2) of this Act; 10
- (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of this Act; 15
- (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of this Act, and as continued by section 218(2) of this Act; 20
- (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act; 25
- (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act, and as continued by section 220(3) of this Act; or 30
- (g) a prohibition order made under section 7(1) of this Act;

“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;

5 “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 or any other MAS scheduled Act.

10 **Provisions as to compromise or arrangement relating to certain financial institutions, etc.**

49.—(1) This section applies despite any other written law.

(2) In any proceedings under section 210 of the Companies Act 1967 or section 71 of the Insolvency, Restructuring and  
15 Dissolution Act 2018 in relation to a company that is a Type A financial institution, the Authority —

(a) has the same powers and rights as a creditor of the company under the Companies Act 1967 or the Insolvency, Restructuring and Dissolution Act 2018 respectively  
20 (including the right to appear and be heard before the Court in any proceedings under those provisions); but

(b) does not have the right to vote at any meeting summoned under section 210 of the Companies Act 1967.

(3) In the case of a company that is a Type B financial institution,  
25 the Court must not —

(a) approve under section 210 of the Companies Act 1967 or section 71 of the Insolvency, Restructuring and Dissolution Act 2018 any compromise or arrangement that has been  
30 proposed for the purposes of or in connection with any scheme mentioned in section 212(1) of the Companies Act 1967 under which the whole or any part of the undertaking or the property of the company is to be transferred; or

- (b) without affecting paragraph (a), make any order under section 212(1) of the Companies Act 1967 providing for the transfer of the whole or any part of the undertaking or the property of the company,

unless the Minister has consented to such compromise or arrangement or such transfer (as the case may be) or has certified that the Minister’s consent is not required. 5

(4) In the case of a company that is a Type C financial institution, the Court must not —

- (a) approve under section 210 of the Companies Act 1967 or section 71 of the Insolvency, Restructuring and Dissolution Act 2018 any compromise or arrangement that has been proposed for the purposes of or in connection with any scheme mentioned in section 212(1) of the Companies Act 1967 under which the whole or any part of the undertaking or the property of the company is to be transferred; or 10 15

- (b) without affecting paragraph (a), make any order under section 212(1) of the Companies Act 1967 providing for the transfer of the whole or any part of the undertaking or the property of the company, 20

unless the Authority has consented to such compromise or arrangement or such transfer (as the case may be) or has certified that the Authority’s consent is not required.

(5) In this section — 25

“company” means any corporation liable to be wound up under the Insolvency, Restructuring and Dissolution Act 2018;

“Type A financial institution” means a financial institution or class of financial institutions that is prescribed by regulations made under section 192 as a Type A financial institution for the purposes of this section; 30

“Type B financial institution” means a financial institution or class of financial institutions that is prescribed by regulations

made under section 192 as a Type B financial institution for the purposes of this section;

“Type C financial institution” means a financial institution or class of financial institutions that is prescribed by regulations made under section 192 as a Type C financial institution for the purposes of this section.

### **Regulations for this Part**

**50.** Regulations made under section 192 for this Part may prescribe —

(a) that any contravention of a provision of the regulations shall be an offence punishable (despite section 192(2)(d)) —

(i) in the case of an individual, with a fine not exceeding \$125,000 or with imprisonment for a term not exceeding 3 years or with both and, in the case of a continuing offence, with a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction; or

(ii) in any other case, with a fine not exceeding \$250,000 and, in the case of a continuing offence, with a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction; and

(b) for the purposes of sections 41(1)(c)(i) and 42(3)(a), different persons and different classes of persons in relation to different relevant financial institutions and different classes of relevant financial institutions.

### *Division 2 — Recovery and resolution planning*

#### **Notice concerning recovery and resolution plans**

**51.—**(1) The Authority may issue a notice to pertinent financial institutions requiring each pertinent financial institution to which a direction is issued under section 52(1) —

- (a) to prepare, in the form and manner and containing the information specified in the notice, a plan to restore the financial strength and viability of the pertinent financial institution in the event it suffers financial pressure or stress (called in this section and section 52 a recovery plan); 5
  - (b) to review and keep up-to-date its recovery plan, at a frequency specified in the direction;
  - (c) to adopt various procedures in preparing its recovery plan, including the oversight of the process and endorsement of the plan; 10
  - (d) to notify the Authority of the occurrence of any event that may necessitate the implementation of its recovery plan;
  - (e) to maintain information to enable the pertinent financial institution to prepare, review and keep up-to-date its recovery plan, and to comply with any direction of the Authority under section 53; 15
  - (f) to have in place a management information system that is necessary for the maintenance and production of the information mentioned in paragraph (e);
  - (g) to ensure that the pertinent financial institution's outsourcing arrangements for its critical functions and critical shared services will continue in the event it comes under resolution; and 20
  - (h) to take such other action as in the Authority's opinion will facilitate compliance with any notice or direction issued by the Authority under this Division, or the effective implementation of the recovery plan of the pertinent financial institution or a plan of the Authority under section 53. 25
- (2) A notice under this section may make different provisions for different classes of pertinent financial institutions. 30

### **Direction for recovery plan and its implementation**

**52.—**(1) The Authority may issue a direction to a pertinent financial institution —

- (a) requiring the pertinent financial institution to comply with the requirements of a notice issued under section 51; and
- (b) specifying the dates for the submission of the recovery plan and the submission of any other document, and the frequency for the action mentioned in section 51(1)(b).

(2) The Authority may issue a further direction to a pertinent financial institution to which a direction was issued under subsection (1) —

- (a) to make such amendment to the pertinent financial institution's recovery plan as the Authority may reasonably require, including an amendment to address any deficiency in the plan; or
- (b) to remove any impediment to the implementation of the recovery plan.

(3) Without limiting subsection (2)(b), the direction in that provision may require the pertinent financial institution to make changes to its practices, organisation and structure (including its operational, legal and financial structures).

(4) The Authority may issue a further direction to a pertinent financial institution to which a direction was issued under subsection (1) —

- (a) to implement a specified part of the pertinent financial institution's recovery plan; and
- (b) to implement such other arrangements or measures as may be necessary to restore the pertinent financial institution's financial strength and viability.

### **Resolution planning**

**53.** The Authority may prepare plans for the orderly resolution of a pertinent financial institution, and may for that purpose issue a direction to the pertinent financial institution requiring the pertinent financial institution to provide, within the time and in the form and manner set out in the direction, any information or document that the Authority may reasonably require for that purpose.

### **Power to direct removal of impediments**

**54.**—(1) This section applies if the Authority is of the opinion that an impediment exists to the orderly resolution of a pertinent financial institution in accordance with a plan of the Authority under section 53. 5

(2) The Authority may issue a direction to the pertinent financial institution, requiring the pertinent financial institution to take, within the time specified in the direction, measures specified in the direction for the purpose of addressing or removing the impediment.

(3) Without limiting subsection (2), the direction may require the pertinent financial institution to make changes to its practices, organisation and structure (including its operational, legal and financial structures). 10

### **Appeal against direction to remove impediment**

**55.**—(1) A pertinent financial institution that is aggrieved by a direction issued to it under section 52(2)(b) or 54(2) may, within 30 days after receiving the direction, appeal to the Minister whose decision is final. 15

(2) An appeal may only be made if the direction requires the pertinent financial institution to make a change that will significantly affect its practices, organisation or operations. 20

(3) For the purposes of subsection (2), a change will significantly affect the practices, organisation or operations of a pertinent financial institution if it —

(a) changes any part of its legal or financial structure; or 25

(b) satisfies such other criterion as may be prescribed by the Minister under section 191.

(4) If an appeal is lodged, the pertinent financial institution need not comply with the direction until the appeal is determined.

(5) The Minister may determine an appeal by confirming, varying or reversing the direction. 30

(6) If the Minister is satisfied that an appeal is made without reasonable ground, the Minister may, without calling for a reply from

the Authority, but after giving the pertinent financial institution an opportunity to be heard, determine the appeal by confirming the direction.

**Provisions concerning directions and notices under this Division**

56.—(1) A direction or notice under this Division must be in writing.

(2) It is not necessary to publish a direction or notice under this Division in the *Gazette*.

**Offences under this Division**

57.—(1) A pertinent financial institution that does not comply with a direction or notice of the Authority under this Division 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 of a day during which the offence continues after conviction.

(2) A pertinent financial institution that, in purported compliance with a direction or notice under this Division, knowingly or recklessly provides to the Authority 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 \$250,000.

PART 8

RESOLUTION OF FINANCIAL INSTITUTIONS

*Division 1 — General provisions*

**Interpretation of this Part**

58. In this Part, unless the context otherwise requires —

“affected person”, in relation to a specified financial institution, means any person prescribed by regulations made under section 135 as an affected person for that specified financial institution;



“business” includes affairs and property;

“co-operative society” means a co-operative society registered under the Co-operative Societies Act 1979;

“Court” means the General Division of the High Court;

“director”, in relation to a specified financial institution or a significant associated entity referred to in section 130, includes — 5

(a) any person, by whatever name called, occupying the position of director of the specified financial institution or significant associated entity, as the case may be; 10

(b) a person in accordance with whose directions or instructions the directors of the specified financial institution or significant associated entity (as the case may be) are accustomed to act; and 15

(c) an alternate director, or a substitute director, of the specified financial institution or significant associated entity, as the case may be;

“excluded financial institution” means any person who is approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act, and is prescribed by regulations made under section 135 as an excluded financial institution; 20

“executive officer”, in relation to a specified financial institution or a significant associated entity referred to in section 130, means any person, by whatever name called, who — 25

(a) is in the direct employment of, or acting for or by arrangement with, the specified financial institution or significant associated entity, as the case may be; and 30

(b) is concerned with or takes part in the management of the specified financial institution or significant

associated entity (as the case may be) on a day-to-day basis;

5 “office-holder”, in relation to a specified financial institution, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the specified financial institution, or acting in an equivalent capacity in relation to the specified financial institution;

10 “pertinent financial institution” means any person who is approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act, and is prescribed by regulations made under section 135 as a pertinent financial institution;

15 “PPF Agency” means the company designated as the deposit insurance and policy owners’ protection fund agency under section 56 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

20 “PPF Funds” means the Policy Owners’ Protection Life Fund and the Policy Owners’ Protection General Fund established under section 34 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

25 “Registrar of Companies” means the Registrar of Companies appointed under the Companies Act 1967 and includes any Deputy or Assistant Registrar of Companies appointed under that Act;

“Registrar of Co-operative Societies” means the Registrar of Co-operative Societies appointed under the Co-operative Societies Act 1979 and includes any Assistant Registrar of Co-operative Societies appointed under that Act;

30 “relevant Act”, in relation to a specified financial institution, means the Act under which that specified financial institution is approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority;

35 “relevant provisions”, in relation to any specified financial institution, or any person who is carrying on or has carried on

the significant business of a specified financial institution, means such provisions of this Act or any other MAS scheduled Act as may be prescribed by regulations made under section 135 as relevant provisions for that specified financial institution or person, as the case may be;

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“significant business”, in relation to a specified financial institution, means the usual business of a financial institution belonging to the same class of financial institutions as that specified financial institution;

“specified financial institution” means a pertinent financial institution or an excluded financial institution;

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“Take-over Code” means the Singapore Code on Take-overs and Mergers which is referred to in section 139 of the Securities and Futures Act 2001 and is issued by the Authority under section 321(1) of that Act.

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### **Exercise of powers under Divisions 2, 4, 5 and 6 of this Part**

**59.** In determining whether to exercise its powers under Divisions 2, 4, 5 and 6 of this Part in relation to a pertinent financial institution, the Authority may have regard to one or more of the following matters:

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(a) whether a failure of the pertinent financial institution would have a widespread adverse effect on the financial system in Singapore or the economy of Singapore, or both, whether or not that widespread adverse effect occurs directly or indirectly as a result of the impact of the failure on the financial system in Singapore, on the financial markets in Singapore or on other financial institutions in Singapore;

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(b) whether it is in the public interest to do so;

(c) any other matter that the Authority considers relevant.

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### **Directions or regulations concerning persons that have ceased to be specified financial institutions**

5 **60.**—(1) The Authority may, from time to time, issue such directions, or make such regulations under section 192, concerning any person that has ceased to be a specified financial institution, or any class of persons that has ceased to be a class of specified financial institutions, as the Authority considers necessary —

10 (a) in order to discharge, or to facilitate the discharge of, any binding obligation of the person or class of persons, as the case may be; or

(b) where it is in the public interest to do so.

(2) Subsection (1) applies, to a person that has ceased to be a specified financial institution, regardless of whether the reason for the cessation is one or more of the following matters:

15 (a) the withdrawal by the Authority of any approval, authorisation, designation or recognition of the person;

(b) the cancellation by the Authority, or the expiration, of any registration of the person;

20 (c) the revocation by the Authority, or the expiration, of any licence of the person;

(d) the cessation of the regulation of the person by the Authority;

25 (e) the cessation of any business of the person, being a business which is regulated under this Act or any other MAS scheduled Act.

(3) A person to whom any direction is issued under subsection (1), or to whom any regulations mentioned in that subsection apply, must comply with the direction or regulations, despite any other duty imposed on the person by any rule of law, written law or contract.

30 (4) A person, in carrying out any act in compliance with any direction issued or regulations mentioned in subsection (1), is not to be treated as being in breach of any such rule of law, written law or contract.

(5) A person must not disclose any direction issued under subsection (1) if the Authority notifies the person that the Authority is of the opinion that the disclosure of the direction is against the public interest.

(6) A person who —

(a) fails to comply with a direction issued to him or her under subsection (1);

(b) contravenes any regulations mentioned in subsection (1);  
or

(c) contravenes subsection (5),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction.

(7) It is not necessary to publish any direction issued under subsection (1) in the *Gazette*.

**Directions and notices issued under this Act or other MAS scheduled Act to continue to apply to persons who cease to be specified financial institutions**

**61.—**(1) Where a person ceases to be a specified financial institution, any direction or notice issued under this Act or any other MAS scheduled Act (being a direction or notice which was in force, and which applied to that person, immediately before that person ceased to be a specified financial institution) despite any rule of law or written law to the contrary, continues to apply to that person, until that direction or notice is cancelled by the Authority.

(2) Subsection (1) applies, to a person that has ceased to be a specified financial institution, regardless of whether the reason for the cessation is one or more of the following:

(a) the withdrawal by the Authority of any approval, authorisation, designation or recognition of the person;

(b) the cancellation by the Authority, or the expiration, of any registration of the person;

- (c) the revocation by the Authority, or the expiration, of any licence of the person;
- (d) the cessation of the regulation of the person by the Authority;
- 5 (e) the cessation of any business of the person, being a business which is regulated under this Act or any other MAS scheduled Act.

10 (3) A person referred to in subsection (1) who, after ceasing to be a specified financial institution, fails to comply with a direction or notice referred to in that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part of a day during which the offence continues after conviction.

## 15 **Moratorium**

20 **62.**—(1) The Authority may, if the Authority considers it to be in the interests of the affected persons of a specified financial institution, make an order prohibiting that specified financial institution from carrying on its significant business or from doing or performing any act or function connected with its significant business or any aspect of its significant business that may be specified in the order.

25 (2) The Authority may, if the Authority considers it to be in the interests of the affected persons of a specified financial institution, apply to the Court for, and the Court may make, one or more of the following orders:

- (a) that no resolution may be passed, and no order may be made, for the winding up of the specified financial institution;
- 30 (b) that no judicial manager may be appointed under Part 7 of the Insolvency, Restructuring and Dissolution Act 2018 in relation to the specified financial institution, or that the specified financial institution be discharged from judicial management;

- (c) that no proceedings may be commenced or continued by or against the specified financial institution in respect of any business of the specified financial institution;
- (d) that no enforcement order, distress or other legal process may be commenced, levied or continued against any property of the specified financial institution; 5
- (e) that no steps may be taken to enforce any security over any property of the specified financial institution or to repossess from the specified financial institution any goods under any hire-purchase agreement, chattels leasing agreement or retention of title agreement; 10
- (f) that no steps may be taken by any person, other than a person specified in the order, to sell, transfer, assign or otherwise dispose of any property of the specified financial institution. 15

(3) Any sale, transfer, assignment or other disposition of any property of the specified financial institution in contravention of any order made under subsection (2)(f) is void.

(4) Any order made under subsection (2) is valid for a period not exceeding 6 months. 20

(5) So long as an order under subsection (1) remains in force, the Authority may, by written notice to that specified financial institution, suspend the approval, authorisation, designation, recognition, registration or licence of that specified financial institution under the relevant Act. 25

(6) A specified financial institution that contravenes an order under subsection (1) 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 of a day during which the offence continues after conviction. 30

(7) It is not necessary to publish any order under subsection (1) in the *Gazette*.

### General provisions as to winding up

5       **63.**—(1) On the application of the Authority, the Court may, in addition to the grounds specified in section 125(1) of the Insolvency, Restructuring and Dissolution Act 2018, order under that Act the winding up of a company incorporated in Singapore which is carrying on or has carried on the significant business of a specified financial institution in Singapore, if —

          (a) the Authority has exercised any power under the relevant provisions in relation to the company; or

10       (b) the company has contravened any provision of this Act or any other MAS scheduled Act.

          (2) On the application of the Authority, the Court may, in addition to the grounds specified in section 246(1) of the Insolvency, Restructuring and Dissolution Act 2018, order under that Act the winding up of an unregistered company which is carrying on or has carried on the significant business of a specified financial institution in Singapore, if —

          (a) the Authority has exercised any power under the relevant provisions in relation to the unregistered company;

20       (b) the unregistered company has been approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act, and any of the following applies:

25           (i) the approval, authorisation, designation or recognition of the unregistered company has been withdrawn;

          (ii) the registration of the unregistered company has been cancelled or has expired;

30           (iii) the licence of the unregistered company has been revoked or has expired;

          (iv) the regulation of the unregistered company by the Authority has ceased; or

          (c) the unregistered company is carrying on or has carried on the significant business of a specified financial institution



in Singapore in contravention of any provision of this Act or any other MAS scheduled Act.

(3) Despite sections 125(2) and 246(2) of the Insolvency, Restructuring and Dissolution Act 2018, on the application of the Authority for the winding up, on the ground specified in section 125(1)(e) or 246(1)(c)(ii) of that Act, of a company which is carrying on or has carried on the significant business of a specified financial institution in Singapore, any statement of account lodged by the company with the Authority, at any time during the period beginning with the close of the last financial year of the company and ending with the making of the application for the winding up, which shows that the company is insolvent, is evidence that the company —

- (a) was insolvent at the close of that financial year; and
- (b) continues to be unable to pay its debts.

(4) Despite any written law or rule of law —

- (a) a person may not be appointed as an office-holder, or as a liquidator under the Insolvency, Restructuring and Dissolution Act 2018, of a company, which is carrying on or has carried on the significant business in Singapore of a specified financial institution, without the prior written approval of the Authority; and

- (b) in the case of a foreign company which is carrying on or has carried on the significant business in Singapore of a specified financial institution, a liquidator appointed for its liquidation or dissolution at its place of incorporation or origin does not have and must not exercise any power or function of a liquidator in Singapore, unless the liquidator has been approved by the Authority.

(5) To avoid doubt, subsection (4)(a) does not affect the operation of section 134(a), (d) or (e) of the Insolvency, Restructuring and Dissolution Act 2018.

(6) Any approval of the Authority under subsection (4)(b) may be granted subject to such conditions as the Authority may determine, and the Authority may add to, vary or revoke any such condition.

(7) The specified financial institution or the liquidator (as the case may be) mentioned in subsection (4)(b) must comply with the conditions in subsection (6).

5 (8) Despite any written law or rule of law, where a company which is carrying on or has carried on the significant business of a specified financial institution in Singapore is being wound up under the Insolvency, Restructuring and Dissolution Act 2018, the Authority has, subject to such modifications as may be necessary, the same powers and rights as a creditor of the company under that Act,  
10 including the right to appear and be heard before the Court in any proceedings in the winding up.

(9) Without affecting subsections (6) and (8) and despite any written law or rule of law, where a company which is carrying on or has carried on the significant business in Singapore of a specified  
15 financial institution is being wound up, its liquidator (whether appointed under the Insolvency, Restructuring and Dissolution Act 2018 or, in the case of a foreign company, appointed at its place of incorporation or origin) must give the Authority such information as the Authority may from time to time require about the  
20 affairs of the company and the winding up.

(10) A liquidator who —

(a) without reasonable excuse, fails to comply with subsection (7) or (9); or

25 (b) in purported compliance with subsection (9), knowingly or recklessly provides 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 \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further  
30 fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction.

(11) In this section —

“liquidator” includes a provisional liquidator;

“unregistered company” has the meaning given by section 245(1) of the Insolvency, Restructuring and Dissolution Act 2018.

**Power of Court to take action against directors and executive officers**

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**64.**—(1) Without affecting any provision of this Act or any other MAS scheduled Act, if, in the course of exercising the Authority’s powers under this Part or the relevant provisions, it appears to the Authority that any past or present director or executive officer of a specified financial institution has failed to discharge the duties of his or her office, has misapplied or retained, or become liable or accountable for, any money or property of the specified financial institution, or has been guilty of any misfeasance or breach of trust or duty in relation to the specified financial institution, the Authority may apply to the Court for, and the Court may make —

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- (a) an order that any salary, remuneration or other benefits received by the director or executive officer from the specified financial institution during the relevant period be repaid or returned to the specified financial institution;
- (b) an order that the director or executive officer ceases to be entitled to receive any deferred salary, remuneration or other benefits that the specified financial institution had agreed to pay to him or her during the relevant period;
- (c) an order that any deferred salary, remuneration or other benefits to be paid by the specified financial institution to the director or executive officer be reduced by such amount as the Court thinks just;
- (d) the orders referred to in paragraphs (a) and (b); or
- (e) the orders referred to in paragraphs (a) and (c).

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(2) Where it appears to the Authority that the director or executive officer has acted recklessly, fraudulently or dishonestly in relation to the specified financial institution, the Authority may apply to the Court to extend, and the Court may order the extension of, the length of the relevant period.

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(3) In this section, “relevant period” means the period of 2 years immediately preceding the date on which the Authority began to exercise its powers under this Part or the date on which the Authority began to exercise its powers under the relevant provisions, whichever is the earlier.

*Division 2 — Compulsory transfer of business of  
pertinent financial institution*

**Interpretation of this Division**

**65.** In this Division, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of transfer issued by the Minister under section 67(1);

“debenture” has the meaning given by section 4(1) of the Companies Act 1967;

“determination” means a determination made by the Authority under section 66(1);

“guaranteed policy moneys” has the meaning given by section 2 of the Insurance Act 1966;

“property” includes property, right and power of every description;

“specified business” means any part of the business of a transferor which is specified or identified in a certificate;

“transferee” means any person 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 pertinent financial institution the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

## Compulsory transfer of business

**66.**—(1) Subject to subsections (2), (3) and (7), the Authority may make a determination that the whole or any part of the business of a transferor must be transferred to a transferee, if —

- (a) any ground exists for the Authority to exercise any power under the relevant provisions in relation to the transferor, whether or not the Authority has exercised the power; 5
- (b) the board of directors of the transferee (in any case where the transferee is a corporation), or the committee of management of the transferee (in any case where the transferee is a co-operative society), has consented to the transfer; 10
- (c) the Authority is satisfied that the transfer is appropriate, having regard to —
  - (i) in any case where the transferor is a bank — 15
    - (A) the interests of the depositors of the transferor given priority and the order of priority of each class of depositors under section 62 of the Banking Act 1970;
    - (B) if the transferee is a bank, the interests of the depositors of the transferee given priority and the order of priority of each class of depositors under section 62 of the Banking Act 1970; 20
    - (C) the stability of the financial system in Singapore; and 25
    - (D) any other matter that the Authority considers relevant;
  - (ii) in any case where the transferor is a finance company licensed under the Finance Companies Act 1967 —
    - (A) the interests of the depositors of the transferor given priority and the order of priority of each class of depositors under section 44A of the Finance Companies Act 1967; 30

- 5 (B) if the transferee is a finance company licensed under the Finance Companies Act 1967, the interests of the depositors of the transferee given priority and the order of priority of each class of depositors under section 44A of that Act;
- (C) the stability of the financial system in Singapore; and
- 10 (D) any other matter that the Authority considers relevant;
- (iii) in any case where the transferor is an insurer licensed under the Insurance Act 1966 —
- 15 (A) the interests of the policy owners of the transferor given priority and the order of priority of each class of policy owners under section 123 of the Insurance Act 1966;
- (B) if the transferee is an insurer licensed under the Insurance Act 1966, the interests of the policy owners of the transferee given priority and the order of priority of each class of policy owners under section 123 of that Act;
- 20 (C) the stability of the financial system in Singapore;
- (D) whether the PPF Agency has to make a payout from any of the PPF Funds to the transferee and the amount of such payout, if any; and
- 25 (E) any other matter that the Authority considers relevant; or
- (iv) in any other case —
- 30 (A) the interests of the affected persons of the transferor;
- (B) the interests of the affected persons of the transferee;

(C) the stability of the financial system in Singapore; and

(D) any other matter that the Authority considers relevant;

(d) the transfer involves the whole or part of the significant business of the transferor; and 5

(e) where the transferee is to carry on the whole or part of the significant business of the transferor, the transferee is, or will be applying to be, approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act, to carry on the significant business of the transferor. 10

(2) Where the transferor is a pertinent financial institution incorporated or established outside Singapore, any determination must only be in respect of the transferor's business (or any part of the business) which is reflected in the books of the transferor in Singapore in relation to the transferor's operations in Singapore, and the references to depositors, policy owners and affected persons in subsection (1)(c) are to be construed accordingly. 15

(3) Where the transferor is an insurer licensed under the Insurance Act 1966, any determination made by the Authority for the purpose of subsection (1) may include a determination as to whether guaranteed policy moneys in relation to any policy should be adjusted upon the proposed transfer so as to achieve an orderly resolution of the transferor. 20 25

(4) The Authority may, before making a determination, appoint one or more persons —

(a) to perform an independent assessment of —

(i) the proposed transfer of the business (or any part of the business) of the transferor; 30

(ii) the consideration, if any, that should be paid by the transferee; and

(iii) where the transferor is an insurer licensed under the Insurance Act 1966, whether guaranteed policy

moneys in relation to any policy should be adjusted upon the proposed transfer so as to achieve an orderly resolution of the transferor; and

5 (b) to provide to the Authority a report on the assessment and on the proposed transfer.

(5) The remuneration and expenses of any person appointed under subsection (4) must be paid by the transferor.

(6) The Authority must serve a copy of any report provided under subsection (4) on the transferor and transferee.

10 (7) A determination may provide for the transfer of the business (or any part of the business) of the transferor to a transferee for the purpose mentioned in subsection (1)(e), where the transferee is not approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS  
15 scheduled Act, to carry on in Singapore the significant business of the transferor, on terms that the transfer is to take effect only in the event of the transferee becoming so approved, authorised, designated, recognised, registered, licensed or regulated, as the case may be.

20 (8) Upon making a determination, the Authority must submit the determination to the Minister for approval.

(9) Before approving the determination, the Minister must, unless the Minister decides that it is not practicable or desirable to do so —

25 (a) publish in the *Gazette* and in such newspaper or newspapers as the Minister may determine a notice of the Minister's intention to approve the determination, specifying such particulars as the Minister considers appropriate; and

30 (b) cause to be given to the transferor written notice of the Minister's intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which the transferor may make written representations to the Minister.

(10) In determining the period within which written representations have to be made under subsection (9), the Minister must take into



account the need for the transfer to be effected expeditiously in the interest of the stability of the financial system in Singapore.

(11) Upon receipt of any written representation, the Minister must consider the representation for the purpose of deciding whether to approve the determination. 5

(12) Where the transferor is a bank incorporated in Singapore, the Minister must not approve the determination unless the Minister is satisfied that it is in the national interest to do so.

(13) The Minister may —

(a) approve the determination without modification; 10

(b) approve the determination subject to any modification the Minister considers appropriate, if either the board of directors of the transferee (if it is a corporation) or the committee of management of the transferee (if it is a co-operative society) has agreed to the modification; or 15

(c) refuse to approve the determination.

(14) Any approval under subsection (13) is subject to such conditions as the Minister may determine to give effect to the determination, and the Minister may add to, vary or revoke any such condition. 20

(15) The transferor or transferee (as the case may be) must comply with every condition mentioned in subsection (14) that applies to it and of which it has been given written notice by the Authority.

(16) A person that contravenes subsection (15) 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 of a day during which the offence continues after conviction. 25

(17) A determination, an approval under subsection (13)(a) or (b) of a determination or the issue of a certificate does not preclude the exercise of any power by the Authority or the Minister under this Act or the relevant Act applicable to the transferor. 30

## Certificate of transfer

5       **67.**—(1) If the Minister approves a determination, the Minister must, as soon as practicable, issue a certificate of transfer, which comes into effect on the date specified by the Minister in the certificate.

(2) The certificate must specify such information as may be prescribed by regulations made under section 135.

(3) The certificate may make provision for all or any of the following matters:

- 10           (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  
15           the transferee to or for any person;
- (c) any property which is held by the transferor as trustee;
- (d) any future or contingent right or liability of the transferor;
- (e) the coming into effect of the transfer of any specified  
20           business on a date other than the date on which the certification comes into effect;
- (f) the consideration, if any, to be paid by the transferee to the transferor, and the period within which the consideration is to be paid;
- (g) where the transferor is an insurer licensed under the  
25           Insurance Act 1966, whether guaranteed policy moneys in relation to any policy should be adjusted upon the proposed transfer so as to achieve an orderly resolution of the transferor;
- (h) such incidental, consequential and supplementary matters  
30           as are, in the Minister's opinion, necessary to secure that the transfer is fully effective, including conditions relating to the transfer.

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

(5) On or before the date on which the certificate comes into effect, the Authority must cause the certificate and any addition, variation or revocation referred to in subsection (4) to be —

(a) served on the transferor and the transferee; and

(b) published in the *Gazette* and in such newspaper or newspapers as the Minister may determine.

(6) Subject to subsection (7), unless otherwise specified in the certificate, the transfer of the business (or any part of the business) of the transferor under the certificate takes effect on the date on which the certificate comes into effect.

(7) Where the transferee is to carry on the whole or part of the significant business of the transferor, and is not approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act, to carry on in Singapore the significant business of the transferor, the transfer of the business (or any part of the business) does not come into effect unless the transferee becomes so approved, authorised, designated, recognised, registered, licensed or regulated, as the case may be.

(8) Despite any written law or rule of law, upon the date on which the transfer of the business (or any part of the business) of the transferor comes into effect under the certificate —

(a) subject to subsection (13) —

(i) the business (or any part of the business) is transferred to and vests in the transferee without other or further assurance, act or deed; and

(ii) the certificate has effect according to its tenor and is binding on any person thereby affected;

(b) no deed, bond, agreement or other arrangement subsisting immediately before that date —

(i) which relates to the business (or any part of the business); and

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(ii) to which the transferor is a party,

is considered terminated by reason only of the transfer, but each of these continues in full force and effect, and is enforceable by or against the transferee (as the case may be), as from that date, as if the transferee had been named in it or had been a party to it instead of the transferor; and

(c) any proceedings or cause of action, by or against the transferor, pending or existing immediately before that date and relating to the business (or any part of the business) may be continued and enforced by or against the transferee as from that date.

(9) Subsection (8)(b) does not apply to a contract of employment.

(10) To avoid doubt, this section does not affect the operation of section 18A of the Employment Act 1968.

(11) To avoid doubt, the business (or any part of the business) of the transferor is transferred to and vests in the transferee in accordance with subsection (8), despite any incapacity of the transferor.

(12) Where the transferor is an insurer licensed under the Insurance Act 1966 and guaranteed policy moneys under a policy have been adjusted under the certificate —

(a) the policy owner or claimant continues to have recourse against the transferor for the difference between the original guaranteed policy moneys and the adjusted guaranteed policy moneys; and

(b) any agreement or other arrangement mentioned in subsection (8)(b) has effect as if the guaranteed policy moneys have been so adjusted.

(13) The certificate does not 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.

(14) Section 130(1) of the Insolvency, Restructuring and Dissolution Act 2018 does not apply to the transfer of any property under the certificate.

(15) If any specified business is governed by the law of any foreign country or territory, and the transferee so requires, the transferor must take all necessary steps for securing that the transfer of the specified business to the transferee is fully effective under the law of that country or territory.

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(16) The transferor and the transferee must each lodge, within 7 days after being served with the certificate —

- (a) a copy of the certificate with the Registrar of Companies;
- (b) where the transferor or the transferee is a co-operative society, a copy of the certificate with the Registrar of Co-operative Societies; and
- (c) where the certificate relates to land in Singapore, an office copy of the certificate with the appropriate authority concerned with the registration or recording of dealings in that land.

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(17) A transferor or transferee that fails to comply with any provision in the certificate 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 of a day during which the offence continues after conviction.

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(18) A transferor that contravenes subsection (15) 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 of a day during which the offence continues after conviction.

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(19) A transferor or transferee that contravenes subsection (16), and every officer of the transferor or the 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 of a day during which the offence continues after conviction.

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(20) In subsection (19), “officer”, in relation to a transferor or transferee, includes —

- (a) a director, a secretary or an executive officer of the transferor or transferee, as the case may be;
- 5 (b) a receiver or manager of any part of the undertaking of the transferor or transferee (as the case may be) appointed under a power contained in any instrument; and
- (c) a liquidator of the transferor or the transferee (as the case may be) appointed in a voluntary winding up.

10 **Moratorium, avoidance of disposition of property, etc.**

68.—(1) Despite section 62(2) but subject to section 134, no resolution may be passed, and no order may be made, for the winding up of a transferor, and no judicial manager may be appointed under Part 7 of the Insolvency, Restructuring and Dissolution Act 2018 in  
15 relation to a transferor, during the period —

(a) beginning on —

- (i) the date on which the Minister publishes the notice under section 66(9) in the *Gazette* on the transfer of the business (or any part of the business) of the  
20 transferor; or
- (ii) where the notice is not published in the *Gazette*, the date on which the Authority publishes the certificate under section 67(5) in the *Gazette* on the transfer of the business (or any part of the business) of the  
25 transferor; and

(b) ending on —

- (i) the date on which the certificate comes into effect; or
- (ii) where the certificate specifies a different date for the coming into effect of the transfer of any specified  
30 business, the last day on which the transfer of every specified business has come into effect.

(2) Despite section 62(2) but subject to section 134, during the period beginning on the date on which the Minister publishes the

notice under section 66(9) in the *Gazette* on the transfer of a specified business of the transferor or (where the notice is not published in the *Gazette*) the date on which the Authority publishes the certificate under section 67(5) in the *Gazette* on the transfer of the specified business, and ending on the date on which the transfer of the specified business comes into effect —

- (a) no proceedings may be commenced or continued against the transferor in respect of the specified business;
- (b) no enforcement order, distress or other legal process may be commenced, levied or continued against the specified business;
- (c) no steps may be taken to enforce any security over the specified business or to repossess from the transferor the specified business under any hire-purchase agreement, chattels leasing agreement or retention of title agreement; and
- (d) any sale, transfer, assignment or other disposition of the specified business is void, except for (where the transferor is an insurer licensed under the Insurance Act 1966) any payment of claims to policy owners or claimants, other than policy owners who are related corporations of the transferor.

*Division 3 — Reverse transfer of business and  
onward transfer of business*

**Interpretation of this Division**

**69.** In this Division —

“2nd transferee” means the person to which the whole or part of a transferor’s business that was transferred to a transferee by a certificate of transfer, is or is to be transferred from the transferee in accordance with an onward transfer certificate under section 73;

“business” includes affairs, property, right, obligation and liability;

“certificate of transfer” means a certificate of transfer issued under section 67;

“onward transfer” means the transfer by the transferee to the 2nd transferee, in accordance with an onward transfer certificate under section 73, of the whole or part of the business transferred to the transferee by a certificate of transfer;

“reverse transfer” means the transfer by the transferee to the transferor in accordance with a reverse transfer certificate under section 71, of the whole or part of the transferor’s business that was transferred to the transferee by a certificate of transfer;

“transferee” means the person to which the whole or part of a transferor’s business has been transferred by a certificate of transfer;

“transferor” means a pertinent financial institution the whole or part of the business of which has been transferred by a certificate of transfer.

### **Reverse transfer of business**

**70.**—(1) Subject to this section, the Authority may, at any time after the transfer of any business under a certificate of transfer, make a determination that the whole or any part of the business transferred to the transferee by the certificate be transferred back to the transferor.

(2) The Authority may make such determination if —

(a) the board of directors of the transferee (if it is a corporation), or the committee of management of the transferee (if it is a co-operative society), consents to the reverse transfer; and

(b) the conditions prescribed by regulations made under section 135 are met.

(3) The Authority must submit every determination under subsection (1) to the Minister for approval.



(4) The Minister may —

- (a) approve a determination under subsection (1) without modification;
- (b) approve a determination under subsection (1) subject to any modification the Minister considers appropriate, if the board of directors of the transferee (if it is a corporation), or the committee of management of the transferee (if it is a co-operative society), agrees to the modification; or
- (c) refuse to approve the determination.

(5) An approval under subsection (4)(a) or (b) is subject to such conditions as the Minister may determine to be necessary to give effect to the determination, and the Minister may add to, vary or revoke any such condition.

(6) The transferor or the transferee (as the case may be) must comply with every condition mentioned in subsection (5) that applies to it and of which it has been given written notice by the Authority.

(7) A person that contravenes subsection (6) 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 of a day during which the offence continues after conviction.

(8) A determination under subsection (1) or an approval under subsection (4)(a) or (b) of the determination does not prevent the exercise of any power by the Authority or the Minister under this Act or the relevant Act applicable to the transferor.

### **Reverse transfer certificate**

**71.—**(1) If the Minister approves a determination under section 70, the Minister must, as soon as practicable, issue a certificate (called in this section the reverse transfer certificate), which is to come into effect on the date specified in the certificate.

(2) The reverse transfer certificate must specify such information as may be prescribed by regulations made under section 135.

(3) The reverse transfer certificate may make provision for one or more of the following matters:

- (a) the reverse transfer approved by the Minister;
- 5 (b) the effective date of the reverse transfer, if different from the date on which the reverse transfer certificate comes into effect;
- (c) the consideration, if any, to be returned by the transferee to the transferor and the period within which the consideration is to be returned;
- 10 (d) the rescission of provisions made for any of the matters mentioned in section 67(3)(c) and (d) in the certificate of transfer concerned;
- 15 (e) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the reverse transfer is fully effective, including any condition mentioned in section 70(5).

(4) The Minister may, at any time before the reverse transfer certificate comes into effect, add to, vary or revoke any matter specified in the reverse transfer certificate.

20 (5) On or before the date on which the reverse transfer certificate comes into effect, the Authority must cause the reverse transfer certificate, and any addition, variation or revocation mentioned in subsection (4) to be —

- (a) served on the transferor and the transferee; and
- 25 (b) published in the *Gazette* and in such newspaper or newspapers as the Minister may determine.

(6) Subject to subsection (7), unless otherwise specified in the reverse transfer certificate, the effective date of the reverse transfer is the date on which the reverse transfer certificate comes into effect.

30 (7) Despite any written law or rule of law (including section 67 as it applies to the certificate of transfer in question), on the effective date of the reverse transfer —

- (a) subject to subsection (10) —
  - (i) the business that is the subject of the reverse transfer is transferred back to and vests in the transferor without other or further assurance, act or deed; and
  - (ii) the reverse transfer certificate has effect according to its tenor and is binding on any person affected by it;
- (b) no deed, bond, agreement or other arrangement mentioned in section 67(8)(b) which relates to the business that is the subject of the reverse transfer is considered terminated by reason only of the reverse transfer, but each of these continues in full force and effect and is once again enforceable by or against the transferor, as the case may be;
- (c) no deed, bond, agreement or other arrangement —
  - (i) that is entered into by the transferee after the transfer of business under the certificate of transfer under section 67, but before the effective date of the reverse transfer; and
  - (ii) which relates to the business that is the subject of the reverse transfer,  
is considered terminated by reason only of the reverse transfer, but each of these continues in full force and effect, and is enforceable by or against the transferor (as the case may be), as if the transferor had been named in it or had been a party to it instead of the transferee; and
- (d) any proceedings or cause of action, by or against the transferee, pending or existing immediately before the effective date of the reverse transfer (including those mentioned in section 67(8)(c)), and relating to the business that is the subject of the reverse transfer may be continued and enforced by or against the transferor as from that date.

(8) Subsection (7)(b) and (c) does not apply to a contract of employment.

(9) To avoid doubt, this section does not affect the operation of section 18A of the Employment Act 1968.

(10) Section 67(11) to (20) applies in relation to a reverse transfer as it applies to a transfer of business under that provision as if —

- (a) a reference to the business to be transferred is a reference to the business that is the subject of the reverse transfer;
- 5 (b) a reference to the transferor is a reference to the transferee;
- (c) a reference to the transferee is a reference to the transferor; and
- (d) a reference to the certificate of transfer is a reference to the reverse transfer certificate.

### 10 **Onward transfer of business**

72.—(1) Subject to this section, the Authority may, at any time after the transfer of any business under a certificate of transfer, make a determination that the whole or any part of the business transferred to the transferee by the certificate be transferred to another transferee.

15 (2) The Authority may make such determination if —

- (a) the board of directors of the 2nd transferee (if it is a corporation), or the committee of management of the 2nd transferee (if it is a co-operative society), consents to the transfer; and
- 20 (b) the transferee is an entity established or incorporated to do one or both of the following:
  - (i) temporarily hold and manage the assets and liabilities of the transferor;
  - (ii) do any other act for the orderly resolution of the
- 25 transferor.

(3) The Authority must submit every determination under subsection (1) to the Minister for approval.

(4) The Minister may —

- 30 (a) approve a determination under subsection (1) without modification;
- (b) approve a determination under subsection (1) subject to any modification the Minister considers appropriate, if the

board of directors of the 2nd transferee (if it is a corporation), or the committee of management of the 2nd transferee (if it is a co-operative society), agrees to the modification; or

(c) refuse to approve the determination. 5

(5) An approval under subsection (4)(a) or (b) is subject to such conditions as the Minister may determine to be necessary to give effect to the determination, and the Minister may add to, vary or revoke any such condition.

(6) The transferee or 2nd transferee (as the case may be) must comply with every condition mentioned in subsection (5) that applies to it and of which it has been given written notice by the Authority. 10

(7) A person that contravenes subsection (6) 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 of a day during which the offence continues after conviction. 15

(8) A determination under subsection (1) or an approval under subsection (4)(a) or (b) of the determination does not prevent the exercise of any power by the Authority or the Minister under this Act or the relevant Act applicable to the transferor. 20

### **Onward transfer certificate**

**73.—**(1) If the Minister approves a determination under section 72, the Minister must, as soon as practicable, issue a certificate (called in this section the onward transfer certificate), which is to come into effect on the date specified in the certificate. 25

(2) The onward transfer certificate must specify such information as may be prescribed by regulations made under section 135.

(3) The onward transfer certificate may make provision for all or any of the following matters: 30

(a) the onward transfer approved by the Minister;

(b) the effective date of the onward transfer, if different from the date on which the onward transfer certificate comes into effect;

5 (c) the consideration, if any, to be paid by the 2nd transferee to the transferee and the period within which the consideration is to be paid;

10 (d) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the onward transfer is fully effective, including any condition mentioned in section 72(5).

(4) The Minister may, at any time before the onward transfer certificate comes into effect, add to, vary or revoke any matter specified in the onward transfer certificate.

15 (5) On or before the date on which the onward transfer certificate comes into effect, the Authority must cause the onward transfer certificate and any addition, variation or revocation mentioned in subsection (4) —

(a) to be served on the transferee and the 2nd transferee; and

20 (b) to be published in the *Gazette* and in such newspaper or newspapers as the Minister may determine.

(6) Subject to subsection (7), unless otherwise specified in the onward transfer certificate, the effective date of the onward transfer is the date on which the onward transfer certificate comes into effect.

25 (7) Despite any written law or rule of law (including section 67 as it applies to the certificate of transfer in question), on the effective date of the onward transfer —

(a) subject to subsection (10) —

30 (i) the business that is the subject of the onward transfer is transferred to and vests in the 2nd transferee without other or further assurance, act or deed; and

(ii) the onward transfer certificate has effect according to its tenor and is binding on any person affected by it;

- (b) no deed, bond, agreement or other arrangement (including any deed, bond, agreement or other arrangement mentioned in section 67(8)(b)) which relates to the business that is the subject of the onward transfer, is considered terminated by reason only of the onward transfer, but each of these continues in full force and effect and is enforceable by or against the 2nd transferee (as the case may be) as if the 2nd transferee had been named in it or had been a party to it instead of the transferee; and
- (c) any proceedings or cause of action, by or against the transferee, pending or existing immediately before the effective date of the onward transfer (including those mentioned in section 67(8)(c)) and relating to the business that is the subject of the onward transfer may be continued and enforced by or against the 2nd transferee as from that date.

(8) Subsection (7)(b) does not apply to a contract of employment.

(9) To avoid doubt, this section does not affect the operation of section 18A of the Employment Act 1968.

(10) Section 67(11) to (20) applies in relation to an onward transfer as it applies to a transfer of business under this section as if —

- (a) a reference to the business to be transferred is a reference to the business that is the subject of the onward transfer;
- (b) a reference to the transferor is a reference to the transferee;
- (c) a reference to the transferee is a reference to the 2nd transferee; and
- (d) a reference to the certificate of transfer is a reference to the onward transfer certificate.

*Division 4 — Compulsory transfer of shares of pertinent  
financial institution*

**Interpretation of this Division**

74.—(1) In this Division, unless the context otherwise requires —

5 “business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of transfer issued by the Minister under section 76(1);

10 “determination” means a determination made by the Authority under section 75(1);

“property” includes property, right and power of every description;

15 “significant shareholder”, in relation to a pertinent financial institution, means any person prescribed by regulations made under section 135 as a significant shareholder for that pertinent financial institution;

20 “significant shareholder provisions”, in relation to any pertinent financial institution, means such provisions of written law as may be prescribed by regulations made under section 135 as significant shareholder provisions for that pertinent financial institution;

“transferee” means any person to whom a transferor’s shares are, are to be, or are proposed to be, transferred under this Division;

25 “transferor” means a shareholder of a pertinent financial institution whose shares in the pertinent financial institution are, are to be, or are proposed to be, transferred under this Division.

30 (2) This Division does not apply where the pertinent financial institution is a co-operative society.



## Compulsory transfer of shares

75.—(1) The Authority may make a determination that all or any of the shares held by a transferor in a pertinent financial institution incorporated in Singapore be transferred to a transferee, if —

- (a) any ground exists for the Authority to exercise any power under the relevant provisions in relation to the pertinent financial institution, whether or not the Authority has exercised the power; 5
- (b) the transferee or, where the transferee is a corporation or co-operative society, the board of directors of the transferee (in any case where the transferee is a corporation), or the committee of management of the transferee (in any case where the transferee is a co-operative society), has consented to the transfer; and 10
- (c) the Authority is satisfied that the transfer is appropriate, having regard to — 15
  - (i) in any case where the pertinent financial institution is a bank —
    - (A) the interests of the depositors of the pertinent financial institution given priority and the order of priority of each class of depositors under section 62 of the Banking Act 1970; 20
    - (B) if the transferee is a bank, the interests of the depositors of the transferee given priority and the order of priority of each class of depositors under section 62 of the Banking Act 1970; 25
    - (C) the stability of the financial system in Singapore; and
    - (D) any other matter that the Authority considers relevant; 30
  - (ii) in any case where the pertinent financial institution is a finance company licensed under the Finance Companies Act 1967 —

- 5 (A) the interests of the depositors of the pertinent financial institution given priority and the order of priority of each class of depositors under section 44A of the Finance Companies Act 1967;
- 10 (B) if the transferee is a finance company licensed under the Finance Companies Act 1967, the interests of the depositors of the transferee given priority and the order of priority of each class of depositors under section 44A of that Act;
- (C) the stability of the financial system in Singapore; and
- 15 (D) any other matter that the Authority considers relevant;
- (iii) in any case where the pertinent financial institution is an insurer licensed under the Insurance Act 1966 —
- 20 (A) the interests of the policy owners of the insurer given priority and the order of priority of each class of policy owners under section 123 of the Insurance Act 1966;
- 25 (B) if the transferee is an insurer licensed under the Insurance Act 1966, the interests of the policy owners of the transferee given priority and the order of priority of each class of policy owners under section 123 of that Act;
- (C) the stability of the financial system in Singapore;
- 30 (D) whether the PPF Agency has to make a payout from any of the PPF Funds to the transferee and the amount of such payout, if any; and
- (E) any other matter that the Authority considers relevant; or

(iv) in any other case —

- (A) the interests of the affected persons of the pertinent financial institution;
- (B) the interests of the affected persons, if any, of the transferee; 5
- (C) the stability of the financial system in Singapore; and
- (D) any other matter that the Authority considers relevant.

(2) The Authority may, before making a determination, appoint one or more persons — 10

(a) to perform an independent assessment of —

- (i) the proposed transfer of shares; and
- (ii) the consideration, if any, that should be paid by the transferee; and 15

(b) to provide to the Authority a report on the assessment and on the proposed transfer.

(3) The remuneration and expenses of any person appointed under subsection (2) must be paid by the pertinent financial institution.

(4) The Authority must serve a copy of any report provided under subsection (2) on the transferor and the transferee. 20

(5) Upon making a determination, the Authority must submit the determination to the Minister for approval.

(6) Before approving the determination, the Minister must, unless the Minister decides that it is not practicable or desirable to do so — 25

(a) publish in the *Gazette* and in such newspaper or newspapers as the Minister may determine a notice of the Minister's intention to approve the determination, specifying such particulars as the Minister considers appropriate; and 30

(b) cause to be given to the transferor written notice of the Minister's intention to approve the determination,

specifying such particulars as the Minister considers appropriate and the date by which the transferor may make written representations to the Minister.

5 (7) In determining the period within which written representations have to be made under subsection (6), the Minister must take into account the need for the transfer to be effected expeditiously in the interest of the stability of the financial system in Singapore.

10 (8) Upon receipt of any written representation, the Minister must consider the representation for the purpose of deciding whether to approve the determination.

(9) Where the determination, if approved, will result in the transferee becoming a significant shareholder of the pertinent financial institution, the Minister must not approve the determination unless —

15 (a) the Authority is satisfied that —

(i) the transferee is a fit and proper person under the Guidelines on Fit and Proper Criteria; and

20 (ii) having regard to the likely influence of the transferee, the pertinent financial institution will or will continue to conduct its business prudently and comply with the provisions of this Act and the relevant Act applicable to the pertinent financial institution; and

(b) the Minister is satisfied that —

25 (i) in any case where the pertinent financial institution is a bank incorporated in Singapore, it is in the national interest to do so; or

(ii) in any other case, it is in the public interest to do so.

(10) The Minister may —

30 (a) approve the determination without modification;

(b) approve the determination subject to any modification the Minister considers appropriate, if the transferee or, where the transferee is a corporation or co-operative society, the

board of directors of the transferee (in any case where the transferee is a corporation), or the committee of management of the transferee (in any case where the transferee is a co-operative society), has agreed to the modification; or

5

(c) refuse to approve the determination.

(11) An approval under subsection (10) is subject to such conditions as the Minister may determine to be necessary to give effect to the determination, and the Minister may add to, vary or revoke any such condition.

10

(12) The transferor must comply with every condition referred to in subsection (11) that applies to the transferor and of which it has been given written notice by the Authority.

(13) The transferee must comply with every condition referred to in subsection (11) that applies to the transferee and of which it has been given written notice by the Authority.

15

(14) A person that contravenes subsection (12) or (13) 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 of a day during which the offence continues after conviction.

20

(15) A determination, an approval under subsection (10)(a) or (b) of a determination or the issue of a certificate does not preclude the exercise of any power by the Authority or the Minister under this Act or the relevant Act applicable to the pertinent financial institution.

25

### **Certificate of transfer**

**76.—**(1) If the Minister approves a determination, the Minister must, as soon as practicable, issue a certificate of transfer, which comes into effect on the date specified by the Minister in the certificate.

30

(2) The certificate must specify such information as may be prescribed by regulations made under section 135.

(3) The certificate may make provision for all or any of the following matters:

- (a) the transfer to the transferee of all or any of the shares of the transferor in the pertinent financial institution;
- (b) any share in the pertinent financial institution which is held by the transferor as trustee;
- 5 (c) the consideration, if any, to be paid by the transferee to the transferor, and the period within which the consideration is to be paid;
- (d) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the transfer is fully effective, including conditions relating to the transfer.

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

15 (5) On or before the date on which the certificate comes into effect, the Authority must cause the certificate and any addition, variation or revocation referred to in subsection (4) to be —

- (a) served on the pertinent financial institution; and
- (b) published in the *Gazette* and in such newspaper or newspapers as the Minister may determine.

20 (6) Despite any written law or rule of law, or anything in the memorandum and articles of association of the pertinent financial institution, upon the certificate coming into effect —

- (a) any share of the transferor that is to be transferred under the certificate is transferred to and vests in the transferee, free from any claim or encumbrance, without other or further assurance, act or deed; and
- 25 (b) the certificate has effect according to its tenor and is binding on any person thereby affected.

30 (7) To avoid doubt, the shares of the transferor are transferred to and vest in the transferee in accordance with subsection (6), despite the death or dissolution, the bankruptcy or winding up, or the mental or other incapacity, of the transferor.

(8) Section 130(1) of the Insolvency, Restructuring and Dissolution Act 2018 does not apply to the transfer of any share under the certificate.

(9) Where the transfer of shares under the certificate results in the transferee becoming a significant shareholder of the pertinent financial institution, upon the coming into effect of the certificate, the transferee —

(a) is treated as having obtained the approval of the Minister or the Authority (as the case may be) under the significant shareholder provisions applicable to the pertinent financial institution, in respect of the shares; and

(b) is not required to make a take-over offer or to acquire the shares of the other shareholders of the pertinent financial institution, despite the provisions of the Companies Act 1967 or the Take-over Code.

(10) A transferor or transferee who fails to comply with any provision in the certificate shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction; or

(b) in any other case, 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 of a day during which the offence continues after conviction.

(11) Where a person is charged with an offence under subsection (10), it is a defence for the person to prove that —

(a) the person was not aware that the person had contravened any provision in the certificate; and

(b) the person has complied with the provision within a reasonable time after becoming aware of the contravention.

5 (12) Except as provided in subsection (11), it is not a defence for a person charged with an offence under subsection (10) that the person did not intend to or did not knowingly contravene any provision in the certificate.

10 (13) Despite section 62(2) but subject to section 134, during the period beginning on the date on which the Minister publishes the notice under section 75(6) in the *Gazette* on the transfer of any share in a pertinent financial institution or (where the notice is not published in the *Gazette*) the date on which the Authority publishes the certificate under subsection (5) in the *Gazette* on the transfer of the share, and ending on the date on which the transfer of the share  
15 comes into effect —

- (a) no enforcement order or other legal process may be commenced or continued against the share;
- (b) no steps may be taken to enforce any security over the share;
- 20 (c) any sale, transfer, assignment or other disposition of the share is void;
- (d) no voting rights are exercisable in respect of the share, unless the Minister expressly permits such rights to be exercised;
- 25 (e) no shares in the pertinent financial institution may be issued or offered (whether by ways of rights, bonus or otherwise) in respect of the share, unless the Minister expressly permits such issue or offer;
- 30 (f) no payment may be made by the pertinent financial institution of any amount (whether by dividends or otherwise) in respect of the share, unless the Minister expressly authorises such payment;
- (g) no resolution may be passed, and no order may be made, for the winding up of the pertinent financial institution;



- (h) no judicial manager may be appointed under Part 7 of the Insolvency, Restructuring and Dissolution Act 2018 in relation to the pertinent financial institution;
- (i) no proceedings may be commenced or continued against the pertinent financial institution in respect of any business of the pertinent financial institution; 5
- (j) no enforcement order, distress or other legal process may be commenced, levied or continued against any property of the pertinent financial institution;
- (k) no steps may be taken to enforce any security over any property of the pertinent financial institution; and 10
- (l) any sale, transfer, assignment or other disposition of any property of the pertinent financial institution is void, except for (where the pertinent financial institution is an insurer licensed under the Insurance Act 1966) any payment of claims to policy owners or claimants, other than policy owners who are related corporations of the pertinent financial institution. 15

*Division 5 — Compulsory restructuring of share capital of pertinent financial institution* 20

**Interpretation of this Division**

77. In this Division, unless the context otherwise requires —

- “business” includes affairs, property, right, obligation and liability;
- “certificate” means a certificate of restructuring of share capital issued by the Minister under section 79(1); 25
- “determination” means a determination made by the Authority under section 78(1) or (2);
- “property” includes property, right and power of every description; 30
- “significant shareholder”, in relation to a pertinent financial institution, means any person prescribed by regulations made

under section 135 as a significant shareholder for that pertinent financial institution;

“significant shareholder provisions”, in relation to any pertinent financial institution, means such provisions of written law as may be prescribed by regulations made under section 135 for that pertinent financial institution;

“subscriber” means any person to whom shares in a pertinent financial institution incorporated in Singapore are, are to be, or are proposed to be, issued under this Division.

### **Compulsory restructuring of share capital**

**78.**—(1) The Authority may make a determination that the share capital of a pertinent financial institution incorporated in Singapore be reduced by the cancellation of the whole or any part of any share capital not paid up, or of any paid-up share capital, if —

(a) any ground exists for the Authority to exercise any power under the relevant provisions in relation to the pertinent financial institution, whether or not the Authority has exercised the power; and

(b) the Authority is of the opinion that —

(i) the liability on any of the shares of the pertinent financial institution in respect of share capital not paid up ought to be extinguished or reduced; or

(ii) any paid-up share capital of the pertinent financial institution is lost or not represented by the available assets of the pertinent financial institution.

(2) The Authority may make a determination that shares be issued by a pertinent financial institution incorporated in Singapore to a subscriber, if —

(a) any ground exists for the Authority to exercise any power under the relevant provisions in relation to the pertinent financial institution, whether or not the Authority has exercised the power;

- (b) the subscriber or, where the subscriber is a corporation or co-operative society, the board of directors of the subscriber (in any case where the subscriber is a corporation), or the committee of management of the subscriber (in any case where the subscriber is a co-operative society), has consented to subscribe for the shares; and 5
- (c) the Authority is satisfied that the issue of shares is appropriate, having regard to —
- (i) in any case where the pertinent financial institution is a bank — 10
- (A) the interests of the depositors of the pertinent financial institution given priority and the order of priority of each class of depositors under section 62 of the Banking Act 1970; 15
- (B) if the subscriber is a bank, the interests of the depositors of the subscriber given priority and the order of priority of each class of depositors under section 62 of the Banking Act 1970;
- (C) the stability of the financial system in Singapore; and 20
- (D) any other matter that the Authority considers relevant;
- (ii) in any case where the pertinent financial institution is a finance company licensed under the Finance Companies Act 1967 — 25
- (A) the interests of the depositors of the pertinent financial institution given priority and the order of priority of each class of depositors under section 44A of the Finance Companies Act 1967; 30
- (B) if the subscriber is a finance company licensed under the Finance Companies Act 1967, the interests of the depositors of the subscriber

given priority and the order of priority of each class of depositors under section 44A of that Act;

(C) the stability of the financial system in Singapore; and

(D) any other matter that the Authority considers relevant;

(iii) in any case where the pertinent financial institution is an insurer licensed under the Insurance Act 1966 —

(A) the interests of the policy owners of the insurer given priority and the order of priority of each class of policy owners under section 123 of the Insurance Act 1966;

(B) if the subscriber is an insurer licensed under the Insurance Act 1966, the interests of the policy owners of the subscriber given priority and the order of priority of each class of policy owners under section 123 of that Act;

(C) the stability of the financial system in Singapore; and

(D) any other matter that the Authority considers relevant; or

(iv) in any other case —

(A) the interests of the affected persons of the pertinent financial institution;

(B) the interests of the affected persons, if any, of the subscriber;

(C) the stability of the financial system in Singapore; and

(D) any other matter that the Authority considers relevant.

(3) The Authority may, before making a determination, appoint one or more persons —

(a) to perform an independent assessment of —

(i) in the case of a determination to be made under subsection (1), the value of the assets of the pertinent financial institution and the extent to which the whole or any part of any share capital not paid up, or of any paid-up share capital, should be cancelled; and

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(ii) in the case of a determination to be made under subsection (2), the value of the assets of the pertinent financial institution in which the shares are proposed to be issued and the consideration, if any, that should be paid by the subscriber; and

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(b) to provide to the Authority a report on the assessment and on the proposed restructuring of share capital.

(4) The remuneration and expenses of any person appointed under subsection (3) must be paid by the pertinent financial institution in which the shares are proposed to be cancelled or issued, as the case may be.

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(5) The Authority must serve a copy of any report provided under subsection (3) —

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(a) on the pertinent financial institution in which the shares are proposed to be cancelled or issued, as the case may be; and

(b) where the report is in relation to a determination to be made under subsection (2), on the subscriber.

(6) Upon making a determination, the Authority must submit the determination to the Minister for approval.

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(7) Before approving the determination, the Minister must, unless the Minister decides that it is not practicable or desirable to do so —

(a) publish in the *Gazette* and in such newspaper or newspapers as the Minister may determine a notice of the Minister's intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which any shareholder of the pertinent financial institution in which the shares are

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proposed to be cancelled or issued (as the case may be) may make written representations to the Minister; and

(b) cause to be given to the pertinent financial institution written notice of the Minister's intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which the pertinent financial institution may make written representations to the Minister.

(8) In determining the period within which written representations have to be made under subsection (7), the Minister must take into account the need for the restructuring of share capital to be effected expeditiously in the interest of the stability of the financial system in Singapore.

(9) Upon receipt of any written representation, the Minister must consider the representation for the purpose of deciding whether to approve the determination.

(10) Where a determination under subsection (2), if approved, will result in the subscriber becoming a significant shareholder, the Minister must not approve the determination unless —

(a) the Authority is satisfied that —

(i) the subscriber is a fit and proper person under the Guidelines on Fit and Proper Criteria; and

(ii) having regard to the likely influence of the subscriber, the pertinent financial institution will or will continue to conduct its business prudently and comply with the provisions of this Act and the relevant Act applicable to the pertinent financial institution; and

(b) the Minister is satisfied that —

(i) in any case where the pertinent financial institution is a bank incorporated in Singapore, it is in the national interest to do so; or

(ii) in any other case, it is in the public interest to do so.

(11) The Minister may —

- (a) approve the determination without modification;
- (b) in the case of a determination under subsection (1), approve the determination subject to any modification the Minister considers appropriate; 5
- (c) in the case of a determination under subsection (2), approve the determination subject to any modification the Minister considers appropriate, if the subscriber or, where the subscriber is a corporation or co-operative society, the board of directors of the subscriber (in any case where the subscriber is a corporation), or the committee of management of the subscriber (in any case where the subscriber is a co-operative society), has agreed to the modification; or 10
- (d) refuse to approve the determination. 15

(12) An approval under subsection (11) is subject to such conditions as the Minister may determine to be necessary to give effect to the determination, and the Minister may add to, vary or revoke any such condition.

(13) The pertinent financial institution must comply with every condition referred to in subsection (12) that applies to it and of which it has been given written notice by the Authority. 20

(14) The subscriber must comply with every condition referred to in subsection (12) that applies to the subscriber and of which the subscriber has been given written notice by the Authority. 25

(15) A person that contravenes subsection (13) or (14) 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 of a day during which the offence continues after conviction. 30

(16) A determination, an approval under subsection (11)(a), (b) or (c) of a determination or the issue of a certificate does not preclude the exercise of any power by the Authority or the Minister under this

Act or the relevant Act applicable to the pertinent financial institution.

### **Certificate of restructuring of share capital**

5       **79.**—(1) If the Minister approves a determination, the Minister must, as soon as practicable, issue a certificate of restructuring of share capital, which comes into effect on the date specified by the Minister in the certificate.

(2) The certificate must specify such information as may be prescribed by regulations made under section 135.

10       (3) The certificate may make provision for all or any of the following matters:

(a) the cancellation of the whole or any part of the share capital of the pertinent financial institution not paid up;

15       (b) the cancellation of the whole or any part of the paid-up share capital of the pertinent financial institution which is lost or not represented by the available assets of the pertinent financial institution;

20       (c) the shares to be issued by the pertinent financial institution to the subscriber, the consideration, if any, to be paid by the subscriber for the shares and the period within which the consideration is to be paid;

25       (d) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the restructuring of share capital is fully effective, including conditions relating to the restructuring of share capital.

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

30       (5) On or before the date on which the certificate comes into effect, the Authority must cause the certificate and any addition, variation or revocation referred to in subsection (4) to be —

(a) served on the pertinent financial institution; and



(b) published in the *Gazette* and in such newspaper or newspapers as the Minister may determine.

(6) Despite any written law or rule of law, or anything in the memorandum and articles of association of the pertinent financial institution, upon the certificate coming into effect — 5

(a) where the certificate provides for a reduction of the share capital of the pertinent financial institution —

(i) the reduction of the share capital takes effect without other or further act by the pertinent financial institution; and 10

(ii) the certificate has effect according to its tenor and is binding on any person thereby affected; or

(b) where the certificate provides for the issue of shares by the pertinent financial institution —

(i) the pertinent financial institution must issue the shares in accordance with the certificate; and 15

(ii) the certificate has effect according to its tenor and is binding on any person thereby affected.

(7) Where the issue of shares under the certificate results in the subscriber becoming a significant shareholder of the pertinent financial institution, upon the coming into effect of the certificate, the subscriber — 20

(a) is treated as having obtained the approval of the Minister or the Authority (as the case may be) under the significant shareholder provisions applicable to the pertinent financial institution, in respect of the shares; and 25

(b) is not required to make a take-over offer or to acquire the shares of the other shareholders of the pertinent financial institution, despite the provisions of the Companies Act 1967 or the Take-over Code. 30

(8) The pertinent financial institution must lodge a copy of the certificate with the Registrar of Companies within 7 days after being served the certificate.

(9) A pertinent financial institution that or a subscriber who fails to comply with any provision in the certificate shall be guilty of an offence and shall be liable on conviction —

5           (a) in the case of an individual, to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction; or

10           (b) in any other case, 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 of a day during which the offence continues after conviction.

15 (10) Where a person is charged with an offence under subsection (9), it is a defence for the person to prove that —

          (a) the person was not aware that the person had contravened any provision in the certificate; and

20           (b) the person has complied with the provision within a reasonable time after becoming aware of the contravention.

(11) Except as provided in subsection (10), it is not a defence for a person charged with an offence under subsection (9) that the person did not intend to or did not knowingly contravene any provision in the certificate.

25 (12) A pertinent financial institution that contravenes subsection (8), and every officer of the pertinent financial institution who fails to take all reasonable steps to secure compliance by the pertinent financial institution with that subsection, shall each be guilty of an offence and shall each be  
30 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 of a day during which the offence continues after conviction.

35 (13) Despite section 62(2) but subject to section 134, during the period beginning on the date on which the Minister publishes the

notice under section 78(7) in the *Gazette* on the restructuring of the share capital of a pertinent financial institution or (where the notice is not published in the *Gazette*) the date on which the Authority publishes the certificate under subsection (5) in the *Gazette* on the restructuring of the share capital, and ending on the date on which the certificate comes into effect —

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(a) no resolution may be passed, and no order may be made, for the winding up of the pertinent financial institution;

(b) no judicial manager may be appointed under Part 7 of the Insolvency, Restructuring and Dissolution Act 2018 in relation to the pertinent financial institution;

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(c) no proceedings may be commenced or continued against the pertinent financial institution in respect of any business of the pertinent financial institution;

(d) no enforcement order, distress or other legal process may be commenced, levied or continued against any property of the pertinent financial institution;

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(e) no steps may be taken to enforce any security over any property of the pertinent financial institution; and

(f) any sale, transfer, assignment or other disposition of any property of the pertinent financial institution is void, except for (where the pertinent financial institution is an insurer licensed under the Insurance Act 1966) any payment of claims to policy owners or claimants, other than policy owners who are related corporations of the pertinent financial institution.

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(14) In subsection (12), “officer”, in relation to a pertinent financial institution, includes —

(a) a director, a secretary or an executive officer of the pertinent financial institution;

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(b) a receiver or manager of any part of the undertaking of the pertinent financial institution appointed under a power contained in any instrument; and

- (c) a liquidator of the pertinent financial institution appointed in a voluntary winding up.

*Division 6 — Bail-in powers*

**Interpretation of this Division**

- 5     **80.**—(1) In this Division, unless the context otherwise requires —
- “appointed date”, in relation to a bail-in certificate, means the date appointed for the bail-in certificate to take effect, as specified in the notification under section 84(2);
- 10    “bail-in certificate” means a bail-in certificate issued under section 84(1);
- “determination” means a determination made by the Authority under section 82(1);
- 15    “Division 6 FI” or Division 6 financial institution, means a pertinent financial institution that belongs to a class of pertinent financial institutions prescribed by regulations made under section 135 as Division 6 financial institutions;
- “eligible instrument” means an instrument or a liability within a class of instruments or liabilities that are prescribed by regulations made under section 135 as eligible instruments;
- 20    “pre-resolution creditor” means any person who was a creditor of a Division 6 FI immediately before the date of publication in the *Gazette* of the bail-in certificate;
- “pre-resolution shareholder” means any person who, immediately before the date of publication in the *Gazette* of the bail-in certificate, held shares or other instrument conferring or representing a legal or beneficial ownership interest in a Division 6 FI;
- 25    “resulting FI” or resulting financial institution, in relation to a Division 6 FI, means an entity established or incorporated to do one or both of the following:
- 30        (a) temporarily hold and manage the assets and liabilities of the Division 6 FI;

(b) do any act for the orderly resolution of the Division 6 FI,

and which issued or must issue a share or other similar instrument representing a legal or beneficial ownership interest, pursuant to a provision of a bail-in certificate issued for that Division 6 FI;

“significant shareholder”, in relation to a Division 6 FI or resulting FI, means any person falling within a description of shareholders of the Division 6 FI or resulting FI prescribed by regulations made under section 135 as its significant shareholders;

“significant shareholder provision” means a provision of any written law that is prescribed by regulations made under section 135 as a significant shareholder provision.

(2) For the purposes of this Division, a reference to cancelling an eligible instrument includes cancelling the eligible instrument in whole or in part.

(3) For the purposes of this Division, a reference to modifying, converting, or changing the form of an eligible instrument is a reference to —

- (a) converting the whole or a part of the eligible instrument from one form or class to another;
- (b) replacing the whole or a part of the eligible instrument with another instrument or liability of a different form or class;
- (c) creating a new instrument (of any form or class) or liability in connection with the modification of the eligible instrument; or
- (d) converting the whole or a part of the eligible instrument into shares or other similar instrument issued by a resulting FI.

### **Exercise of powers under this Division**

**81.**—(1) In exercising any power under this Division, the Authority must have regard to the desirability of giving each pre-resolution

creditor or pre-resolution shareholder of a Division 6 FI the priority and treatment the pre-resolution creditor or pre-resolution shareholder would have enjoyed had the Division 6 FI been wound up.

5 (2) In determining whether to exercise its powers in accordance with the priority and treatment a pre-resolution creditor or pre-resolution shareholder of a Division 6 FI would have enjoyed had the Division 6 FI been wound up, the Authority may consider the following:

- 10 (a) any widespread adverse impact that the Division 6 FI's failure would have on the financial system in Singapore or the economy of Singapore, or both;
- (b) the need to maximise value for the benefit of all creditors of the Division 6 FI as a whole;
- 15 (c) the public interest;
- (d) any other matter that the Authority considers relevant.

(3) Any exercise of a power under this Division does not prevent the exercise of any other power of the Authority or the Minister under this Act or the relevant Act applicable to the Division 6 FI or resulting FI.

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### **Determination by Authority**

**82.**—(1) Subject to subsection (2), the Authority may make one or more of the following determinations concerning one or more eligible instruments issued by a Division 6 FI, or to which the Division 6 FI is a party or is subject:

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- (a) that the eligible instrument or instruments should be cancelled;
- (b) that the eligible instrument or instruments should be modified, converted or changed in form;
- 30 (c) that the eligible instrument or instruments should have effect as if a right of modification, conversion or change of its or their form had been exercised.

(2) The Authority may make the determination in subsection (1) if —

(a) any ground exists for the Authority to exercise any power under the relevant provisions applicable to the Division 6 FI, whether or not the Authority has exercised the power; and

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(b) the Authority is of the opinion that —

(i) the eligible instrument or instruments ought to be bailed in to facilitate the orderly resolution of the Division 6 FI; or

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(ii) the Division 6 FI's available assets do not or are unlikely to support payment of its liabilities, as they become due and payable.

(3) The Authority may, before making a determination, appoint one or more persons —

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(a) to perform an independent assessment of the extent to which the acts mentioned in subsection (1)(a), (b) and (c) should be carried out for all or any eligible instruments; and

(b) to provide to the Authority a report on the assessment.

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(4) The remuneration and expenses of any person appointed under subsection (3) are to be paid by the Division 6 FI.

(5) The Authority must serve a copy of any report provided under subsection (3) on the Division 6 FI.

(6) Upon making a determination, the Authority must submit the determination to the Minister for approval.

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### **Approval by Minister of determination**

**83.—**(1) Before approving a determination of the Authority, the Minister must, unless the Minister decides that it is not practicable or desirable to do so —

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(a) publish in the *Gazette* and in such newspaper or newspapers as the Minister determines, a notice specifying —

5 (i) the Minister's intention to approve the determination;

(ii) the date by which the holder of an eligible instrument that is the subject of the determination may make written representations to the Minister; and

10 (iii) such other particulars as the Minister considers appropriate; and

(b) give to the Division 6 FI written notice specifying —

(i) the Minister's intention to approve the determination;

15 (ii) the date by which the Division 6 FI may make written representations to the Minister; and

(iii) such other particulars as the Minister considers appropriate.

20 (2) In determining the period within which written representations have to be made under subsection (1), the Minister must take into account the need for the measures proposed by the determination to be effected expeditiously in the interest of the stability of the financial system in Singapore.

(3) The Minister must consider all written representations for the purpose of deciding whether to approve the determination.

25 (4) The Minister may —

(a) approve the determination without modification;

(b) approve the determination subject to any modification the Minister considers appropriate; or

(c) refuse to approve the determination.

30 (5) An approval under subsection (4)(a) or (b) may be subject to such conditions as the Minister may determine to be necessary to give



effect to the determination, and the Minister may add to, vary or revoke any such condition.

(6) The Division 6 FI must comply with every condition mentioned in subsection (5) that applies to it and of which it has been given written notice by the Authority. 5

(7) A person that contravenes subsection (6) 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 of a day during which the offence continues after conviction. 10

### **Bail-in certificate**

**84.**—(1) If the Minister approves a determination, the Minister must, as soon as practicable, issue a bail-in certificate.

(2) The bail-in certificate comes into effect on such date as the Minister appoints by notification in the *Gazette*. 15

(3) The bail-in certificate may make provision for one or more of the following:

(a) the cancellation of one or more eligible instruments;

(b) the modification, conversion, or change in form of one or more eligible instruments; 20

(c) that one or more eligible instruments is or are to have effect as if a right of modification, conversion or change of its or their form had been exercised under it or them;

(d) where provision under paragraph (c) is made, the details of the modification, conversion or change of the form of the eligible instrument or instruments; 25

(e) incidental, consequential and supplementary matters, including a requirement that the Division 6 FI or any other person must comply with a general or specific direction set out in the certificate. 30

(4) The bail-in certificate must include such information as may be prescribed by regulations made under section 135.

(5) The bail-in certificate may —

- (a) make provision generally or only for specified purposes, cases or circumstances; and
- (b) make different provision for different purposes, cases or circumstances.

(6) The Minister may, at any time before the appointed date, add to, vary or revoke any matter specified in the bail-in certificate.

(7) On or before the appointed date, the Authority must cause the bail-in certificate and every addition, variation or revocation mentioned in subsection (6) to be —

- (a) served on the Division 6 FI; and
- (b) published in the *Gazette* and in such newspaper or newspapers as the Minister may determine.

### **Effects of bail-in certificate**

**85.**—(1) A provision in a bail-in certificate has effect despite any restriction arising by reason of contract, any written law or rule of law in force before the appointed date of the bail-in certificate, or the constitution of the Division 6 FI.

(2) Where a bail-in certificate provides for the cancellation of an eligible instrument —

- (a) the cancellation takes effect without other or further act by the Division 6 FI; and
- (b) the bail-in certificate has effect according to its tenor and is binding on any person affected by it.

(3) Where a bail-in certificate provides for the modification, conversion, or change in form of an eligible instrument —

- (a) the modification, conversion, or change in form takes effect without other or further act by the Division 6 FI or resulting FI; and
- (b) the bail-in certificate has effect according to its tenor and is binding on any person affected by it.

(4) Where a bail-in certificate provides that an eligible instrument is to have effect as if a specified right had been exercised under it —

(a) the eligible instrument has effect as if the specified right had been exercised under it without other or further act by the Division 6 FI or resulting FI; and

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(b) the bail-in certificate has effect according to its tenor and is binding on any person affected by it.

(5) A reference in subsections (1), (2), (3) and (4) to anything taking or having effect is a reference to that thing taking or having effect from (and including) the appointed date.

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(6) A person that fails to comply with any direction given to the person in the bail-in certificate shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction; or

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(b) in any other case, 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 of a day during which the offence continues after conviction.

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(7) Where a person is charged with an offence under subsection (6), it is a defence for the person to prove that —

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(a) the person was not aware of the contravention of the direction; and

(b) the person complied with the direction within a reasonable time after becoming aware of the contravention.

(8) Except as provided in subsection (7), it is not a defence for the person mentioned in that subsection that the person did not intend to or did not knowingly contravene the direction.

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## Moratorium

5 **86.**—(1) Despite section 62(2) but subject to section 134, during the period beginning on the date of publication of the notice in section 83(1)(a) in the *Gazette* or (where the notice is not published in the *Gazette*) the date of publication of the bail-in certificate in the *Gazette* under section 84(7), and ending on the appointed date of the bail-in certificate —

(a) no resolution may be passed, and no order may be made, for the winding up of the Division 6 FI;

10 (b) no judicial manager may be appointed under Part 7 of the Insolvency, Restructuring and Dissolution Act 2018 in relation to the Division 6 FI;

(c) no civil proceedings may be commenced or continued against the Division 6 FI in respect of any business of the Division 6 FI;

15 (d) no enforcement order, distress or other legal process may be commenced, levied or continued against any property of the Division 6 FI;

20 (e) no steps may be taken to enforce any security over any property of the Division 6 FI; and

(f) any sale, transfer, assignment or other disposition of any property of the Division 6 FI is void, except for (where the pertinent financial institution is an insurer licensed under the Insurance Act 1966) any payment of claims to policy owners or claimants, other than policy owners who are related corporations of the Division 6 FI.

(2) No shareholder of a Division 6 FI or resulting FI may exercise any voting power in the Division 6 FI or resulting FI during the period beginning on —

30 (a) the date the notice in section 83(1)(a) is published in the *Gazette*; or

- (b) where that notice is not published in the *Gazette*, the date the bail-in certificate is published in the *Gazette* under section 84(7),

and ending on the date on which the Minister publishes a notice in the *Gazette* that this subsection ceases to apply. 5

(3) Subsection (2) has effect despite anything in the Companies Act 1967 or the constitution of the Division 6 FI or resulting FI.

### **Significant shareholder by reason of bail-in certificate**

**87.—**(1) Where any person becomes a significant shareholder of a Division 6 FI or resulting FI as a result of a provision of a bail-in certificate, that person — 10

- (a) is treated as having obtained the approval of the Minister or the Authority (as the case may be) under the significant shareholder provisions applicable to the Division 6 FI or resulting FI, in respect of the person becoming a significant shareholder; and 15

- (b) is not required to make a take-over offer or to acquire the shares of the other shareholders of the Division 6 FI or resulting FI (as the case may be), despite anything in the Companies Act 1967 or the Take-over Code. 20

(2) The person mentioned in subsection (1) must comply with such conditions as the Minister may reasonably impose on the person, including but not limited to the following:

- (a) a condition restricting the person's disposal or further acquisition of shares or voting power in the Division 6 FI or resulting FI, as the case may be; 25

- (b) a condition restricting the person's exercise of voting power in the Division 6 FI or resulting FI, as the case may be.

(3) The Minister may, at any time, add to, vary or revoke any condition imposed under this subsection or subsection (2). 30

(4) Any condition imposed under subsection (2) or (3) has effect despite anything in the Companies Act 1967 or the constitution of the Division 6 FI or resulting FI.

(5) Despite subsection (1)(a), the Minister may serve a written notice on the person mentioned in subsection (1) if —

(a) the Authority is not satisfied that —

(i) the person is, in accordance with the Guidelines on Fit and Proper Criteria, a fit and proper person to be a significant shareholder; and

(ii) having regard to the likely influence of the person on it, the Division 6 FI or resulting FI will or will continue to conduct its business prudently and comply with the provisions of this Act and the relevant Act applicable to it; or

(b) the Minister is not satisfied that —

(i) in a case where the Division 6 FI or resulting FI is a bank incorporated in Singapore, it is in the national interest for the person to remain a significant shareholder of the Division 6 FI or resulting FI, as the case may be; or

(ii) in any other case, it is in the public interest for the person to remain a significant shareholder of the Division 6 FI or resulting FI, as the case may be.

(6) The written notice in subsection (5) is one that requires the person to take such steps within a reasonable time as are necessary to cease to be a significant shareholder of the Division 6 FI or resulting FI, as the case may be.

(7) Before serving the notice in subsection (5), the Minister must (unless the Minister decides that it is not practicable or desirable to do so) cause to be given to the person a written notice of the Minister's intention to serve the notice in that subsection, and specifying a date by which the person may make written representations.

(8) Upon receipt of any written representation, the Minister must consider the written representation for the purpose of determining whether to serve the notice in subsection (5).

(9) Where the Minister has served a notice in subsection (5) on a person, then, until the person has disposed of or transferred the shares specified in the notice and in accordance with the notice —

(a) no voting rights are exercisable in respect of the specified shares except with the permission of the Minister, whether or not a notice under section 86(2) is published that the provision has ceased to apply;

(b) no shares of the Division 6 FI or resulting FI (as the case may be) may be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares except with the permission of the Minister; and

(c) except in a liquidation of the Division 6 FI or resulting FI (as the case may be), the Division 6 FI or resulting FI may not make any payment (whether by way of dividends or otherwise) in respect of the specified shares except with the permission of the Minister.

(10) Subsection (9) has effect despite anything in the Companies Act 1967 or the Insolvency, Restructuring and Dissolution Act 2018 or the constitution of the Division 6 FI or resulting FI.

### **Directions for disposal**

**88.**—(1) If the Minister is satisfied that any person has failed to comply with a condition imposed on the person in section 87(2) or (3), or if the Minister has served a notice on the person in section 87(5), the Minister may, by written notice —

(a) direct the transfer or disposal of all or any of the shares in the Division 6 FI or resulting FI held by the person within such time and in such manner as the Minister considers appropriate;

(b) restrict the transfer or disposal of those shares; or

(c) make such other direction as the Minister considers appropriate.

(2) Any person to whom a notice is given under subsection (1) must comply with each direction specified in the notice.

### **Offence**

5 **89.** A person that fails to comply with a condition imposed on the person in section 87(2) or (3), or a notice served on the person in section 87(5) or 88(1), shall be guilty of an offence and shall be liable on conviction —

10 (a) in the case of an individual, to a fine not exceeding \$125,000 and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction; or

15 (b) in any other case, 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 of a day during which the offence continues after conviction.

### **Restriction on eligible instruments**

20 **90.—**(1) To ensure the effective operation of the provisions of this Division on an eligible instrument, regulations made under section 135 may impose a requirement on a Division 6 FI to ensure that the contract governing the eligible instrument contains a provision to the effect that the parties to the contract agree for the eligible instrument to be the subject of a bail-in certificate.

(2) The regulations made under section 135 may —

25 (a) specify the eligible instruments or class of eligible instruments, and Division 6 FI or class of Division 6 FIs, to which the requirement applies;

30 (b) require a Division 6 FI bound by the requirement to provide a legal opinion as to the enforceability of the provision required to be included in the contract in a specified jurisdiction; and

(c) provide for incidental, consequential or transitional matters.



*Division 7 — Termination rights***Interpretation of this Division**

**91.** In this Division, unless the context otherwise requires —

“approved clearing house” has the meaning given by section 2(1) of the Securities and Futures Act 2001; 5

“basic substantive obligation”, in relation to a contract, means an obligation provided by the contract for payment, delivery or the provision of collateral;

“business day” has the meaning given by section 2(1) of the Banking Act 1970; 10

“designated payment system” has the meaning given by section 2(1) of the Payment Services Act 2019;

“foreign resolution” means any action by a foreign resolution authority of a foreign country or territory to do either or both of the following: 15

(a) to maintain financial stability;

(b) to deal with any serious problem in a financial institution of that country or territory which affects the ability of the financial institution to continue its business or operations as a financial institution, and which, if not dealt with, may cause the financial institution to be no longer able to continue its business or operations as a financial institution; 20

“foreign resolution authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory which, whether alone or together with one or more other authorities of the foreign country or territory, is responsible for a foreign resolution, or for preparing plans for a foreign resolution; 25

“group of companies”, in relation to a pertinent financial institution, means — 30

(a) the pertinent financial institution;

(b) the entities that are subsidiaries of the pertinent financial institution; and

(c) the entity that is the holding company of the pertinent financial institution, and the entities that are subsidiaries of that holding company;

5 “operator” and “settlement institution” have the meanings given by section 2(1) of the Payment Services Act 2019;

10 “reinsurance contract” means any contract or arrangement involving the reinsurance of liabilities under insurance policies;

“resolution measure” means —

15 (a) the making of a determination under Division 2, 4, 5, 6 or 9, the issue of any certificate under Division 2, 4, 5 or 6, the making of an order under Division 9, or the exercise of any power under any such certificate or order; or

(b) the exercise of any power under any relevant provision applicable to the pertinent financial institution concerned;

20 “termination right” means —

(a) a right to terminate a contract;

25 (b) a right to accelerate, close out, set off or net an obligation under a contract that would result in a suspension or modification or the extinguishment of the obligation;

(c) a right to suspend, modify or extinguish an obligation of a party to a contract; or

30 (d) in the case of a reinsurance contract, a right of the reinsurer to terminate or not to reinstate coverage under the contract.

## **Effect of resolution measure on contracts where substantive obligations continue to be performed**

**92.**—(1) This section applies to a contract that satisfies both of the following:

- (a) one of the parties to the contract is — 5
  - (i) a pertinent financial institution that is the subject of a resolution measure; or
  - (ii) an entity that is part of the same group of companies as that of a pertinent financial institution where —
    - (A) the pertinent financial institution is the subject of a resolution measure; and 10
    - (B) the obligations of the entity under the contract are guaranteed or otherwise supported by the pertinent financial institution;

- (b) the substantive obligations of the contract (including all applicable basic substantive obligations) continue to be performed by the parties to the contract. 15

(2) Despite any rule of law, written law or contract —

- (a) the resolution measure, and the occurrence of any event directly linked to it, are to be disregarded in determining the applicability of a provision in the contract enabling a party to exercise a termination right; and 20
- (b) any purported exercise of that termination right in reliance on that provision in the contract on the basis of either of those grounds in paragraph (a) has no effect. 25

(3) For the purposes of subsection (1)(b), a basic substantive obligation of a pertinent financial institution (being an approved clearing house or an operator or a settlement institution of a designated payment system) under a contract is not considered to be no longer performed, by reason only that the pertinent financial institution allocates any loss to its participants, or uses collateral provided by or on behalf of its participants — 30

- (a) under its margin rules or default arrangements; or

(b) pursuant to a resolution measure.

**Right to temporarily suspend termination right for contracts because of resolution measure**

5 **93.—**(1) This section applies to a contract one of the parties to which is —

(a) a pertinent financial institution that is the subject or proposed subject of a resolution measure;

10 (b) a pertinent financial institution in respect of which a foreign resolution authority of a foreign country or territory has carried out, or has informed the Authority that it has grounds to carry out, a foreign resolution; or

(c) an entity that is part of the same group of companies as that of a pertinent financial institution where —

15 (i) the pertinent financial institution is the subject or proposed subject of a resolution measure;

(ii) the contract has a termination right that is exercisable if the pertinent financial institution becomes insolvent or is in a certain financial condition; and

20 (iii) the obligations of the entity under the contract are guaranteed or otherwise supported by the pertinent financial institution.

(2) The Authority may, by written notice to the parties to the contract, suspend the exercise of any termination right in the contract for a specified period.

25 (3) The notice under subsection (2) does not apply to —

(a) a termination right under the contract which becomes exercisable for a breach of a basic substantive obligation only;

30 (b) a termination right under a contract between the pertinent financial institution and a person prescribed for the purposes of this paragraph by regulations made under section 135; or

(c) a termination right under a contract, or a contract within a class of contracts, prescribed for the purposes of this paragraph by regulations made under section 135.

(4) When exercising a power under subsection (2), the Authority must have regard to its impact on the safe and orderly functioning of the financial market and financial market infrastructures operating in Singapore. 5

(5) The notice under subsection (2) —

(a) may relate to all or any class or description of parties to a contract; 10

(b) may make different provisions for different classes or descriptions of parties to a contract; and

(c) may be of general or specific application.

(6) A copy of the notice under subsection (2) must be published —

(a) by the Authority in the *Gazette* and on its website; and 15

(b) by the pertinent financial institution on its website.

(7) In this section, a pertinent financial institution is a proposed subject of a resolution measure if the Authority is satisfied that there is a basis for that action under section 59 in relation to that pertinent financial institution. 20

### **When suspension takes effect**

**94.—**(1) A suspension by a notice under section 93 takes effect from (and including) the time of publication of the notice under that section in the *Gazette* or a time on another date specified in the notice, and — 25

(a) if the contract is not a reinsurance contract, expires no later than the same time on the second business day after —

(i) the date of publication of the notice; or

(ii) the other date specified in the notice,

as the case may be; or 30

(b) if the contract is a reinsurance contract, expires no later than the time and date prescribed for the purposes of this paragraph by regulations made under section 135.

5 (2) During the period of suspension of a termination right under a contract and despite any provision of any rule of law, written law or contract, any purported exercise of that right has no effect.

10 (3) A person whose termination right under a contract is suspended under section 93 may (in accordance with the terms of the contract) exercise that right before the expiry of the suspension if the Authority gives the person written notice that the person may exercise that right because —

(a) the contract does not or will not form part of the business of the pertinent financial institution to be transferred under section 67; or

15 (b) the Authority has decided not to make a determination under Division 6 in relation to the pertinent financial institution.

20 (4) On the expiry of the period of suspension under section 93 of a termination right under a contract, the person who holds that right may (if it had not already been exercised under subsection (3)) exercise that right in accordance with the terms of the contract, but not on any of the following grounds:

(a) a resolution measure taken in relation to the pertinent financial institution;

25 (b) the occurrence of an event directly linked to such resolution measure;

30 (c) if the contract forms part of any business of the pertinent financial institution that has been transferred to another person pursuant to a certificate of transfer under section 67 or an onward transfer certificate under section 73, any act of the pertinent financial institution before the transfer;

(d) the suspension itself.

*Division 8 — Assistance to foreign resolution  
authorities and domestic authorities*

**Interpretation of this Division**

**95.** In this Division, unless the context otherwise requires —

“domestic authority” —

5

(a) means any ministry or department of the Government, any Organ of State in Singapore and any statutory body (other than the Authority) established by a public Act for a public function; and

(b) includes the company designated to be the deposit insurance and policy owners’ protection fund agency under section 56 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

10

“foreign resolution authority” means an authority of a foreign country or territory which, whether alone or together with one or more other authorities of the foreign country or territory, is responsible for the resolution, or for preparing plans for dealing with the resolution, of a financial institution;

15

“material” includes any information, book, document or other record in any form whatsoever, and any container or article relating thereto;

20

“prescribed written law” means the following Acts and the subsidiary legislation made under those Acts:

(a) this Act;

25

(b) the Banking Act 1970;

(c) the Business Trusts Act 2004;

(d) the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

(e) the Finance Companies Act 1967;

30

(f) the Financial Advisers Act 2001;

(g) the Financial Holding Companies Act 2013;

- (h) the Insurance Act 1966;
- (i) the Monetary Authority of Singapore Act 1970;
- (j) the Payment Services Act 2019;
- (k) the Securities and Futures Act 2001;
- 5 (l) the Trust Companies Act 2005;
- (m) such other Act or Acts as may be prescribed by regulations made under section 135;

“resolution” means any action by an authority (being an authority charged with responsibility for such action) to do either or both of the following:

- (a) to maintain financial stability;
- (b) to deal with any serious problem in a financial institution which affects the ability of the financial institution to continue its business or operations as a financial institution, and which, if not dealt with, may cause the financial institution to be no longer able to continue its business or operations as a financial institution.

### **Conditions for provision of assistance to foreign resolution authority**

96.—(1) The Authority may provide the assistance referred to in section 98 to a foreign resolution authority, if the Authority is satisfied that all of the following conditions are fulfilled:

- 25 (a) the request by the foreign resolution authority for assistance is received by the Authority on or after the date of commencement of this Part;
- (b) the assistance is intended to enable the foreign resolution authority, or any other authority of the foreign country or territory, to deal with the resolution of a financial institution;
- 30 (c) the foreign resolution authority has given a written undertaking not to use any material or copy of any



material obtained pursuant to its request for any purpose other than a purpose that is specified in the request and approved by the Authority;

- (d) the foreign resolution authority has given a written undertaking not to disclose to a third party (other than a designated third party of the foreign country or territory in accordance with paragraph (e)) any material or copy of any material obtained pursuant to the request, unless the foreign resolution authority is compelled to do so by the law or a court of the foreign country or territory; 5 10
- (e) the foreign resolution 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; 15
- (f) the material requested for is of sufficient importance to the resolution of a financial institution and cannot reasonably be obtained by any other means;
- (g) the matter to which the request relates is of sufficient gravity; 20
- (h) the rendering of assistance will not be contrary to the public interest or the interests of the affected persons of the financial institution.

(2) In subsection (1)(d) and (e), “designated third party”, in relation to a foreign country or territory, means such person in, or body or authority of, the foreign country or territory as the Authority may approve, upon an application to the Authority, if the Authority is satisfied that the disclosure — 25

- (a) is necessary in the interests of the resolution of a financial institution; and 30
- (b) is necessary for the performance of the duties and functions of that person, body or authority, as the case may be.

### **Other factors to consider for provision of assistance to foreign resolution authority**

5 **97.** In deciding whether to grant a request for assistance referred to in section 98 from a foreign resolution authority, the Authority may also have regard to the following:

- 10 (a) whether the foreign resolution authority is preparing plans for dealing with the resolution of any financial institution, or is in the process of determining whether to exercise, or is exercising, any resolution powers in relation to the financial institution;
- (b) whether the foreign resolution authority has given or is willing to give an undertaking to the Authority to comply with a future request by the Authority to the foreign resolution authority for similar assistance;
- 15 (c) whether the foreign resolution authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the assistance that the foreign resolution authority has requested for.

### **Assistance that may be rendered to foreign resolution authority**

20 **98.—(1)** Despite 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 foreign resolution authority for assistance —

- 25 (a) transmit to the foreign resolution authority any material in the Authority's possession that is requested by the foreign resolution authority or a copy of the material;
- (b) order any person to provide to the Authority any material that is requested by the foreign resolution authority or a copy of the material, and transmit the material or copy to the foreign resolution authority;
- 30 (c) order any person to make an oral statement to the Authority on any information requested by the foreign resolution authority, record such statement, and transmit the recorded statement to the foreign resolution authority; or

(d) request any ministry or department of the Government, or any statutory authority in Singapore, to provide to the Authority any material that is requested by the foreign resolution authority or a copy of the material, and transmit the material or copy to the foreign resolution authority. 5

(2) An order under subsection (1)(b) or (c) has effect despite any obligation as to secrecy or other restriction 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. 10

(3) Nothing in this section compels an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893, to provide or transmit any material or copy of any material that contains, or to disclose, a privileged communication made by or to him or her in that capacity. 15

(4) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act 1893, who refuses to provide or transmit any material or copy of any material that contains, or to disclose, any privileged communication is nevertheless obliged to give the name and address (if he or she knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made. 20

(5) A person is not excused from making an oral statement pursuant to an order made under subsection (1)(c) on the ground that the statement might tend to incriminate the person but, where the person claims before making the statement that the statement might tend to incriminate the person, that statement is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under section 100. 25

### **Assistance to domestic authority** 30

**99.**—(1) Despite any obligation as to secrecy or other restriction 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, the Authority may, on the Authority's own motion or upon receiving a written request from 35

a domestic authority for any material in relation to the resolution of a specified financial institution, transmit to the domestic authority any such material that is in the Authority's possession or a copy of the material.

5 (2) In deciding whether to transmit any material to a domestic authority under subsection (1), the Authority may have regard to the following:

(a) whether the assistance is intended to enable the domestic authority —

10 (i) to prepare plans for dealing with the resolution of a specified financial institution;

(ii) to avoid having to exercise any resolution powers in relation to a specified financial institution; or

15 (iii) to determine whether or when to exercise resolution powers in relation to a specified financial institution;

(b) whether the domestic authority has given or is willing to give a written undertaking not to use —

20 (i) any material or copy of any material obtained pursuant to its request for any purpose other than a purpose that is specified in the request and approved by the Authority; or

25 (ii) any material or copy of any material transmitted by the Authority on its own motion for any purpose other than a purpose that is specified by the Authority;

30 (c) whether the domestic authority has given a written undertaking not to disclose to a third party any material or copy of any material obtained pursuant to the request or transmitted by the Authority on its own motion, unless the domestic authority is compelled to do so by the law or the Court.

## Offences under this Division

**100.** Any person who —

- (a) without reasonable excuse, refuses or fails to comply with an order under section 98(1)(b) or (c);
- (b) in purported compliance with an order made under section 98(1)(b), provides to the Authority any material, or copy of any material, known to the person to be false or misleading in a material particular; 5
- (c) in purported compliance with an order made under section 98(1)(c), makes a statement to the Authority that is false or misleading in a material particular; 10
- (d) without reasonable excuse, refuses or fails to comply with section 98(4); or
- (e) in purported compliance with section 98(4), provides to the Authority any information, or copy of any information, known to the person to be false or misleading in a material particular, 15

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. 20

### Immunity for providing material, etc.

**101.**—(1) No liability, other than for an offence under section 100, shall lie against any person for —

- (a) providing to the Authority any material or copy of any material, if the person had provided that material or copy with reasonable care and in good faith and in compliance with an order made under section 98(1)(b); 25
- (b) making a statement to the Authority with reasonable care and in good faith and in compliance with an order made under section 98(1)(c); or 30
- (c) doing or omitting to do any act, if the person had done or omitted to do the act with reasonable care and in good faith

and as a result of complying with an order made under section 98(1)(b) or (c).

(2) Any person who complies with an order made under section 98(1)(b) or (c) is not to 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.

### *Division 9 — Recognition of foreign resolutions*

#### **Interpretation of this Division**

10 **102.**—(1) In this Division, unless the context otherwise requires —  
 “determination” means a determination made under section 103;  
 “foreign financial institution” means a financial institution incorporated, formed or established in a foreign country or territory that has —

15 (a) a branch located in Singapore; or  
 (b) a subsidiary incorporated in Singapore,  
 that is approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act;

20 “foreign resolution” means any action by a foreign resolution authority of a foreign country or territory to do either or both of the following:

(a) to maintain financial stability;

25 (b) to deal with any serious problem in a foreign financial institution of that country or territory which affects the ability of the foreign financial institution to continue its business or operations as a foreign financial institution, and which, if not dealt with, may cause the foreign financial institution to be

30 no longer able to continue its business or operations as a foreign financial institution;

“foreign resolution authority”, in relation to a foreign country or territory, means an authority of that country or territory which, whether alone or together with one or more other authorities of that country or territory, is responsible for a foreign resolution, or for preparing plans for a foreign resolution;

5

“Singapore creditor”, in relation to a foreign financial institution, means —

(a) a creditor of the foreign financial institution, in respect of a liability incurred by the operations of its branch located in Singapore; or

10

(b) a creditor of a subsidiary incorporated in Singapore of the foreign financial institution;

“Singapore shareholder”, in relation to a foreign financial institution, means the holder of shares or similar instruments of a subsidiary incorporated in Singapore of the foreign financial institution.

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(2) The exercise of any power under this Division does not prevent the exercise of any other power of the Minister or the Authority under this Act or the relevant Act applicable to the foreign financial institution or the subsidiary incorporated in Singapore of a foreign financial institution, as the case may be.

20

### **Determination over foreign resolution**

**103.**—(1) This section applies where a foreign resolution authority of a foreign country or territory makes a request to the Authority to recognise a foreign resolution in relation to a foreign financial institution by the foreign resolution authority.

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(2) The Authority must make a determination that —

(a) the foreign resolution should be recognised in whole or in part; or

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(b) the foreign resolution should not be recognised.

(3) The Authority may make a determination that the foreign resolution should be recognised in whole or in part if it is satisfied that all of the following conditions are fulfilled:

5           (a) recognition of the foreign resolution or part would not have a widespread adverse effect on the financial system in Singapore or the economy of Singapore, whether or not that effect occurs directly or indirectly as a result of the effects of recognising the resolution or part;

10           (b) recognition of the foreign resolution or part would not result in inequitable treatment of any Singapore creditor relative to any other creditor of the foreign financial institution with similar rights, or of any Singapore shareholder relative to any shareholder of the foreign financial institution;

15           (c) recognition of the foreign resolution or part would not be contrary to the national interest or public interest;

            (d) recognition of the foreign resolution or part would not have material fiscal implications for Singapore;

20           (e) any other condition that is prescribed by regulations made under section 135 for the purposes of this paragraph.

(4) Upon making a determination, the Authority must submit the determination to the Minister for approval.

(5) The Minister may —

            (a) approve the determination without modification;

25           (b) approve the determination subject to any modification the Minister considers appropriate; or

            (c) refuse to approve the determination.

30           (6) The Minister must not approve the determination under subsection (5)(a) or (b) unless the Minister is satisfied that all of the conditions mentioned in subsection (3) are fulfilled.

(7) An approval under subsection (5)(a) or (b) is subject to such conditions as the Minister may determine to be necessary to give



effect to the determination, and the Minister may add to, vary or revoke any condition.

(8) Any person to which a condition mentioned in subsection (7) applies, and who has been given written notice of that condition by the Authority, must comply with the condition. 5

(9) A person that contravenes subsection (8) 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 of a day during which the offence continues after conviction. 10

### **Order to give effect to foreign resolution**

**104.**—(1) If the Minister approves a determination that a foreign resolution should be recognised in whole or in part, the Minister must, as soon as practicable, by order in the *Gazette*, declare that the foreign resolution is to be recognised. 15

(2) The order may make provision for any of the following matters, to take effect from a date specified in the order:

(a) matters that may be set out in a certificate of transfer pursuant to section 67(3);

(b) matters that may be set out in a certificate of transfer of shares pursuant to section 76(3); 20

(c) matters that may be set out in a certificate of restructuring of share capital pursuant to section 79(3);

(d) matters that may be set out in a bail-in certificate pursuant to section 84(3). 25

(3) The matters mentioned in subsection (2)(a), (b), (c) and (d) may be modified for the purposes of giving effect to the foreign resolution.

(4) To avoid doubt, provision may be made in the order for matters mentioned in subsection (2)(d) affecting instruments or liabilities entered into or accruing before the effective date of the order. 30

(5) With effect from the effective date of the order, sections 67(8) to (20) and 68, 76(6) to (13), 79(6) to (14), or 85 to 89 (as the case may be), together with the regulations that are made under section 135 for

the purpose of implementing those provisions, apply in relation to an order that provides for the matters mentioned in paragraph (a), (b), (c) or (d) of subsection (2), as they apply in relation to the certificate mentioned in that paragraph.

- 5 (6) The provisions of this Act mentioned in subsection (5) apply subject to such modifications as the order may prescribe.

### **Directions**

10 **105.** The Authority may, from time to time, issue such directions to any person that is approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act, as the Authority considers necessary for the purposes of giving full effect to the order mentioned in section 104.

### **Offence**

15 **106.—(1)** A person that refuses or fails to comply with a provision of the order under section 104 that applies to the person, or a direction issued to the person under section 105, shall be guilty of an offence and shall be liable on conviction —

20 (a) in the case of an individual, to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction; or

25 (b) in any other case, 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 of a day during which the offence continues after conviction.

30 (2) Where a person is charged with an offence under subsection (1), it is a defence for the person to prove that —

(a) the person was not aware of the contravention of the provision of the order or the direction; and

(b) the person has complied with the provision of the order or the direction within a reasonable time after becoming aware of the contravention.

(3) Except as provided in subsection (2), it is not a defence for a person charged with an offence under subsection (1) that the person did not intend to or did not knowingly contravene the provision of the order or the direction.

5

*Division 10 — Resolution funding*

**Interpretation of this Division**

**107.** In this Division, unless the context otherwise requires —

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“Agency” means the company designated by the Minister under section 56 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 as the deposit insurance and policy owners’ protection fund agency;

“DI Fund” means the Deposit Insurance Fund reconstituted under section 9 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

15

“financial institution” means any person that is approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act;

20

“financial institution under resolution” —

(a) means the pertinent financial institution that is the subject of a resolution measure; and

(b) in relation to a resolution fund, means the pertinent financial institution that is the subject of the resolution measure for which the fund is established;

25

“market infrastructure” means a pertinent financial institution that performs the functions of —

(a) a market;

(b) a central clearing counterparty;

(c) a trade repository;

30

(d) a central securities depository; or

(e) a securities settlement system;

“participant” —

5 (a) in relation to a market infrastructure, means a participant of the market infrastructure, and includes a client of such participant; and

10 (b) in relation to a payment system operator, means a participant of the payment system (within the meaning of the Payment Services Act 2019) operated by the payment system operator;

“payment system operator” means a person who operates a payment system within the meaning of the Payment Services Act 2019;

15 “provisional entity”, in relation to a resolution fund, means an entity established or incorporated to do one or more of the following:

(a) temporarily hold and manage the assets and liabilities of the financial institution under resolution;

20 (b) to be the transferee of any part of the business of the financial institution under resolution under Division 2;

(c) do any other act for the orderly resolution of the financial institution under resolution;

“resolution fund” means a fund established under section 108;

25 “resolution measure” means —

30 (a) the making of a determination under Division 2, 3, 4, 5, 6 or 9, the issue of any certificate under Division 2, 3, 4, 5 or 6, the making of an order under Division 9, or the exercise of any power under any such certificate or order; or

(b) the exercise of any power under any relevant provision applicable to the financial institution concerned;

“resolution measure”, in relation to a resolution fund, means the resolution measure or measures for which the fund was established;

“similar financial institution” means a financial institution that is prescribed by regulations made under section 135 for the purposes of section 111(1)(b)(i), as belonging to the same category as the financial institution under resolution;

“trustee”, in relation to a resolution fund, means the entity appointed under section 108(2) as the trustee of the resolution fund.

### **Establishment of resolution fund**

**108.**—(1) For the purposes of supporting a resolution measure undertaken for a financial institution and other matters relating to the measure, the Minister may, on the recommendation of the Authority, establish a resolution fund.

(2) The Minister must appoint a body corporate or unincorporate established or incorporated in Singapore, or established under any Act, to be the trustee of the resolution fund.

(3) The Authority must publish a notification in the *Gazette* and in such newspaper or newspapers as the Minister determines, of the establishment of a resolution fund and the trustee of the resolution fund.

(4) The trustee of a resolution fund may obtain a loan from the Authority for the purpose of constituting the fund.

(5) In addition to the loan in subsection (4), the following are to be paid into a resolution fund:

- (a) all payments, levies and late payment fees collected or recovered under sections 112, 114, 115 and 116;
- (b) any interest from a loan made out of moneys withdrawn from the fund;
- (c) any other income from the use of moneys withdrawn from the fund;
- (d) any proceeds from the exercise of the resolution measure;

(e) any moneys paid out of the DI Fund under section 29A of the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 and given to the trustee of the fund;

(f) any additional loan obtained from the Authority.

5 (6) The moneys mentioned in subsection (5)(e) must be put in a separate account of the resolution fund from the other moneys, and moneys from that separate account may not be used to make any payment of compensation and associated costs under Division 11.

10 (7) The trustee of a resolution fund must keep proper accounts and records of transactions in respect of the fund.

(8) The accounts and records of the resolution fund are to be audited by an auditor appointed by the trustee in consultation with the Minister.

15 (9) The first audit of the resolution fund must take place as soon as practicable after the end of the first year in which the first withdrawal from the fund is made, and the fund must be audited every year thereafter until it is dissolved.

### **Trustee of resolution fund**

20 **109.**—(1) The duty of the trustee of a resolution fund is to administer and manage the resolution fund, and in particular —

(a) to make withdrawals from the resolution fund in accordance with sections 110 and 118(1) and to apply the moneys withdrawn for the purposes mentioned in those provisions;

25 (b) to collect and recover payments, levies and late payment fees under sections 112, 114, 115 and 116 and pay these into the resolution fund;

(c) to collect proceeds in relation to the resolution measure and pay these into the resolution fund;

30 (d) at the direction of the Minister (being one made on the Authority's recommendation), to give a guarantee to any person for, or enter into any agreement with any person to share, any liability of the financial institution under

resolution, a provisional entity, or a person to whom any asset or business of the financial institution under resolution is transferred;

(e) to deal with the balance in the resolution fund after the fund is no longer needed for the purposes in section 110(1) or 118(1), in accordance with the regulations made for the purposes of section 118(2); and

(f) to do any other thing that is incidental or conducive to the discharge of the trustee's duties under paragraphs (a) to (e).

(2) The trustee of a resolution fund may be paid such fees for carrying out its duties and exercising its powers under this Division as the Minister may determine, and such fees are to be paid out of the fund.

(3) The expenses incurred by the trustee of a resolution fund in carrying out its duties and exercising its powers under this Division are, with the Minister's approval, to be paid out of the fund.

(4) The trustee of a resolution fund may, with the Minister's approval and subject to such conditions as the Minister may impose, appoint any person to discharge any part of the trustee's duties or exercise any part of its powers.

(5) No action, suit or other legal proceedings lie against —

(a) any current or former trustee of a resolution fund;

(b) any current or former director, officer, employee or agent of the trustee; or

(c) any person acting under the direction of the trustee,

as a result of anything done (including any statement made) or omitted to be done in good faith in carrying out any of the trustee's duties or exercising any of the trustee's powers under this Division.

### **Withdrawal from resolution fund**

**110.**—(1) The trustee of a resolution fund must, at the Minister's direction, make one or more withdrawals from the resolution fund and apply the moneys withdrawn for one or more of the following purposes:

- (a) to pay the operating costs of a provisional entity;
- (b) to discharge a guarantee for, or an obligation under an agreement to share, a liability of the financial institution under resolution, a provisional entity or a person to whom any asset or business of the financial institution has been transferred;
- (c) to pay the costs of transferring the whole or any part of the business of the financial institution under resolution pursuant to the resolution measure;
- (d) to make or provide a loan, advance, overdraft or other credit facility to the financial institution under resolution or a provisional entity;
- (e) to pay any other costs reasonably incurred in the resolution measure, such as interest costs, legal cost, cost of any advisory services, and the cost of an independent valuation of the financial institution under resolution;
- (f) to make any payment of compensation and associated costs under Division 11;
- (g) to pay the remuneration and expenses of a valuer mentioned in section 124(9);
- (h) to provide capital to the financial institution under resolution or the provisional entity;
- (i) such other purposes in support of the resolution measure as may be prescribed by regulations made under section 135.

(2) The Minister may only give a direction to the trustee under subsection (1) on a recommendation of the Authority.

(3) In determining whether to make a recommendation to the Minister to direct a trustee of a resolution fund to make a withdrawal under subsection (1), the Authority must have regard to all of the following:

- (a) whether losses are imposed on shareholders and unsecured creditors of the financial institution under resolution under Division 5 or 6;



- (b) whether funding from the private sector can be obtained for the resolution measure;
  - (c) such other factors as may be prescribed by regulations made under section 135.
- (4) The Authority may only make a recommendation to the Minister under subsection (1)(h) to make a withdrawal to provide capital to the financial institution under resolution — 5
- (a) if the Authority is of the view that the provision of the capital is necessary for the orderly resolution of the financial institution under resolution; and 10
  - (b) after the Authority has taken into account whether appropriate losses have been imposed on shareholders and unsecured creditors of the financial institution under resolution under Division 5 or 6.
- (5) Where a direction has been made to the trustee under subsection (1), the Authority must, as soon as practicable, publish a notice of that fact in the *Gazette* and in such newspaper or newspapers as the Minister determines. 15

### **Recovery of sums withdrawn**

- 111.**—(1) Where one or more withdrawals have been made from a resolution fund under section 110, the Minister may direct the trustee of the resolution fund to recover the sum or sums withdrawn in one or both of the following ways: 20
- (a) by making a claim for all or part of that sum or those sums from the financial institution under resolution; 25
  - (b) by imposing a levy, in accordance with section 113 and the regulations made under section 135 for section 113, on the following persons (called in this Part levy payers):
    - (i) financial institutions that have been prescribed by regulations made under section 135 as belonging to the same category as the financial institution under resolution; 30

- (ii) if the financial institution under resolution is a market infrastructure, those participants of the market infrastructure and of other market infrastructures, that have been prescribed by regulations made under section 135 as levy payers;
- (iii) if the financial institution under resolution is a payment system operator, those participants of the payment system operated by the payment system operator that have been prescribed by regulations made under section 135 as levy payers.

(2) In addition to the purpose in subsection (1), the Minister may direct the trustee of a resolution fund to impose a levy, in accordance with section 113 and the regulations made under section 135 for section 113, on levy payers for the purpose of meeting any shortfall in the amount of the levy collected to make good the amount withdrawn from the account, or for any other prescribed purpose.

(3) The Minister may only give a direction under subsection (1) or (2) on a recommendation of the Authority.

(4) The Authority must, as soon as practicable after the Minister has given a direction under subsection (1) or (2), publish a notice of the direction in the *Gazette* and in such newspaper or newspapers as the Minister determines.

### **Claim from financial institution under resolution**

**112.**—(1) Where a direction has been given under section 111(1)(a), the trustee of the resolution fund must make a claim mentioned in that provision on the financial institution under resolution to pay the sum mentioned in the direction, at such time and in such manner as the trustee determines, and the sum claimed is recoverable as a debt due from the financial institution under resolution to the trustee.

(2) Any sum recovered from the financial institution under resolution must be paid into the resolution fund.

## Computation and notice of levy

**113.**—(1) After the Minister has given a direction under section 111(1)(b) or (2), the Authority must, in accordance with the regulations made under section 135 for the purpose of this section —

- (a) compute the amount of levy payable by every levy payer; 5  
and
- (b) give a written notice to the trustee of the amount of levy payable by every levy payer.

(2) After receipt of the notice mentioned in subsection (1)(b), the trustee must give the notices mentioned in subsection (3), (4), (5) or (6) (whichever is applicable) to the levy payers and in the manner set out in that subsection. 10

(3) Where the levy is to be imposed on a similar financial institution, the trustee must give each similar financial institution a written notice stating — 15

- (a) the amount of the levy;
- (b) the date by which the levy is to be paid;
- (c) the manner of payment of the levy; and
- (d) such other matters as may be prescribed by regulations made under section 135. 20

(4) Where the levy is to be imposed on participants of a market infrastructure on a transaction basis, the trustee must give —

- (a) a notice to the market infrastructure stating —
  - (i) the description of the participants on which the levy is imposed; 25
  - (ii) the amount of the levy it is to collect from each participant, or the rate of computation of that amount;
  - (iii) the period and manner of collection;
  - (iv) the date by which the market infrastructure is to pay 30  
the total amount of the levy imposed on the participants to the trustee;

(v) the information and documents it is to provide to the trustee when making the payment under sub-paragraph (iv); and

(vi) such other matters as may be prescribed by regulations made under section 135; and

(b) a general notice to those participants, to be published on such medium as may be determined by the trustee, stating —

(i) the matters in paragraph (a)(i), (ii) and (iii); and

(ii) such other matters as may be prescribed by regulations made under section 135.

(5) Where the levy is to be imposed on participants of a market infrastructure on a lump sum basis, the trustee must give to each participant of the market infrastructure a written notice stating —

(a) the amount of the levy;

(b) the date by which the levy is to be paid;

(c) the manner of payment of the levy; and

(d) such other matters as may be prescribed by regulations made under section 135.

(6) Where the levy is to be imposed on participants of a payment system operated by a payment system operator, the trustee must give to each participant a written notice stating —

(a) the amount of the levy;

(b) the date by which the levy is to be paid;

(c) the manner of payment of the levy; and

(d) such other matters as may be prescribed by regulations made under section 135.

(7) The notice under subsection (3), (5) or (6) may require the levy payer to pay an amount of levy regularly over a period of time.

(8) The trustee may, at any time, vary a notice mentioned in subsection (3), (4), (5) or (6), and give the notice of the variation to every person to whom the initial notice was given, and each reference

in section 114 or 115 to a notice given to a person under this section includes a reference to the notice of the variation given to the person under this subsection.

**Payment of levy by similar financial institutions, participants of market infrastructure on lump sum basis, or participants of payment system operated by payment system operator**

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**114.**—(1) This section applies where a notice under section 113(3), (5) or (6) is given to a levy payer that is a similar financial institution, or a participant of a market infrastructure or of a payment system operated by a payment system operator.

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(2) The levy payer must pay to the trustee of the resolution fund on or before the date of payment specified in the notice, the amount of the levy specified in the notice.

(3) If the levy payer fails to comply with subsection (2) —

(a) the trustee may, by written notice to the levy payer, impose on it such late payment fee as may be prescribed by regulations made under section 135; and

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(b) the levy payer must pay to the trustee the late payment fee together with the amount of the unpaid levy on or before the date specified in the notice under paragraph (a), and in the manner specified in the notice.

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(4) The late payment fee under subsection (3) must not exceed the amount of the unpaid levy.

**Payment of levy by participants of market infrastructure on transaction basis**

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**115.**—(1) This section applies where a notice under section 113(4) is given to a market infrastructure.

(2) The market infrastructure must —

(a) during the period of collection specified in the notice, collect from each participant on whom the levy is imposed under the notice and in the manner specified in the notice, an amount equal to the levy so imposed;

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(b) pay to the trustee of the resolution fund the total amount of the levy it is to collect from its participants by the date of payment specified in the notice; and

5 (c) together with the payment, give a notice to the trustee setting out how the amount of levy is arrived at and providing such other details as the trustee may reasonably require.

10 (3) A market infrastructure does not incur any civil liability for doing anything with reasonable care and in good faith and in compliance with subsection (2).

(4) If a market infrastructure fails to comply with subsection (2)(b) —

15 (a) the trustee may, by written notice to the market infrastructure, impose on it such late payment fee as may be prescribed by regulations made under section 135; and

(b) the market infrastructure must pay to the trustee the late payment fee, together with the amount of the unpaid levy, on or before the date specified in the notice under paragraph (a), and in the manner specified in the notice.

20 (5) A market infrastructure that —

(a) fails to comply with subsection (2)(c); or

25 (b) in purported compliance with that provision, provides to the trustee of the resolution fund any information that the market infrastructure knows or has reason to believe is false or misleading,

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 of a day during which the offence continues after conviction.

30 (6) The late payment fee under subsection (4) must not exceed the amount of the unpaid levy.

**Recovery, refund and remission of levies and late payment fees, etc.**

**116.**—(1) The levy imposed on a person under section 113(3), (5) or (6), and any late payment fee imposed on the person under section 114(3), are both recoverable as a debt due from that person to the trustee of the resolution fund concerned. 5

(2) The amount of levy that a market infrastructure is required to collect from its participants under section 115(2), and any late payment fee imposed on the market infrastructure under section 115(4), are both recoverable as a debt due from the market infrastructure to the trustee of the resolution fund concerned. 10

(3) Where the trustee of a resolution fund has commenced any legal proceedings in a court in Singapore to recover any levy or late payment fee from a person, the trustee is entitled to claim costs on a full indemnity basis from that person. 15

(4) All levies and late payment fees collected or recovered are to be paid into the resolution fund concerned.

(5) Where a levy payer has paid an amount of levy that is in excess of the amount imposed on the levy payer under a notice under section 114, the trustee of the resolution fund concerned must make a withdrawal from the fund to refund the excess amount to the levy payer. 20

(6) In any particular case other than the one to which subsection (5) applies, the trustee of a resolution fund may, with the approval of the Minister — 25

(a) make a withdrawal from the resolution fund to refund in whole or in part any levy paid by a levy payer; or

(b) remit in whole or in part any levy payable by a levy payer.

**Disclosure of information on levy**

**117.**—(1) This section applies to a notice given under section 113(3), (5) or (6) to a levy payer that is a similar financial institution, or a participant of a market infrastructure or of a payment system operated by a payment system operator. 30

(2) Subject to subsections (3) and (4), the levy payer and any of its officers must not disclose to any person —

(a) the amount of the levy specified in the notice; and

(b) any information which, if disclosed, would enable the amount of the levy to be identified or deduced.

(3) Despite subsection (2), the levy payer and any of its officers may disclose any information mentioned in subsection (4) to —

(a) any officer of the levy payer;

(b) where the levy payer is one that is established or incorporated in a foreign country or territory, its head office, parent corporation, parent supervisory authority, resolution authority, deposit insurance authority or policy owners' protection scheme authority, as the case may be;

(c) where the levy payer is a financial institution that is a subsidiary of a foreign corporation, that corporation or the corporation's parent supervisory authority, resolution authority, deposit insurance authority or policy owners' protection scheme authority, as the case may be; or

(d) such other person or class of persons as the Authority may approve in writing.

(4) The information that may be disclosed under subsection (3) is such information that is necessary for the performance of the duties of the person or authority mentioned in subsection (3)(a), (b), (c) or (d), as the case may be.

(5) A person to whom information is disclosed under subsection (3) must not disclose the information to any other person except as approved by the Authority.

(6) A person who contravenes subsection (2) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

(7) This section does not apply to any information that is public information.



## (8) In this section —

“deposit insurance authority”, in relation to a levy payer or foreign corporation, means an authority of the foreign country or territory in which the levy payer or foreign corporation is incorporated or established that, whether alone or together with one or more other authorities, is responsible for administering a deposit insurance scheme for deposits of the levy payer or foreign corporation;

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“foreign corporation” means a corporation incorporated in a foreign country or territory;

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“officer”, in relation to a levy payer, includes —

(a) a director, a secretary or an employee of the levy payer;

(b) a receiver or manager of any part of the undertaking of the levy payer appointed under a power contained in any instrument; and

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(c) the liquidator of the levy payer appointed in a voluntary winding up;

“parent corporation”, in relation to a levy payer, means a corporation that is able to exercise a significant influence over the direction and management of the levy payer or that has a controlling interest in the levy payer;

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“parent supervisory authority”, in relation to a levy payer or a foreign corporation, means the supervisory authority that is responsible, under the laws of the country or territory in which the levy payer or foreign corporation is incorporated or established, for supervising the levy payer or foreign corporation, as the case may be;

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“policy owners’ protection scheme authority”, in relation to a levy payer or a foreign corporation, means an authority of the foreign country or territory in which the levy payer or foreign corporation is incorporated or established that, whether alone or together with one or more authorities, is responsible for administering a protection scheme for the policy owners of

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insurance policies of the levy payer or foreign corporation, as the case may be;

“resolution authority”, in relation to a levy payer or a foreign corporation, means an authority of the foreign country or territory in which the levy payer or foreign corporation is incorporated or established that, whether alone or together with one or more other authorities, is responsible for the resolution, or for preparing plans for dealing with the resolution of, the levy payer or foreign corporation, as the case may be.

### **Use of resolution fund to pay loan, etc., and balance in resolution fund**

**118.**—(1) The Minister may, from time to time, direct the trustee of a resolution fund to make a withdrawal from the resolution fund for any of the following purposes:

- (a) to repay the Authority all or any part of the loan made under section 23(7A) of the Monetary Authority of Singapore Act 1970, together with any interest on such loan;
- (b) to reimburse the Agency for any payment the trustee received under section 29A of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011.

(2) The Minister may by regulations made under section 135 provide for —

- (a) how the balance in a resolution fund is to be dealt with after the fund is no longer needed for any of the purposes mentioned in subsection (1) or section 110(1); and
- (b) the dissolution of the resolution fund after the balance of the fund has been dealt with in accordance with the regulations, and the publication of a notice of such dissolution.

### **Priority of debt of financial institution to trustee**

**119.** Despite any written law or rule of law relating to the winding up of companies, in the event of a winding up of a financial institution (other than one that is a bank, a finance company licensed under the Finance Companies Act 1967 or an insurer licensed under the Insurance Act 1966) — 5

(a) any sum claimed by the trustee of a resolution fund from the financial institution under section 112; and

(b) any levy and late payment imposed on the financial institution under section 113, 114 or 115 and due from the financial institution, and any levy which the financial institution is liable to collect under section 115(2) and due from the financial institution, 10

have priority over all unsecured liabilities of the financial institution other than preferential debts specified in section 203(1) of the Insolvency, Restructuring and Dissolution Act 2018. 15

### **Regulations for this Division**

**120.**—(1) Regulations may be made under section 135 for the purposes of this Division.

(2) Without limiting subsection (1), regulations may be made in relation to the imposition and recovery of a levy and late payment fee under section 113, 114, 115 or 116, and in particular in relation to one or more of the following: 20

(a) the levy payers on and from whom the trustee of the resolution fund may impose and recover the levy; 25

(b) the classification of the levy payers mentioned in paragraph (a) for the purpose of imposing different amounts of the levy;

(c) the manner in which the amount of the levy for each class of levy payers is to be determined; 30

(d) the amount of the late payment fee;

(e) the manner and date of payment of the levy and late payment fee;

- 5 (f) a duty of a financial institution under resolution, a levy payer, a market infrastructure or a payment system operator to provide such information as the Authority or trustee may reasonably require for the purposes of computing the levy or late payment fee or preparing a notice under section 113;
- (g) such other matters as the Minister considers necessary for the computation, imposition and recovery of the levy or late payment fees.

10 *Division 11 — Compensation*

**Interpretation of this Division**

**121.** In this Division, unless the context otherwise requires —

“2nd transferee” has the meaning given by section 69;

15 “Division 11 FI” or Division 11 financial institution means a pertinent financial institution within a class of pertinent financial institutions prescribed by regulations made under section 135 for the purposes of this Division;

“Division 11 FI under resolution” means a Division 11 FI that is the subject of a resolution action;

20 “pre-resolution creditor”, in relation to a Division 11 FI under resolution, means any person who was a creditor of the Division 11 FI immediately before the resolution date;

25 “pre-resolution shareholder”, in relation to a Division 11 FI under resolution, means any person who held shares or instruments conferring or representing a legal or beneficial ownership interest in the Division 11 FI, immediately before the resolution date;

“prescribed written law” has the meaning given by section 95;

“resolution action” means —

- 30 (a) the issue of a certificate of transfer under section 67 or any action to be taken under that certificate;

- (b) the issue of a certificate of transfer under section 76 or any action to be taken under that certificate;
- (c) the issue of a certificate of restructuring of share capital under section 79 or any action to be taken under that certificate; 5
- (d) the issue of a bail-in certificate under section 84 or any action to be taken under that certificate; or
- (e) the making of an order under section 104 that provides for any of the matters mentioned in section 104(2); 10

“resolution date”, in relation to a Division 11 FI under resolution, means —

- (a) if the Division 11 FI is the subject of the issue of a certificate of transfer under section 67, a certificate of transfer under section 76, a certificate of restructuring of share capital under section 79, or a bail-in certificate under section 84 — the date the certificate is published in the *Gazette*; 15
- (b) if the Division 11 FI is the subject of 2 or more actions mentioned in paragraphs (a) to (d) of the definition of “resolution action” — the earlier or earliest of the dates of publication of the relevant certificates in the *Gazette*; 20
- (c) if the Division 11 FI is the subject of an action mentioned in paragraph (e) of the definition of “resolution action” — the date of publication of the order in the *Gazette*; or 25
- (d) if the Division 11 FI is the subject of one or more actions mentioned in paragraphs (a) to (d) of the definition of “resolution action”, as well as the action mentioned in paragraph (e) of that definition — the earlier of the following dates: 30
  - (i) the date of publication in the *Gazette* of the relevant certificate or, if there is more than

one relevant certificate, the earlier or earliest of the dates of publication in the *Gazette* of the relevant certificates;

(ii) the date of publication of the order in the *Gazette*;

“transferee” has the meaning given by section 65;

“valuation report” means a report issued by a valuer under section 125(3);

“valuer” means a person appointed under section 124 as a valuer.

### **Meaning of “worse off as a result of the resolution”**

**122.—**(1) In this Division, a pre-resolution creditor or pre-resolution shareholder of a Division 11 FI under resolution is worse off as a result of the resolution if, by reason of one or more of the actions mentioned in subsection (2) taken in relation to the Division 11 FI, the pre-resolution creditor or pre-resolution shareholder has received, is receiving or is likely to receive less favourable treatment than what the pre-resolution creditor or pre-resolution shareholder would have received had winding up proceedings been commenced against the Division 11 FI immediately before the resolution date.

(2) In subsection (1), the actions are —

(a) any resolution action;

(b) the issue of a reverse transfer certificate under section 71 or any action taken under that certificate; and

(c) the issue of an onward transfer certificate under section 73 or any action taken under that certificate.

(3) In any of the following cases, it is a rebuttable presumption that a pre-resolution creditor or pre-resolution shareholder of a Division 11 FI under resolution is not worse off as a result of the resolution:

(a) the liability or instrument concerned is transferred to a transferee under section 67 and the transferee is subject to

the same terms for that liability or instrument as those to which the Division 11 FI under resolution was subject;

- (b) the liability or instrument concerned is transferred under section 67 and is then transferred back to the Division 11 FI under section 71, and the Division 11 FI is subject to the same terms for that liability or instrument as it was subject to immediately before the transfer under section 67; 5
- (c) the liability or instrument concerned is transferred under section 67 and is then transferred to a 2nd transferee under section 73, and the 2nd transferee is subject to the same terms for that liability or instrument as those to which the Division 11 FI under resolution was subject; 10
- (d) the only resolution action to which the Division 11 FI is subject is the issue of a bail-in certificate within the meaning of Division 6 or any action under the certificate, and the instrument or liability concerned is not one to be bailed in under that certificate; 15
- (e) the only resolution action to which the Division 11 FI is subject is the making of an order under Division 9, and the pre-resolution creditor or pre-resolution shareholder is eligible for compensation under the law of a foreign country or territory by reason of the resolution to which the order gives effect. 20

**Eligibility for compensation**

**123.**—(1) A pre-resolution creditor or pre-resolution shareholder of a Division 11 FI under resolution that is worse off as a result of the resolution, is eligible for compensation of the amount mentioned in subsection (2). 25

(2) The amount of compensation that the pre-resolution creditor or pre-resolution shareholder is eligible for is the difference between — 30

- (a) what the pre-resolution creditor or pre-resolution shareholder would have received had winding up proceedings been commenced against the Division 11 FI

under resolution immediately before the resolution date;  
and

(b) what the pre-resolution creditor or pre-resolution shareholder has received, is receiving, or is likely to receive —

(i) as a result of one or more of the actions mentioned in section 122(2); and

(ii) as compensation under the law of a foreign country or territory governing the foreign resolution (if applicable).

(3) Subject to section 129, the Authority must recommend to the Minister to make a direction to the trustee of the resolution fund established under Division 10 in relation to the resolution of the Division 11 FI, to make a withdrawal from the fund to pay to the pre-resolution creditor or pre-resolution shareholder, the amount set out in the valuation report as the amount mentioned in subsection (2).

(4) Payment of the compensation to the pre-resolution creditor or pre-resolution shareholder is to be made in the form and manner, and within the time, prescribed by regulations made under section 135.

### **Appointment of valuer**

**124.**—(1) The Minister must, as soon as practicable, after the resolution date of a Division 11 FI under resolution, appoint a valuer for the Division 11 FI.

(2) The role of a valuer appointed under this section is to make a valuation in relation to the Division 11 FI in accordance with section 125, and decide whether any pre-resolution creditor or pre-resolution shareholder of the Division 11 FI is eligible for compensation and the amount of the compensation.

(3) The Minister may only appoint a person as a valuer if the Minister is satisfied that the person satisfies the criteria prescribed by regulations made for the purposes of this subsection under section 135.



(4) The appointment of a valuer is to be made on such conditions as the Minister may determine, and the Minister may at any time add to, vary or revoke any such condition.

(5) The Minister may on any prescribed ground revoke the appointment of a valuer, and may, subject to subsections (3) and (4), appoint a new valuer. 5

(6) Where the appointment of a valuer is revoked and a new valuer is appointed under subsection (5), the Authority may direct the previous valuer to provide such information and documents to the new valuer as the Authority considers necessary for the new valuer to conduct the valuation. 10

(7) A valuer that does not comply with a direction issued under subsection (6) 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 of a day during which the offence continues after conviction. 15

(8) The Authority may at any time fix the remuneration and expenses to be paid to a valuer.

(9) The remuneration and expenses of a valuer may be paid out of the resolution fund established under Division 10 in relation to the resolution of the Division 11 FI. 20

## **Valuation**

**125.**—(1) A valuer for a Division 11 FI under resolution must conduct the valuation of the Division 11 FI in accordance with the valuation principles that are prescribed by regulations made under section 135, and any other valuation principles specified by the Authority by written notice to the valuer. 25

(2) The valuer must determine the amount of compensation to be paid to each pre-resolution creditor or pre-resolution shareholder of the Division 11 FI, or each one that is within a class of pre-resolution creditors or pre-resolution shareholders of the Division 11 FI, by reference to the difference between — 30

(a) the valuer's assessment of what the pre-resolution creditor or pre-resolution shareholder would have received had winding up proceedings been commenced against the Division 11 FI immediately before the resolution date; and

5 (b) the valuer's assessment of what the pre-resolution creditor or pre-resolution shareholder has received, is receiving, or is likely to receive —

(i) as a result of one or more of the actions mentioned in section 122(2); and

10 (ii) as compensation under the law of a foreign country or territory governing the foreign resolution (if applicable).

(3) After conducting the valuation, the valuer for a Division 11 FI under resolution must issue a report setting out the valuer's decision on —

15 (a) whether each pre-resolution creditor or pre-resolution shareholder of the Division 11 FI is eligible for compensation; and

20 (b) the amount of compensation to be paid to each pre-resolution creditor or pre-resolution shareholder.

(4) The valuation report must specify the information that is prescribed by regulations made under section 135 and any other valuation principles specified by the Authority by written notice to the valuer.

25 (5) The valuer must provide the valuation report to the Minister and the Authority by such date as may be determined by the Minister.

(6) On receiving a copy of the valuation report, where the Authority is of the view that —

30 (a) the valuation report was not prepared in accordance with this section; or

- (b) the valuer should have had regard to any additional circumstances not taken into account in the valuation report,

the Authority may, by written notice, request the valuer to reconsider the valuation report or any aspect of the report by such date as the Authority may specify in the notice.

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(7) The Authority may cause the valuation report or any part of the valuation report to be published in the manner determined by the Authority.

**Access to information by valuer**

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**126.**—(1) A Division 11 FI under resolution for which a valuer is appointed must —

- (a) give the valuer access to such of its records and documents as the valuer may reasonably require to conduct the valuation;
- (b) procure a person who is in possession of such records and documents to give the valuer access to them;
- (c) provide such information and facilities as the valuer may reasonably require to conduct the valuation; and
- (d) procure a person who is in possession of such information or facilities to provide the information or facilities to the valuer.

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(2) Subsection (1) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed on the Division 11 FI under resolution or any of its officers, or on any person mentioned in subsection (1)(b) or (d), by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct.

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(3) A Division 11 FI under resolution that, without reasonable excuse, refuses or neglects to comply with subsection (1) 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

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further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

5 (4) No civil or criminal liability is incurred by a Division 11 FI under resolution or any of its officers, or by any person mentioned in subsection (1)(b) or (d) or any of the person's officers, in respect of any obligation or restriction mentioned in subsection (2), for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with or giving effect to subsection (1).

10 (5) A Division 11 FI under resolution or any of its officers, or any person mentioned in subsection (1)(b) or (d), that, with reasonable care and in good faith, does or omits to do any act for the purpose of complying with or giving effect to subsection (1) is not to be treated as being in breach of any obligation or restriction mentioned in  
15 subsection (2).

### **Confidentiality and use of information**

**127.—**(1) A valuer must not use or disclose any information obtained under this Division other than for the performance of its functions under this Division.

20 (2) Any person who comes to know of any information in the course of assisting another person to perform a function under this Division must not use or disclose the information for any purpose other than for such assistance.

25 (3) Except as provided under sections 125(5) and 128, a valuer must not disclose any part of the valuation report issued by the valuer to any person.

(4) The duties of a valuer under subsections (1) and (3) continue after the revocation or cessation of the valuer's appointment.

30 (5) A person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(6) A person to whom any information is disclosed, who knows or has reasonable grounds for believing at the time of the disclosure, that the information was disclosed to the person in contravention of subsection (1), (2) or (3), shall be guilty of an offence and shall be liable on conviction —

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(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(7) Where a person is charged with an offence under subsection (6), it is a defence for the person to prove that —

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(a) the disclosure was made contrary to the person's desire;

(b) where the disclosure was made in any written or printed form, the person had as soon as practicable after receiving the information, surrendered, or taken all reasonable steps to surrender, the information and all copies of the information to the Authority; and

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(c) where the disclosure was made in an electronic form, the person had, as soon as practicable after receiving the information, taken all reasonable steps to ensure the deletion of all electronic copies of the information and the surrender of the information and all copies of the information in other forms to the Authority.

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### **Disclosure of valuation report**

**128.**—(1) A valuer of a Division 11 FI under resolution may, with the Authority's approval, disclose the whole or any part of the valuation report of the Division 11 FI to the Division 11 FI, any pre-resolution creditor or pre-resolution shareholder of the Division 11 FI, or the public.

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(2) In granting approval for a disclosure, the Authority may impose such conditions or restrictions as the Authority thinks fit on the valuer as to the form or content of the valuation report or part of the valuation report to be disclosed.

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(3) The Authority may also impose such conditions or restrictions as the Authority thinks fit on the Division 11 FI under resolution or any pre-resolution creditor or pre-resolution shareholder of the Division 11 FI that the valuer discloses the valuation report to.

5 (4) A person who contravenes any of the provisions of this section, or any condition or restriction imposed under subsection (2) or (3), shall be guilty of an offence and shall be liable on conviction —

10 (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

### Appeals

**129.**—(1) The Authority may appeal to the Court against a valuation report if the Authority is dissatisfied with —

15 (a) the valuer's decision on any person's eligibility for compensation; or

(b) the amount of compensation to be paid to any person pursuant to the valuation report.

20 (2) A person may appeal to the Court against a valuation report if the person is dissatisfied with —

(a) the valuer's decision on the person's eligibility for compensation; or

(b) the amount of compensation to be paid to the person pursuant to the valuation report.

25 (3) The Court may make an order that confirms or varies the valuation report in respect of the eligibility of a person for compensation or the amount of compensation to be paid to the person.

30 (4) A person may not lodge an appeal after the resolution fund established under Division 10 in relation to the resolution of the Division 11 FI has been dissolved in accordance with regulations made for the purposes of section 118(2).

(5) Rules of Court may provide for the manner in which appeals under this section may be made and the procedure for the appeal.

*Division 12 — Miscellaneous*

**Notices to significant associated entities of specified financial institutions**

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**130.**—(1) The Authority may, if the Authority thinks it necessary or expedient in the public interest, in the interests of any affected person or class of affected persons of a specified financial institution or in the interests of the financial system in Singapore, by written notice to a significant associated entity of the specified financial institution, give directions or impose requirements on or relating to the operations or activities of the significant associated entity, including directions that the significant associated entity —

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(a) take such action, or do or not do such act or thing, as the Authority may specify in the notice; or

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(b) continue to provide such services as the Authority may specify in the notice to —

(i) the specified financial institution; or

(ii) all or any of the entities treated, for accounting purposes according to the Accounting Standards, as part of the group of companies of the specified financial institution.

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(2) A significant associated entity of a specified financial institution must comply with any direction given to the significant associated entity, or any requirement imposed on the significant associated entity, by any notice issued to the significant associated entity under subsection (1).

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(3) It is not necessary to publish any notice issued under subsection (1) in the *Gazette*.

(4) A significant associated entity (of a specified financial institution) that contravenes subsection (2) 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

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exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(5) In this section —

“Accounting Standards” has the meaning given by section 4(1) of the Companies Act 1967;

“group of companies”, in relation to a specified financial institution, means —

- (a) the specified financial institution;
- (b) the entities that are subsidiaries of the specified financial institution; and
- (c) the entity that is the holding company of the specified financial institution, and the entities that are subsidiaries of that holding company;

“significant associated entity”, in relation to a specified financial institution, means an entity incorporated, formed or established in Singapore —

- (a) which is treated, for accounting purposes according to the Accounting Standards, as part of the group of companies of the specified financial institution;
- (b) which is not approved, authorised, designated, recognised, registered, licensed or otherwise regulated by the Authority under this Act or any other MAS scheduled Act; and
- (c) which —
  - (i) is significant to the business of —
    - (A) the specified financial institution; or
    - (B) all or any of the entities which are treated, for accounting purposes according to the Accounting Standards, as part of the group of companies of the specified financial institution; or



(ii) provides any service which is essential or necessary for the continued operation of —

(A) the specified financial institution; or

(B) all or any of the entities which are treated, for accounting purposes according to the Accounting Standards, as part of the group of companies of the specified financial institution.

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### **Modification of law of insolvency**

**131.** Despite anything to the contrary in this Act, the Companies Act 1967 and the Insolvency, Restructuring and Dissolution Act 2018 —

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(a) any sale, transfer, assignment or other disposition of any property or business of a pertinent financial institution pursuant to section 67 or 73 must not be reversed, repaid or set aside, except where a certificate has been issued under section 71 to reverse such sale, transfer, assignment or other disposition; and

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(b) no order may be made by any court for the rectification or stay of any such sale, transfer, assignment or other disposition.

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### **Power to obtain information under this Part**

**132.**—(1) The Minister or the Authority may require a person to provide, within the period and in the manner specified by the Minister or the Authority, any information or document that the Minister or the Authority may reasonably require —

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(a) for the discharge or exercise of the Minister's or the Authority's duties, functions or powers under this Part; or

(b) for transmission to a valuer appointed under section 124 in connection with the valuer's role under Division 11.

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(2) A person who —

(a) without reasonable excuse, fails to comply with any requirement under subsection (1); or

(b) in purported compliance with any requirement under subsection (1), knowingly or recklessly provides 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 \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction.

(3) Where a person claims, before providing the Minister or the Authority with any information or document that the person is required to provide under subsection (1), that the information or document might tend to incriminate the person, the information or document is not admissible in evidence against the person in criminal proceedings other than proceedings under subsection (2).

**Immunity for officer of specified financial institution or significant associated entity**

**133.**—(1) No civil or criminal liability is incurred by an officer of a specified financial institution, or of a significant associated entity referred to in section 130, for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in complying with any provision of this Part or any direction given, notice issued or requirement imposed by the Minister or the Authority under this Part.

(2) In this section, “officer”, in relation to a specified financial institution or a significant associated entity referred to in section 130, includes —

(a) a director, a secretary or an executive officer of the specified financial institution or significant associated entity, as the case may be;

- (b) a receiver or manager of any part of the undertaking of the specified financial institution or significant associated entity (as the case may be) appointed under a power contained in any instrument; and
- (c) a liquidator of the specified financial institution or significant associated entity (as the case may be) appointed in a voluntary winding up. 5

### **Cessation of moratorium, etc., under this Part**

**134.**—(1) The Minister may, by order in the *Gazette*, direct that section 68(1) or (2), 76(13), 79(13) or 86, or any part of that provision, ceases to apply to a pertinent financial institution, any business (or any part of the business) of a pertinent financial institution, any share in a pertinent financial institution or any eligible instrument issued by a Division 6 FI or to which it is a party or is subject, and the order has effect according to its terms on the date specified by the Minister in the order. 10 15

(2) In this section, “business” includes affairs, property, right, obligation and liability.

### **Regulations for this Part**

**135.**—(1) The Minister may make such regulations as may be necessary or expedient for carrying out the purposes and provisions of this Part and for prescribing anything that may be required to be prescribed under this Part. 20

(2) Without limiting subsection (1), regulations made under this section may — 25

- (a) restrict, or impose conditions on, any transfer of only part (but not the whole) of the business (as defined in section 65) of a pertinent financial institution under Division 2;
- (b) provide for either or both of the following: 30
  - (i) that any arrangement, transaction or action is exempt from any provision of this Part;

(ii) that the Minister or the Authority must not exercise any power under this Part in relation to any arrangement, transaction or action, or any matter for which any arrangement has been entered into, either in all circumstances or if specified conditions are not satisfied;

(c) prescribe —

(i) any set-off arrangement, netting arrangement or other type of arrangement as an arrangement referred to in paragraph (b)(i) or (ii);

(ii) any transaction or action as a transaction or action in paragraph (b)(i) or (ii);

(iii) for any arrangement, transaction or action referred to in paragraph (b)(i), each provision of this Part which that arrangement, transaction or action is exempted from; and

(iv) for any arrangement, transaction, action or matter referred to in paragraph (b)(ii), each power which the Minister or the Authority may not exercise in relation to that arrangement, transaction, action or matter;

(d) provide for any transaction to be void or voidable, or for any other consequence (including a consequence affecting any business, affairs, property, right, obligation, liability or power of any person under this Part, or affecting the operation of any provision of this Part) to arise, if any specified provision of the regulations is contravened;

(e) provide that any contravention of any specified provision of the regulations shall be an offence punishable —

(i) in the case of an individual, with a fine not exceeding \$125,000 or with imprisonment for a term not exceeding 3 years or with both and, in the case of a continuing offence, with a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction;

or

(ii) in any other case, with a fine not exceeding \$250,000 and, in the case of a continuing offence, with a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction;

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(f) exempt any person or class of persons from all or any of the provisions of this Part and the regulations, subject to such conditions or restrictions as may be prescribed; and

(g) provide that a pertinent financial institution, any of its subsidiaries or any subsidiary within a class of its subsidiaries, must include a provision in a specified contract to which the pertinent financial institution or subsidiary is a party, the effect of which is that the parties to the contract agree to be bound by section 92 and by any suspension of a termination right in the contract by the Authority under section 93.

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(3) For the purposes of the definition of “affected person” in section 58, the Minister may prescribe, in relation to any specified financial institution, different persons for different purposes.

(4) For the purposes of the definitions of “excluded financial institution” and “pertinent financial institution” in section 58, the Minister may prescribe different financial institutions for different purposes.

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(5) All regulations made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

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(6) In this section —

“netting arrangement” means an arrangement under which 2 or more claims or obligations can be converted into a net claim or obligation, and includes a close-out netting arrangement (under which actual or theoretical debts are calculated during the course of a contract for the purpose of enabling them to be set-off against each other or to be converted into a net debt);

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“set-off arrangement” means an arrangement under which 2 or more debts, claims or obligations can be set-off against each other.

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## PART 9

## DIGITAL TOKEN SERVICE PROVIDERS

*Division 1 — Preliminary***Interpretation of this Part**

- 5     **136.**—(1) In this Part, unless the context otherwise requires —
- “5% controller”, in relation to a corporation (being a licensee), means a person that alone or together with the person’s associates —
- 10           (a) has an interest in at least 5%, but less than 12%, of the shares in the corporation; or
- (b) is in a position to control at least 5%, but less than 12%, of the votes in the corporation;
- “12% controller”, in relation to a corporation (being a licensee), means a person that alone or together with the person’s associates —
- 15           (a) has an interest in at least 12%, but less than 20%, of the shares in the corporation; or
- (b) is in a position to control at least 12%, but less than 20%, of the votes in the corporation;
- 20     “20% controller”, in relation to a corporation (being a licensee), means a person that alone or together with the person’s associates —
- (a) has an interest in at least 20% of the shares in the corporation; or
- 25           (b) is in a position to control at least 20% of the votes in the corporation;
- “arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;
- 30     “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 by electronic process or otherwise;

“capital markets products” has the meaning given by section 2(1) of the Securities and Futures Act 2001;

“chief executive officer”, in relation to a corporation, means a person, by whatever name called, who — 5

(a) is in the direct employment of, or acting for or by arrangement with, the corporation; and

(b) is principally responsible for the management and conduct of the business of the corporation; 10

“company” has the meaning given by section 4(1) of the Companies Act 1967;

“digital payment token” has the meaning given by section 2(1) of the Payment Services Act 2019;

“digital payment token service” has the meaning given by section 2(1) of the Payment Services Act 2019; 15

“digital token” means —

(a) a digital payment token; or

(b) a digital representation of a capital markets product which — 20

(i) can be transferred, stored or traded electronically; and

(ii) satisfies such other characteristics as the Authority may prescribe,

but does not include an excluded digital token; 25

“digital token service” has the meaning given by Part 1 of the First Schedule, but excludes any service that is specified in Part 2 of that Schedule;

“digital token service provider” means any person that provides a digital token service; 30

“digital token service user” means any person that uses a digital token service;

“director” has the meaning given by section 4(1) of the Companies Act 1967;

“e-money” has the meaning given by section 2(1) of the Payment Services Act 2019;

5 “employee”, in relation to an employer, includes an individual seconded or temporarily transferred to the employer from another employer;

“entity” means any body corporate or unincorporate, whether incorporated, formed or established in or outside Singapore;

10 “excluded digital token” means a digital token that is prescribed by the Authority as an excluded digital token;

“executive director” means a director who is concurrently an executive officer;

15 “executive officer”, in relation to a corporation, means any individual, by whatever name called, 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;

20 “financial 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 or any other MAS scheduled Act;

25 “indirect controller”, in relation to a corporation (being a licensee) —

30 (a) means any person, whether acting alone or together with any other person, and whether with or without holding shares or controlling voting power in the corporation —

(i) in accordance with whose directions, instructions or wishes the directors of the corporation are accustomed or under an



obligation, whether formal or informal, to act;  
or

(ii) that is in a position to determine the policy of the corporation; but

(b) excludes any person —

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(i) who is a director or other officer of the corporation and whose appointment has been approved by the Authority; or

(ii) in accordance with whose directions, instructions or wishes the directors of the corporation are accustomed to act by reason only that they act on advice given by the person in the person's professional capacity;

10

“licence” means a licence granted under section 138;

“licensee” means a digital token service provider the licence of which is in force;

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“limited liability partnership” has the meaning given by section 4(1) of the Limited Liability Partnerships Act 2005;

“money” includes e-money but excludes any digital payment token and any excluded digital token;

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“partner”, in relation to a limited liability partnership, has the meaning given by section 2(1) of the Limited Liability Partnerships Act 2005;

“permanent place of business”, in relation to a person, means each fixed location in Singapore used by the person, for carrying on the person's business, regardless whether the business is carried on within a single building or at a single business address;

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“place of business”, in relation to a licensee, means any location (including a kiosk that can be moved from one location to another) in Singapore used by the licensee, for carrying on its business;

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“registered office” means a registered office maintained under section 142(1) or 370(1) of the Companies Act 1967;

“regulated financial institution” means a person that carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, could be regulated or authorised by the Authority;

“share” has the meaning given by section 4(1) of the Companies Act 1967 and includes an interest in a share;

“VCC” or variable capital company has the meaning given by section 2(1) of the Variable Capital Companies Act 2018.

(2) In this Part, unless the context otherwise requires —

(a) a person has an interest in a share if —

(i) the person has or is treated as having an interest in that share under section 7(1A), (1B), (2), (6) and (7) to (10) of the Companies Act 1967; or

(ii) the person has any legal or equitable interest in that share, except an interest that is to be disregarded under section 7(9) of the Companies Act 1967;

(b) a reference to the control of a percentage of the votes in a corporation (being a licensee) is 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 corporation; 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, stepson or stepdaughter, or a brother or sister, of *B*;

(ii) *A* is a body corporate that is, or a majority of 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*;

- (iii) *A* is a person that is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
- (iv) *A* is a subsidiary of *B*; 5
- (v) *A* is a body corporate in which *B*, whether alone or together with other associates of *B* as described in sub-paragraphs (ii), (iii) and (iv), is in a position to control 20% or more of the votes in *A*; or
- (vi) *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 corporation (being a licensee) mentioned in the definition of “5% controller”, “12% controller” or “20% controller”. 10  
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(3) For the purposes of section 137(2) and (4), the provision of a digital token service is incidental to any other business carried on by a person, if the digital token service — 20

- (a) is carried on, offered or provided by that person to support that other business; and
- (b) is provided by that person in connection with the carrying on of that other business.

*Division 2 — Licensing of digital token service providers* 25

*Subdivision (1) — Licensing of digital token service providers*

### **Licensing of digital token service providers**

**137.—(1)** Except as provided for in subsection (5), an individual or a partnership must not from a place of business in Singapore carry on a business of providing any type of digital token service outside Singapore unless the individual or the partnership has in force a licence. 30

(2) For the purposes of subsection (1), where a person provides any type of digital token service while the person carries on any business (called in this subsection the primary business) from a place of business in Singapore —

5           (a) the person is presumed to carry on a secondary business of providing that type of digital token service from a place of business in Singapore, regardless whether the provision of that type of digital token service is related or incidental to the primary business; and

10           (b) the presumption in paragraph (a) is not rebutted by proof that the provision of that type of digital token service is related or incidental, or is both related and incidental, to the primary business.

15           (3) Except as provided for in subsection (5), a Singapore corporation must not carry on a business, whether from Singapore or elsewhere, of providing any type of digital token service outside Singapore unless the Singapore corporation has in force a licence.

20           (4) For the purposes of subsection (3), where a person provides any type of digital token service while the person carries on any business (called in this subsection the primary business) —

            (a) the person is presumed to carry on a secondary business of providing that type of digital token service regardless whether the provision of that type of digital token service is related or incidental to the primary business; and

25           (b) the presumption in paragraph (a) is not rebutted by proof that the provision of that type of digital token service is related or incidental, or is both related and incidental, to the primary business.

30           (5) Subsections (1) and (3) do not apply to a person who carries on a business of providing a digital token service —

            (a) unless otherwise provided for in regulations made under section 192 —

(i) that is —

(A) required to be licensed, approved or recognised under the Securities and Futures Act 2001; or

(B) exempted from licensing, approval or recognition under the Securities and Futures Act 2001,

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in respect of the carrying on of a business in a capital markets product regulated activity;

(ii) that is —

(A) required to be licensed under the Financial Advisers Act 2001; or

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(B) exempted from licensing under the Financial Advisers Act 2001,

in respect of the carrying on of a business of providing a financial advisory service; or

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(iii) that is —

(A) required to be licensed under the Payment Services Act 2019; or

(B) exempted from licensing under the Payment Services Act 2019,

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in respect of the carrying on of a business of providing any digital payment token service;

(b) that is specified in the Second Schedule; or

(c) that belongs to a prescribed class of persons.

(6) A person that contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction —

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(a) in the case of an individual, to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction; or

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(b) in any other case, 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 of a day during which the offence continues after conviction.

5 (7) In this section —

“capital markets product regulated activity” means any of the following activities:

(a) any regulated activity;

(b) establishing or operating an organised market;

10 “financial advisory service” has the meaning given by section 2(1) of the Financial Advisers Act 2001;

“organised market” has the meaning given by Part 1 of the First Schedule to the Securities and Futures Act 2001;

15 “regulated activity” has the meaning given by section 2(1) of the Securities and Futures Act 2001;

“Singapore corporation” means a body corporate formed or incorporated in Singapore and includes a limited liability partnership.

### **Application for licence**

20 **138.**—(1) An application for a licence must be made to the Authority in the form and manner required by the Authority.

(2) Upon receiving an application under subsection (1), the Authority may —

25 (a) grant a licence to the applicant, with or without conditions;  
or

(b) refuse to grant a licence.

(3) Where an applicant has applied for a licence, the Authority must not grant the licence to the applicant unless —

30 (a) the applicant has a permanent place of business in Singapore;

- (b) in the case of an applicant that is a corporation, an executive director of the applicant —
- (i) is resident in Singapore; or
  - (ii) if the applicant satisfies such conditions as may be prescribed — belongs to a prescribed class of persons; 5
- (c) in the case of an applicant that is a partnership, a partner of the applicant —
- (i) is resident in Singapore; or
  - (ii) if the applicant satisfies such conditions as may be prescribed — belongs to a prescribed class of persons; 10
- (d) in the case of an applicant that is a limited liability partnership — a partner or manager of the applicant —
- (i) is resident in Singapore; or 15
  - (ii) if the applicant satisfies such conditions as may be prescribed — belongs to a prescribed class of persons;
- (e) the applicant satisfies such financial requirements as may be prescribed; 20
- (f) the Authority —
- (i) is satisfied that the applicant is a fit and proper person under the Guidelines on Fit and Proper Criteria;
  - (ii) is satisfied as to the financial condition of the applicant; 25
  - (iii) is satisfied that the public interest will be served by the granting of the licence; and
  - (iv) is satisfied that the applicant meets such other criteria for the grant of the licence as the Authority considers relevant; 30

(g) the applicant satisfies such operational requirements as the Authority may specify; and

(h) the application is accompanied by —

(i) such information or documents as the Authority may require; and

(ii) a non-refundable application fee of a prescribed amount that is payable in such manner as the Authority may specify.

(4) The Authority may at any time add to, vary or revoke any of the conditions of a licence imposed under subsection (2)(a) or this subsection.

(5) The Authority must not refuse an application under subsection (1) without giving the applicant an opportunity to be heard.

(6) Every licensee must, while its licence is in force, satisfy —

(a) such financial requirements as may be prescribed or specified by the Authority by written notice; and

(b) such operational requirements and other requirements as the Authority may specify by written notice.

(7) A licensee that fails to comply with any requirement mentioned in subsection (6) must immediately notify the Authority of the failure.

(8) Where a licensee fails to comply with any requirement under subsection (6) —

(a) the Authority may, by written notice to that licensee, do either or both of the following:

(i) restrict or suspend the operations of that licensee;

(ii) give such directions to that licensee as the Authority considers appropriate; and

(b) that licensee must comply with that notice.

(9) A licensee that, without reasonable cause, contravenes subsection (6), or fails to comply with any condition imposed by the Authority under subsection (2)(a) or (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 of a day during which the offence continues after conviction.

### **Holding out as licensee**

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**139.**—(1) A person must not hold himself, herself or itself out as a licensee, unless the person has in force a licence.

(2) An individual or a partnership must not hold himself, herself or itself (as the case may be) out as carrying on from a place in Singapore a business of providing any type of digital token service outside of Singapore, unless the individual or partnership is a licensee or exempt from section 137(1) under section 189.

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(3) A Singapore corporation must not hold itself out as carrying on a business of providing digital token service outside of Singapore, unless it is a licensee or exempt from section 137(3) under section 189.

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(4) Subsections (2) and (3) do not apply to any person mentioned in section 137(5).

(5) A person that contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction —

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(a) in the case of an individual, to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction; or

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(b) in any other case, 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 of a day during which the offence continues after conviction.

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(6) For the purposes of subsection (3), “Singapore corporation” has the meaning given by section 137(7).

### **Annual fees of licensees**

**140.**—(1) A licensee must pay to the Authority a prescribed annual fee in such manner as the Authority may specify by written notice.

5 (2) The Authority may, where the Authority considers it to be appropriate in a particular case, waive, refund or remit the whole or any part of any annual fee paid or payable to the Authority.

### **Lapsing, surrender, revocation or suspension of licence**

**141.**—(1) A licence lapses —

10 (a) in the case of a licensee that is an entity, if the licensee is wound up or otherwise dissolved, whether in Singapore or elsewhere;

(b) in the case of a licensee that is an individual, if the licensee dies, becomes mentally incapacitated or is adjudicated a bankrupt; or

15 (c) upon the occurrence of such other event as may be prescribed.

(2) The Authority may revoke a licence if —

20 (a) it appears to the Authority that any of the following persons is not a fit and proper person under the Guidelines on Fit and Proper Criteria:

(i) the licensee;

(ii) any officer or employee of the licensee;

(iii) where the licensee is a partnership — any partner of that partnership;

25 (iv) where the licensee is a limited liability partnership — any partner or manager of that limited liability partnership;

30 (v) where the licensee is a corporation — any 5% controller, 12% controller, 20% controller or indirect controller of the licensee;

(b) it appears to the Authority that either of the following is not satisfactory:

- (i) the financial standing of the licensee;
  - (ii) the manner in which the licensee’s business is being conducted;
- (c) the licensee has contravened, or continues to contravene, any provision of this Act, or has failed, or continues to fail, to comply with any condition or restriction imposed by the Authority under this Act; 5
- (d) the licensee has failed, or continues to fail, to comply with any written notice issued by the Authority under this Act;
- (e) it appears to the Authority that the licensee has failed, or continues to fail, to comply with any of the licensee’s obligations under or arising from — 10
  - (i) this Part; or
  - (ii) any written notice issued by the Authority under this Act; 15
- (f) the licensee has provided to the Authority any information or document required under this Act that is false or misleading in a material particular;
- (g) it appears to the Authority that any of the following persons has not performed that person’s duties under this Act honestly or fairly: 20
  - (i) the licensee;
  - (ii) any officer or employee of the licensee;
  - (iii) where the licensee is a partnership — any partner of that partnership; 25
  - (iv) where the licensee is a limited liability partnership — any partner or manager of that limited liability partnership;
- (h) it appears to the Authority that it would be contrary to the public interest for the licensee to continue its operations; 30
- (i) the licensee fails to pay the annual fee mentioned in section 140(1);

(j) the licensee fails or ceases to carry on a business of providing any type of digital token service;

(k) in the case of a licensee that is a corporation —

(i) the licensee fails or ceases to have an executive director who —

(A) is resident in Singapore; or

(B) belongs to the prescribed class of persons mentioned in section 138(3)(b)(ii); or

(ii) if any executive director of the licensee belongs to the prescribed class of persons mentioned in section 138(3)(b)(ii) — the licensee does not or ceases to satisfy any condition mentioned in section 138(3)(b)(ii);

(l) in the case of a licensee that is a partnership —

(i) the licensee fails or ceases to have a partner who —

(A) is resident in Singapore; or

(B) belongs to the prescribed class of persons mentioned in section 138(3)(c)(ii); or

(ii) if any partner of the licensee belongs to the prescribed class of persons mentioned in section 138(3)(c)(ii) — the licensee does not or ceases to satisfy any condition mentioned in section 138(3)(c)(ii); or

(m) in the case of a licensee that is a limited liability partnership —

(i) the licensee fails or ceases to have a partner or manager who —

(A) is resident in Singapore; or

(B) belongs to the prescribed class of persons mentioned in section 138(3)(d)(ii); or

(ii) if any partner or manager of the licensee belongs to the prescribed class of persons mentioned in

section 138(3)(d)(ii) — the licensee does not or ceases to satisfy any condition mentioned in section 138(3)(d)(ii).

(3) The Authority may, if the Authority considers it desirable to do so —

(a) suspend the licence of a licensee for a specified period, instead of revoking the licence under subsection (2); and

(b) at any time —

(i) extend the suspension for a specified period; or

(ii) cancel the suspension.

(4) Except as provided in subsection (5), the Authority must not revoke a licence under subsection (2) or suspend a licence under subsection (3), without giving the licensee an opportunity to be heard.

(5) The Authority may revoke or suspend a licence of a licensee, without giving the licensee an opportunity to be heard, in any of the following circumstances:

(a) in the case of a licensee that is an entity — the licensee is in the course of being wound up or otherwise dissolved, 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, for or in respect of any property of the licensee;

(c) any of the following persons has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty, or of an offence the conviction for which involves a finding that the person convicted had acted fraudulently or dishonestly, whether the applicable offence is committed before, on or after the date of commencement of this paragraph:

(i) the licensee;

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- (ii) in the case of a licensee that is a corporation — any director, 5% controller, 12% controller, 20% controller or indirect controller of the licensee;
- (iii) in the case of a licensee that is a partnership — any partner of that partnership; and
- (iv) in the case of a licensee that is a limited liability partnership — any partner or manager of that limited liability partnership.

(6) A licensee whose licence has lapsed, or is revoked or suspended, must cease to carry on the business of providing any type of digital token service from the date the licence lapses, or the revocation or suspension takes effect, as the case may be.

(7) Despite the lapsing or revocation of a licence granted to a person, unless the Authority otherwise directs, sections 145, 158, 169, 170 and 171, continue to apply in relation to the person in respect of matters that occurred before the lapsing or revocation of the licence.

(8) A person that contravenes subsection (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 of a day during which the offence continues after conviction.

(9) A licensee may surrender the licensee's licence by submitting to the Authority a written notice of surrender, in such form as may be specified by the Authority by written notice.

(10) Any surrender, lapsing, revocation or suspension of a person's licence —

- (a) does not avoid or affect any agreement, transaction or arrangement relating to the person's business of providing any digital token service that is entered into by the person, whether the agreement, transaction or arrangement was entered into before or after the surrender, lapsing, revocation, or suspension (as the case may be) of the licence; and

- (b) does not affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

### **Appeals to Minister**

**142.** Any person that is aggrieved —

- (a) by the refusal of the Authority to grant a licence to the person; or 5
- (b) by the revocation or suspension of the person’s licence by the Authority,

may, within 30 days after having been informed by the Authority of the refusal, revocation or suspension, appeal in writing to the Minister, whose decision is final. 10

#### *Subdivision (2) — Conduct of business*

### **Place of business of licensee**

**143.—(1)** A licensee must not carry on a business of providing any type of digital token service unless the licensee has a permanent place of business. 15

(2) A licensee must appoint at least one person to be present, on such days and at such hours as the Authority may specify by written notice, at the licensee’s permanent place of business to respond to any queries related to anti-money laundering or countering the financing of terrorism, or complaints from any digital token service user that uses any digital token service provided by the licensee or is a customer of the licensee. 20

(3) A licensee must keep, or cause to be kept, at the licensee’s permanent place of business, books of all the licensee’s transactions in relation to any digital token service provided by the licensee. 25

(4) A licensee must notify the Authority of any change in the address of any of the following places within 7 days after the date of that change:

- (a) the licensee’s permanent place of business or registered office; 30
- (b) every other place of business of the licensee.

(5) A licensee that contravenes subsection (1), (2) or (3) 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 of a day during which the offence continues after conviction.

(6) A licensee that contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

### **Obligation of licensee to notify Authority of certain events**

**144.**—(1) A licensee must notify the Authority of the occurrence of any of the following events as soon as practicable after that occurrence:

(a) any civil or criminal proceeding instituted against the licensee, whether in Singapore or elsewhere;

(b) any event (including an irregularity in the operations of the licensee) that materially impedes or impairs the operations of the licensee;

(c) the licensee being or becoming, or being likely to become, insolvent or unable to meet any of the licensee's financial, statutory, contractual or other obligations;

(d) any disciplinary action taken against the licensee by any regulatory authority (other than the Authority), whether in Singapore or elsewhere;

(e) any significant change to the regulatory requirements imposed on the licensee by any regulatory authority (other than the Authority), whether in Singapore or elsewhere;

(f) any other event that the Authority may prescribe or specify by written notice.

(2) A licensee must notify the Authority of the occurrence of any other event that the Authority may prescribe or specify by written notice within 14 days after the date of that occurrence.



(3) A person that contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

### **Obligation of licensee to provide information to Authority**

**145.**—(1) Subject to subsection (4), the Authority may, by written notice, require any licensee, or any person acting on behalf of a licensee, to provide to the Authority, within such period as the Authority may specify in the notice, all such information relating to the licensee’s business of providing any digital token service as the Authority may specify in the notice.

(2) Without limiting subsection (1), the Authority may, in the notice under that subsection, require any person mentioned in that subsection to provide —

(a) information relating to any of the following matters:

(i) the operations of the licensee;

(ii) the pricing of, or any other form of consideration for, any digital token service offered or provided by the licensee; and

(b) such other information as the Authority may require for the purposes of this Part.

(3) Subject to subsection (4) —

(a) a requirement imposed by the Authority under this section has effect despite any obligation as to secrecy or other restrictions upon the disclosure of information imposed by any rule of law or contract;

(b) a person that complies with a requirement imposed by the Authority under this section is not to be treated as being in breach of any restriction on the disclosure of the information imposed by any rule of law or contract.

(4) Nothing in this section requires a person to disclose any information subject to legal privilege.

(5) A person that fails to comply with a notice under subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$12,500 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 \$1,250 for every day or part of a day during which the offence continues after conviction; or
- (b) in any other case, 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 of a day during which the offence continues after conviction.

### **Obligation of licensee to submit periodic reports**

**146.**—(1) A licensee must submit to the Authority such reports or returns relating to the licensee’s business in such form, manner and frequency as the Authority may specify by written notice.

(2) A person that 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 of a day during which the offence continues after conviction.

### **Prohibition from carrying on certain businesses**

**147.**—(1) A licensee must not carry on a business of granting any credit facility to any individual in Singapore.

(2) A licensee that 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 of a day during which the offence continues after conviction.

(3) In this section, “credit facility” means —

- (a) any advance, loan or other facility that is granted by a licensee to a customer who is an individual, and that gives the customer access to any funds or financial guarantee provided by the licensee; or
- (b) any other liability that is incurred by a licensee on behalf of a customer who is an individual.

*Subdivision (3) — Control of controllers of licensees***Application and interpretation of this Subdivision**

**148.**—(1) This Subdivision applies to —

- (a) every individual, whether or not resident in Singapore and whether or not a citizen of Singapore; and 5
- (b) every entity.

(2) In this Subdivision, unless the context otherwise requires, a reference to a licensee is a reference to a licensee incorporated in Singapore.

**Control of shareholding in licensee** 10

**149.**—(1) A person must not become a 20% controller of a licensee without first applying for and obtaining the approval of the Authority under subsection (2).

(2) The Authority may approve an application made by any person under subsection (1) if the Authority is satisfied that — 15

- (a) having regard to the likely influence of the person, the licensee will or will continue to conduct its business prudently and comply with the provisions of this Act and any other written law administered by the Authority;
- (b) the person is, under the Guidelines on Fit and Proper Criteria, a fit and proper person to be a 20% controller of the licensee; and 20
- (c) it is in the public interest to do so.

(3) An approval under subsection (2) may be granted to any person subject to such conditions as the Authority may impose, including but not limited to — 25

- (a) any condition restricting the person's disposal or further acquisition of shares or voting power in the licensee; and
- (b) any condition restricting the person's exercise of voting power in the licensee. 30

(4) The Authority may at any time add to, vary or revoke any condition that is imposed under subsection (3) or this subsection.

(5) Any condition imposed under subsection (3) or (4) has effect despite any provision of the Companies Act 1967 or anything contained in the constitution of the licensee.

### **Objection to existing control of licensee**

5     **150.**—(1) The Authority may serve a written notice of objection on any person that is, or is required to obtain or has obtained the Authority’s approval under section 149(2) to become, a 20% controller of a licensee, if the Authority is satisfied that —

- 10           (a) any condition for approval under section 149(2) imposed on the person under section 149(3) or (4) has not been complied with;
- (b) it is not, or is no longer, in the public interest to allow the person to continue to be a 20% controller of the licensee;
- 15           (c) the person has provided any false or misleading information or document in connection with an application under section 149(1);
- (d) the person is no longer a fit and proper person under the Guidelines on Fit and Proper Criteria;
- 20           (e) having regard to the likely influence of the person, the licensee is no longer likely to conduct its business prudently or to comply with the provisions of this Part; or
- (f) the Authority would not have been satisfied as to any of the matters specified in section 149(2) had the Authority been aware, at that time, of circumstances relevant to the person’s application under section 149(1).

25     (2) Before serving a written notice of objection under subsection (1), the Authority must, unless the Authority decides that it is not practicable or desirable to do so —

- 30           (a) notify the person of the Authority’s intention to serve the written notice of objection; and
- (b) specify a date by which the person may make written representations with regard to the proposed written notice of objection.

(3) The Authority must consider any written representations that the Authority receives before the date mentioned in subsection (2)(b), for the purpose of determining whether to issue a written notice of objection.

(4) The Authority must, in any written notice of objection, specify a reasonable period within which the person that has been served the written notice of objection must —

- (a) cease to be a 20% controller of the licensee; or
- (b) comply with such direction as the Authority may make under section 151.

(5) A person that has been served a written notice of objection must comply with that notice.

### **Power of Authority to issue directions for this Subdivision**

**151.**—(1) If the Authority is satisfied that a person has contravened section 149(1) or has failed to comply with any condition imposed under section 149(3) or (4), or if the Authority has served a written notice of objection under section 150, the Authority may, by written notice —

- (a) direct the transfer or disposal of all or any of the shares in the licensee held by the person or any of the person's associates (called in this section the specified shares) within such time or subject to such conditions as the Authority considers appropriate;
- (b) restrict the transfer or disposal of all or any of the specified shares; or
- (c) make such other direction as the Authority considers appropriate.

(2) Where the Authority has issued any direction under subsection (1)(a) or imposed any restriction under subsection (1)(b), until a transfer or disposal is effected in accordance with the direction or until the restriction on the transfer or disposal is removed, as the case may be —

(a) no voting rights may be exercised in respect of the specified shares, unless the Authority expressly permits such rights to be exercised;

5 (b) no shares of the licensee may be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares, unless the Authority expressly permits such issue or offer; and

10 (c) except in a liquidation of the licensee, no payment may be made by the licensee of any amount (whether by way of dividends or otherwise) in respect of the specified shares, unless the Authority expressly authorises such payment.

(3) Subsection (2) has effect despite any provision of the Companies Act 1967 or anything contained in the constitution of the licensee.

15 (4) Any issue or offer of shares in contravention of subsection (2)(b) is void, and a person to whom a direction has been issued under subsection (1)(a) or on whom a restriction has been imposed under subsection (1)(b) must immediately return those shares to the licensee, upon which the licensee must return to the  
20 person any payment received from the person in respect of those shares.

25 (5) Any payment made by a licensee in contravention of subsection (2)(c) is void, and a person to whom a direction has been issued under subsection (1)(a) or on whom a restriction has been imposed under subsection (1)(b) must immediately return the payment the person has received to the licensee.

### **Power of Authority to obtain information relating to this Subdivision**

30 **152.**—(1) The Authority may, by written notice, direct a licensee to obtain from any of its shareholders, and to provide to the Authority, any information relating to the shareholder that the Authority may require for either or both of the following purposes:

(a) ascertaining or investigating into the control of shareholding or voting power in the licensee;

(b) exercising any power or function under section 149, 150, 151, 153 or 189.

(2) Without limiting subsection (1), the notice in that subsection may require the licensee to obtain and provide the following information:

5

(a) whether the shareholder has an interest in any share in the licensee as beneficial owner or as trustee;

(b) if the shareholder holds the interest in the share as trustee, to indicate as far as that shareholder is able to —

(i) the person for whom that shareholder holds the interest (either by name or by other particulars sufficient to enable that person to be identified); and

10

(ii) the nature of that person's interest.

(3) The Authority may, by written notice, require any shareholder (*X*) of a licensee, or any person (*Y*) that appears from information provided to the Authority under subsection (1) or this subsection to have an interest in any share in the licensee, to provide to the Authority any information relating to *X* or *Y* (as the case may be) that the Authority may require for either or both of the following purposes:

15

(a) ascertaining or investigating into the control of shareholding or voting power in the licensee;

(b) exercising any power or function under section 149, 150, 151, 153 or 189.

20

(4) Without limiting subsection (3), the notice in that subsection may require *X* or *Y* to provide the following information:

25

(a) whether *X* or *Y* holds the interest as beneficial owner or as trustee;

(b) if *X* or *Y* holds the interest as trustee, to indicate as far as *X* or *Y* can —

30

(i) the person (*Z*) for whom *X* or *Y* holds the interest (either by name or by other particulars sufficient to enable *Z* to be identified); and

- (ii) the nature of Z's interest;
- (c) whether any share or any voting right attached to the share is the subject of an agreement or arrangement described in section 136(2)(c)(vi), and if so, to give particulars of the agreement or arrangement and the parties to it.

### **Offences, penalties and defences**

**153.**—(1) A person that —

- (a) contravenes section 149(1) or 150(5) or does any act in contravention of section 151(2);
- (b) fails to comply with —
  - (i) any written notice issued under section 151(1) or 152(1) or (3); or
  - (ii) any condition imposed under section 149(3) or (4); or
- (c) in purported compliance with a written notice issued under section 152(1) or (3), knowingly or recklessly provides any information or document that is false or misleading in a material particular,

shall be guilty of an offence.

- (2) A person convicted of an offence under subsection (1) shall be liable on conviction —
  - (a) in the case of an individual, to a fine not exceeding \$125,000 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 \$12,500 for every day or part of a day during which the offence continues after conviction; or
  - (b) in any other case, 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 of a day during which the offence continues after conviction.



(3) Where a person is charged with an offence in respect of a contravention of section 149(1), it is a defence for the person to prove that —

- (a) the person was not aware that the person had contravened section 149(1), as the case may be; 5
- (b) within 14 days after becoming aware of the contravention, the person notified the Authority of the contravention; and
- (c) within such reasonable time as may be determined by the Authority, the person took such action in relation to the person's shareholding or control of the voting power in the licensee as the Authority may direct. 10

(4) Where a person is charged with an offence in respect of a contravention of section 149(1), it is also a defence for the person to prove that, even though the person was aware of the contravention —

- (a) the contravention occurred as a result of an increase in the shareholding as described in section 136(2)(a) of, or in the voting power controlled by, any of the person's associates described in section 136(2)(c)(i); 15
- (b) the person had no agreement or arrangement (whether oral or in writing and whether express or implied) with that associate — 20
  - (i) with respect to the acquisition, holding or disposal of shares or other interests in the licensee; or
  - (ii) under which the person and that associate act together in exercising their voting power in relation to the licensee; 25
- (c) within 14 days after the date of the contravention, the person notified the Authority of the contravention; and
- (d) within such reasonable time as may be determined by the Authority, the person took such action in relation to the person's shareholding or control of the voting power in the licensee as the Authority may direct. 30

(5) Except as provided in subsections (3) and (4), it is not a defence for a person charged with an offence in respect of a contravention of

section 149(1) to prove that the person did not intend to, or did not knowingly, contravene that provision.

### **Appeals to Minister**

5 **154.** Any person that is aggrieved by a decision of the Authority under section 149, 150 or 151 may, within 30 days after receiving the decision of the Authority, appeal in writing to the Minister, whose decision is final.

#### *Subdivision (4) — Control of officers of licensees*

### **Approval of chief executive officer, director, partner or 10 manager of licensee**

**155.—(1)** Subject to subsections (4) and (5) —

(a) an individual may not be appointed as a chief executive officer or as a director of a licensee that is a corporation;

15 (b) an individual may not be appointed as manager, or become a partner, of a licensee that is a limited liability partnership; and

(c) an individual may not become a partner in a licensee that is a partnership,

20 without the approval of the Authority upon an application made by the licensee concerned.

(2) An application under subsection (1) must be made in the form and manner prescribed.

(3) Without affecting any other matter that the Authority may consider relevant, the Authority may —

25 (a) in determining whether to grant its approval under paragraph (b), have regard to such criteria as the Authority may specify by written notice to the licensee; and

(b) approve or refuse the application.

30 (4) Where a licensee that is a corporation has obtained the approval of the Authority under subsection (3)(b) to appoint an individual as

the licensee's chief executive officer or director, the individual may, without the approval of the Authority, be re-appointed as chief executive officer or director (as the case may be) of the licensee immediately upon the expiry of the individual's term of appointment.

(5) Where a licensee that is a limited liability partnership has obtained the approval of the Authority under subsection (3)(b) to appoint an individual as the licensee's manager, the individual may, without the approval of the Authority, be re-appointed as manager of the licensee immediately upon the expiry of the individual's term of appointment.

(6) Subject to subsection (7), the Authority must not refuse a licensee's application under subsection (1) without giving the licensee an opportunity to be heard.

(7) The Authority may refuse an application under subsection (1) for the Authority's approval under subsection (3)(b) of an individual without giving the licensee an opportunity to be heard, in any of the following circumstances:

- (a) the individual has been convicted, whether in Singapore or elsewhere, of any of the following offences, whether the offence is committed before, on or after the date of commencement of this paragraph:
  - (i) an offence involving fraud or dishonesty;
  - (ii) an offence the conviction for which involves a finding that the individual had acted fraudulently or dishonestly;
  - (iii) an offence that is specified in the Third Schedule to the Registration of Criminals Act 1949;
- (b) the individual is an undischarged bankrupt, whether in Singapore or elsewhere;
- (c) the individual has had an enforcement order against the individual in respect of a judgment debt returned unsatisfied in whole or in part;
- (d) the individual has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with

the individual's creditors, being a compromise or scheme of arrangement that is still in operation;

(e) the individual has in force against the individual a prohibition order;

5 (f) the individual has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

(i) that is being or has been wound up by a court; or

10 (ii) 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 financial regulatory authority in that foreign country or territory.

15 (8) Where the Authority refuses an application under subsection (1) for the Authority's approval under subsection (3)(b), the Authority need not give the individual who was proposed to be appointed an opportunity to be heard.

20 (9) A licensee that, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

(10) In this section —

“prohibition order” means —

25 (a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of this Act;

30 (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of this Act, and as continued by section 217(2) of this Act;

- (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of this Act;
- (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of this Act, and as continued by section 218(2) of this Act; 5
- (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act; 10
- (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act, and as continued by section 220(3) of this Act; or 15
- (g) a prohibition order made under section 7(1) of this Act. 20

**Removal of chief executive officer, director, partner or manager**

**156.**—(1) Despite the provisions of any other written law, where the Authority is satisfied that an individual who is a chief executive officer, director, partner or manager of a licensee is not a fit and proper person under the Guidelines on Fit and Proper Criteria to act as such chief executive officer, director, partner or manager, the Authority may, by written notice, direct the licensee to remove the individual, within such period as the Authority may specify in the notice — 25 30

- (a) from employment with the licensee;
- (b) as chief executive officer or director of the licensee; or
- (c) as partner or manager of the licensee.

(2) For the purposes of subsection (1), the Authority may (without affecting the generality of that provision) be satisfied that an individual who is a chief executive officer, director, partner or manager of a licensee is not a fit and proper person under the Guidelines on Fit and Proper Criteria to act as such if the individual fails to discharge such duties relating to the individual's office or employment as chief executive officer, director, partner or manager (as the case may be) as may be prescribed.

(3) Without affecting any other matter that the Authority may consider relevant, in assessing whether to direct the licensee to remove an individual under subsection (1), the Authority may consider whether the individual —

(a) has been convicted, whether in Singapore or elsewhere, of any of the following offences, whether the offence is committed before, on or after the date of commencement of this paragraph:

(i) an offence involving fraud or dishonesty;

(ii) an offence the conviction for which involves a finding that the individual had acted fraudulently or dishonestly;

(iii) an offence that is specified in the Third Schedule to the Registration of Criminals Act 1949;

(b) is an undischarged bankrupt, whether in Singapore or elsewhere;

(c) has had an enforcement order against the individual in respect of a judgment debt returned unsatisfied in whole or in part;

(d) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with the individual's creditors, being a compromise or scheme of arrangement that is still in operation;

(e) has in force against the individual a prohibition order;

(*f*) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

(i) that is being or has been wound up by a court; or

(ii) 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 financial regulatory authority in that foreign country or territory;

(*g*) has wilfully contravened, or wilfully caused the licensee to contravene, any provision of this Act;

(*h*) has, without reasonable excuse, failed to secure the compliance of the licensee with this Act, the Monetary Authority of Singapore Act 1970 or any of the other written laws set out in the Schedule to the Monetary Authority of Singapore Act 1970;

(*i*) has failed to discharge any of the duties of the individual's office or employment; or

(*j*) needs to be removed in the public interest.

(4) Without prejudice to any other matter that the Authority may consider relevant, the Authority must, in determining whether an individual has failed to discharge the duties of the individual's office or employment for the purposes of subsection (3)(*i*), have regard to such criteria as may be prescribed.

(5) Subject to subsection (6), before directing a licensee to remove an individual under subsection (1), the Authority must give both the licensee and the individual an opportunity to be heard.

(6) The Authority may direct a licensee to remove an individual under subsection (1) on any of the following grounds without giving the licensee or the individual an opportunity to be heard:

(*a*) the individual is an undischarged bankrupt, whether in Singapore or elsewhere;

(b) the individual has been convicted, whether in Singapore or elsewhere, of an offence, whether committed before, on or after the date of commencement of this paragraph —

- (i) involving fraud or dishonesty, or the conviction for which involves a finding that the individual had acted fraudulently or dishonestly; and
- (ii) punishable with imprisonment for a term of at least 3 months.

(7) Without affecting the Authority's power to impose conditions under section 138(2)(a) or (4), the Authority may at any time, by written notice to a licensee, impose or vary a condition requiring the licensee to notify the Authority of any change to any particulars (such as residence in Singapore or elsewhere, or nature of appointment) of its chief executive officer, director, partner or manager that may be specified in the notice.

(8) A licensee that, without reasonable excuse —

- (a) fails to comply with a written notice under subsection (1); or
- (b) contravenes any condition imposed under subsection (7),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

(9) No civil or criminal liability is incurred by a licensee, or any person acting on behalf of the licensee, in respect of anything done (including any notification made) or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the licensee under this section.

(10) In this section, “prohibition order” means —

- (a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of this Act;
- (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and



(2) to (7) of this Act, and as continued by section 217(2) of this Act;

- (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of this Act; 5
- (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of this Act, and as continued by section 218(2) of this Act;
- (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act; 10
- (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act, and as continued by section 220(3) of this Act; or 15
- (g) a prohibition order made under section 7(1) of this Act.

### **Appeals to Minister**

**157.**—(1) A licensee that is aggrieved by a decision of the Authority under section 155(3)(b) may, within 30 days after receiving the decision of the Authority, appeal in writing to the Minister, whose decision is final. 20

(2) A licensee, or any chief executive officer, director, partner or manager of that licensee, that is aggrieved by a written notice of the Authority under section 156(1) may, within 30 days after receiving the notice, appeal in writing to the Minister, whose decision is final. 25

### *Subdivision (5) — Audit of licensees*

### **Auditing**

**158.**—(1) Despite the provisions of the Companies Act 1967, a licensee — 30

(a) must, on an annual basis and at its own expense, appoint an auditor; and

(b) if for any reason its auditor ceases to be its auditor, must appoint another auditor as soon as practicable after such cessation.

5

(2) The Authority may appoint an auditor for a licensee —

(a) if the licensee fails to appoint an auditor; or

(b) if the Authority considers it desirable that another auditor should act with the auditor appointed under subsection (1).

10

(3) The Authority may at any time fix the remuneration to be paid by a licensee to an auditor appointed by the Authority under subsection (2) for the licensee.

(4) The duties of an auditor appointed under subsection (1) or (2) are as follows:

15

(a) to carry out an audit of the transactions in relation to the digital token services provided by the licensee, in particular, in respect of the licensee's observance of the provisions of this Act and any of the requirements imposed under any other written law administered by the Authority;

20

(b) to submit a report of such audit to the Authority in such form as may be prescribed and within such time as the Authority may allow.

25

(5) The Authority may, by written notice to an auditor, impose all or any of the following duties on the auditor in addition to those provided under subsection (4), and the auditor must carry out the duties so imposed:

(a) a duty to submit such additional information in relation to the audit as the Authority considers necessary;

30

(b) a duty to enlarge or extend the scope of the audit of the licensee's business and affairs;

(c) a duty to carry out any other examination, or establish any procedure, in relation to the audit in any particular case;

- (d) a duty to submit a report on any of the matters mentioned in paragraphs (b) and (c).
- (6) The licensee must remunerate the auditor in respect of —
- (a) any remuneration the Authority has fixed under subsection (3); and 5
  - (b) the discharge of all or any of the additional duties of the auditor imposed under subsection (5).
- (7) Despite any other provision of this Part or the provisions of the Companies Act 1967, the Authority may, if the Authority is not satisfied with the performance of any duty by the auditor of a licensee, at any time direct the licensee to — 10
- (a) remove the auditor; and
  - (b) appoint another auditor.
- (8) A copy of any report under subsection (5)(d) must be submitted in writing to the Authority. 15
- (9) If an auditor, in the course of performing the auditor's duties, is satisfied that any of the following matters has occurred, the auditor must immediately report that matter to the Authority:
- (a) there has been a serious breach or non-observance of the provisions of this Act or any of the requirements imposed under any other written law administered by the Authority; 20
  - (b) a criminal offence involving fraud or dishonesty has been committed;
  - (c) in the case of a licensee that is a corporation, losses have been incurred that reduce the capital of the licensee by at least 50%; 25
  - (d) there is any irregularity that has or may have a material effect on the accounts of the licensee, including any irregularity that had caused a major disruption to the provision of any type of digital token service to the customers of the licensee; 30

(e) the auditor is unable to confirm that the claims of creditors of the licensee are still covered by the assets of the licensee.

5 (10) Where an auditor or employee of the auditor discloses in good faith to the Authority —

(a) the auditor’s or employee’s knowledge or suspicion of any of the matters mentioned in subsection (9); or

(b) any information or other matter on which that knowledge or suspicion is based,

10 the disclosure is not a breach of any restriction upon the disclosure imposed by any law, contract or rules of professional conduct, and the auditor or employee is not liable for any loss arising out of the disclosure or any act or omission in consequence of the disclosure.

15 (11) A licensee that 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 of a day during which the offence continues after conviction.

20 (12) An auditor that contravenes subsection (5) or (9) 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 of a day during which the offence continues after conviction.

(13) In this section —

25 “capital”, in relation to a corporation, means the sum of —

(a) all of the following items in the latest accounts of the corporation:

(i) paid up ordinary share capital;

30 (ii) paid up irredeemable and non-cumulative preference share capital; and

- (b) any unappropriated profit or loss in the latest audited accounts of the corporation,

less —

- (c) any interim loss in the latest accounts of the corporation; and
- (d) any dividend that has been declared since the latest audited accounts of the corporation;

“irredeemable and non-cumulative preference share capital”, in relation to the capital of a corporation, means share capital consisting of preference shares that satisfy all of the following requirements:

- (a) the principal of each share of the corporation is perpetual;
- (b) the shares of the corporation are not callable at the initiative of the corporation or the shareholders, and the principal of the shares cannot be repaid outside of liquidation of the corporation, except in the case of a repurchase or other manner of reduction of share capital that is initiated by the corporation and permitted under written law;
- (c) the corporation has full discretion to cancel dividend payments, and —
  - (i) the cancellation of dividend payments is not an event of default of the corporation under any agreement;
  - (ii) the corporation 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 corporation under any agreement, except in relation to dividend payments to ordinary shareholders of the corporation.

### **Powers of auditor appointed by Authority**

**159.**—(1) An auditor appointed by the Authority under section 158(2) may, for the purpose of carrying out an examination or audit —

- 5           (a) examine, on oath or affirmation, any officer or employee of the licensee or any other auditor of the licensee;
- (b) require any officer or employee of the licensee, or any other auditor of the licensee, to produce any books held by or on behalf of the licensee relating to the licensee's
- 10           business;
- (c) make copies of or take extracts from, or retain possession of, any books mentioned in paragraph (b) for such period as may be necessary to enable those books to be inspected;
- (d) employ such persons as the auditor considers necessary to assist the auditor in carrying out the examination or audit;
- 15           and
- (e) authorise in writing any person employed by the auditor to do, in relation to the examination or audit, any act or thing that the auditor could do as an auditor under this subsection, other than the examination of a person on
- 20           oath or affirmation.

(2) An individual who, without reasonable excuse —

- (a) refuses or fails to answer any question put to the individual; or
  - 25           (b) fails to comply with any request made to the individual,
- by an auditor appointed under section 158(2) 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 \$12,500 or to imprisonment for a term not exceeding 12 months or to both.

**Restriction on auditor’s and employee’s right to communicate certain matters**

**160.**—(1) Except as may be necessary for the carrying into effect of the provisions of this Part or so far as may be required for the purposes of any legal proceedings, whether civil or criminal — 5

- (a) an auditor appointed under section 158(1) or (2); or
- (b) any employee of such auditor,

must not disclose any information that comes to the auditor’s or employee’s knowledge in the course of performing the auditor’s or employee’s duties, to any person other than the Authority or, in the case of an employee of such auditor, the auditor. 10

(2) A person that contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of the auditor, to a fine not exceeding \$25,000; or 15
- (b) in the case of the employee, to a fine not exceeding \$12,500.

**Offence to destroy, conceal, alter, etc., records**

**161.**—(1) An individual who, with intent to prevent, delay or obstruct the carrying out of any examination or audit under section 158 or 159 — 20

- (a) destroys, conceals or alters any book relating to the business of a licensee; 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 the licensee, 25

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.

(2) If, in any proceedings for an offence under subsection (1), it is proved that the individual charged with the offence — 30

(a) destroyed, concealed or altered any book mentioned in subsection (1)(a); or

(b) sent, or conspired to send, out of Singapore any book or asset mentioned in subsection (1)(b),

5 the onus of proving that, in so doing, the individual did not act with intent to prevent, delay or obstruct the carrying out of an examination or audit under section 158 or 159 lies on the individual.

### *Division 3 — Offences*

#### **Falsification of records by officers, etc.**

10 **162.**—(1) An officer, auditor, employee or agent of a licensee 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 the licensee;

15

(b) wilfully omits to make an entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of the licensee, or wilfully causes any such entry to be omitted; or

20 (c) wilfully alters, extracts, conceals or destroys an entry in any book, or in any report, slip, document or statement of the business, affairs, transactions, conditions or assets of the licensee, or wilfully causes any such entry to be altered, extracted, concealed or destroyed,

25 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) In this section, “officer” includes a person purporting to act in the capacity of an officer.

#### 30 **General penalty**

**163.** A person guilty of an offence under this Part for which no penalty is expressly provided shall be liable on conviction —



- (a) in the case of an individual, to a fine not exceeding \$50,000; or
- (b) in any other case, to a fine not exceeding \$100,000.

*Division 4 — Miscellaneous*

**Power of court to make certain orders**

5

**164.**—(1) Where, on an application of the Authority, it appears to the court that a person —

- (a) has committed an offence under this Part; or
- (b) is about to do an act that, if done, would be an offence under this Part,

10

the court may (without prejudice to any other order it may make) make one or more of the orders under subsection (2).

(2) The orders mentioned in subsection (1) are —

- (a) in the case of a persistent or continuing contravention of a provision of this Part, an order restraining a person from —
  - (i) carrying on a business of providing digital token services; or
  - (ii) holding himself, herself or itself out as a licensee;
- (b) for the purpose of securing compliance with any order made under this section, an order directing a person to do or refrain from doing any specified act; and
- (c) any ancillary order the court considers to be desirable as a result of making any other order under this section.

15

20

(3) The court may, before making an order under subsection (2), 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.

25

(4) A person that, without reasonable excuse, contravenes an order made under subsection (2) shall be guilty of an offence and shall be liable on conviction —

30

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; or

(b) in any other case, to a fine not exceeding \$100,000.

5 (5) Subject to subsection (6), subsection (4) does not affect the powers of the court in relation to the punishment of contempt of court.

(6) A person cannot be punished for contempt of court in respect of any contravention of an order made under subsection (2), for which the person has been convicted of an offence under subsection (4).

10 (7) A person cannot be convicted of an offence under subsection (4) in respect of any contravention of an order made under subsection (2) that has been punished as a contempt of court.

(8) The court may rescind, vary or discharge, or suspend the operation of, an order made by the court under this section.

15 **Codes, guidelines, etc., by Authority**

**165.**—(1) The Authority may issue and publish by notification in the *Gazette* or in any other manner the Authority considers appropriate, such codes, guidelines, policy statements, practice notes and no-action letters as the Authority considers appropriate for providing guidance —

(a) in furtherance of the Authority's regulatory objectives under this Part;

(b) in relation to any matter relating to any of the Authority's functions under this Part; or

25 (c) in relation to the operation of any of the provisions of this Part.

(2) The Authority may, at any time, amend or revoke the whole or any part of any code, guideline, policy statement, practice note or no-action letter issued under this section.

30 (3) Where amendments are made under subsection (2) —

(a) the other provisions of this section 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 Part or any other written law to the code, guideline, policy statement, practice note or no-action letter, however expressed, is (unless the context otherwise requires) a reference to the code, guideline, policy statement, practice note or no-action letter as so amended. 5

(4) Any failure by a person to comply with any provision of a code, guideline, policy statement or practice note issued under this section to the person does 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 negate any liability that is in question in the proceedings. 10 15

(5) The issue by the Authority of a no-action letter does not of itself prevent the institution of any proceedings against any person for the contravention of any provision of this Part.

(6) Any code, guideline, policy statement or practice note issued under this section may be of general or specific application, and may specify that different provisions of such code, guideline, policy statement or practice note apply to different circumstances or provide for different cases or classes of cases. 20

(7) To avoid doubt, any code, guideline, policy statement, practice note or no-action letter issued under this section is not to be treated as subsidiary legislation. 25

(8) In this section, “no-action letter” means a letter written by the Authority to a person to the effect that, if the facts are as represented by the person, the Authority will not institute proceedings against the person in respect of a particular state of affairs or particular conduct. 30

**Power of Authority to issue written notice**

**166.**—(1) The Authority may, if the Authority thinks it necessary or expedient for the effective administration of this Part, for the protection of consumers or in the interest of the public or a section

of the public, issue to any of the following persons or classes of persons a written notice, either of a general or a specific nature, to comply with such requirements as the Authority may specify in the notice:

- 5           (a) any licensee or class of licensees;
- (b) any person, or class of persons, exempt under section 189;
- (c) any person that contravenes, has contravened, or is likely to contravene, any provision of this Part.
- (2) Without limiting subsection (1), a notice may be issued —
- 10           (a) with respect to —
- (i) the activities that may be carried out by a licensee or a person exempt under section 189, in relation to its business;
- (ii) the standards, framework, policies and procedures for the prudent management of risks (including information technology risks) by a licensee or a person exempt under section 189;
- 15           (iii) the financial soundness, financial management and stability of a licensee or a person exempt under section 189;
- 20           (iv) the standards to be maintained by a licensee or a person exempt under section 189, in the conduct of its business;
- (v) the arrangement and conditions that are to apply if a licensee or a person exempt under section 189, appoints any person as an independent contractor to carry out the functions and duties of the licensee or person exempt under section 189, as the case may be;
- 25           (vi) the type, form, manner and frequency of returns and other information to be submitted to the Authority;
- 30           (vii) the preparation and publication of reports on the performance of a licensee or a person exempt under section 189;

- (viii) the remuneration of an auditor appointed under this Part and the costs of an audit carried out under this Part;
- (ix) the collection by or on behalf of the Authority of information from a licensee or a person exempt under section 189, in relation to the conduct of its business at such intervals or on such occasions as may be set out in the notice; 5
- (x) the manner in which a licensee or a person exempt under section 189, deals with its customers, and any conflicts of interests between the licensee or person exempt under section 189 (as the case may be) and its customers; 10
- (xi) the display or exhibition by a licensee or a person exempt under section 189, of such cautionary statements as the Authority thinks fit in a conspicuous place at every place of business or website of the licensee, or person exempt under section 189; and 15
- (xii) the provision by a licensee or a person exempt under section 189, of cautionary statements in writing to the customers or prospective customers of the licensee or person exempt under section 189; 20
- (b) to require any person that contravenes, has contravened, or is likely to contravene any provision of this Part — 25
  - (i) to comply with, or to cease contravening, that provision;
  - (ii) to take any action necessary to enable the person to conduct the person's business in accordance with sound principles; and 30
  - (iii) where the person is a company or a VCC, to remove any of its directors; and
- (c) for any other purpose specified in this Part.

(3) It is not necessary to publish any written notice issued under subsection (1) or under any other provision of this Part in the *Gazette*.

(4) The Authority may at any time vary, rescind or revoke any notice issued under subsection (1).

5 (5) A person that fails to comply with any requirement specified in a notice issued under subsection (1) shall (if the failure to comply with that requirement is not itself an offence under any other provision of this Part) be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a  
10 continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

### **Power of Authority to make regulations**

15 **167.**—(1) Regulations may be made under section 192 for or with respect to —

- (a) the fees to be paid in respect of any matter or thing required for the purposes of this Part, and the refund or remission of the whole or any part of any such fees;
- (b) the granting, lapsing, surrender, revocation or suspension  
20 of a licence, and all incidental matters;
- (c) the requirements which a licensee or person exempt under section 189 must comply with when ceasing or intending to cease the provision of a digital token service and all incidental matters;
- (d) the requirements which a licensee or a person exempt  
25 under section 189 must comply with to ensure proper corporate governance of the licensee or person;
- (e) the requirements applicable to a licensee or person exempt  
30 under section 189, including requirements in relation to the fitness and propriety of the licensee, the person exempt under section 189, or the chief executive officer or equivalent person of the licensee or person exempt under section 189, as the case may be;

- (f) the rules for the use of the electronic service mentioned in section 187; and
- (g) the procedure to be applied where there is a breakdown or an interruption of the electronic service mentioned in section 187.

5

(2) Regulations mentioned in subsection (1) may relate to all, or any class, category or description of persons or digital token services, and may make different provisions for different classes, categories or descriptions of persons or digital token services or to a particular person or digital token service.

10

## PART 10

### INSPECTION POWERS OF AUTHORITY

#### **Interpretation of this Part**

**168.** In this Part, unless the context otherwise requires —

“book” has the meaning given by section 17;

15

“licensee” has the meaning given by section 136(1);

“relevant person” means a person mentioned in section 169(1)(a), (c), (e) or (f).

#### **Inspection by Authority**

**169.—**(1) The Authority may from time to time inspect, under conditions of secrecy, the books of any of the following persons:

20

(a) a financial institution, for the purpose of determining the extent of compliance by the financial institution with the directions issued under, and the regulations mentioned in, sections 15(1) and 16(1);

25

(b) any subsidiary, branch, agency or office outside Singapore of a financial institution incorporated or established in Singapore, for the purpose of determining the extent of compliance by the financial institution with the directions issued under, and the regulations mentioned in, sections 15(1) and 16(1);

30

(c) a financial institution, for the purpose of determining the extent of compliance by the financial institution with the directions issued under, and the regulations mentioned in, section 29(1);

5 (d) any subsidiary, branch, agency or office outside Singapore of a financial institution incorporated or established in Singapore, for the purpose of determining the extent of compliance by the financial institution with the directions issued under, and the regulations mentioned in,  
10 section 29(1);

(e) a licensee, for a purpose other than the purpose mentioned in sub-paragraph (a) or (c);

(f) a person exempt under section 189, for a purpose other than the purpose mentioned in sub-paragraph (a) or (c).

15 (2) The Authority may appoint any person, including an auditor (not being an auditor of the relevant person), to carry out an inspection under this section.

(3) If the inspection is carried out on the ground that the Authority has reason to believe that —

20 (a) the financial institution has contravened or is contravening any direction issued under, or regulations mentioned in, section 15, 16 or 29;

(b) the licensee has contravened or is contravening any provision of Part 9; or

25 (c) the person exempt under section 189 has contravened or is contravening any provision of Part 9,

and if the Authority so directs, then the financial institution, licensee or person exempt under section 189 (as the case may be) is liable to pay for the remuneration and expenses of any person appointed under  
30 subsection (2) for the inspection.

(4) The Authority may recover from the relevant person the remuneration and expenses referred to in subsection (3) as a civil debt due to the Authority.



(5) The Authority may waive the payment of all or any part of the remuneration and expenses referred to in subsection (3).

(6) Where, in the course of an inspection under subsection (1), the Authority obtains any protected information as defined in section 17(1), and that information is not necessary for taking any action regarding —

- (a) non-compliance with any direction issued under, or regulations mentioned in, section 15 or 16;
- (b) non-compliance with any direction issued under, or regulations mentioned in, section 29; or
- (c) non-compliance with any provision in Part 9,

then the Authority must treat that information as secret.

(7) Subsection (6) does not prevent the transmission under section 20, 22, 25 or 172 by the Authority of any information to any authority referred to in the applicable section.

### **Obligation of relevant person under inspection, etc.**

**170.**—(1) For the purposes of an inspection under section 169(1), a relevant person must —

- (a) give the Authority access to such of the books of the relevant person as the Authority may reasonably require to conduct the inspection;
- (b) procure any other person who is in possession of such of the books of the relevant person as the Authority may reasonably require to conduct the inspection, to give the Authority access to the books;
- (c) provide such information (including information relating to the internal control systems of the relevant person) and facilities as the Authority may reasonably require to conduct the inspection; and
- (d) procure any other person who is in possession of such information (including information relating to the internal control systems of the relevant person) and facilities as the Authority may reasonably require to conduct the

inspection, to provide the information and facilities to the Authority.

5 (2) Subsection (1) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed on the relevant person or any of its officers, or on any person referred to in subsection (1)(b) or (d), by any prescribed written law as defined in section 17(1) or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct.

10 (3) A relevant person that, without reasonable excuse, refuses or neglects to comply with 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 of a day during which the  
15 offence continues after conviction.

(4) No civil or criminal liability is incurred by a relevant person or any of its officers, or by any person referred to in subsection (1)(b) or (d), in respect of any obligation or restriction referred to in subsection (2), for doing or omitting to do any act, if the act is  
20 done or omitted to be done with reasonable care and in good faith and for the purpose of complying with subsection (1).

(5) A relevant person, or any of its officers, or any person referred to in subsection (1)(b) or (d), that, with reasonable care and in good faith, does or omits to do any act for the purpose of complying with  
25 subsection (1) is not to be treated as being in breach of any obligation or restriction referred to in subsection (2).

(6) For the purposes of an inspection under section 169(1), the Authority may —

(a) make copies of, or take possession of, any such books;

30 (b) use, or permit the use of, any such books for the purposes of any proceedings under this Act; and

(c) subject to subsection (8), retain possession of any such books for so long as is necessary —

- (i) for the purposes of exercising a power conferred by this section;
- (ii) for a decision to be made on whether or not proceedings should be commenced under this Act in relation to such books; or
- (iii) for such proceedings to be commenced and carried on.

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(7) A person is not entitled, as against the Authority, to claim a lien on any of the books, but such a lien is not otherwise prejudiced.

(8) While the books are in the possession of the Authority, the Authority —

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- (a) must permit another person to inspect at all reasonable times such (if any) of the books as the other person would be entitled to inspect if they were not in the possession of the Authority; and

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- (b) may permit another person to inspect any of the books.

(9) The Authority may require a person that produced any book to the Authority to explain, to the best of the person's knowledge and belief, any matter about the compilation of the book or to which the book relates.

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(10) A person that, without reasonable excuse, fails to comply with a requirement of the Authority under subsection (9) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, 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 of a day during which the offence continues after conviction; or
- (b) in any other case, 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 of a day during which the offence continues after conviction.

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### Confidentiality of inspection reports

171.—(1) Except as provided in subsection (2), where a written report has been produced in respect of a relevant person by the Authority following an inspection under section 169(1), the report must not be disclosed to any other person by —

- (a) the relevant person; or
- (b) any officer or auditor of the relevant person.

(2) Disclosure of the report may be made —

- (a) by the relevant person to any officer or auditor of that relevant person solely in connection with the performance of the duties of the officer or auditor (as the case may be) in that relevant person;
- (b) by any officer or auditor of the relevant person to any other officer or auditor of that relevant person, solely in connection with the performance of their respective duties in that relevant person; or
- (c) to such other person as the Authority may approve in writing.

(3) In granting approval for any disclosure under subsection (2)(c), the Authority may impose such conditions or restrictions as the Authority thinks fit on the relevant person, any officer or auditor of that relevant person or the person to whom disclosure is approved, and that relevant person, officer, auditor or person (as the case may be) must comply with those conditions or restrictions.

(4) The obligations of an officer or auditor under subsections (1) and (3) continue after the termination or cessation of the employment or appointment of the officer or auditor by the relevant person.

(5) A person who contravenes subsection (1), or fails to comply with any condition or restriction imposed by the Authority under subsection (3), shall be guilty of an offence and shall be liable on conviction —

- (a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(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 the person in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction —

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(a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

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(7) Where a person is charged with an offence under subsection (6), it is a defence for the person to prove that —

(a) the disclosure was made contrary to the person's desire;

(b) where the disclosure was made in any written or printed form — the person had as soon as practicable after receiving the report surrendered, or taken all reasonable steps to surrender, the report and all copies of the report to the Authority; and

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(c) where the disclosure was made in an electronic form — the person had, as soon as practicable after receiving the report, taken all reasonable steps to ensure the deletion of all electronic copies of the report and the surrender of the report and all copies of the report in other forms to the Authority.

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**Authority may transmit information from inspection to corresponding authority**

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**172.**—(1) The Authority or any person authorised by the Authority may, on the Authority's own motion, and subject to the satisfaction of such conditions as the Authority may determine, transmit any information obtained by the Authority from an inspection under section 169(1) to a corresponding authority as defined in section 17(1) of a foreign country that exercises consolidated supervision authority (whether or not for compliance with any

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AML/CFT requirement as defined in section 17(1)) over the relevant person to which the inspection relates.

(2) Subsection (1) applies despite the provisions of any prescribed written law as defined in section 17(1) or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, and does not affect section 25 or any other written law or rule of law authorising the Authority, or a person authorised by the Authority, to disclose information in the Authority's or the person's possession to another person.

### 10 **Self-incrimination**

173.—(1) A person is not excused from disclosing information to the Authority pursuant to a requirement made of the person under this Part on the grounds that the disclosure of the information might tend to incriminate the person.

15 (2) Where a person claims, before making a statement disclosing information that the person is required to disclose by such requirement, that the statement might tend to incriminate the person, that statement is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence  
20 under section 176(4).

## PART 11

### OFFENCES

#### **Offences by corporations**

174.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and

30 (b) the officer, employee or agent had that state of mind,  
is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

- (i) an officer of the corporation; or
- (ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or
- (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters 5 and 5A of the Penal Code 1871; or
- (b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act 2005;

5 “officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

10 (b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

15 (b) the person’s reasons for the intention, opinion, belief or purpose.

(7) The Authority may make rules to provide for the application of any provision of this section, with such modifications as the Authority considers appropriate, to any corporation formed or recognised under the law of a territory outside Singapore.

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### **Offences by unincorporated associations or partnerships**

**175.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

25 (a) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

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(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —



(a) who is —

- (i) an officer of the unincorporated association or a member of its governing body;
- (ii) a partner in the partnership; or
- (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

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(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or
- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

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shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

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(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

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(4) To avoid doubt, this section does not affect the application of —

(a) Chapters 5 and 5A of the Penal Code 1871; or

(b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

(7) The Authority may make rules to provide for the application of any provision of this section, with such modifications as the Authority considers appropriate, to any unincorporated association or partnership formed or recognised under the law of a territory outside Singapore.

### **General duty to use reasonable care not to provide false information to Authority**

**176.**—(1) A person who provides the Authority with any information —

(a) under or for the purposes of any provision of this Act; or

- (b) in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Authority for the purpose of the Authority discharging its functions under this Act,

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must use reasonable care to ensure that the information is not false or misleading in any material particular.

(2) Subsection (1) applies only where no other provision of this Act creates an offence in connection with the provision of information that is false or misleading in a material particular.

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(3) A 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 the person by the Authority,

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must use reasonable care to ensure that the document is not false or misleading in any material particular.

(4) A person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction —

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- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and  
 (b) in any other case, to a fine not exceeding \$100,000.

### **Composition of offences**

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**177.**—(1) The Authority may compound any offence under this Act that 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.

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(2) The Authority may 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,

5 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.

10 (3) On payment of the sum of money referred to in subsection (1) or (2), no further proceedings are to be taken against that person in respect of the offence.

(4) Regulations made under section 192 may prescribe the offences which may be compounded.

(5) All sums collected by the Authority under subsection (1) or (2) must be paid into the Consolidated Fund.

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## PART 12

### MISCELLANEOUS

#### **Agents**

**178.** In the exercise of its powers and the performance of its functions under this Act, the Authority may —

20 (a) establish agencies at such places outside Singapore as the Authority thinks fit;

(b) arrange with and authorise a person to act as agent of the Authority outside Singapore;

25 (c) act as agent of a bank carrying on business inside or outside Singapore; and

30 (d) act as agent of any public authority or any company in which the Government or a public authority has a substantial interest or any company which is deemed to be related to that company by virtue of section 6 of the Companies Act 1967 either generally or for a particular purpose inside or outside Singapore.

### **Appointment of assistants**

**179.**—(1) Subject to subsection (2), the Authority may appoint any person to exercise any of the Authority’s powers or perform any of the Authority’s functions or duties under this Act, either generally or in any particular case, except —

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- (a) the power of appointment conferred by this subsection; and
- (b) the power to make subsidiary legislation.

(2) The Authority may, by notification in the *Gazette*, appoint one or more of its officers to exercise the power under section 189(5) to grant an exemption to a particular person, or under section 189(6) to revoke any such exemption, or both.

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(3) Any person appointed under subsection (1) or officer appointed under subsection (2) is taken to be a public servant for the purposes of the Penal Code 1871.

### **Consent of Public Prosecutor**

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**180.** No prosecution in respect of any offence under this Act may be instituted without the written consent of the Public Prosecutor.

### **Jurisdiction of Courts**

**181.** Despite the Criminal Procedure Code 2010, a District Court or a Magistrate’s Court has jurisdiction to try any offence under this Act and has power to impose the full punishment for that offence.

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### **Opportunity to be heard**

**182.** 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 is to be given such opportunity to be heard.

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### **Recovery of fees, expenses, etc.**

**183.** The Authority may recover as a civil debt due to the Authority from the financial institution concerned —

- (a) the amount of any fees payable to the Authority under section 5;

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- (b) the amount of any fees payable to the Authority under section 138;
- (c) the amount of any fees payable to the Authority under section 140; and
- 5 (d) any remuneration and expenses payable by the financial institution concerned to —
  - (i) a statutory adviser appointed under section 41(2);
  - (ii) a statutory manager appointed under section 41(2);
  - 10 (iii) the Authority or any person appointed by the Authority under section 179 in relation to the Authority's assumption of control of any business of the financial institution under section 41; and
  - (iv) any person appointed to perform any independent assessment under Part 7 or 8.

#### 15 **Publication of certain information**

**184.**—(1) The Authority may prepare and publish —

- (a) consolidated statements aggregating any information provided under this Act; or
- 20 (b) for statistical purposes, statements that relate to or are derived from any information provided under this Act in respect of a digital token service.

(2) The Authority may, in such form or manner as the Authority 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:

- 25 (a) the approval, refusal to approve or withdrawal of approval of a financial institution under section 4;
- (b) the lapsing, surrender, revocation or suspension of the licence of any person under section 141;
- 30 (c) the acceptance by any person of an offer to compound an offence under section 177;

- (d) the revocation or withdrawal of any exemption granted under this Act;
- (e) the conviction of any person for any offence under this Act;
- (f) any other action taken by the Authority against any person under this Act. 5

### **Disclosure of information**

**185.** Nothing in this Act requires the Minister or any public servant (including a member of an Appeal Advisory Committee deemed to be a public servant under section 14(6)(a)) to disclose facts which he or she considers to be against the interest of the public to disclose. 10

### **Service of documents**

**186.—(1)** A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served — 15

- (a) by giving it to the individual personally;
- (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address; 20
- (c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;
- (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address; 25
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or
- (f) by sending it by email to the individual's last email address. 30

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

5           (a) by giving it to any partner or other similar officer of the partnership;

          (b) by leaving it at, or by sending it by prepaid registered post to, the business address of the partnership;

          (c) by sending it by fax to the fax number used at the business address of the partnership; or

10          (d) by sending it by email to the last email address of the partnership.

(4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

15           (a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or to the manager of the limited liability partnership;

          (b) by leaving it at, or by sending it by prepaid registered post to, the registered office or principal office of the body corporate or unincorporated association;

20           (c) by sending it by fax to the fax number used at the registered office or principal office of the body corporate or unincorporated association; or

          (d) by sending it by email to the last email address of the body corporate or unincorporated association.

25           (5) Service of a document under subsection (2), (3) or (4) takes effect —

          (a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;

30           (b) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered); or



(c) if the document is sent by email, at the time the email becomes capable of being retrieved by the person to whom the document is sent.

(6) A document may be served on a person under this Act by email only with that person's prior written consent. 5

(7) This section does not apply to documents to be served in proceedings in court.

(8) In this section —

“business address” means —

(a) in the case of an individual, the individual's usual or last known place of business, or place of employment, in Singapore; or 10

(b) in the case of a partnership (other than a limited liability partnership), the principal or last known place of business in Singapore of the partnership; 15

“document” includes a notice or an order permitted or required by this Act to be served;

“last email address” means —

(a) the last email address given, by the addressee concerned to the person giving or serving the document, as the email address for the service of documents under this Act; or 20

(b) the last email address of the addressee concerned known to the person giving or serving the document;

“residential address” means an individual's usual or last known place of residence in Singapore. 25

### **Electronic service**

**187.**—(1) The Authority may provide an electronic service for the service of any document that is required or authorised by this Act to be served on any person. 30

(2) For the purposes of the electronic service, the Authority may assign to any person —

- (a) an authentication code; and
- (b) an account with the electronic service.

(3) Despite section 186, where a person has given consent for any document to be served on the person through the electronic service —

- (a) the Authority may serve the document on that person by transmitting an electronic record of the document to that person’s account with the electronic service; and
- (b) the document is treated as having been served at the time when an electronic record of the document enters the person’s account with the electronic service.

(4) In this section —

“account with the electronic service”, in relation to any person, means a computer account within the electronic service that is assigned by the Authority to the person for the storage and retrieval of electronic records relating to the person;

“authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure that is assigned to the person for the purposes of identifying and authenticating the access to and use of the electronic service by the person;

“document” includes a notice and an order;

“electronic record” has the meaning given by section 2(1) of the Electronic Transactions Act 2010.

### **Guidelines on Fit and Proper Criteria**

**188.**—(1) For the purpose of determining whether a person is a fit and proper person in relation to this Act or any provision of this Act, the Authority may issue or adopt Guidelines on Fit and Proper Criteria.

(2) The Authority may, at any time, vary or revoke the Guidelines on Fit and Proper Criteria mentioned in subsection (1), or any part of the Guidelines.

(3) The Authority must —

- (a) ensure that the Guidelines on Fit and Proper Criteria, or their variation or revocation, are published on the Authority’s website;
- (b) specify in the publication, the date on which the Guidelines on Fit and Proper Criteria, or their variation or revocation, take effect; and
- (c) ensure that the Guidelines on Fit and Proper Criteria (including any variation to them) remain available to the public for access and inspection without charge.

(4) To avoid doubt, the Guidelines on Fit and Proper Guidelines mentioned in subsection (1) are deemed not to be subsidiary legislation.

### **Exemption**

**189.**—(1) The Authority may, by regulations, exempt —

- (a) any person or class of persons from this Act or any provision of this Act; and
- (b) any of the following from all or any of the provisions of Part 9:
  - (i) any digital token service or class of digital token services;
  - (ii) any shares or interests in shares, or class or description of shares or interests in shares;
  - (iii) any other thing or class or description of things,

subject to such conditions or restrictions as may be prescribed.

(2) The Authority may at any time —

- (a) revoke any exemption mentioned in subsection (1); or
- (b) add to, vary or revoke any condition or restriction imposed under subsection (1).

(3) Where the Authority, by regulations made under subsection (1)(a), exempts any person or class of persons from

section 147(1) and (2), the conditions that may be prescribed include the following conditions:

- 5 (a) a condition relating to the operations or activities of the exempt person, or of any person in the exempt class of persons, relating to the grant of any credit facility within the meaning given by section 147(3) (called in this section a credit facility);
- 10 (b) a condition relating to the criteria that must be satisfied in order for the exempt person, or any person in the exempt class of persons, to grant any credit facility to any individual in Singapore;
- 15 (c) a condition relating to the standards to be maintained by the exempt person, or by any person in the exempt class of persons, when carrying on a business of granting any credit facility to any individual in Singapore;
- (d) a condition relating to the duties to be undertaken by the exempt person, or by any person in the exempt class of persons, when doing any of the following things:
  - 20 (i) granting any credit facility to any individual in Singapore;
  - (ii) offering to grant, or issuing any advertisement containing any offer to grant, any credit facility to any individual in Singapore;
  - 25 (iii) making an offer or invitation, or issuing any advertisement containing any offer or invitation, to any individual in Singapore to enter into any agreement relating to the granting of any credit facility to that individual;
- 30 (e) a condition relating to the maintenance by the exempt person, or by any person in the exempt class of persons, of a licence, under any other written law, that allows that person to carry on a business of granting any credit facility to any individual in Singapore.

(4) Where the Authority, by regulations made under subsection (1)(a), exempts any person or class of persons from section 149, the conditions that may be prescribed include the following conditions:

- (a) a condition restricting the disposal or further acquisition, by that person or class of persons, of any shares or voting power in a licensee; 5
- (b) a condition restricting the exercise, by that person or class of persons, of any voting power in a licensee.

(5) The Authority may, on the application of any person, by written notice exempt the person from — 10

- (a) all or any of the provisions of this Act; and
- (b) all or any of the requirements specified in any direction made by the Authority under this Act,

subject to such conditions or restrictions as the Authority may specify by written notice. 15

(6) The Authority may, at any time, by written notice to a person —

- (a) revoke any exemption mentioned in subsection (5); or
- (b) add to, vary or revoke any condition or restriction imposed on the person under subsection (5). 20

(7) It is not necessary to publish any exemption granted under subsection (5) in the *Gazette*.

(8) A person who contravenes any condition or restriction —

- (a) prescribed under subsection (1);
- (b) specified by the Authority under subsection (5); or 25
- (c) added to or varied under subsection (2) or (6),

shall be guilty of an offence and shall be liable on conviction —

- (d) in the case of an individual, to a fine not exceeding \$50,000; or
- (e) in any other case, to a fine not exceeding \$100,000. 30

(9) In subsection (4), “licensee” has the meaning given by section 136(1).

### **Amendment of Schedules**

5 **190.**—(1) The Minister may from time to time, by order in the *Gazette*, amend, add to or vary the First or Second Schedule.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

10 (3) Any order made under subsection (1) must be presented to Parliament as soon as possible after publication in the *Gazette*.

### **Power of Minister to make regulations for or in respect to appeals**

15 **191.**—(1) The Minister may make regulations for, or in respect of, any appeal to the Minister mentioned in sections 4(6), 7(5), 9(5), 34, 48(6), 55(1), 142, 154 and 157.

(2) Without limiting subsection (1), the Minister may make regulations for or with respect to —

20 (a) the appointment of members to, and procedures of, the Appeal Advisory Panel and Appeal Advisory Committees mentioned in sections 13 and 14;

(b) the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees mentioned in sections 13 and 14;

25 (c) the form and manner in which an appeal to the Minister under this Act may be made; and

(d) 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.

### **Power of Authority to make regulations**

30 **192.**—(1) Except as otherwise expressly provided in this Act, the Authority may make regulations prescribing matters required or

permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Except as otherwise expressly provided in this Act, regulations made by the Authority under this Act —

- (a) may be of general or specific application; 5
- (b) may contain such saving and transitional provisions as the Authority may consider necessary or expedient;
- (c) may provide that a contravention of any specified provision of the regulations shall be an offence; and
- (d) may provide — 10
  - (i) in the case of an individual, for penalties not exceeding a fine of \$50,000 or imprisonment for a term not exceeding 2 years or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of \$5,000 for every day or part of a day during which the offence continues after conviction; and 15
  - (ii) in any other case, for penalties not exceeding a fine of \$100,000 and, in the case of a continuing offence, a further penalty not exceeding a fine of \$10,000 for every day or part of a day during which the offence continues after conviction. 20

PART 13

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ACTS 25

**Amendment of Banking Act 1970**

**193.**—(1) Subject to subsection (2), section 2(1) of the Banking Act 1970 is amended by deleting the definition of “financial holding company” and substituting the following definition:

““financial holding company” means a company belonging to a class of financial institutions approved as financial 30

holding companies under section 4 of the Financial Services and Markets Act 2022;”.

(2) Subsection (1) does not apply if section 78(a) of the Financial Holding Companies Act 2013 (which also amends section 2(1) of the Banking Act 1970) is brought into operation before the date on which subsection (1) and this subsection are brought into operation.

(3) Section 20 of the Banking Act 1970 is amended —

(a) by deleting the word “or” at the end of subsection (1)(a)(viii);

(b) by inserting the word “or” at the end of sub-paragraph (ix) of subsection (1)(a), and by inserting immediately thereafter the following sub-paragraph:

“(x) is contravening or has contravened any provision of the Financial Services and Markets Act 2022 or any direction issued by the Authority under that Act;”;

(c) by deleting the words “Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970” in subsections (1)(b) and (7) and substituting in each case the words “Division 2, 4, 5 or 6 of Part 8 of the Financial Services and Markets Act 2022”.

(4) Section 43(3) of the Banking Act 1970 is amended by deleting the words “section 27C of the Monetary Authority of Singapore Act 1970” and substituting the words “section 169 of the Financial Services and Markets Act 2022”.

(5) Section 45(6A) of the Banking Act 1970 is amended by deleting the words “section 152 of the Monetary Authority of Singapore Act 1970” in paragraph (a) and substituting the words “section 17 of the Financial Services and Markets Act 2022”.

(6) Section 54 of the Banking Act 1970 is amended —

(a) by deleting the words “under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966 or



section 101A or 123ZZC of the Securities and Futures Act 2001” in subsection (1)(g); and

- (b) by inserting, immediately before the definition of “regulated financial institution” in subsection (9), the following definition:

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““prohibition order” means —

- (a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022; 10
- (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the Financial Services and Markets Act 2022; 15 20
- (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022; 25
- (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued 30 35

by section 218(2) of the Financial Services and Markets Act 2022;

5 (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;

10 (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022;

15 (g) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;

20 (h) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial

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Services and Markets Act 2022, and as continued by section 220(5) of the Financial Services and Markets Act 2022; or

- (i) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

(7) Section 55ZA of the Banking Act 1970 is amended —

(a) by inserting, immediately after the words “Monetary Authority of Singapore Act 1970” in subsection (1)(a)(ii)(B), the words “as in force immediately before the date of commencement of section 205 of the Financial Services and Markets Act 2022 or to be approved under section 4(2) of the Financial Services and Markets Act 2022”;

(b) by deleting the word “or” at the end of subsection (1)(a)(vii);

(c) by inserting the word “or” at the end of sub-paragraph (viii) of subsection (1)(a), and by inserting immediately thereafter the following sub-paragraph:

“(ix) is contravening or has contravened any direction issued by the Authority under the Financial Services and Markets Act 2022 or any provision of that Act;”;

(d) by deleting the words “Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970” in subsections (1)(b)(ii) and (7)(b) and substituting in each case the words “Division 2, 4, 5 or 6 of Part 8 of the Financial Services and Markets Act 2022”.

(8) Section 57FB of the Banking Act 1970 is amended —

(a) by deleting the words “under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966 or

section 101A of the Securities and Futures Act 2001” in subsection (1)(g); and

(b) by inserting, immediately before the definition of “regulated financial institution” in subsection (9), the following definition:

““prohibition order” means —

(a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022;

(b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the Financial Services and Markets Act 2022;

(c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022;

(d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued

by section 218(2) of the Financial Services and Markets Act 2022;

- (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022; 5 10
- (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022; or 15 20
- (g) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

(9) Section 62(1) of the Banking Act 1970 is amended by deleting the words “(within the meaning of section 98 of the Monetary Authority of Singapore Act 1970) from the bank under section 103, 104, 105 or 106 of that Act” in paragraph (e) and substituting the words “within the meaning of section 107 of the Financial Services and Markets Act 2022 from the bank under section 112, 113, 114 or 115 of that Act”. 25 30

(10) Section 62B(3) of the Banking Act 1970 is amended by deleting the words “(within the meaning of section 98 of the Monetary Authority of Singapore Act 1970) from the merchant bank under section 103, 104, 105 or 106 of that Act” in paragraph (b) and substituting the words “within the meaning of section 107 of the Financial Services and Markets Act 2022 from the merchant bank under section 112, 113, 114 or 115 of that Act”.

(11) Part 2 of the Third Schedule to the Banking Act 1970 is amended by deleting items 4B, 4C and 4D and substituting the following items:

<p>“</p> <p>4B. Disclosure is solely in connection with the transfer or proposed transfer of the business of the bank to a company under Division 2 of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022, whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <p>(a) transferor or transferee, defined in section 56 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022;</p> <p>(b) person affected by the transfer;</p> <p>(c) professional adviser appointed by any person mentioned in paragraph (a) or (b); or</p> <p>(d) independent assessor appointed by the Authority under section 57 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022.</p>
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<p>4BA. Disclosure is solely in connection with the transfer or proposed transfer of the business of the bank to a company under Division 2 of Part 8 of the Financial Services and Markets Act 2022, whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) transferor or transferee, defined in section 65 of the Financial Services and Markets Act 2022;</li> <li>(b) person affected by the transfer;</li> <li>(c) professional adviser appointed by any person mentioned in paragraph (a) or (b); or</li> <li>(d) independent assessor appointed by the Authority under section 66 of the Financial Services and Markets Act 2022.</li> </ul>
<p>4C. Disclosure is solely in connection with the transfer or proposed transfer of the shares in the bank under Division 3 of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022, whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) transferor or transferee, defined in section 65 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022;</li> <li>(b) professional adviser appointed by the transferor or transferee; or</li> <li>(c) independent assessor appointed by the Authority under section 66 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022.</li> </ul>

<p>4CA. Disclosure is solely in connection with the transfer or proposed transfer of the shares in the bank under Division 4 of Part 8 of the Financial Services and Markets Act 2022, whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) transferor or transferee, defined in section 74 of the Financial Services and Markets Act 2022;</li> <li>(b) professional adviser appointed by the transferor or transferee; or</li> <li>(c) independent assessor appointed by the Authority under section 75 of the Financial Services and Markets Act 2022.</li> </ul>
<p>4D. Disclosure is solely in connection with the restructuring or proposed restructuring of the share capital of the bank under Division 4 of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022, whether or not the restructuring is carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) shareholder of the bank;</li> <li>(b) subscriber defined in section 68 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022;</li> <li>(c) professional adviser appointed by the bank or any person mentioned in paragraph (a) or (b); or</li> <li>(d) independent assessor appointed by the Authority under section 69 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of the Financial Services and Markets Act 2022.</li> </ul>



<p>4DA. Disclosure is solely in connection with the restructuring or proposed restructuring of the share capital of the bank under Division 5 of Part 8 of the Financial Services and Markets Act 2022, whether or not the restructuring is carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) shareholder of the bank;</li> <li>(b) subscriber defined in section 77 of the Financial Services and Markets Act 2022;</li> <li>(c) professional adviser appointed by the bank or any person mentioned in paragraph (a) or (b); or</li> <li>(d) independent assessor appointed by the Authority under section 78 of the Financial Services and Markets Act 2022.</li> </ul>
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### **Amendment of Companies Act 1967**

**194.**—(1) Section 8G of the Companies Act 1967 is amended by deleting the words “sections 27 and 28 of the Monetary Authority of Singapore Act 1970” and substituting the words “sections 3 and 4 of the Financial Services and Markets Act 2022”.

(2) Section 145(6) of the Companies Act 1967 is amended —

- (a) by inserting, immediately after the words “Financial Holdings Companies Act 2013,” in paragraph (b), the words “section 48 of the Financial Services and Markets Act 2022,”; and
- (b) by inserting, immediately after the words “Monetary Authority of Singapore Act 1970” in paragraph (b), the words “as in force immediately before the date of commencement of section 205 of the Financial Services and Markets Act 2022”.

### **Amendment of Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992**

**195.** Section 2(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 is amended by

deleting the definition of “financial institution” and substituting the following definition:

““financial institution” has the meaning given by section 2 of the Financial Services and Markets Act 2022, and includes a VCC;”.

### **Amendment of Credit Bureau Act 2016**

**196.**—(1) Section 2 of the Credit Bureau Act 2016 is amended by deleting the words “approved as a financial institution under section 28 of the Monetary Authority of Singapore Act 1970” in the definition of “merchant bank” and substituting the words “licensed under the Banking Act 1970”.

(2) Section 46 of the Credit Bureau Act 2016 is amended —

(a) by deleting the words “under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966 or section 101A of the Securities and Futures Act 2001” in subsection (5)(e); and

(b) by inserting, immediately before the definition of “regulated financial institution” in subsection (12), the following definition:

““prohibition order” means —

(a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022;

- (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the Financial Services and Markets Act 2022; 5 10
- (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022; 15
- (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued by section 218(2) of the Financial Services and Markets Act 2022; 20
- (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022; 25 30
- (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date 35

of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022; or

(g) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

(3) Section 49(11) of the Credit Bureau Act 2016 is amended by inserting, immediately after paragraph (d), the following paragraph:

“(da) Financial Services and Markets Act 2022;”.

### **Amendment of Criminal Procedure Code 2010**

**197.** The Sixth Schedule to the Criminal Procedure Code 2010 is amended —

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

“2A. Any offence under section 16(4) of the Financial Services and Markets Act 2022.”; and

(b) by inserting, immediately after the words “Monetary Authority of Singapore Act 1970” in item 3, the words “as in force immediately before the date of commencement of section 205 of the Financial Services and Markets Act 2022”.

### **Amendment of Deposit Insurance and Policy Owners’ Protection Schemes Act 2011**

**198.**—(1) Section 2(1) of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 is amended —

(a) by deleting the definitions of “resolution fund” and “resolution measure” and substituting the following definitions:

““resolution fund” means a fund established under section 108 of the Financial Services and Markets Act 2022;

“resolution measure” has the meaning given by section 107 of the Financial Services and Markets Act 2022;” and

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(b) by deleting the words “section 99(2) of the Monetary Authority of Singapore Act 1970” in the definition of “trustee” (in relation to a resolution fund) and substituting the words “section 108(2) of the Financial Services and Markets Act 2022”.

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(2) Section 10(2) of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 is amended by deleting the words “Division 5B of Part 4B of the Monetary Authority of Singapore Act 1970” and substituting the words “Division 10 of Part 8 of the Financial Services and Markets Act 2022”.

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(3) Section 28A(1) of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 is amended by inserting, immediately after the words “section 54(4) of the Monetary Authority of Singapore Act 1970” in paragraph (b), the words “as in force immediately before the date of commencement of section 205 of the Financial Services and Markets Act 2022 or under section 63(4) of the Financial Services and Markets Act 2022”.

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(4) Section 46(1) of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 is amended —

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(a) by deleting the word “or” at the end of paragraph (d); and  
(b) by deleting paragraph (e) and substituting the following paragraphs:

“(e) on or after 1 September 2011 but before the date of commencement of section 205 of the Financial Services and Markets Act 2022, the Authority had exercised its powers under Part 4B of the Monetary Authority of Singapore Act 1970 as in

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force immediately before that date in relation to a PPF Scheme member; or

(f) on or after the date of commencement of section 205 of the Financial Services and Markets Act 2022, the Authority is exercising or is likely to exercise, or has exercised, its powers under Part 8 of the Financial Services and Markets Act 2022 in relation to a PPF Scheme member.”

(5) Section 54A(1) of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 is amended by inserting, immediately after the words “section 54(4) of the Monetary Authority of Singapore Act 1970” in paragraph (b), the words “as in force immediately before the date of commencement of section 205 of the Financial Services and Markets Act 2022 or under section 63(4) of the Financial Services and Markets Act 2022”.

### **Amendment of Finance Companies Act 1967**

**199.**—(1) Section 15(1) of the Finance Companies Act 1967 is amended by deleting the words “Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970” in paragraph (c)(ii) and substituting the words “Division 2, 4, 5 or 6 of Part 8 of the Financial Services and Markets Act 2022”.

(2) Section 44A(1) of the Finance Companies 1967 is amended by deleting the words “(within the meaning of section 98 of the Monetary Authority of Singapore Act 1970) from the finance company under section 103, 104, 105 or 106 of that Act” in paragraph (c) and substituting the words “within the meaning of section 107 of the Financial Services and Markets Act 2022 from the finance company under section 112, 113, 114 or 115 of that Act”.

(3) Section 47 of the Finance Companies Act 1967 is amended —

(a) by deleting the words “under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966 or section 101A or 123ZZC of the Securities and Futures Act 2001” in subsection (1)(e); and

(b) by inserting, immediately before the definition of “regulated financial institution” in subsection (9), the following definition:

““prohibition order” means —

- (a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022; 5
- (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the Financial Services and Markets Act 2022; 10 15 20
- (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022; 25
- (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued by section 218(2) of the Financial Services and Markets Act 2022; 30 35

5 (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;

10 (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022;

20 (g) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;

30 (h) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(5) of the

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Financial Services and Markets Act 2022; or

- (i) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

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(4) Section 54(1) of the Finance Companies Act 1967 is amended by deleting the words “Part 4B of the Monetary Authority of Singapore Act 1970” and substituting the words “Part 8 of the Financial Services and Markets Act 2022”.

### **Amendment of Financial Advisers Act 2001**

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**200.**—(1) Section 2(1) of the Financial Advisers Act 2001 is amended —

- (a) by inserting, immediately after paragraph (b) of the definition of “prescribed written law”, the following paragraph:

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“(ba) Financial Services and Markets Act 2022;”;

- (b) by inserting, immediately after the definition of “principal”, the following definition:

““prohibition order” means, unless the context otherwise requires —

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- (a) a prohibition order made under section 68(1) as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022;

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- (b) a prohibition order made under section 68(1) as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the

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Financial Services and Markets Act 2022; or

(c) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

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(2) The Financial Advisers Act 2001 is amended by deleting the words “under section 68 has been made by the Authority” in the following provisions and substituting in each case the words “has been made”:

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Section 8(1)(l) and (4)(c)

Section 15(2)(g) and (5)(c)

Section 30(1)(q) and (10)(b)

Section 63(7)(b)

Section 64(4)(b)

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Section 66(2)(c).

(3) The Financial Advisers Act 2001 is amended by deleting the words “under section 68” in the following provisions:

Section 11(2)(c)

Section 21(2)(a)(iii) and (b)(iii)

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Section 23(4)(c).

(4) Section 64(1) of the Financial Advisers Act 2001 is amended by deleting the words “under section 68 made by the Authority” in paragraph (g) and substituting the word “made”.

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(5) The Financial Advisers Act 2001 is amended by repealing the following sections:

Section 68

Section 69

Section 70

Section 71.

(6) Section 72(2) of the Financial Advisers Act 2001 is amended by deleting the words “are made under section 68” and substituting the words “had been made under section 68 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022 or as continued by section 217(2) of that Act”.

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(7) Section 77 of the Financial Advisers Act 2001 is amended by inserting, immediately after the words “section 68” in paragraph (c), the words “as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022 or as continued by section 217(2) of that Act”.

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(8) Section 82 of the Financial Advisers Act 2001 is amended by deleting the words “section 152 of the Monetary Authority of Singapore Act 1970” in paragraph (a) and substituting the words “section 17 of the Financial Services and Markets Act 2022”.

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(9) Section 105 of the Financial Advisers Act 2001 is amended by deleting the words “section 154(1) of the Monetary Authority of Singapore Act 1970” and substituting the words “section 19(1) of the Financial Services and Markets Act 2022”.

### **Amendment of Financial Holding Companies Act 2013**

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**201.**—(1) Section 53 of the Financial Holding Companies Act 2013 is amended by inserting, immediately after paragraph (c) of the definition of “prescribed written law”, the following paragraph:

“(ca) Financial Services and Markets Act 2022;”.

(2) Section 62 of the Financial Holding Companies Act 2013 is amended —

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

“(e) has had a prohibition order made against him that remains in force; or”; and

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(b) by inserting, immediately before the definition of “regulatory authority” in subsection (3), the following definition:

“prohibition order” means —

- 5 (a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022;
- 10 (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the Financial Services and Markets Act 2022;
- 15 (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022;
- 20 (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued by section 218(2) of the Financial Services and Markets Act 2022;
- 25 (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date
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of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;

- (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022;
- (g) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;
- (h) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(5) of the Financial Services and Markets Act 2022; or

- (i) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

### **Amendment of Income Tax Act 1947**

5     **202.**—(1) Subject to subsection (2), section 10I(2) of the Income Tax Act 1947 is amended —

(a) by deleting the word “either —” in paragraph (b) of the definition of “AT1 instrument” and substituting the words “satisfies any of the following:”;

10     (b) by deleting the word “or” at the end of paragraph (b)(i) of the definition of “AT1 instrument”;

(c) by deleting sub-paragraph (ii) of paragraph (b) of the definition of “AT1 instrument” and substituting the following sub-paragraphs:

15                     “(ii) according to a direction issued under section 28(3) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of the Financial Holding Companies Act 2013 and to MAS Notice 637, may be used to satisfy the capital adequacy requirement of any other financial institution within the meaning of section 27A(6) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of the Financial Holding Companies Act 2013;

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30                     (iii) according to MAS Notice FHC-N637, may be used to satisfy the capital adequacy requirement of a financial holding company designated under section 4 of the

Financial Holding Companies  
Act 2013;” and

(d) by inserting, immediately after the definition of “full banking licence”, the following definition:

““MAS Notice FHC-N637” means the notice commonly known as MAS Notice FHC-N637 that is issued by the Monetary Authority of Singapore under section 36(1) of the Financial Holding Companies Act 2013, and includes any notice that replaces it;”.

(2) Subsection (1) only applies if the Financial Holding Companies Act 2013 is brought into operation before Part 2 of this Act is brought into operation.

(3) Subject to subsection (5), section 10I(2) of the Income Tax Act 1947 is amended —

(a) by deleting the word “either —” in paragraph (b) of the definition of “AT1 instrument” and substituting the words “satisfies any of the following;”;

(b) by deleting the word “or” at the end of paragraph (b)(i) of the definition of “AT1 instrument”; and

(c) by deleting sub-paragraph (ii) of paragraph (b) of the definition of “AT1 instrument” and substituting the following sub-paragraphs:

“(ii) according to a direction issued under section 28(3) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of Part 2 of the Financial Services and Markets Act 2022 and to MAS Notice 637, may be used to satisfy the capital adequacy requirement of any other financial institution within the meaning of section 27A(6) of the Monetary Authority of Singapore

Act 1970 as in force immediately before the date of commencement of Part 2 of the Financial Services and Markets Act 2022;

- 5 (iii) according to a direction issued under section 4(3) of the Financial Services and Markets Act 2022 and to MAS Notice 637, may be used to satisfy the capital adequacy requirement of any other financial institution within the meaning of section 2 of the Financial Services and Markets Act 2022;”

15 (4) Subject to subsection (5), section 10I(2) of the Income Tax Act 1947, as amended by subsection (3), is further amended —

- (a) by deleting sub-paragraph (iii) of paragraph (b) of the definition of “AT1 instrument” and substituting the following sub-paragraphs:

20 “(iii) according to a direction issued under section 4(3) of the Financial Services and Markets Act 2022 as in force immediately before the date of commencement of the Financial Holding Companies Act 2013 and to MAS Notice 637, may be used to satisfy the capital adequacy requirement of any other financial institution within the meaning of section 2 of the Financial Services and Markets Act 2022 as in force immediately before the date of commencement of the Financial Holding Companies Act 2013;

- 30 (iv) according to MAS Notice FHC-N637, may be used to satisfy the capital adequacy requirement of a
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financial holding company designated under section 4 of the Financial Holding Companies Act 2013;”; and

- (b) by inserting, immediately after the definition of “full banking licence”, the following definition: 5

““MAS Notice FHC-N637” means the notice commonly known as MAS Notice FHC-N637 that is issued by the Monetary Authority of Singapore under section 36(1) of the Financial Holding Companies Act 2013, and includes any notice that replaces it;”. 10

- (5) Subsections (3) and (4) only apply if the Financial Holding Companies Act 2013 is brought into operation on or after the date Part 2 of this Act is brought into operation. 15

### **Amendment of Insolvency, Restructuring and Dissolution Act 2018**

**203.**—(1) Section 72U(3) of the Insolvency, Restructuring and Dissolution Act 2018 is amended —

- (a) by inserting, immediately after paragraph (h), the following paragraph: 20

“(ha) the Financial Services and Markets Act 2022;”; and

- (b) by deleting paragraph (l).

(2) Section 250(7) of the Insolvency, Restructuring and Dissolution Act 2018 is amended — 25

- (a) by deleting paragraph (ba) of the definition of “relevant company”; and

- (b) by inserting, immediately after paragraph (c) of the definition of “relevant company”, the following paragraph: 30

“(ca) a financial institution approved under section 4 of the Financial Services and Markets Act 2022;”.

(3) Paragraph 3 of Article 1 of the Third Schedule to the Insolvency, Restructuring and Dissolution Act 2018 is amended —

(a) by inserting, immediately after sub-paragraph (c), the following sub-paragraph:

5                                   “(ca) Part 7 or 8 or section 189 of the Financial Services and Markets Act 2022;” and

(b) by deleting sub-paragraph (f).

### **Amendment of Insurance Act 1966**

**204.**—(1) Section 36 of the Insurance Act 1966 is amended —

10           (a) by deleting the words “under section 74, or under section 68 of the Financial Advisers Act 2001 or section 101A or 123ZZC of the Securities and Futures Act 2001,” in subsection (1)(g); and

15           (b) by inserting, immediately before the definition of “regulated financial institution” in subsection (3), the following definition:

                  ““prohibition order” means —

20                                   (a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022;

25                                   (b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the Financial Services and Markets Act 2022;

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- (c) an order made under section 74(1) as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022; 5
- (d) an order made under section 74(1) as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued by section 218(2) of the Financial Services and Markets Act 2022; 10
- (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022; 15 20
- (f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022; 25 30
- (g) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of 35

section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;

5 (h) a prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to 10 (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(5) of the Financial Services and Markets Act 2022; or

15 (i) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

(2) Section 65 of the Insurance Act 1966 is amended by deleting the words “, 73 and 74” in subsection (3) and in the section heading and 20 substituting in each case the words “and 73”.

(3) Section 74 of the Insurance Act 1966 is repealed.

(4) Section 93(1) of the Insurance Act 1966 is amended by inserting, immediately after the words “section 74” in 25 paragraph (c), the words “as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022 or as continued by section 218(2) of that Act”.

(5) Section 100(6) of the Insurance Act 1966 is amended by deleting the words “section 152 of the Monetary Authority of Singapore Act 1970” in paragraph (a) and substituting the words 30 “section 17 of the Financial Services and Markets Act 2022”.

(6) Section 109 of the Insurance Act 1966 is amended by inserting, immediately after paragraph (c) of the definition of “prescribed written law”, the following paragraph:

“(ca) Financial Services and Markets Act 2022;”.

(7) Section 110 of the Insurance Act 1966 is amended by deleting the words “section 154(1) of the Monetary Authority of Singapore Act 1970” and substituting the words “section 19(1) of the Financial Services and Markets Act 2022”.

(8) Section 120(1) of the Insurance Act 1966 is amended by deleting the words “section 54 of the Monetary Authority of Singapore Act 1970” and substituting the words “section 63 of the Financial Services and Markets Act 2022”.

(9) Section 123(3) of the Insurance Act 1966 is amended by deleting the words “(within the meaning of section 98 of the Monetary Authority of Singapore Act 1970) from the licensed insurer under section 103, 104, 105 or 106 of that Act” in paragraph (e) and substituting the words “(within the meaning of section 107 of the Financial Services and Markets Act 2022) from the licensed insurer under section 112, 113, 114 or 115 of that Act”.

### **Amendment of Monetary Authority of Singapore Act 1970**

**205.**—(1) Section 23(7A) of the Monetary Authority of Singapore Act 1970 is amended —

(a) by deleting the words “Part 4B” and substituting the words “Part 8 of the Financial Services and Markets Act 2022”; and

(b) by deleting the words “Division 5B of that Part” in paragraph (a) and substituting the words “Division 10 of Part 8 of that Act”.

(2) The Monetary Authority of Singapore Act 1970 is amended —

(a) by repealing sections 27 to 29;

(b) by repealing Part 4A (sections 31 to 48);

(c) by repealing Part 4B (sections 49 to 126);

(d) by repealing Part 5C (sections 152 to 163); and

(e) by repealing section 177.

(3) Section 29A of the Monetary Authority of Singapore Act 1970 is amended by inserting, immediately after subsection (4), the following subsection:

5       “(4A) The Authority may recover from the relevant participant the amount of any fees payable to the Authority under any rules made under subsection (4) as a civil debt due to the Authority.”.

10       (4) Section 178 of the Monetary Authority of Singapore Act 1970 is amended by deleting the words “Parts 4A, 5A and 5B and any regulations made under section 27A, 27B, 28A, 41, 51, 144 or 151” in subsections (1) and (2)(a) and substituting in each case the words “Parts 5A and 5B and any regulations made under section 144 or 151”.

15       (5) The Schedule to the Monetary Authority of Singapore Act 1970 is amended by inserting, immediately before item 13, the following item:

      “12B. Financial Services and Markets Act 2022”.

### **Amendment of Mutual Assistance in Criminal Matters Act 2000**

20       **206.**—(1) Section 2(1) of the Mutual Assistance in Criminal Matters Act 2000 is amended by deleting the definition of “financial institution” and substituting the following definition:

      ““financial institution” has the meaning given by section 2 of the Financial Services and Markets Act 2022;”.

25       (2) The Second Schedule to the Mutual Assistance in Criminal Matters Act 2000 is amended —

      (a) by inserting, immediately after item 105, the following heading and item:

<p><b>Financial Services and Markets Act 2022 — Offence included with effect from the date of commencement of section 206 of the Financial Services and Markets Act 2022</b></p>		5
<p>105A. Section 15(5)</p>	<p>Failure or refusal to comply with direction, or contravention of regulations, issued or made to discharge Government’s international obligations, etc.</p>	10

”; and

(b) by inserting, immediately after the words “Section 27A(5)” in item 171, the words “(as in force immediately before the date of commencement of section 206 of the Financial Services and Markets Act 2022)”.

### **Amendment of Payment Services Act 2019**

**207.**—(1) Section 2(1) of the Payment Services Act 2019 is amended by inserting, immediately after the definition of “place of business”, the following definition:

““prohibition order” means —

(a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022;

(b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and

as continued by section 217(2) of the Financial Services and Markets Act 2022;

5 (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022;

10 (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued by section 218(2) of the Financial Services and Markets Act 2022;

15 (e) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022;

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(f) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022; or

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30 (g) a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”.

(2) Section 11(2) of the Payment Services Act 2019 is amended —

(a) by deleting the words “, or continues to fail,” in paragraph (d);

(b) by deleting the word “or” at the end of paragraph (k)(ii);  
and

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(c) by deleting the full-stop at the end of paragraph (l) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(m) the licensee has failed, or continues to fail, to comply with any written notice issued by the Authority under the Financial Services and Markets Act 2022.”.

5

(3) The Payment Services Act 2019 is amended by deleting the words “under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966 or section 101A of the Securities and Futures Act 2001” in the following provisions:

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Section 34(6)(e)

Section 35(2)(e)

Section 65(6)(e)

Section 66(2)(e).

15

(4) Section 73(11) of the Payment Services Act 2019 is amended by inserting, immediately after paragraph (f), the following paragraph:

“(fa) Financial Services and Markets Act 2022;”.

(5) Section 84 of the Payment Services Act 2019 is amended by inserting, immediately after paragraph (d) of the definition of “prescribed written law”, the following paragraph:

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“(da) Financial Services and Markets Act 2022;”.

**Amendment of Precious Stones and Precious Metals  
(Prevention of Money Laundering and Terrorism Financing)  
Act 2019**

25

**208.** Section 2 of the Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act 2019 is amended by deleting the definition of “financial institution” and substituting the following definition:

““financial institution” has the meaning given by section 2 of the Financial Services and Markets Act 2022;”.

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## Amendment of Securities and Futures Act 2001

**209.**—(1) Section 2(1) of the Securities and Futures Act 2001 is amended —

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

““FSMA prohibition order” means a prohibition order made under section 7(1) of the Financial Services and Markets Act 2022;”;

(b) by inserting, immediately after paragraph (c) of the definition of “prescribed written law”, the following paragraph:

“(ca) Financial Services and Markets Act 2022;”;

(c) by inserting, immediately after the definition of “regulated activity”, the following definition:

““related Acts prohibition order” means —

(a) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022;

(b) a prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of the Financial Services and Markets Act 2022, and as continued by section 217(2) of the Financial Services and Markets Act 2022;

- (c) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022; or 5
- (d) an order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of the Financial Services and Markets Act 2022, and as continued by section 218(2) of the Financial Services and Markets Act 2022;” and 10
- (d) by inserting, immediately after the definition of “responsible person”, the following definitions: 15
- ““section 101A prohibition order” means —
- (a) a prohibition order made under section 101A as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022; or 20
- (b) a prohibition order made under section 101A as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(3) of the Financial Services and Markets Act 2022; 25 30

“section 123ZZC prohibition order” means —

(a) a prohibition order made under section 123ZZC as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022; or

(b) a prohibition order made under section 123ZZC(1) as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022, and as continued by section 220(5) of the Financial Services and Markets Act 2022;”.

(2) Section 4A(1) of the Securities and Futures Act 2001 is amended by inserting, immediately after the words “the Finance Companies Act 1967,” in paragraph (c)(xxiii), the words “the Financial Services and Markets Act 2022,”.

(3) The Securities and Futures Act 2001 is amended by deleting the words “Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970” in the following provisions and substituting in each case the words “Division 2, 4, 5 or 6 of Part 8 of the Financial Services and Markets Act 2022”:

Section 14(1)(e)

Section 46H(1)(da)

Section 56(1)(da)

Section 81Z(1)(da)

Section 95(2)(ea)

Section 289(4A).

(4) Section 85(2) of the Securities and Futures Act 2001 is amended by deleting paragraph (d) and substituting the following paragraph:

“(d) a section 101A prohibition order or an FSMA prohibition order has been made against the holder of a capital markets services licence.”.

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(5) The Securities and Futures Act 2001 is amended by deleting the words “a prohibition order under section 101A has been made by the Authority” in the following provisions and substituting in each case the words “a section 101A prohibition order or an FSMA prohibition order has been made”:

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Section 86(4)(o) and (6)(d)

Section 95(2)(h) and (5)(d)

Section 96(4)(aa)

Section 97B(2)(c)

Section 99M(1)(p) and (10)(c).

15

(6) The Securities and Futures Act 2001 is amended by deleting the words “a prohibition order under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966 or section 101A or 123ZZC” in section 97(1)(g) and substituting the words “a related Acts prohibition order, a section 101A prohibition order, a section 123ZZC prohibition order or an FSMA prohibition order”.

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(7) Section 99A(2) of the Securities and Futures Act 2001 is amended —

(a) by deleting sub-paragraph (iii) of paragraph (a) and substituting the following sub-paragraph:

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“(iii) a section 101A prohibition order or an FSMA prohibition order has been made against it,”; and

(b) by deleting sub-paragraph (ia) of paragraph (b) and substituting the following sub-paragraph:

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“(ia) a section 101A prohibition order or an FSMA prohibition order has been made against the representative; or”.

5 (8) Section 99D(4) of the Securities and Futures Act 2001 is amended by deleting the words “or a prohibition order under section 101A” in paragraph (c) and substituting the words “, or a section 101A prohibition order or an FSMA prohibition order”.

(9) The Securities and Futures Act 2001 is amended by repealing the following sections:

10 Section 101A  
 Section 101B  
 Section 101C  
 Section 101D  
 Section 123ZZC  
 15 Section 123ZZD  
 Section 123ZZE  
 Section 123ZZF.

(10) The Securities and Futures Act 2001 is amended by deleting the words “a prohibition order under section 123ZZC has been made by the Authority” in the following provisions and substituting in each case the words “a section 123ZZC prohibition order or an FSMA prohibition order has been made”:

Section 123F(6)(p) and (8)(d)  
 Section 123J(1)(l) and (6)(e)  
 25 Section 123N(1)(k) and (3)(e)  
 Section 123X(6)(b)  
 Section 123ZA(2)(c)  
 Section 123ZE(5)(o) and (7)(d)  
 Section 123ZG(1)(k) and (6)(e)

Section 123ZT(6)(b)

Section 123ZW(2)(c).

(11) Section 123I(3) of the Securities and Futures Act 2001 is amended by deleting paragraph (c) and substituting the following paragraph:

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“(c) a section 123ZZC prohibition order or an FSMA prohibition order has been made against the authorised benchmark administrator.”.

(12) Section 123M(3) of the Securities and Futures Act 2001 is amended by deleting paragraph (c) and substituting the following paragraph:

10

“(c) a section 123ZZC prohibition order or an FSMA prohibition order has been made against the exempt benchmark administrator.”.

(13) The Securities and Futures Act 2001 is amended by deleting the words “a prohibition order under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966, or section 101A or 123ZZC” in section 123Y(1)(g) and substituting the words “a related Acts prohibition order, a section 101A prohibition order, a section 123ZZC prohibition order or an FSMA prohibition order”.

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(14) The Securities and Futures Act 2001 is amended by deleting the words “a prohibition order under section 68 of the Financial Advisers Act 2001, section 74 of the Insurance Act 1966, section 101A or 123ZZC” in the following provisions and substituting in each case the words “a related Acts prohibition order, a section 101A prohibition order, a section 123ZZC prohibition order or an FSMA prohibition order”:

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Section 123ZU(1)(g)

Section 292A(1)(g).

30

(15) Section 150B of the Securities and Futures Act 2001 is amended —

(a) by deleting the words “section 152 of the Monetary Authority of Singapore Act 1970” in subsection (4A)(a) and substituting the words “section 17 of the Financial Services and Markets Act 2022”; and

5 (b) by inserting, immediately after the words “Monetary Authority of Singapore Act 1970” in subsection (5), the words “or any of the written laws set out in the Schedule to that Act”.

10 (16) Section 169A of the Securities and Futures Act 2001 is amended by deleting the words “section 154(1) of the Monetary Authority of Singapore Act 1970” and substituting the words “section 19(1) of the Financial Services and Markets Act 2022”.

(17) Section 317 of the Securities and Futures Act 2001 is amended —

15 (a) by deleting the words “101A(7) and (8),” in subsection (1); and

(b) by inserting, immediately after the words “section 101A(7) and (8)” in subsection (2)(a), the words “as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Financial Services and Markets Act 2022”.

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(18) Section 322(2) of the Securities and Futures Act 2001 is amended by deleting the words “prohibition order” in paragraph (b) and substituting the words “section 101A prohibition order or a section 123ZZC prohibition order”.

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### **Amendment of Trust Companies Act 2005**

**210.**—(1) Section 10(2) of the Trust Companies Act 2005 is amended by deleting the words “Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970” in paragraph (e) and substituting the words “Division 2, 4, 5 or 6 of Part 8 of the Financial Services and Markets Act 2022”.

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(2) Section 47(6) of the Trust Companies Act 2005 is amended by deleting the words “section 152 of the Monetary Authority of



Singapore Act 1970” in paragraph (a) and substituting the words “section 17 of the Financial Services and Markets Act 2022”.

### **Amendment of United Nations Act 2001**

**211.** Section 2(2) of the United Nations Act 2001 is amended by deleting the words “directions issued or regulations made by the Monetary Authority of Singapore under section 27A of the Monetary Authority of Singapore Act 1970” and substituting the words “directions issued by the Monetary Authority of Singapore under section 15 of the Financial Services and Markets Act 2022, or regulations made by the Monetary Authority of Singapore under section 192 of the Financial Services and Markets Act 2022 for the purposes of section 15 of that Act”.

### **Amendment of Variable Capital Companies Act 2018**

**212.—**(1) Section 2(1) of the Variable Capital Companies Act 2018 is amended —

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

““FSMA 2022” means the Financial Services and Markets Act 2022;”;

(b) by inserting, immediately after the definition of “profit and loss account”, the following definition:

““prohibition order” means —

(a) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the FSMA 2022;

(b) a prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force

immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the FSMA 2022, and as continued by section 220(3) of the FSMA 2022; or

(c) a prohibition order made under section 7(1) of the FSMA 2022;”.

(2) Section 58 of the Variable Capital Companies Act 2018 is amended by deleting the words “under section 101A(1) of the Securities and Futures Act 2001” in subsections (1)(e) and (4)(f).

(3) Section 83(6) of the Variable Capital Companies Act 2018 is amended by deleting the words “section 27A of the MAS Act” and substituting the words “section 192 of the FSMA 2022 for the purposes of section 15 of that Act”.

(4) Section 84(5) of the Variable Capital Companies Act 2018 is amended by deleting the words “section 27B of the MAS Act” and substituting the words “section 192 of the FSMA 2022 for the purposes of section 16 of that Act”.

(5) Section 85 of the Variable Capital Companies Act 2018 is amended —

(a) by deleting the words “section 152(1) of the MAS Act” in subsections (6) and (9) and substituting in each case the words “section 17(1) of the FSMA 2022”;

(b) by deleting the words “section 27F(1) of the MAS Act” in subsection (7)(a) and substituting the words “section 172(1) of the FSMA 2022”;

(c) by deleting the words “section 155(1), 157(1) or 160 of the MAS Act” in subsection (7)(b) and substituting the words “section 20(1), 22(1) or 25 of the FSMA 2022”;

(d) by deleting the words “Section 27D of the MAS Act” in subsection (8) and substituting the words “Section 170 of the FSMA 2022”;

- (e) by deleting the words “section 27C(1)” in subsections (8) and (11) and substituting in each case the words “section 169(1)”;
- (f) by deleting the words “section 27D of the MAS Act” in subsection (9) and substituting the words “section 170 of the FSMA 2022”;
- (g) by deleting the words “Section 27E of the MAS Act” in subsection (10) and substituting the words “Section 171 of the FSMA 2022”;
- (h) by deleting the words “Section 27F of the MAS Act” in subsection (11) and substituting the words “Section 172 of the FSMA 2022”;
- (i) by deleting the words “section 27F(1) of the MAS Act” in subsection (11)(a) and (b) and substituting in each case the words “section 172(1) of the FSMA 2022”;
- (j) by deleting the words “section 152(1)” in subsection (11)(a), (b) and (c) and substituting in each case the words “section 17(1)”;
- (k) by deleting the words “section 27F(2) of the MAS Act” in subsection (11)(c) and substituting the words “section 172(2) of the FSMA 2022”.
- (6) Section 86 of the Variable Capital Companies Act 2018 is amended —
- (a) by deleting the words “section 152 of the MAS Act” in the definitions of “AML/CFT authority”, “supervision” and “supervisory action” and “AML/CFT requirement”, “applicable offence”, “domestic authority”, “employee”, “enforcement action”, “foreign country”, “information”, “investigation” and “public authority” in subsection (1) and substituting in each case the words “section 17 of the FSMA 2022”;
- (b) by deleting the words “section 152 of the MAS Act” in paragraph (c) of the definition of “corresponding

authority” in subsection (1) and substituting the words “section 17 of the FSMA 2022”;

5 (c) by deleting the words “section 152 of the MAS Act” in the definition of “foreign financial institution” in subsection (1) and substituting the words “section 17 of the FSMA 2022”; and

(d) by deleting the words “section 152 of the MAS Act” in subsection (3) and substituting the words “section 17 of the FSMA 2022”.

10 (7) Section 88 of the Variable Capital Companies Act 2018 is amended —

(a) by deleting the words “Division 2 of Part 5C of the MAS Act” and substituting the words “Subdivision (2) of Division 2 of Part 4 of the FSMA 2022”;

15 (b) by deleting the words “section 152” and substituting the words “section 17”;

(c) by deleting the words “that Division” and substituting the words “that subdivision”;

(d) by deleting paragraph (a);

20 (e) by deleting the words “section 154(1)(g)(ii) of the MAS Act” in paragraph (b) and substituting the words “section 19(1)(g)(ii) of the FSMA 2022”;

(f) by deleting paragraph (c) and substituting the following paragraph:

25 “(c) the reference in section 19(3)(a) of the FSMA 2022 to any direction issued under section 15 or 16 of that Act, or to any regulations made under section 192 of that Act for the purposes of section 15 or 16 of that Act (as the case may be), is to a direction or regulation issued or made under section 83 or 84, as the case may be;”;

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- (g) by deleting the words “section 155 of the MAS Act” in paragraph (d) and substituting the words “section 20 of the FSMA 2022”;
- (h) by deleting the words “section 152(1)” in paragraph (d) and substituting the words “section 17(1)”; and
- (i) by deleting the words “section 155(2)(a) of the MAS Act” in paragraphs (e) and (f) and substituting in each case the words “section 20(2)(a) of the FSMA 2022”.

(8) Section 89 of the Variable Capital Companies Act 2018 is amended —

- (a) by deleting the words “Division 3 of Part 5C of the MAS Act” and substituting the words “Subdivision (3) of Division 2 of Part 4 of the FSMA 2022”;
- (b) by deleting the words “that Division” and substituting the words “that subdivision”;
- (c) by deleting paragraph (a);
- (d) by deleting the words “section 157 of the MAS Act” in paragraph (b) and substituting the words “section 22 of the FSMA 2022”;
- (e) by deleting the words “section 152(1)” in paragraph (b) and substituting the words “section 17(1)”; and
- (f) by deleting the words “section 157(2) of the MAS Act” in paragraphs (c) and (d) and substituting in each case the words “section 22(2) of the FSMA 2022”.

(9) Section 90 of the Variable Capital Companies Act 2018 is amended —

- (a) by deleting the words “Division 4 of Part 5C of the MAS Act” in subsection (1) and substituting the words “Subdivision (4) of Division 2 of Part 4 of the FSMA 2022”;
- (b) by deleting the words “section 160 of the MAS Act” in subsection (2) and substituting the words “section 25 of the FSMA 2022”; and

- (c) by deleting the words “section 152(1) of the MAS Act” in subsection (2) and substituting the words “section 17(1) of the FSMA 2022”.

5 (10) Section 91 of the Variable Capital Companies Act 2018 is amended —

- (a) by deleting the words “Sections 161 and 162 of the MAS Act” in subsection (1) and substituting the words “Sections 26 and 27 of the FSMA 2022”;

- 10 (b) by deleting the words “section 152 of the MAS Act” in subsection (1) and substituting the words “section 17 of the FSMA 2022”;

- (c) by deleting the words “section 161(5) of the MAS Act” in subsection (1)(a) and substituting the words “section 26(5) of the FSMA 2022”;

- 15 (d) by deleting the words “section 162(3) of the MAS Act” in subsection (1)(b) and substituting the words “section 27(3) of the FSMA 2022”;

- 20 (e) by deleting the words “sections 161 and 162 of the MAS Act” in subsection (1)(c) and substituting the words “sections 26 and 27 of the FSMA 2022”;

- (f) by deleting the words “Section 163 of the MAS Act” in subsection (2) and substituting the words “Section 28 of the FSMA 2022”; and

- 25 (g) by deleting the words “section 161 of the MAS Act” wherever they appear in subsection (2) and substituting in each case the words “section 26 of the FSMA 2022”.

(11) Section 92 of the Variable Capital Companies Act 2018 is amended —

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

“(1) Section 174 (except subsection (7)) and section 175 (except subsection (7)) of the FSMA 2022 apply in relation to an offence

committed under this Part as they apply in relation to an offence committed under the FSMA 2022.”; and

(b) by deleting the words “section 28B of the MAS Act” in subsection (2) and substituting the words “sections 174 and 175 of the FSMA 2022”.

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(12) Section 95 of the Variable Capital Companies Act 2018 is amended by deleting subsection (5).

### **Amendment of Securities and Futures (Amendment) Act 2017**

**213.**—(1) Subject to subsection (2), section 203 of the Securities and Futures (Amendment) Act 2017 is repealed.

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(2) Subsection (1) only applies if section 203 of the Securities and Futures (Amendment) Act 2017 has not been brought into operation before the date on which section 201(2) of this Act is brought into operation.

### **Amendment of Financial Services and Markets Act 2022**

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**214.** Section 6 of the Financial Services and Markets Act 2022 is amended by deleting the definition of “digital payment token instrument” and substituting the following definition:

““digital payment token instrument” has the meaning given by section 2(1) of the Payment Services Act 2019;”.

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## **PART 14**

### **SAVINGS AND TRANSITIONAL PROVISIONS**

#### **Saving and transitional provisions in relation to amendments to Banking Act 1970**

**215.** For the purposes of sections 20(1)(b) and (7) and 55ZA(1)(b)(ii) and (7)(b) of the Banking Act 1970, the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 193 of this Act (called in this section the repeal date) —

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- 5 (a) in relation to a bank mentioned in section 20(1)(b) of the Banking Act 1970 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that bank;
- 10 (b) in relation to a bank mentioned in section 20(7) of the Banking Act 1970 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that bank;
- 15 (c) in relation to a merchant bank mentioned in section 55ZA(1)(b)(ii) of the Banking Act 1970 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that merchant bank; and
- 20 (d) in relation to a merchant bank mentioned in section 55ZA(7)(b) of the Banking Act 1970 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that merchant bank.

25 **Saving and transitional provisions in relation to amendments to Finance Companies Act 1967**

30 **216.** For the purposes of section 15(1)(c)(ii) of the Finance Companies Act 1967, the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 199 of this Act (called in this section the repeal date) in relation to a finance company mentioned in section 15(1)(c)(ii) of the Finance Companies Act 1967 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding

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provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that finance company.

**Saving and transitional provisions in relation to amendments to Financial Advisers Act 2001**

**217.**—(1) Any prohibition order made under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the date of commencement of section 200(1)(b) and (2) to (7) of this Act (called in this section the repeal date) and which was in force immediately before the repeal date continues in force until the prohibition order expires or is revoked and sections 68 to 71, section 77 and Part 9 (“Appeals”), of the Financial Advisers Act 2001 in force immediately before the repeal date continue to apply to that prohibition order as if section 200(1)(b) and (2) to (7) of this Act had not been enacted.

(2) Where —

(a) the Authority had under section 68(3) of the Financial Advisers Act 2001 as in force immediately before the repeal date given a person an opportunity to be heard against the making of a proposed prohibition order under section 68(1) of that Act as in force immediately before the repeal date; and

(b) the Authority had not before the repeal date —

(i) made the prohibition order against the person under section 68(1) of the Financial Advisers Act 2001; or

(ii) informed the person that the Authority would not be making the prohibition order against the person under section 68(1) of the Financial Advisers Act 2001,

then —

(c) the Authority may make the prohibition order against the person under section 68(1) of the Financial Advisers Act 2001 as in force immediately before the repeal date; and

(d) sections 68 to 71, section 77 and Part 9 (“Appeals”), of the Financial Advisers Act 2001 as in force immediately before the repeal date continue to apply to the prohibition order,

5 as if section 200(1)(b) and (2) to (7) of this Act had not been enacted.

**Saving and transitional provisions in relation to amendments to Insurance Act 1966**

10 **218.**—(1) Any order made under section 74(1) of the Insurance Act 1966 as in force immediately before the date of commencement of section 204(1) to (4) of this Act (called in this section the repeal date) and which was in force immediately before the repeal date continues in force until the order expires or is revoked and section 74 and Part 3B (“Appeals”) of the Insurance Act 1966 in force before the repeal date continue to apply to that order as if section 204(1) to (4) of  
15 this Act had not been enacted.

(2) Where —

20 (a) the Authority had under section 74(2) of the Insurance Act 1966 as in force immediately before the repeal date given a person written notice of the Authority’s intention to make an order under section 74(1) of the Insurance Act 1966 as in force immediately before the repeal date;

25 (b) the Authority had in the notice called upon the person to show cause why the person should not be prohibited from the activities mentioned in section 74(2)(b) of the Insurance Act 1966 as in force immediately before the repeal date; and

(c) the Authority had not before the repeal date —

30 (i) made the order against the person under section 74(1) of the Insurance Act 1966 as in force before the repeal date; or

- (ii) informed the person that the Authority would not be making the order against the person under section 74(1) of the Insurance Act 1966 as in force before the repeal date,

then —

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- (d) the Authority may make the order against the person under section 74(1) of the Insurance Act 1966 as in force immediately before the repeal date; and
- (e) section 74 and Part 3B (“Appeals”) of the Insurance Act 1966 as in force immediately before the repeal date continue to apply to the order,

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as if section 204(1) to (4) of this Act had not been enacted.

**Saving and transitional provisions in relation to amendments to Monetary Authority of Singapore Act 1970**

**219.** So far as it is not inconsistent with the provisions of this Act —

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- (a) any request for information by, recommendation made or direction of, the Authority under section 27(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues in force as if made under section 3(1) of this Act;
- (b) any direction of the Authority under section 27(3) of the Monetary Authority of Singapore Act 1970 as in force immediately before the commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues in force as if made under section 3(3) of this Act;
- (c) any direction issued by the Authority under section 27A(1)(a) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues in force as if made under section 15(1)(a) of this Act;

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- 5 (d) any regulations made by the Authority under section 27A(1)(b) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which were in force immediately before that date continue in force as if made under section 192 of this Act until they are repealed by regulations made under section 192 of this Act;
- 10 (e) any direction issued by the Authority under section 27B(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues in force as if made under section 16(1) of this Act;
- 15 (f) any regulations made by the Authority under section 27B(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which were in force immediately before that date continue in force as if made under section 192 of this Act until they are repealed by regulations made under section 192 of this Act;
- 20 (g) any inspection carried out or being carried out by the Authority under section 27C(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act is treated as if the inspection were carried out or is being carried out under section 169(1) of this Act and the provisions of sections 169 and 170 of this Act apply to that inspection accordingly;
- 25 (h) any obligation of confidentiality imposed in respect of a written report under section 27E of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues as if the written report were a written report mentioned in section 171 of this Act;
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- (i) any approval granted in respect of a written report under section 27E(2)(c), and any condition or restriction of approval imposed under section 27E(3), of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which were in force immediately before that date continue in force as if granted and imposed (respectively) under section 171(2)(c) or (3) of this Act; 5
- (j) the power of the Authority or any person authorised by the Authority to transmit any information obtained by the Authority from an inspection under section 27F(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act continues as if the information were information mentioned in section 172(1) of this Act; 10 15
- (k) any approval granted by the Authority under section 28(1), and any condition of approval imposed under section 28(2)(c), of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which were in force immediately before that date continue in force as if granted and imposed (respectively) under section 4(1) and (2)(b) of this Act; 20
- (l) any direction issued to an approved financial institution or a class of approved financial institutions by the Authority under section 28(3) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues in force as if issued under section 4(3) of this Act to the approved financial institution or class of approved financial institutions; 25 30
- (m) any guidelines issued and conditions imposed by the Authority under section 28(4) of the Monetary Authority of Singapore Act 1970 as in force immediately before the 35

date of commencement of section 205(2)(a) of this Act and which were in force immediately before that date continue in force as if issued and imposed (respectively) under section 4(4) of this Act;

- 5 (n) any approval of a dispute resolution scheme under section 28A(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues and is deemed to be an approval under section 31(1) of this Act;
- 10 (o) any regulations made by the Authority under section 28A(2) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which were in force immediately before that date continue in force (to the extent that it is not inconsistent with Part 6 of this Act) as if made under section 192 of this Act until they are repealed by regulations made under section 192 of this Act;
- 15 (p) any conditions or restrictions of registration, licence or approval mentioned in section 28A(4)(b) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act that were imposed by the Authority before that date and in force immediately before that date, continue in force as if they were conditions or restrictions mentioned in section 36(3)(b) of this Act;
- 20 (q) any requirement by the Authority to pay any fee under section 29 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(a) of this Act and which was in force immediately before that date continues in force as if it were a requirement under section 5 of this Act;
- 25 (r) where the Authority or the Minister (as the case may be) has exercised in relation to any person or matter any power under any provision of Part 4A of the Monetary Authority
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of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(b) of this Act (called in this paragraph the repeal date), and the matter for which the power was exercised is still ongoing on or after the repeal date, the Authority or the Minister (as the case may be) is on and after the repeal date treated as having exercised the power in relation to that person or matter under the corresponding provision of Part 7 of this Act, and the provisions of Part 7 of this Act apply accordingly;

- (s) any requirement of the Authority, appointment of statutory adviser by the Authority, assumption of control or management of the business of a relevant financial institution by the Authority, or appointment of a statutory manager by the Authority, made under section 33(2) of the Monetary Authority of Singapore Act 1970 and in force immediately before the date of commencement of section 205(2)(b) of this Act and which was in force immediately before that date is treated as if it were made under section 41(2) of this Act, and the provisions of Part 7 of this Act apply accordingly;
- (t) in addition to paragraph (s), any person appointed by the Authority under section 13B of the Monetary Authority of Singapore Act 1970 in relation to the assumption of control or management of the business of a relevant financial institution by the Authority under section 33(2) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(b) of this Act, and whose appointment as such was in force immediately before that date, is treated as a person appointed in relation to that matter under section 179 of this Act;
- (u) where the Authority or the Minister (as the case may be) has exercised in relation to any person or matter any power under any provision of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(c) of this Act (called in this paragraph the repeal date), and the matter for

which the power was exercised is still ongoing on or after the repeal date, the Authority or the Minister (as the case may be) is on and after the repeal date treated as having exercised the power in relation to that person or matter under the corresponding provision of Part 8 of this Act, and the provisions of Part 8 of this Act apply accordingly;

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(v) any request by a foreign resolution authority for assistance mentioned in section 87(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(c) of this Act and which had not been dealt with immediately before that date, is treated as made, and may be dealt with, under the corresponding provisions of Division 8 of Part 8 of this Act;

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(w) any request by a domestic authority for any material in relation to the resolution of a specified financial institution mentioned in section 90 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(c) of this Act and which had not been dealt with immediately before that date, is treated as made, and may be dealt with, under the corresponding provisions of Division 8 of Part 8 of this Act;

25  
(x) where the Minister has established a resolution fund and appointed a trustee of the resolution fund under section 99(1) and (2), respectively, of the Monetary Authority of Singapore Act 1970 in force immediately before the date of commencement of section 205(2)(c) of this Act —

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(i) the resolution fund and the appointment of the trustee of the resolution fund continue in force as if established and appointed under section 108(1) and (2) respectively of this Act; and

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(ii) any sum claimed by the trustee under section 103, 104, 105 or 106 of the Monetary Authority of Singapore Act 1970 as in force immediately before





5 (zc) any regulations made by the Minister under Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(c) of this Act and which were in force immediately before that date continue in force as if made under section 135 of this Act until they are repealed by regulations made under section 135 of this Act;

10 (zd) any request for assistance under section 154 or 156 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(d) of this Act and which had not been dealt with immediately before that date is treated to be made, and may be dealt with, under the corresponding provisions of Division 2 of Part 4 of this Act;

15 (ze) any request to provide information under section 155(2)(b) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(d) of this Act and which had not been dealt with immediately before that date is treated to be made under section 20(2)(b) of this Act and may be dealt with accordingly;

20 (zf) any —

(i) order under section 155(2)(a) or 157(2); or

(ii) requirement under section 155(5) or 157(5),

25 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(d) of this Act and which was in force immediately before that date, continues in force as if ordered or required under the corresponding provisions of Division 2 of Part 4 of this Act;

30 (zg) any inspection conducted or being conducted under section 161(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(d) of this Act is treated as if the inspection were conducted or is being conducted

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under section 26(1) of this Act, and the provisions of sections 26, 27 and 28 of this Act apply accordingly;

- (zh) any approval given under section 161(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(d) of this Act for an inspection that has yet to commence on that date, and any condition imposed by the Authority under section 161(3) or (6) of the Monetary Authority of Singapore Act 1970 as in force immediately before that date, being an approval and a condition that were in force immediately before that date, are treated as given and imposed under section 26(1), (3) and (6) respectively of this Act, and the provisions of sections 26, 27 and 28 of this Act apply accordingly; and
- (zi) any obligation of confidentiality imposed in respect of a written report under section 163 of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 205(2)(d) of this Act and which was in force immediately before that date continues as if the written report were a written report mentioned in section 28 of this Act.

### **Saving and transitional provisions in relation to amendments to Securities and Futures Act 2001**

**220.**—(1) For the purposes of sections 14(1)(e), 46H(1)(da), 56(1)(da), 81Z(1)(da), 95(2)(ea) and 289(4A) of the Securities and Futures Act 2001, the exercise by the Minister of any power under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 209(3) of this Act (called in this subsection the repeal date) —

- (a) in relation to a corporation mentioned in section 14(1)(e) of the Securities and Futures Act 2001 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that corporation;

5 (b) in relation to a corporation mentioned in section 46H(1)(*da*) of the Securities and Futures Act 2001 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that corporation;

10 (c) in relation to a corporation mentioned in section 56(1)(*da*) of the Securities and Futures Act 2001 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that corporation;

15 (d) in relation to a corporation mentioned in section 81Z(1)(*da*) of the Securities and Futures Act 2001 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that corporation;

20 (e) in relation to a holder of a capital markets services licence mentioned in section 95(2)(*ea*) of the Securities and Futures Act 2001 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that holder; and

25 (f) in relation to an approved trustee mentioned in section 289(4A) of the Securities and Futures Act 2001 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that approved trustee.

30 (2) Any prohibition order made under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(*a*), (*c*) and (*d*), (4) to (14),

(17) and (18) (called in this subsection the repeal date) and which was in force immediately before the repeal date, continues in force until the prohibition order expires or is revoked and sections 101A to 101D, section 322 and Part 14 (“Appeals”), of the Securities and Futures Act 2001 as in force immediately before the repeal date continue to apply to that prohibition order as if section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act had not been enacted. 5

(3) Where —

(a) the Authority had under section 101A(4) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) (called in this subsection the repeal date) given a person an opportunity to be heard against the making of a proposed prohibition order under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the repeal date; and 10 15

(b) the Authority had not before the repeal date —

(i) made the prohibition order against the person under section 101A(1) of the Securities and Futures Act 2001; or 20

(ii) informed the person that the Authority would not be making the prohibition order against the person under section 101A(1) of the Securities and Futures Act 2001,

then — 25

(c) the Authority may make the prohibition order against the person under section 101A(1) of the Securities and Futures Act 2001 as in force immediately before the repeal date; and

(d) sections 101A to 101D, section 322 and Part 14 (“Appeals”), of the Securities and Futures Act 2001 as in force immediately before the repeal date continue to apply to the prohibition order,

5 as if section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act had not been enacted.

(4) Any prohibition order made under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) (called in this subsection the repeal date) and which was  
10 in force immediately before the repeal date continues in force until the order expires or is revoked and sections 123ZZC to 123ZZF, section 322 and Part 14 (“Appeals”), of the Securities and Futures Act 2001 as in force immediately before the repeal date continue to  
15 apply to that prohibition order as if section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act had not been enacted.

(5) Where —

(a) the Authority had under section 123ZZC(4) of the Securities and Futures Act 2001 as in force immediately  
20 before the date of commencement of section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) (called in this subsection the repeal date) given a person an opportunity to be heard against the making of a proposed prohibition order under section 123ZZC(1) of the Securities and Futures Act 2001  
25 as in force immediately before the repeal date; and

(b) the Authority had not before the repeal date —

(i) made the prohibition order under section 123ZZC(1) of the Securities and Futures Act 2001; or  
30 (ii) informed the person that the Authority would not be making the prohibition order against the person under section 123ZZC(1) of the Securities and Futures Act 2001,

then —

(c) the Authority may make the prohibition order against the person under section 123ZZC(1) of the Securities and Futures Act 2001 as in force immediately before the repeal date; and

5

(d) sections 123ZZC to 123ZZF, section 322 and Part 14 (“Appeals”), of the Securities and Futures Act 2001 as in force immediately before the repeal date continue to apply to the prohibition order,

as if section 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of this Act had not been enacted.

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### **Saving and transitional provisions in relation to amendments to Trust Companies Act 2005**

**221.** For the purposes of section 10(2)(e) of the Trust Companies Act 2005, the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 as in force immediately before the date of commencement of section 210 (called in this section the repeal date) in relation to a licensed trust company mentioned in section 10(2)(e) of the Trust Companies Act 2005 as in force before the repeal date, is on and after the repeal date treated as the exercise of the power of the Minister under the corresponding provision of Division 2, 4, 5 or 6 of Part 8 of this Act in relation to that licensed trust company.

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### **Other saving and transitional provisions**

**222.** For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent to the enactment of that provision as the Minister may consider necessary or expedient.

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## FIRST SCHEDULE

Sections 136(1) and 190(1)

## DIGITAL TOKEN SERVICES

## PART 1

## 5 SERVICES THAT ARE DIGITAL TOKEN SERVICES

1. Except where Part 2 of this Schedule provides otherwise, each of the following services is a digital token service for the purposes of this Part:

- (a) any service of dealing in digital tokens (other than any such service that the Authority may prescribe);
- 10 (b) any service of facilitating the exchange of digital tokens (other than any such service that the Authority may prescribe);
- (c) any service of accepting (whether as principal or agent) digital tokens from one digital token account (whether in Singapore or elsewhere), for the purposes of transmitting, or arranging for the transmission of, the digital tokens to another digital token account (whether in Singapore or elsewhere);
- 15 (d) any service of arranging (whether as principal or agent) for the transmission of digital tokens from one digital token account (whether in Singapore or elsewhere) to another digital token account (whether in Singapore or elsewhere);
- 20 (e) any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital tokens in exchange for any money or any other digital tokens (whether of the same or a different type);
- 25 (f) any service of safeguarding a digital token, where the service provider has control over the digital token;
- (g) any service of carrying out for a customer an instruction relating to a digital token, where the service provider has control over the digital token;
- 30 (h) any service of safeguarding a digital token instrument, where the service provider has control over one or more digital tokens associated with the digital token instrument;
- 35 (i) any service of carrying out for a customer an instruction relating to one or more digital tokens associated with a digital token instrument, where the service provider has control over the digital token instrument;



FIRST SCHEDULE — *continued*

- (j) any service relating to the sale or offer for sale of digital tokens which involves —
- (i) providing advice, either directly or through publications or writings, and whether in electronic, print or other form, relating to any digital tokens; or
  - (ii) providing advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, relating to any digital tokens.

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## PART 2

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## SERVICES THAT ARE NOT DIGITAL TOKEN SERVICES

1. Despite Part 1 of this Schedule, the following services are not digital token services for the purposes of this Part:

- (a) any service provided by any technical service provider that supports the provision of any digital token service, but that does not at any time enter into possession of any money or digital token under that digital token service, such as —
  - (i) the service of processing and storing data;
  - (ii) any information technology security, trust or privacy protection service;
  - (iii) any data and entity authentication service;
  - (iv) any information technology service;
  - (v) the service of providing a communication network; and
  - (vi) the service of providing and maintaining any terminal or device used for any digital token service;
- (b) any digital token service that is provided, in respect of any central bank digital token, by any central bank or financial institution;
- (c) any digital payment token service that is provided in respect of any limited purpose digital payment token.

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FIRST SCHEDULE — *continued*

## PART 3

## INTERPRETATION

1. In this Schedule, unless the context otherwise requires —

5 “central bank digital token” means any digital token that is issued by a central bank, or by any entity authorised by a central bank to issue a digital token on behalf of the central bank;

“currency” means currency notes and coins that are legal tender in Singapore or a country or territory other than Singapore;

10 “dealing in”, in relation to any digital token, means the buying or selling of that digital token in exchange for any money or any other digital token (whether of the same or a different type), but does not include any of the following:

(a) facilitating the exchange of digital tokens;

15 (b) accepting any digital token as a means of payment for the provision of goods or services;

(c) using any digital token as a means of payment for the provision of goods or services;

20 “digital payment token”, “digital payment token service” and “digital token” have the meanings given by section 136(1);

“digital token account” means any account, or any device or facility (whether in physical or electronic form), that contains digital tokens;

“digital token exchange” —

25 (a) means a place, or a facility (whether electronic or otherwise), where —

(i) offers or invitations to buy or sell any digital token in exchange for any money or any other digital token (whether of the same or a different type), are regularly made on a centralised basis;

30 (ii) those offers or invitations are intended, or may reasonably be expected, to result (whether directly or indirectly) in the acceptance of those offers or in the making of offers to buy or sell digital tokens in exchange for money or other digital tokens (whether of the same or a different type), as the case may be; and

35

FIRST SCHEDULE — *continued*

- (iii) the person making any such offer or invitation, and the person accepting that offer or making an offer in response to that invitation, are different persons; but
- (b) does not include a place or facility (whether electronic or otherwise) that is used exclusively by one person to do only either or both of the following things: 5
- (i) to make offers or invitations to buy or sell any digital token in exchange for any money, or any digital token (whether of the same or a different type); 10
- (ii) to accept any offer to buy or sell any digital token in exchange for any money, or any digital token (whether of the same or a different type);
- “digital token instrument” means any password, code, cipher, cryptogram, private cryptographic key or other instrument that enables a person — 15
- (a) to control access to one or more digital tokens; or
- (b) to execute a transaction involving one or more digital tokens;
- “e-money”, “employee” and “entity” have the meanings given by section 136(1);
- “facilitating the exchange of digital tokens” means establishing or operating a digital token exchange, in a case where the person that establishes or operates that digital token exchange, for the purposes of an offer or invitation (made or to be made on that digital token exchange) to buy or sell any digital token in exchange for any money or any digital token (whether of the same or a different type), comes into possession of any money or any digital token, whether at the time that offer or invitation is made or otherwise; 20 25
- “financial institution” means any person that —
- (a) is a financial institution as defined in section 2; or
- (b) is licensed, approved, registered or regulated, or is exempt from being licensed, approved, registered or regulated, under any law administered by an authority in a foreign country (the functions of which correspond to the functions of the Authority in Singapore) to carry on any financial activity in that country; 30
- “financial product” means any product or service that is provided by a financial institution; 35

FIRST SCHEDULE — *continued*

“in-game asset” means any digital representation of value that —

- (a) is purchased or otherwise acquired by a person (called in this definition the game player);
- 5 (b) is not denominated in any currency;
- (c) is issued as part of an online game; and
- (d) is used by the game player to pay or exchange for virtual objects or services in the online game;

“limited purpose digital payment token” means any non-monetary customer loyalty or reward point, any in-game asset, or any similar digital representation of value that —

- (a) cannot be returned to its issuer, transferred or sold in exchange for money; and
- (b) may only be used —

15 (i) in the case of a non-monetary customer loyalty or reward point or a similar digital representation of value — for the payment or part payment of, or in exchange for, goods or services, or both, provided by its issuer or any merchant specified by its issuer; or

20 (ii) in the case of an in-game asset or a similar digital representation of value — for the payment of, or in exchange for, virtual objects or virtual services within an online game, or any similar thing within, that is part of, or in relation to, an online game;

25 “merchant” means a person (other than an individual who is not required to be registered under the Business Names Registration Act 2014) who, in the course of the person’s business —

- (a) provides goods or services;
- (b) promotes the use or purchase of goods or services; or
- 30 (c) receives, or is entitled to receive, any money or other consideration for providing goods or services,

and includes any employee or agent of the person;

“money” has the meaning given by section 136(1);

35 “non-monetary customer loyalty or reward point” means any digital representation of value, by whatever name called, that satisfies all of the following conditions:

FIRST SCHEDULE — *continued*

- (a) it is not denominated in any currency;
  - (b) it is issued as part of a scheme, the dominant purpose of which is to promote the purchase of goods, or the use of services, provided by its issuer or any merchant specified by its issuer; 5
  - (c) it is issued to a person upon the purchase of goods, or the use of services, provided by its issuer or any merchant specified by its issuer;
  - (d) it is used for the payment or part payment of, or in exchange for, goods or services (or both) provided by its issuer or any merchant specified by its issuer; 10
  - (e) it is not part of a financial product.
2. For the purposes of this Schedule, a person has control over a digital token whether the person has control over the digital token solely or jointly with one or more other persons. 15

## SECOND SCHEDULE

Sections 137(5)(b) and 190(1)

## EXCLUDED PERSONS

1. For the purpose of section 137(5)(b), the specified persons are —
- (a) any public statutory corporation established under any Act in Singapore; 20
  - (b) any —
    - (i) advocate and solicitor who has in force a practising certificate or regulated foreign lawyer;
    - (ii) licensed foreign law practice, Singapore law practice, Joint Law Venture or Qualifying Foreign Law Practice, as defined in section 2(1) of the Legal Profession Act 1966; or 25
    - (iii) public accountant who is registered under the Accountants Act 2004 or accounting corporation which is approved under that Act, 30
- whose carrying on of the business in providing digital token service is solely incidental to the practice of law or accounting, as the case may be;

SECOND SCHEDULE — *continued*

- (c) the Official Assignee or Official Receiver in exercising his or her powers under the Insolvency, Restructuring and Dissolution Act 2018 or under any other written law;
- 5 (d) the Public Trustee in exercising his or her powers under the Public Trustee Act 1915;
- (e) a person acting in relation to a company as its liquidator, provisional liquidator, receiver, receiver and manager or judicial manager;
- 10 (f) a statutory manager appointed under section 61(2)(d) of the Moneylenders Act 2008;
- (g) a person acting in relation to a limited liability partnership as its liquidator, provisional liquidator, receiver or receiver and manager;
- (h) a person acting in relation to a partnership as its receiver or receiver and manager; and
- 15 (i) a person acting in relation to a VCC as the liquidator or provisional liquidator of the VCC or any of its sub-funds, or the receiver or the receiver and manager of the property of the VCC or any of its sub-funds.

## 2. For the purpose of paragraph 1 —

- 20 “advocate and solicitor”, “practising certificate” and “regulated foreign lawyer” have the meanings given by section 2(1) of the Legal Profession Act 1966;
- “Official Assignee” and “Official Receiver” have the meanings given by section 2(1) of the Insolvency, Restructuring and Dissolution Act 2018;
- 25 “sub-fund” has the meaning given by section 2(1) of the Variable Capital Companies Act 2018;
- “VCC” has the meaning given by section 2(1) of the Variable Capital Companies Act 2018.
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## EXPLANATORY STATEMENT

This Bill seeks to provide for —

- (a) a financial-sector wide regulation of financial services and markets and the exercise of control over and the resolution of financial institutions and their related entities, through the consolidation of the powers of the Monetary Authority of Singapore (the Authority) in several Acts that regulate financial services and markets, or financial institutions and their related entities, and the repeal of certain provisions in the Monetary Authority of Singapore Act 1970 that relate to the regulation of financial services and markets, or financial institutions and their related entities; and
- (b) the licensing and regulation of certain digital token service providers.

The Bill also contains consequential and related amendments to the Banking Act 1970, Financial Advisers Act 2001, Insurance Act 1966, Monetary Authority of Singapore Act 1970, Securities and Futures Act 2001 and other Acts.

The Bill in addition amends section 10I of the Income Tax Act 1947 consequent upon the operation of the Financial Holding Companies Act 2013.

### PART 1

#### PRELIMINARY

Part 1 (comprising clauses 1 and 2) contains the preliminary provisions of the Bill.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used generally in the Bill.

### PART 2

#### GENERAL POWERS OVER FINANCIAL INSTITUTIONS

Part 2 (comprising clauses 3, 4 and 5) relates to the Authority's general powers over financial institutions.

Clause 3 empowers the Authority to request information from, and make recommendations to, a financial institution if the Authority thinks it is necessary in the public interest. The Authority is also empowered to issue directions for the purpose of securing that effect is given to any such request or recommendation.

Clause 4 deals with the power of the Authority to approve financial institutions and to control their operations. Sub-clause (1) empowers the Authority to require certain financial institutions (relevant financial institutions) — whose operations are considered to affect monetary stability and credit and exchange conditions in

Singapore, the development of Singapore as a financial centre or the financial situation in Singapore generally — to be approved by the Authority for the purpose of carrying on business in Singapore. The Authority may under sub-clause (2) —

- (a) grant approval;
- (b) grant approval subject to conditions; or
- (c) refuse to grant approval (without any obligation to give reasons).

Further, the Authority is empowered under sub-clause (3) to give directions to a relevant financial institution approved under sub-clause (2) if the Authority thinks it is necessary or expedient in the public interest, in relation to such matters as —

- (a) the range of activities it may engage in or the range of services that it may provide;
- (b) the terms and conditions under which a particular activity is carried on or a particular service is provided; and
- (c) all matters in which it appears to the Authority that the activities that the relevant financial institution engages in, or the services that the relevant financial institution provides, affect or are likely to affect monetary or economic policy or credit conditions, etc.

Additionally, the Authority may under sub-clause (4) issue guidelines to, and impose conditions of operation on, a relevant financial institution.

The Authority may under sub-clause (5) withdraw its approval of a relevant financial institution in certain circumstances but an aggrieved relevant financial institution has a right of appeal against such a decision to the Minister under sub-clause (6).

Clause 5 enables the Authority to charge relevant financial institutions approved under clause 4 such fees as may be prescribed.

## PART 3

### PROHIBITION ORDER

Part 3 (comprising clauses 6 to 14) relates to the Authority's powers to make prohibition orders against certain persons.

Division 1 is made up of 7 clauses (clauses 6 to 12) and sets out the general provisions on prohibition orders.

Clause 6 defines certain terms used in Part 3.

Clause 7 empowers the Authority to make a prohibition order against any person if the Authority is satisfied that the person is not a fit and proper person in



accordance with the Guidelines on Fit and Proper Criteria. The prohibition order may, amongst other things, prohibit the person from —

- (a) carrying on any activity or business, or providing any service (the carrying on or provision of which is regulated or authorised by the Authority);
- (b) performing certain functions;
- (c) taking part in the management of any financial institution;
- (d) becoming a substantial shareholder of any financial institution; or
- (e) acquiring any additional interest in any voting share of a financial institution where the person is a substantial shareholder of the financial institution.

Clause 8 requires a person (*A*) against whom a prohibition order is made to comply with it. A financial institution must not employ, enter into any arrangement with, or use the services of, *A* if this is prohibited by the order.

Clause 9 enables the Authority to vary or revoke a prohibition order on a change of circumstances by giving written notice to the person against whom the order was made.

Clause 10 provides that a prohibition order, or any variation or revocation of a prohibition order, takes effect on the date specified by the Authority in the order or the notice in clause 9, as the case may be.

Clause 11 provides that the Authority must publish the making of a prohibition order and the variation or revocation of a prohibition order, and may publish information relating to —

- (a) the making of any prohibition order;
- (b) the variation or revocation of a prohibition order; or
- (c) the person in respect of whom a prohibition order was made, varied or revoked.

Clause 12 requires the Authority to keep records on persons against whom prohibition orders are made, and whose or which prohibition orders are varied or revoked.

Division 2 is made up of 2 clauses (clauses 13 and 14) and relates to the procedures for appeals on prohibition orders.

Clause 13 provides that where an appeal is made to the Minister under Part 3, the Minister may confirm, vary or reverse the decision of the Authority, or give such directions as the Minister thinks fit. The Minister must refer every appeal that the Minister receives under Part 3 to an Appeal Advisory Committee. However,

the Minister is not bound by the recommendations of the Appeal Advisory Committee. The Minister's decision on any appeal is final.

Clause 14 requires the Minister to appoint an Appeal Advisory Panel for the purpose of constituting an Appeal Advisory Committee. The clause also sets out the powers of an Appeal Advisory Committee as well as the protection conferred on every member of the Appeal Advisory Committee.

## PART 4

### POWERS REGARDING INTERNATIONAL OBLIGATIONS AND PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING, AND ASSISTANCE TO FOREIGN AUTHORITIES AND DOMESTIC AUTHORITIES CONCERNING MONEY LAUNDERING, TERRORISM FINANCING AND OTHER OFFENCES

Part 4 (comprising clauses 15 to 28) relates to the Authority's powers regarding international obligations, powers to prevent money laundering and terrorism financing, and powers to assist foreign authorities and domestic authorities concerning money laundering, terrorism financing and other offences.

Division 1 is made up of 2 clauses (clauses 15 and 16) and empowers the Authority to issue directions or make regulations for the purposes of discharging the Government's international obligations and the prevention of money laundering and terrorism financing.

Clause 15 empowers the Authority to —

- (a) issue directions to a financial institution or class of financial institutions; and
- (b) make regulations under clause 192 concerning any financial institution or class of financial institutions or relating to their activities,

in order to discharge or facilitate the discharge of any obligation binding on Singapore by virtue of a decision of the Security Council of the United Nations.

Clause 16 enables the Authority to issue directions, or make regulations under clause 192, concerning any financial institution or class of financial institutions as the Authority considers necessary for the prevention of money laundering or terrorism financing.

Division 2 is made up of 5 Subdivisions and 12 clauses (clauses 17 to 28), and relates to the Authority's powers to provide assistance to foreign authorities and domestic authorities for their supervisory functions and other actions in respect of money laundering, terrorism financing and other offences.

Subdivision (1) (clauses 17 and 18) sets out the general provisions on the Authority's powers to provide assistance to foreign authorities and domestic authorities.

Clause 17 defines certain terms used in Division 2.

Clause 18 sets out the purposes of Division 2.

Subdivision (2) (clauses 19 and 20) enables the Authority to assist the public authorities of foreign countries responsible for the supervision of foreign financial institutions in their respective foreign countries (the AML/CFT authorities).

Clause 19 lists the conditions under which the Authority will provide assistance to an AML/CFT authority for the purpose of its supervision of foreign financial institutions for compliance with requirements for the detection or prevention of money laundering or terrorism financing (the AML/CFT requirements).

Clause 20 describes the types of assistance that the Authority may provide to an AML/CFT authority. These include —

- (a) transmitting information in the Authority's possession to the AML/CFT authority (sub-clause (1));
- (b) ordering a financial institution or certain persons with the financial institution to provide the requested information to the Authority for transmission to the AML/CFT authority (sub-clause (2)(a)); and
- (c) requesting a domestic authority to provide the Authority with the information for transmission to the AML/CFT authority (sub-clause (2)(b)).

The clause overrides any duty of confidentiality of the Authority, the financial institution and its officers as regards the information to be provided and transmitted, except legal professional privilege.

Subdivision (3) (clauses 21 and 22) enables the Authority to assist domestic authorities.

Clause 21 lists the conditions under which the Authority may provide the assistance mentioned in clause 22 to a domestic authority for the purpose of investigating or enforcing a drug dealing offence or serious offence as defined in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992, or taking supervisory action against a person for non-compliance with an AML/CFT requirement.

Clause 22 describes the types of assistance that the Authority may provide to a domestic authority on a request mentioned in clause 21. These include —

- (a) transmitting information in the Authority's possession to the domestic authority (sub-clause (1)); and

- (b) ordering a financial institution or certain persons with the financial institution to provide the requested information to the Authority for transmission to the domestic authority (sub-clause (2)).

The clause overrides any duty of confidentiality of the Authority and the financial institution and its officers as regards the information to be provided and transmitted, except legal professional privilege.

Subdivision (4) (clauses 23, 24 and 25) sets out additional provisions in relation to Subdivisions (2) and (3).

Clause 23 makes it an offence for a person who does not comply with an order from the Authority for information under clause 20 or 22, or who in purported compliance with such order gives false or misleading information to the Authority. It also makes it an offence for an advocate and solicitor or a legal counsel to refuse to give to the Authority particulars of the person to whom or by whom a privileged communication was made, or who gave false or misleading particulars of the person to the Authority.

Clause 24 confers immunities from civil and criminal liability on persons who comply with an order for information under clause 20 or 22, as well as on an advocate and solicitor or a legal counsel who gave to the Authority particulars of the person to whom or by whom a privileged communication was made.

Clause 25 allows the Authority or a person authorised by the Authority to provide on the Authority's own motion any information in the Authority's possession to an AML/CFT authority or a domestic authority.

Subdivision (5) (clauses 26, 27 and 28) enables an AML/CFT authority, with the approval of the Authority, and under conditions of secrecy, to conduct an inspection in Singapore of the books of a financial institution over which the AML/CFT authority exercises consolidated supervision authority.

Clause 26 lists the conditions under which the Authority may permit an AML/CFT authority to inspect the books of a financial institution over which the AML/CFT authority exercises consolidated supervision authority for the purposes of preventing money laundering and terrorism financing. The AML/CFT authority may, with the Authority's approval, appoint other persons to conduct the inspection on the AML/CFT authority's behalf.

Clause 27 requires a financial institution under inspection to give the AML/CFT authority access to the books of the financial institution and provide the AML/CFT authority with information and facilities for the inspection. The clause also confers on the financial institution and its officers immunity from civil and criminal liability for doing so.

Clause 28 provides for the confidentiality of any resulting inspection report by the AML/CFT authority in the hands of the financial institution or any officer or auditor of the financial institution. The report may only be disclosed —

- (a) by the financial institution to any of its officers or auditors solely in connection with the officer's or auditor's duties;
- (b) by any of the financial institution's officers or auditors to another of its officers or auditors solely in connection with their respective duties in that financial institution;
- (c) to the Authority; or
- (d) to such other person as the Authority may approve.

## PART 5

### TECHNOLOGY RISK MANAGEMENT

Part 5 (comprising clause 29) relates to the Authority's power to issue directions or make regulations to manage technology risks.

Clause 29 empowers the Authority to issue directions to a financial institution or class of financial institutions, and to make regulations under clause 192, concerning any financial institution or class of financial institutions for —

- (a) managing technology risks (including cyber security risks);
- (b) the safe and sound use of technology to deliver financial services; and
- (c) the safe and sound use of technology to protect data.

## PART 6

### DISPUTE RESOLUTION SCHEMES

Part 6 (comprising clauses 30 to 38) relates to the approval of dispute resolution schemes, the conditions of such approval, the requirement of financial institutions to be a member of an approved dispute resolution scheme, and the protection from personal liability for mediators, adjudicators and employees of an operator of an approved dispute resolution scheme.

Clause 30 defines certain terms used in Part 6.

Clause 31 enables the Authority to approve dispute resolution schemes for the resolution of disputes arising from or relating to the provision of financial services by financial institutions. The clause also sets out the procedure for an application for approval of a dispute resolution scheme.

Clause 32 requires, as a condition of an approval of any dispute resolution scheme, an operator of the approved dispute resolution scheme to obtain the prior approval of the Authority before appointing a person as its chief executive officer or director.

Clause 33 empowers the Authority to direct an operator of an approved dispute resolution scheme to remove the chief executive officer or a director of the operator from his or her office or employment, where the Authority is satisfied that the chief executive officer or director is not a fit and proper person.

Clause 34 enables an operator, or a chief executive officer or director of an operator, who is aggrieved by a decision of the Authority under clause 33(1) to appeal to the Minister.

Clause 35 requires, as a condition of an approval of any dispute resolution scheme, an operator of the approved dispute resolution scheme that is a company to obtain the prior approval of the Authority before amending its constitution.

Clause 36 provides that, if so required by regulations made under clause 192, a financial institution must be a member of an approved dispute resolution scheme and must comply with the prescribed terms of membership.

Clause 37 provides protection from personal liability for any mediator, adjudicator or employee of an operator of an approved dispute resolution scheme for acts or omissions done with reasonable care and in good faith in the course of, or in connection with, any mediation or adjudication of a dispute under the approved dispute resolution scheme.

Clause 38 specifies the regulations the Authority may make under clause 192 for the purposes of Part 6.

## PART 7

### CONTROL OVER FINANCIAL INSTITUTIONS

Part 7 (comprising clauses 39 to 57) relates to the Authority's regulatory control over relevant financial institutions.

Division 1 is made up of 12 clauses (clauses 39 to 50) and sets out the general provisions for Part 7.

Clause 39 provides that Part 7 applies to and in relation to every relevant financial institution (that is, a financial institution that is approved by the Authority under clause 4 and that belongs to a class of prescribed financial institutions). The clause further defines certain terms used in Part 7.

Clause 40 requires a relevant financial institution to immediately notify the Authority if —

- (a) the relevant financial institution is or is likely to become insolvent or unable to meet its obligations; or
- (b) the relevant financial institution has suspended or is about to suspend payments.

Clause 41 empowers the Authority to exercise one or more of the following powers with respect to a relevant financial institution in certain circumstances:

- (a) require the relevant financial institution immediately to take any action or to do or not to do any act in relation to its business as the Authority may consider necessary;
- (b) appoint a statutory adviser to advise the relevant financial institution on the proper management of such business of the relevant financial institution as the Authority may determine;
- (c) assume control of and manage such business of the relevant financial institution as the Authority may determine, or appoint a statutory manager to do so.

Clause 42 sets out the powers and obligations of the Authority or a statutory manager upon assuming control of the relevant business of a relevant financial institution. The clause also states the effects of such assumption of control on any appointment of an individual as chief executive or director of the relevant financial institution.

Clause 43 specifies the circumstances in which the Authority must cease to be in control of the relevant business of a relevant financial institution, and the circumstances in which the appointment of a statutory manager may be revoked by the Authority. The clause also specifies when a statutory manager is treated to have assumed control of the relevant business of a relevant financial institution.

Clause 44 sets out the responsibilities of a current or former chief executive, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, a relevant financial institution, during the period when the Authority or a statutory manager is in control of the relevant business of the relevant financial institution.

Clause 45 empowers the Authority to fix the remuneration and expenses a relevant financial institution has to pay to —

- (a) a statutory manager;
- (b) a statutory adviser; or
- (c) the Authority and any person appointed by the Authority (where the Authority has assumed control of the relevant business of the relevant financial institution).

Clauses 46 and 47 provide for certain matters relating to the voluntary transfer of the business of a relevant financial institution. A relevant financial institution (the transferor) may transfer the whole or part of its business (including any business that is not the significant business of the relevant financial institution) to a transferee, if (among other things) —

- (a) the Authority has consented to the transfer (where the transferor is incorporated in Singapore);
- (b) the business to be transferred is reflected in the books of the transferor in Singapore in relation to its operations in Singapore (where the transferor is incorporated outside Singapore); and
- (c) the Court has approved the transfer.

Clauses 46 and 47 do not apply to the transfer of any business of a relevant financial institution under any other law.

Clause 48 prohibits a relevant financial institution from permitting a person to act as its executive officer or (where the relevant financial institution is established or incorporated in Singapore) director, without the prior written consent of the Authority, in certain circumstances. The clause also provides for the removal of an executive officer, or (where the relevant financial institution is established or incorporated in Singapore) a director of a relevant financial institution in Singapore, from his or her office or employment in certain circumstances.

Clause 49 provides that in any proceedings under section 210 of the Companies Act 1967, or section 71 of the Insolvency, Restructuring and Dissolution Act 2018, in relation to certain prescribed companies, the Authority has the same powers and rights as a creditor of the company concerned but does not have the right to vote at any meeting summoned under section 210 of the Companies Act 1967. The clause also specifies certain circumstances where the Court must not —

- (a) approve a compromise or arrangement; or
- (b) transfer the whole or part of the undertaking or property of a company, without the consent of the Minister (where the company is a Type B financial institution) or Authority (where the company is a Type C financial institution).

Clause 50 specifies the regulations the Authority may make under clause 192 for the purposes of Part 7.

Division 2 is made up of 7 clauses (clauses 51 to 57) and enables the Authority to issue directions for recovery and resolution planning.

Clause 51 empowers the Authority to issue a notice to pertinent financial institutions requiring each pertinent financial institution to which a direction under clause 52(1) is issued (amongst other things) —

- (a) to prepare a recovery plan (i.e. a plan to restore the pertinent financial institution's financial strength or viability should the pertinent financial institution suffer financial pressure or stress);
- (b) to review and keep up-to-date its recovery plan;
- (c) to adopt certain procedures in preparing its recovery plan;



- (d) to maintain information for the purpose of preparing, reviewing and keeping up-to-date its recovery plan; and
- (e) to take action for the effective implementation of a plan under clause 53.

Clause 52 empowers the Authority to issue a direction to a pertinent financial institution to comply with the requirements of a notice issued under clause 51. The direction must specify the dates for the submission and frequency of review of the financial institution recovery plan. The Authority may also direct a pertinent financial institution —

- (a) to amend its recovery plan;
- (b) to remove any impediment to its implementation;
- (c) to implement a part of the plan; or
- (d) to implement any other arrangement or measure for the restoration of its financial strength or viability.

Clause 53 provides that the Authority may prepare resolution plans for a pertinent financial institution, and may to this end require the pertinent financial institution to provide information and documents to the Authority.

Clause 54 empowers the Authority to direct a pertinent financial institution to remove any impediment to its orderly resolution.

Clause 55 provides for an appeal process to the Minister against a direction given to a pertinent financial institution under clause 52(2)(b) or 54(2) for the removal of impediments.

Clause 56 specifies that a direction or notice under Division 2 must be in writing but need not be published in the *Gazette*.

Clause 57 makes it an offence for a pertinent financial institution —

- (a) to fail to comply with a direction or notice of the Authority under Division 2; or
- (b) to knowingly or recklessly provide any false or misleading information or document in purported compliance with such direction or notice.

## PART 8

### RESOLUTION OF FINANCIAL INSTITUTIONS

Part 8 (comprising clauses 58 to 135) empowers the Authority to exercise certain forms of control over certain specified financial institutions in certain circumstances.

Division 1 is made up of 7 clauses (clauses 58 to 64) and sets out the general provisions for Part 8.

Clause 58 defines certain terms used in Part 8.

Clause 59 specifies the matters which the Authority may have regard to when determining whether to exercise its powers under Divisions 2, 4, 5 and 6 of Part 8.

Clause 60 empowers the Authority to issue directions, or make regulations under clause 192, concerning any person that has ceased to be a specified financial institution, or any class of persons that has ceased to be a class of specified financial institutions, in certain circumstances.

Clause 61 provides for the continued application, to a person that has ceased to be a specified financial institution, of any direction or notice issued under the Bill or any other MAS scheduled Act (being a direction or notice which was in force, and which applied to the person, immediately before the person ceased to be a specified financial institution), until the direction or notice is cancelled by the Authority.

Clause 62 empowers the Authority, if the Authority considers it to be in the interests of the affected persons of a specified financial institution, to —

- (a) make an order prohibiting the specified financial institution from doing certain things; or
- (b) apply to the Court for certain orders in relation to the specified financial institution.

Clause 63 provides additional grounds upon which the Court may, on the application of the Authority, order the winding up of a company which is carrying on or has carried on the significant business of a specified financial institution in Singapore. The clause also provides for certain matters relating to the winding up of such a company.

Clause 64 empowers the Authority to apply to the Court for, and empowers the Court to make, certain orders against any past or present director or executive officer of a specified financial institution who —

- (a) has failed to discharge the duties of his or her office;
- (b) has misapplied or retained, or become liable or accountable for, any money or property of the specified financial institution; or
- (c) has been guilty of any misfeasance or breach of trust or duty in relation to the specified financial institution.

Division 2 is made up of 4 clauses (clauses 65 to 68) and empowers the Minister to transfer the whole or any part of the business of a pertinent financial institution (transferor) to a transferee in certain circumstances.

Clause 65 defines certain terms used in Division 2.

Clause 66 provides that the Authority may make a determination that the whole or part of a business of a transferor be transferred to a transferee. The determination is to be submitted to the Minister for approval. The Minister's approval may be made subject to conditions. The consent of the transferor is not required. However, the Minister will give the transferor a written notice of the Minister's intention to approve the determination to transfer the business and an opportunity to make written representations on the proposed transfer, unless the Minister decides that it is not practicable or desirable to do so.

Clause 67 requires the Minister to issue a certificate of transfer setting out the details of the transfer, if the Minister decides to approve the determination for the transfer of the business (or part of the business). The certificate must specify information prescribed by regulations made under clause 135, and may provide for any matter which is relevant to the transfer or necessary to secure that the transfer is fully effective. The certificate must be served on the transferor and transferee. The certificate will be binding on —

- (a) the transferor;
- (b) the transferee; and
- (c) any other person who is affected by the transfer.

A transferor or transferee that fails to comply with any provision in the certificate will be guilty of an offence.

Clause 68 prohibits the passing of a resolution and the making of an order for the winding up of a transferor, and the appointment of a judicial manager in relation to a transferor, in certain circumstances.

Division 3 is made up of 5 clauses (clauses 69 to 73) and enables subsequent adjustments to be made to a compulsory transfer of business made under Division 2, through a transfer back to the transferor or an onward transfer to a third entity.

Clause 69 defines certain terms used in Division 3.

Clause 70 provides that the Authority may make a determination that the whole or any part of a business that has been compulsorily transferred to another be transferred back to the transferor. For example, such reverse transfer may be necessary if, upon obtaining further information, the Authority determines that assets are over-valued or liabilities are under-valued at the point of the transfer. The determination is to be submitted to the Minister for approval. The Minister's approval may be made subject to conditions. The transferor or transferee must comply with every condition that applies to it and of which it has been notified.

Clause 71 provides that if the Minister approves the Authority's determination for a reverse transfer, the Minister must issue a reverse transfer certificate. The

clause specifies the provisions which the certificate may make, the date the reverse transfer is to come into effect, the Minister's right to add to, vary or revoke any matter in the certificate before it comes into effect, and for the certificate to be served on the affected entities and to be published. The clause also provides for various matters necessary to effect the reverse transfer, such as the novation of agreements and the change of parties to legal proceedings that relate to the business transferred back.

Clause 72 provides that the Authority may make a determination that the whole or any part of a business that has been compulsorily transferred to a transferee be transferred to another transferee. Such onward transfer may be made to an entity established or incorporated to temporarily hold and manage the assets and liabilities of the transferor or to do any other act for the orderly resolution of the transferor, or both. The determination is to be submitted to the Minister for approval. The Minister's approval may be made subject to conditions. The transferee or 2nd transferee must comply with every condition that applies to it and of which it has been notified.

Clause 73 provides that if the Minister approves the Authority's determination for an onward transfer, the Minister must issue an onward transfer certificate. The clause specifies the provisions which the certificate may make, the date the onward transfer is to come into effect, the Minister's right to add to, vary or revoke any matter in the certificate before it comes into effect, and for the certificate to be served on the affected entities and to be published. The clause also provides for various matters necessary to effect the onward transfer, such as the novation of agreements and the change of parties to legal proceedings that relate to the business that is transferred.

Division 4 is made up of 3 clauses (clauses 74, 75 and 76) and empowers the Minister to transfer the shares of a person (transferor) in a pertinent financial institution to another person (transferee) in certain circumstances.

Clause 74 defines certain terms used in Division 4.

Clause 75 provides that the Authority may make a determination that all or any of the shares held by a transferor in a pertinent financial institution incorporated in Singapore be transferred to a transferee. The determination is to be submitted to the Minister for approval. The Minister's approval may be made subject to conditions. The consent of the transferor is not required. However, the Minister will give the transferor a written notice of the Minister's intention to approve the determination to transfer the shares and an opportunity to make written representations on the proposed transfer, unless the Minister decides that it is not practicable or desirable to do so.

Clause 76 requires the Minister to issue a certificate of transfer setting out the details of the transfer of shares of the transferor and providing for any matter which is relevant to the transfer or necessary to secure that the transfer is fully

effective, if the Minister decides to approve the determination to transfer the shares of the transferor. The certificate will not be served on the transferor and transferee, but will be served on the pertinent financial institution and published in the *Gazette* and in such newspapers as the Minister may determine. The transfer of the shares will take effect in accordance with the certificate. The certificate will be binding on —

- (a) the transferor;
- (b) the transferee; and
- (c) any other person who is affected by the transfer.

A transferor or transferee that fails to comply with any provision in the certificate will be guilty of an offence.

Division 5 is made up of 3 clauses (clauses 77, 78 and 79) and empowers the Minister to restructure the share capital of a pertinent financial institution in certain circumstances.

Clause 77 defines certain terms used in Division 5.

Clause 78 provides that the Authority may make a determination that the share capital of a pertinent financial institution be restructured by —

- (a) cancelling the whole or any part of the share capital of the pertinent financial institution which is not paid up;
- (b) cancelling the whole or any part of the paid-up share capital of the pertinent financial institution, if (among other things) such paid-up capital is lost or not represented by the available assets of the pertinent financial institution; or
- (c) requiring the pertinent financial institution to issue new shares to specified subscribers.

The determination is to be submitted to the Minister for approval. The Minister's approval may be made subject to conditions. The consent of the pertinent financial institution or its shareholders is not required. However, the Minister will give the shareholders (by publication in the *Gazette* and in such newspapers as the Minister may determine) a notice, and the pertinent financial institution a written notice, of the Minister's intention to approve the determination to restructure the share capital and an opportunity to make representations on the proposed restructuring, unless the Minister decides that it is not practicable or desirable to do so.

Clause 79 requires the Minister to issue a certificate of restructuring of share capital setting out the information prescribed by regulations, if the Minister decides to approve the determination to restructure the share capital. The certificate will be served on the pertinent financial institution and will be

published in the *Gazette* and in such newspapers as the Minister may determine. The restructuring of the share capital of the pertinent financial institution will take effect in accordance with the certificate. The certificate will be binding on —

- (a) the pertinent financial institution;
- (b) the shareholders;
- (c) the subscribers; and
- (d) any other person who is affected by the restructuring of the share capital.

A pertinent financial institution or subscriber that fails to comply with any provision in the certificate will be guilty of an offence.

Division 6 is made up of 11 clauses (clauses 80 to 90) and provides for powers to bail-in instruments of ownership and liabilities of a distressed financial institution.

The powers of bail-in include powers —

- (a) to cancel an instrument or liability;
- (b) to convert the instrument or liability from one form or class to another (e.g., from debt to equity);
- (c) to create a new instrument or liability in connection with modifying an existing instrument or liability; and
- (d) to treat an instrument or liability as having effect as if a right of modification or conversion of its form had been exercised.

Both the types of instruments and liabilities that may be bailed in, and the financial institutions (the Division 6 financial institutions) whose ownership instruments and liabilities may be the subject of a bail-in, will be prescribed in regulations.

Clause 80 defines certain terms used in Division 6.

Clause 81 provides that in exercising a power under Division 6, the Authority must have regard to the desirability of giving pre-resolution creditors and shareholders the priority and treatment they would have enjoyed in a winding up of the Division 6 financial institution concerned. The exercise of any power under Division 6 does not affect the exercise of any other resolution power, i.e. the Authority and the Minister may exercise a power of bail-in in conjunction with other powers under the Bill or another relevant Act applicable to the pertinent financial institution concerned.

Clause 82 provides that the Authority may make a determination that instruments and liabilities relating to a Division 6 financial institution should be bailed in. The clause provides for the grounds for making the determination. It

also provides that the Authority may call for an independent assessment before making a determination. The determination is to be submitted to the Minister for approval.

Clause 83 requires the Minister, before approving a determination, to publish a notice of the Minister's intention to approve the determination and the date by which the holder of an affected instrument or liability may make representations to the Minister, unless the Minister decides that it is not practicable or desirable to publish the notice. The Minister must also give the affected Division 6 financial institution a notice of such intention and a date by which it may make representations to the Minister, unless the Minister decides that it is not practicable or desirable to do so. The Minister is to consider all representations when deciding whether to approve the determination. The Minister's approval may be given subject to conditions. The affected Division 6 financial institution must comply with every condition that applies to it and of which it is notified.

Clause 84 provides that if the Minister approves the Authority's determination, the Minister must issue a bail-in certificate. The clause also provides for the date the certificate is to come into effect, the provisions which the certificate may contain, the Minister's power to add to, vary or revoke matters in the certificate, service of the certificate on the affected Division 6 financial institution, and the publication of the certificate.

Clause 85 provides for the effects of a bail-in certificate. A bail-in certificate —

- (a) takes effect according to its tenor;
- (b) does not require any further act by the affected Division 6 financial institution, or the Division 6 financial institution required by the certificate to issue any ownership instrument (the resulting financial institution), for it to take effect; and
- (c) is binding on affected persons.

Where the bail-in certificate contains a direction to a person to do a specified act, non-compliance with that direction is an offence.

Clause 86 provides for a stay on certain actions in the period starting on the date of the publication of the notice of the Minister's intention to approve a bail-in or (where the notice is not published) of the bail-in certificate, and ending on the date the certificate takes effect. These actions include —

- (a) the passing of resolutions for the winding up of, and the making of a winding up order against, the affected Division 6 financial institution; and
- (b) the commencement and continuation of proceedings against it.

Further, starting from the date of the publication of the notice of the Minister's intention to approve a bail-in or (where the notice is not published) of the bail-in

certificate, no shareholder may exercise any voting power in the Division 6 financial institution. Voting power may only be exercised from the date the Minister publishes a notice that the stay on such exercise ceases.

Clause 87 contains provisions that apply to a person —

- (a) who becomes a significant shareholder of the affected Division 6 financial institution as a result of the bail-in certificate; or
- (b) who becomes a significant shareholder of the resulting financial institution.

The person is treated as having obtained the requisite approval under any law that requires a significant shareholder to seek approval from the Minister or the Authority to become a significant shareholder. The person is also not required to make a take-over offer to other shareholders. However, the person must comply with any condition reasonably imposed by the Minister, including any restriction —

- (a) on the disposal or further acquisition of shares or voting power; and
- (b) on the exercise of voting power.

Lastly, the person must take steps to cease to be a significant shareholder if required by a notice of the Minister to do so. The Minister may require the person to take such steps if, among other grounds, the Authority is not satisfied that the person is a fit and proper person to be a significant shareholder of the financial institution concerned, and that, having regard to the person's likely influence, the financial institution will or will continue to conduct its business prudently or comply with the relevant written laws. Until the person has disposed of or transferred the shares specified in the notice —

- (a) no voting rights may be exercised in respect of the shares except with the permission of the Minister;
- (b) no rights, bonuses or dividends may be issued, offered or paid in respect of the shares except with the permission of the Minister; and
- (c) except in a liquidation of the Division 6 financial institution or resulting financial institution, the Division 6 financial institution or resulting financial institution may not make any payment in respect of the shares except with the permission of the Minister.

Clause 88 enables the Minister to direct a person who has failed to comply with a condition imposed by the Minister under clause 87(2) or (3), or a notice under clause 87(5) to take steps to cease to be a significant shareholder. The direction may be one —

- (a) requiring the transfer or disposal of shares in the affected Division 6 financial institution or resulting financial institution; or



(b) restricting such transfer or disposal.

Clause 89 criminalises the non-compliance by a person with a condition imposed by the Minister under clause 87(2) or (3), or with a notice under clause 87(5) or 88(1).

Clause 90 enables the Minister to make regulations under clause 135 to require a contract governing an instrument or liability, which falls within a prescribed class of instruments or liabilities, to contain a provision to the effect that the parties agree that the instrument or liability may be bailed in under Division 6.

Division 7 is made up of 4 clauses (clauses 91 to 94) and provides for the suspension of certain contractual rights in the event of a resolution of a financial institution. These rights include —

- (a) the right to terminate the contract;
- (b) the right to accelerate, close out, set off or net an obligation under the contract that would result in a suspension or modification or the extinguishment of the obligation;
- (c) the right to suspend, modify or extinguish an obligation under the contract; and
- (d) (in the case of a reinsurance contract) the reinsurer's right to terminate or not reinstate coverage.

Clause 91 defines certain terms used in Division 7.

Clause 92 provides that a resolution measure and the occurrence of any event directly linked to the resolution measure, are to be disregarded in determining the applicability of a provision in a contract enabling a party to exercise a termination right. The clause applies to a contract —

- (a) where one of the parties to the contract is a pertinent financial institution that is the subject of a resolution measure, or an entity within the same group of companies as that pertinent financial institution and whose obligations under the contract are guaranteed or otherwise supported by that pertinent financial institution; and
- (b) whose substantive obligations continue to be performed.

Clause 93 gives the Authority a power to temporarily stay the exercise of a termination right under a contract if one of the parties to the contract is —

- (a) a pertinent financial institution that is the subject or proposed subject of a resolution measure;
- (b) a pertinent financial institution that is the subject of a foreign resolution, or for which there are grounds for carrying out such foreign resolution; or

- (c) an entity within the same group of companies as a pertinent financial institution that is the subject or proposed subject of a resolution measure, and whose obligations under the contract are guaranteed or otherwise supported by that pertinent financial institution, where the contract has a termination right that may be exercised if the pertinent financial institution becomes insolvent or is in a certain financial condition.

Any suspension of the exercise of a termination right by the Authority does not extend to a termination right —

- (a) that is exercisable for a breach of a basic substantive obligation;
- (b) under a contract with a person specified in regulations; or
- (c) under a contract prescribed in regulations.

Clause 94 provides that a suspension of a termination right under clause 93 —

- (a) takes effect from (and including) the time the notice of it is published in the *Gazette* or a time on another date specified in the notice; and
- (b) expires (if the contract is not a reinsurance contract) at the same time on the second business day after the date it commences or (if the contract is a reinsurance contract) at the prescribed time and date.

During the period of suspension of a termination right, any purported exercise of the termination right has no effect. During the suspension period, a person may nevertheless exercise a termination right if the Authority gives written notice to the person that the person may exercise that right because —

- (a) the contract does not or will not form part of any business that will be compulsorily transferred under clause 67; or
- (b) the Authority has decided not to make a determination under Division 6 (bail-in powers) in relation to the pertinent financial institution in question.

However, the person may still not exercise a termination right after the expiry of the suspension period on the basis of —

- (a) a resolution measure or an event directly linked to the resolution measure;
- (b) (if the contract forms part of a business compulsorily transferred to another person pursuant to a certificate of transfer or an onward transfer certificate) any act of the pertinent financial institution before the transfer; or
- (c) the suspension itself.

Division 8 is made up of 7 clauses (clauses 95 to 101) and deals with the assistance that may be rendered by the Authority to foreign resolution authorities that are responsible for the resolution, or for preparing plans for dealing with the resolution, of a financial institution, and to domestic authorities.

Clause 95 defines certain terms used in Division 8.

Clause 96 sets out the conditions that must be fulfilled before the Authority may provide assistance under Division 8 at the request of a foreign resolution authority. For example —

- (a) the assistance must be intended for one of several specified purposes;
- (b) the requesting authority must undertake —
  - (i) not to disclose any acquired material to any person (other than a designated third party);
  - (ii) to obtain the prior consent of the Authority before disclosing any acquired material to a designated third party; and
  - (iii) to make such disclosure only in accordance with conditions imposed by the Authority; and
- (c) the matter to which the request relates is of sufficient gravity.

Clause 97 provides that in considering whether to grant the request, the Authority may also have regard to —

- (a) whether the foreign resolution authority is preparing plans, or is in the process of determining whether to exercise powers, for dealing with the resolution of any financial institution;
- (b) whether the requesting authority has given or is willing to give an undertaking to extend similar assistance to the Authority; and
- (c) whether the foreign resolution authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the requested assistance.

Clause 98 sets out the types of assistance that may be rendered to a foreign resolution authority. These include the transmission of material in the Authority's possession to the requesting authority, and the ordering of a person to provide material or an oral statement to the Authority for onward transmission to the requesting authority.

Clause 99 enables the Authority, on its own motion or upon receiving a request, to transmit to a domestic authority any material in relation to the resolution of a specified financial institution, despite any obligation as to secrecy or other restriction upon the disclosure of information.

Clause 100 makes it an offence for a person to do certain acts, namely —

- (a) refusing or failing to comply with an order made under clause 98(1)(b) or (c);
- (b) providing to the Authority any material or copy of material that the person knows to be false or misleading in a material particular;
- (c) making to the Authority a statement that is false or misleading in a material particular; or
- (d) refusing or failing (without reasonable excuse) to comply with clause 98(4).

Clause 101 provides certain immunities to a person that complies with an order made under clause 98(1)(b) or (c).

Division 9 is made up of 5 clauses (clauses 102 to 106) and provides for the recognition and support of resolution actions taken by a foreign resolution authority on a financial institution operating in Singapore whether through a branch or a subsidiary (a foreign financial institution).

Clause 102 defines certain terms used in Division 9.

Clause 103 provides that where a foreign resolution authority makes a request to the Authority for recognition of a foreign resolution action taken on a foreign financial institution, the Authority must make a determination whether to recognise it in whole or part or to refuse to recognise it. The Authority must submit its determination to the Minister who may approve the determination with or without modification, or refuse to approve it.

Clause 104 provides that where the Minister approves a determination for recognition of a foreign resolution action, the Minister must make an order declaring that the action is recognised. The order may make provision for the same matters as those for which provision may be made in —

- (a) a certificate of transfer of business;
- (b) a certificate of transfer of shares;
- (c) a certificate of restructuring of share capital; or
- (d) a bail-in certificate.

Those matters may be modified in order to give effect to the foreign resolution action. The provisions of the Bill that apply to those certificates also apply in relation to the corresponding provisions made in the order.

Clause 105 allows the Authority to issue directions to persons regulated by the Authority in order to give effect to an order made under clause 104.

Clause 106 criminalises non-compliance with an order under clause 104 or a direction under clause 105.

Division 10 is made up of 14 clauses (clauses 107 to 120) and provides for the establishment of resolution funds to finance resolution measures under Part 8 and to pay compensation under Division 11 for losses connected with those measures.

Clause 107 defines certain terms used in Division 10.

Clause 108 enables the Minister (on the Authority's recommendation) to establish a resolution fund for the purpose of supporting a resolution measure undertaken under Part 8. The Minister must appoint an entity to be the trustee of the resolution fund. The trustee of a resolution fund may obtain a loan from the Authority to constitute the fund. The following sums must be paid into the resolution fund:

- (a) all income from moneys withdrawn from the resolution fund;
- (b) all proceeds from the resolution measure;
- (c) all levies collected from levy payers and moneys recovered from the financial institution under resolution;
- (d) any moneys paid out of the Deposit Insurance Fund under section 29A of the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 to the trustee;
- (e) any additional loan from the Authority.

Clause 109 sets out the duties of the trustee of a resolution fund. Essentially, the trustee administers and manages the resolution fund. The trustee's duties include —

- (a) making withdrawals from the fund in accordance with Division 10;
- (b) collecting and recovering payments from the financial institution under resolution and levies from the industry; and
- (c) distributing the balance in the fund after completion of the resolution.

The trustee as well as the trustee's directors, officers, employees and agents and persons acting on the trustee's direction are immune from suit for anything done in good faith pursuant to Division 10.

Clause 110 provides for the withdrawals which must be made from the resolution fund. A withdrawal may be made for various purposes to support the resolution measure as well as to pay compensation under Division 11. A withdrawal may only be made by the trustee if directed by the Minister on the recommendation of the Authority. The Authority may only recommend that the Minister direct the trustee to make a withdrawal from the fund to provide capital to the financial institution under resolution if —

- (a) firstly, the Authority is of the view that such provision of capital is necessary for the orderly resolution of the financial institution; and

- (b) secondly, after the Authority has taken into account whether appropriate losses have been imposed on shareholders and unsecured creditors of the financial institution.

Clause 111 provides that the Minister may (on a recommendation of the Authority) direct the trustee of a resolution fund to recover moneys withdrawn from the fund —

- (a) from the financial institution under resolution;
- (b) from the industry in the form of levies; or
- (c) from both.

The persons on whom a levy may be imposed will be prescribed in regulations. The following levy payers may be prescribed:

- (a) a financial institution that belongs to the same category as the financial institution under resolution, as defined in the regulations (a similar financial institution);
- (b) if the financial institution under resolution is a market infrastructure, the participants of the market infrastructure as well as participants of other market infrastructures;
- (c) if the financial institution under resolution is a payment system operator, the participants of the payment system operated by the payment system operator.

Clause 112 provides for the manner of recovery of moneys withdrawn from a resolution fund from the financial institution under resolution. The clause also provides that any sum claimed by the trustee of the fund from the financial institution is a debt due from the financial institution to the trustee and any sum recovered must be paid into the resolution fund.

Clause 113 provides that after the Minister has directed that moneys withdrawn from a resolution fund be recovered by way of imposition of levies, the Authority must proceed to compute the amount of levy due from each levy payer, in accordance with regulations. The clause also sets out the notices that must be given to levy payers. Where the levy payers are participants of market infrastructures, the levy may be collected directly from the participants, or indirectly through the market infrastructures, for example, by deducting from transaction fees due from participants to the market infrastructures.

Clause 114 provides for the manner of payment of the levy by similar financial institutions, participants of a market infrastructure (in the case where the levy is to be collected directly from them) and participants of a payment system operated by a payment system operator. The clause also provides that if the levy is not paid by the due date, the trustee may impose a late payment fee. The late payment fee must not exceed the amount of the unpaid levy.

Clause 115 provides for the manner of payment of the levy by participants of a market infrastructure, in the case where the market infrastructure is required to collect the levy from the participants. The clause sets out the duties of the market infrastructure to collect the levy from the participants and pay the total amount of the levies due from the participants to the trustee. The market infrastructure does not incur any civil liability for carrying out those duties in good faith and with reasonable care. If the market infrastructure fails to pay to the trustee the total amount of the levies due from its participants by the date of payment specified in the notice, the trustee may impose a late payment fee on the market infrastructure. The late payment fee must not exceed the amount of the unpaid levy.

Clause 116 provides that levies and late payment fees that are imposed under Division 10 are recoverable as a debt due to the trustee. All levies and late payment fees collected or recovered are to be paid into the resolution fund concerned. The clause also provides that where the trustee has commenced proceedings for recovering any levy or late payment fee, the trustee is entitled to claim costs on a full indemnity basis. Lastly, the clause provides for the refund and remission of levies.

Clause 117 provides for the confidentiality of notices for payment of a levy given to a levy payer that is a similar financial institution, a participant of a market infrastructure (in the case where the levy is to be collected directly from participants) or a participant of a payment system operated by a payment system operator.

Clause 118 provides that the Minister may, from time to time, direct the trustee of a resolution fund to make a withdrawal from the fund —

- (a) to repay the loan from the Authority; and
- (b) to reimburse the deposit insurance and policy owners' protection fund agency for moneys withdrawn from the Deposit Insurance Fund under section 29A of the Deposit Insurance and Policy Owners' Protection Schemes Act 2011.

Any amount that is left in a resolution fund after completion of the resolution is to be dealt with in accordance with regulations, and the fund is to be dissolved thereafter in accordance with the regulations.

Clause 119 provides that (subject to certain exceptions) any sum claimed by the trustee of a resolution fund (including any levy or late payment fee) from a financial institution has priority over unsecured liabilities of the financial institution in the event of its winding up.

Clause 120 provides for matters which may be prescribed in regulations under clause 135 for the purposes of Division 10.

Division 11 is made up of 9 clauses (clauses 121 to 129) and sets out a compensation scheme for pre-resolution shareholders and creditors of a financial

institution under resolution who are worse off as a result of a resolution. The compensation scheme only applies to such shareholders and creditors of a pertinent financial institution of a type prescribed in regulations for this purpose (a Division 11 financial institution).

Clause 121 defines terms used in Division 11. In particular, the clause defines the term “resolution date” for a Division 11 financial institution. The resolution date is used to determine who a pre-resolution shareholder, or a pre-resolution creditor, of the Division 11 financial institution is. It is also used to determine whether such a shareholder or creditor is worse off as a result of the resolution of the Division 11 financial institution.

It should be noted that the resolution date of a Division 11 financial institution is the date of publication of the applicable certificate or order for any of 5 types of resolution actions taken against the financial institution, namely —

- (a) the compulsory transfer of business;
- (b) the compulsory transfer of shares;
- (c) the compulsory restructuring of share capital;
- (d) a bail-in of instruments or liabilities; and
- (e) a recognition of a foreign resolution action that corresponds to any of those 4 actions.

However, when determining if a pre-resolution shareholder or creditor is worse off as a result of a resolution, other resolution actions taken against the Division 11 financial institution, such as a reverse transfer or onward transfer of business are to be taken into account.

Clause 122 defines the term “worse off as a result of the resolution”. A pre-resolution shareholder or creditor of a financial institution is worse off as a result of a resolution if, by reason of —

- (a) one or more of the 5 types of resolution actions as defined in clause 121;
- (b) a reverse transfer of business; or
- (c) an onward transfer of business,

the shareholder or creditor has received, is receiving or is likely to receive less favourable treatment than what the shareholder or creditor would have received if winding up proceedings were commenced against the Division 11 financial institution immediately before the resolution date.

The clause also provides for 5 cases where a pre-resolution creditor or pre-resolution shareholder is presumed not to be worse off as a result of a resolution.



Clause 123 provides that a pre-resolution creditor, or pre-resolution shareholder, of a financial institution who is worse off as a result of the resolution of the financial institution is eligible for compensation under Division 11. The amount of compensation is the difference between —

- (a) what the person would have received had winding up proceedings been commenced against the Division 11 financial institution immediately before the resolution date; and
- (b) what the person has received, is receiving or is likely to receive as a result of the resolution.

The amount of compensation is to be paid out of the relevant resolution fund established under Division 10 by the trustee of the fund on the direction of the Minister (on the recommendation of the Authority).

Clause 124 provides for the appointment of a valuer for a Division 11 financial institution after its resolution date. The valuer's role is to —

- (a) make a valuation of the Division 11 financial institution; and
- (b) decide whether any pre-resolution creditor or shareholder is eligible for compensation along with the amount of compensation to be paid to an eligible pre-resolution creditor or shareholder.

Clause 125 provides for the manner for carrying out a valuation and computing compensation amounts. The clause requires the valuer to issue a report after completing the valuation, and provide it to the Minister and the Authority. The Authority may in certain circumstances request the valuer to reconsider the valuation report. The Authority may cause the valuation report to be published.

Clause 126 gives the valuer a right to access information that the valuer reasonably requires for conducting the valuation. The duty of a person to provide such information to the valuer overrides any duty of confidentiality that the person is subject to. The person incurs no liability in doing any act or omitting to do any act for the purpose of complying with the clause, if the act is done or omitted to be done with reasonable care and in good faith.

Clause 127 imposes a duty of confidentiality on the valuer and any person assisting another person to perform a function under Division 11, in relation to the valuation report and any information obtained when carrying out functions under Division 11.

Clause 128 provides that the valuation report may, with the Authority's approval, be disclosed to the Division 11 financial institution under resolution, a pre-resolution creditor or shareholder, or the public.

Clause 129 gives the Authority a right to appeal to the Court against a valuation report if it is dissatisfied with the valuer's decision on any person's eligibility for compensation, or any amount of compensation to be paid to any person. It also

gives a person dissatisfied with the valuer's decision on the person's eligibility for compensation, or the amount of the compensation, a right to appeal to the Court.

Division 12 is made up of 6 clauses (clauses 130 to 135) and contains miscellaneous provisions applicable to Part 8.

Clause 130 empowers the Authority to give directions or impose requirements on or relating to the operations or activities of a significant associated entity of a specified financial institution, by written notice to the significant associated entity, if the Authority thinks it necessary or expedient —

- (a) in the public interest;
- (b) in the interests of any affected person or class of affected persons of the specified financial institution; or
- (c) in the interests of the financial system in Singapore.

Clause 131 generally precludes the reversal, repayment, setting aside, rectification or stay of any sale, transfer, assignment or other disposition of any property or business of a pertinent financial institution pursuant to clause 67 or 73, despite anything to the contrary in the Bill, the Companies Act 1967 and the Insolvency, Restructuring and Dissolution Act 2018.

Clause 132 empowers the Minister and the Authority to require a person to provide any information or document that the Minister or the Authority may reasonably require for —

- (a) the discharge of the Minister's or the Authority's duties or functions under Part 8;
- (b) the exercise of the Minister's or the Authority's powers under Part 8; or
- (c) transmission to a valuer appointed under clause 124.

Clause 133 provides an officer of a specified financial institution, or of a significant associated entity referred to in clause 130, with immunity from civil or criminal liability for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in complying —

- (a) with any provision of Part 8; or
- (b) any direction given, notice issued or requirement imposed by the Minister or the Authority under Part 8.

Clause 134 empowers the Minister to direct, by order in the *Gazette*, that certain provisions in Part 8 will cease to apply to —

- (a) a pertinent financial institution;
- (b) any business (or part of the business) of or share in a pertinent financial institution; or

- (c) any eligible instrument issued by a Division 6 financial institution or to which it is a party or is subject.

Clause 135 empowers the Minister to make regulations for the purposes of Part 8.

## PART 9

### DIGITAL TOKEN SERVICE PROVIDERS

Part 9 (comprising clauses 136 to 167) provides for the oversight, licensing and regulation of certain digital token service providers.

Division 1 is made up of clause 136, which defines certain terms used in Part 9. The clause also explains —

- (a) when a person has an interest in a share;
- (b) what constitutes control of a percentage of the votes in a corporation;
- (c) when a person is an associate of another person; and
- (d) (for the purposes of clause 137(2) and (4)) when the provision of a digital token service is incidental to any other business carried on by a person.

Division 2 is made up of 25 clauses (clauses 137 to 161) and deals with the licensing and regulation of digital token service providers.

Subdivision (1) (clauses 137 to 142) sets out the procedure and requirements for licensing of digital token service providers.

Clause 137 prohibits (with certain exceptions) —

- (a) under sub-clause (1), an individual or a partnership from carrying on, from a place of business in Singapore, a business of providing any type of digital token service outside Singapore unless the individual or the partnership has in force a licence. (Under this sub-clause, an individual or a partnership who carries on, from a place of business in Singapore, a business of providing any type of digital token service outside Singapore must have in force a licence even though the digital token service is provided outside Singapore, for example, by the individual or partnership or the individual's or partnership's agents); and
- (b) under sub-clause (3), a Singapore corporation (a body corporate formed or incorporated in Singapore, including a limited liability partnership) from carrying on, whether from Singapore or elsewhere, a business of providing any type of digital token service outside Singapore unless the Singapore corporation has in force a licence.

The clause also provides that —

- (a) for the purposes of sub-clause (1), a person who provides any type of digital token service while the person carries on any business (the primary business) from a place of business in Singapore is presumed to carry on a secondary business of providing that type of digital token service from a place of business in Singapore, regardless whether the provision of that type of digital token service is related or incidental to the primary business; and
- (b) for the purposes of sub-clause (3), a person who provides any type of digital token service while the person carries on any business (the primary business) is presumed to carry on a secondary business of providing that type of digital token service regardless whether the provision of that type of digital token service is related or incidental to the primary business.

The presumptions are not rebutted merely by proof that the provision of the type of digital token service is related or incidental, or is both related and incidental, to the primary business.

Clause 138 provides for matters related to an application for, and the grant of, a licence.

Clause 139 prohibits —

- (a) a person from holding himself, herself or itself out as a licensee, unless the person has in force a licence;
- (b) (with certain exceptions) an individual or a partnership from holding the individual or the partnership (as the case may be) out as carrying on from a place in Singapore a business of providing any type of digital token service outside of Singapore, unless the individual or partnership is a licensee or exempt from clause 137(1) under clause 189; and
- (c) (with certain exceptions) a Singapore corporation (a body corporate formed or incorporated in Singapore, including a limited liability partnership) from holding itself out as carrying on a business of providing digital token service outside of Singapore, unless it is a licensee or exempt from clause 137(3) under clause 189.

Clause 140 requires a licensee to pay a prescribed annual fee to the Authority. The clause also empowers the Authority to waive, refund or remit the whole or any part of any annual fee where the Authority considers it to be appropriate in a particular case.

Clause 141 provides for the surrender of a licence, and sets out the circumstances in which a licence lapses or may be revoked by the Authority. The Authority may suspend a licence instead of revoking it, and may extend or

cancel the suspension. The clause also sets out the obligations of a licensee on the lapsing, revocation or suspension of a licence.

Clause 142 enables a person aggrieved by the Authority's refusal to grant a licence to the person, or the revocation or suspension of the person's licence, to appeal to the Minister.

Subdivision (2) (clauses 143 to 147) sets out the requirements for a licensee's conduct of business.

Clause 143 requires a licensee to have a permanent place of business in Singapore.

Clause 144 requires a licensee to notify the Authority of the occurrence of certain events, such as —

- (a) any civil or criminal proceedings instituted against the licensee (whether in Singapore or elsewhere); and
- (b) any event (including an irregularity in the operations of the licensee) that materially impedes or impairs the operations of the licensee.

Clause 145 empowers the Authority to require a licensee to provide to the Authority information relating to the licensee's business of providing any digital token service.

Clause 146 empowers the Authority to require a licensee to submit periodic reports or returns relating to the licensee's business to the Authority.

Clause 147 prohibits a licensee from carrying on a business of granting any credit facility to any individual in Singapore.

Subdivision (3) (clauses 148 to 154) deals with the Authority's control of controllers of licensees.

Clause 148 specifies the persons to whom Subdivision (3) applies.

Clause 149 requires a person to apply for and obtain the Authority's approval to become a 20% controller of a licensee.

Clause 150 enables the Authority to serve a written notice of objection on a person that is, or is required to obtain or has obtained the Authority's approval to become, a 20% controller of a licensee. The notice of objection may require the person —

- (a) to cease to be a 20% controller of a licensee; or
- (b) to comply with a direction under clause 151 (relating to the transfer or disposal of shares in the licensee).

A person served with a notice of objection must comply with the notice within the time specified by the Authority in the notice.

Clause 151 empowers the Authority, in a case where the Authority is satisfied that a person has contravened certain provisions of, or has failed to comply with any condition under, clause 149, or where the Authority has served a written notice of objection under clause 150, to do any of the following by written notice:

- (a) direct the transfer or disposal of all or any of the person's shares in the licensee;
- (b) restrict the transfer or disposal of all or any of those shares;
- (c) make such other direction as the Authority considers appropriate.

Clause 152 empowers the Authority to direct a licensee, by written notice, to provide to the Authority any information relating to any of the licensee's shareholders that the Authority may require for certain regulatory purposes. The clause also empowers the Authority to direct a shareholder of the licensee, or a person that appears to have an interest in any share in the licensee, to provide to the Authority certain information relating to that shareholder or person.

Clause 153 sets out certain offences, penalties and defences applicable to Subdivision (3).

Clause 154 enables certain persons aggrieved by certain decisions of the Authority under Subdivision (3) to appeal to the Minister.

Subdivision (4) (clauses 155, 156 and 157) deals with the Authority's control of officers of licensees.

Clause 155 requires a licensee to apply for and obtain the Authority's approval before an individual —

- (a) may be appointed as a chief executive officer, a director or a manager of the licensee; or
- (b) may become a partner of the licensee.

Clause 156 empowers the Authority to direct a licensee to remove a chief executive officer, a director, a manager or a partner of the licensee on certain grounds.

Clause 157 enables certain persons aggrieved by certain decisions of the Authority under Subdivision (4) to appeal to the Minister.

Subdivision (5) (clauses 158 to 161) deals with the auditing of licensees.

Clause 158 requires a licensee to appoint an auditor on an annual basis, and provides for matters concerning the duties and remuneration of an auditor of a licensee. The clause also empowers the Authority —

- (a) to appoint an auditor for a licensee in certain circumstances;
- (b) to impose additional duties on an auditor of a licensee; and

- (c) to require a licensee to replace an auditor of the licensee, if the Authority is not satisfied with the auditor's performance of any duty.

Clause 159 sets out the powers that an auditor, who is appointed by the Authority, may exercise for the purpose of carrying out an examination or audit.

Clause 160 prohibits an auditor of a licensee, and an employee of the auditor, from disclosing information that comes to the auditor's or employee's knowledge in the course of performing the auditor's or employee's duties, except in certain cases.

Clause 161 criminalises certain acts done with the intention to prevent, delay or obstruct the carrying out of an examination or audit.

Division 3 is made up of 2 clauses (clauses 162 and 163) and provides for matters relating to offences under Part 9.

Clause 162 makes it an offence for any officer, auditor, employee or agent of a licensee to —

- (a) wilfully falsify any book or other document of the licensee;
- (b) wilfully omit to make an entry in any book or other document of the licensee; or
- (c) wilfully alter, extract, conceal or destroy an entry in any book or other document of the licensee.

Clause 163 prescribes the penalties for offences under Part 9 where no penalty is expressly provided.

Division 4 is made up of 4 clauses (clauses 164 to 167) and deals with miscellaneous matters for Part 9.

Clause 164 empowers the court, on the application of the Authority, to make certain orders against a person that has committed or is about to commit an offence under Part 9. A person that, without reasonable excuse, contravenes an order made by the court may be punished either under this provision or for contempt of court. The provision further makes it clear that if a person is punished under this provision, the person cannot be punished again for contempt of court and vice versa. This is to ensure that a person is not punished twice for the same contravention.

Clause 165 empowers the Authority to issue codes, guidelines, policy statements, practice notes and no-action letters as it considers necessary for providing guidance on certain matters. These instruments are not subsidiary legislation.

Clause 166 empowers the Authority to impose requirements on the following persons, with respect to certain matters and in certain circumstances, by written notice:

- (a) any licensee or class of licensees;
- (b) any person, or class of persons, exempt under clause 189;
- (c) any person that contravenes, has contravened, or is likely to contravene, any provision of Part 9.

Clause 167 empowers the Authority to make regulations for certain matters related to Part 9.

## PART 10

### INSPECTION POWERS OF AUTHORITY

Part 10 (comprising clauses 168 to 173) confers certain additional powers of inspection on the Authority.

Clause 168 defines certain terms used in Part 10.

Clause 169 empowers the Authority to conduct an inspection of the books of —

- (a) a financial institution and of the subsidiaries, branches, agencies and offices outside Singapore of a financial institution incorporated or established in Singapore, to determine if the financial institution has complied with certain directions and regulations issued or made under the Bill;
- (b) a licensee; and
- (c) a person exempt under clause 189.

If the inspection is carried out because the Authority has reason to believe that a relevant person has contravened or is contravening certain directions or regulations issued or mentioned in clause 15, 16 or 29, or certain provisions of Part 9 of the Bill, the Authority may direct that the relevant person be liable to pay for the remuneration and expenses of the person carrying out the inspection.

Under clause 170, a failure by a relevant person to produce its books or to provide information or facilities for the inspection, or to procure another person to do the same, is a criminal offence. The obligation by the relevant person to produce the books or provide the information or facilities for the inspection overrides any duty of confidentiality of the relevant person or its officers.

Clause 171 provides for the confidentiality of any resulting inspection report in the hands of the relevant person or any officer or auditor of the relevant person. The report may be disclosed —

- (a) by the relevant person to any of the officers or auditors of that relevant person solely in connection with the officer's or auditor's duties;
- (b) by any officers or auditors of that relevant person to any other officers or auditors of that relevant person, solely in connection with the duties



of both the officer or auditor disclosing the report, and the officer or auditor to whom it is disclosed; or

(c) to any other person approved in writing by the Authority.

Clause 172 enables the Authority or any person authorised by the Authority to transmit any information obtained from an inspection under clause 169(1) to a corresponding authority (as defined in clause 17(1)) exercising consolidated supervision authority over the relevant person under inspection.

Clause 173 provides that a person is not excused from disclosing information to the Authority under Part 10 on the ground that the disclosure of the information might tend to incriminate the person. However, if the person claims (before making a statement disclosing the information) that the statement might tend to incriminate the person, that statement is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under clause 176(4).

## PART 11

### OFFENCES

Part 11 (comprising clauses 174 to 177) provides for matters relating to offences under the Bill.

Clause 174 provides for the circumstances under which certain persons of a corporation assume liability for an offence that the corporation commits under the Bill. The clause also states what constitutes evidence that a corporation had a particular state of mind, where it is necessary to prove the state of mind of the corporation in a proceeding for an offence under the Bill. The clause also empowers the Authority to make rules to provide for the application of this clause, with such modifications as the Authority considers appropriate, to any corporation formed or recognised under the law of a territory outside Singapore.

Clause 175 provides for the circumstances under which certain persons of an unincorporated association or a partnership assume liability for an offence that the unincorporated association or partnership commits under the Bill. The clause also states what constitutes evidence that an unincorporated association or a partnership had a particular state of mind, where it is necessary to prove the state of mind of the unincorporated association or partnership in a proceeding for an offence under the Bill. The clause also empowers the Authority to make rules to provide for the application of this clause, with such modifications as the Authority considers appropriate, to any unincorporated association or partnership formed or recognised under the law of a territory outside Singapore.

Clause 176 requires a person who provides the Authority with any information under the Bill, or in circumstances in which the person intends or could reasonably be expected to know that the information would be used by the Authority for the

purposes of discharging the Authority's functions under the Bill, to use reasonable care to ensure that the information or document is not false or misleading in any material particular.

Clause 177 empowers the Authority to compound any offence under the Bill, that is or was prescribed as a compoundable offence.

## PART 12

### MISCELLANEOUS

Part 12 (comprising clauses 178 to 192) deals with miscellaneous matters.

Clause 178 empowers the Authority, in the exercise of its powers and the performance of its functions under the Bill, to —

- (a) establish agencies outside Singapore;
- (b) arrange with and authorise persons to act as agents of the Authority outside Singapore;
- (c) act as agent of a bank carrying on business inside or outside Singapore; and
- (d) act as agent of any public authority or company in which the Government or a public authority has a substantial interest, or of any company that is related to that company.

Clause 179 empowers the Authority to appoint any person to exercise any of the Authority's powers, or perform any of the Authority's functions or duties, under the Bill, subject to certain restrictions.

Clause 180 provides for the consent of the Public Prosecutor to be obtained for the prosecution of any offence under the Bill.

Clause 181 empowers a District Court or a Magistrate's Court to try any offence under the Bill, and to impose the full punishment in respect of such offence, despite the Criminal Procedure Code 2010.

Clause 182 empowers the Authority to prescribe the manner in which a person is to be given an opportunity to be heard, where the Bill provides for such opportunity.

Clause 183 enables the Authority to recover certain fees, and other sums, payable by a financial institution as a civil debt due to the Authority.

Clause 184 empowers the Authority to prepare and publish certain statements.

Clause 185 provides that the Bill does not require the disclosure of information that the Minister or any public servant (including a member of an Appeal Advisory Committee deemed as such under clause 14(6)(a)) considers to be against the public interest to disclose.

Clause 186 makes provision for the service of documents under the Bill.

Clause 187 provides for the electronic service of documents under the Bill.

Clause 188 empowers the Authority to issue or adopt Guidelines on Fit and Proper Criteria for the purpose of determining whether a person is fit and proper under the Bill or any provision of the Bill. The Authority may, at any time, vary or revoke the Guidelines on Fit and Proper Criteria or any part of the Guidelines. The Guidelines on Fit and Proper Criteria are not subsidiary legislation.

Clause 189 empowers the Authority, on its own initiative, to exempt (subject to conditions), by regulations —

- (a) any person or class of persons from the Bill or any provision of the Bill; and
- (b) any digital token service or class of digital token services, any shares or interests in shares, or class or description of shares or interests in shares, or any other thing or class or description of things from any provision of Part 9.

The clause also empowers the Authority to grant certain exemptions by written notice upon a person's application.

Clause 190 empowers the Minister to amend the First or Second Schedule by order in the *Gazette*, and in the order to make such incidental, consequential or supplementary provisions as the Minister may consider necessary or expedient.

Clause 191 empowers the Minister to make regulations for or in respect of any appeal to the Minister under the Bill.

Clause 192 empowers the Authority to make regulations to, among other things, prescribe matters required or permitted to be prescribed by the Bill.

## PART 13

### CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ACTS

Part 13 (comprising clauses 193 to 214) contains consequential and related amendments to other Acts, arising from the consolidation in the Bill of certain regulatory powers under certain Acts that regulate financial services and markets, or financial institutions and their related entities.

Clause 193 makes related amendments to the Banking Act 1970.

Clause 194 makes related amendments to the Companies Act 1967.

Clause 195 makes related amendments to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992.

Clause 196 makes related amendments to the Credit Bureau Act 2016.

Clause 197 makes related amendments to the Criminal Procedure Code 2010.

Clause 198 makes related amendments to the Deposit Insurance and Policy Owners' Protection Schemes Act 2011.

Clause 199 makes related amendments to the Finance Companies Act 1967.

Clause 200 makes related amendments to the Financial Advisers Act 2001.

Clause 201 makes related amendments to the Financial Holding Companies Act 2013.

Clause 202 amends section 10I of the Income Tax Act 1947 primarily to deal with the consequences of the bringing into operation of the Financial Holding Companies Act 2013 as the direction issued under section 28(3) of the Monetary Authority of Singapore Act 1970 mentioned in the definition of "AT1 instrument" in that section of the Income Tax Act 1947 will be replaced with a notice in writing issued under section 36(1) of the Financial Holding Companies Act 2013. The clause amends section 10I of the Income Tax Act 1947 in the alternative, depending on whether the Financial Holding Companies Act 2013 is brought into operation before, or on or after, Part 2 of the Bill is brought into operation. This is necessary because the Bill will repeal section 28(3) of the Monetary Authority of Singapore Act 1970, so if the Financial Holding Companies Act 2013 is brought into operation after Part 2 of the Bill is brought into operation, there may be a need to issue a direction under clause 4(3) of the Bill to a financial holding company that is approved under clause 4 of the Bill. When the Financial Holding Companies Act 2013 is subsequently brought into operation, the directions issued under section 28(3) of the Monetary Authority of Singapore Act 1970 and clause 4(3) of the Bill (as the case may be) will be replaced with a notice in writing issued under section 36(1) of the Financial Holding Companies Act 2013.

Clause 203 makes related amendments to the Insolvency, Restructuring and Dissolution Act 2018.

Clause 204 makes related amendments to the Insurance Act 1966.

Clause 205 makes related amendments to the Monetary Authority of Singapore Act 1970.

Clause 206 makes related amendments to the Mutual Assistance in Criminal Matters Act 2000.

Clause 207 makes related amendments to the Payment Services Act 2019.

Clause 208 makes a related amendment to the Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act 2019.

Clause 209 makes related amendments to the Securities and Futures Act 2001.

Clause 210 makes related amendments to the Trust Companies Act 2005.

Clause 211 makes a related amendment to the United Nations Act 2001.

Clause 212 makes related amendments to the Variable Capital Companies Act 2018.

Clause 213 provides for the repeal of section 203 of the Securities and Futures (Amendment) Act 2017. The clause is required if section 203 of the Securities and Futures (Amendment) Act 2017 has not been brought into operation before the date on which clause 201(2) of the Bill is brought into operation. In such a case, the amendment to be made by section 203 of the Securities and Futures (Amendment) Act 2017 (which amends section 62(1)(e) of the Financial Holding Companies Act 2013) is redundant because clause 201(2) of the Bill will repeal and replace section 62(1)(e) of the Financial Holding Companies Act 2013.

Clause 214 provides for the definition of “digital payment token instrument” given by clause 6 of the Bill to be amended. The clause is intended to come into operation when section 2 of the Payment Services (Amendment) Act 2021, which inserts a definition for the term, comes into operation.

## PART 14

### SAVINGS AND TRANSITIONAL PROVISIONS

Part 14 (comprising clauses 215 to 222) deals with savings and transitional provisions to facilitate the consolidation in the Bill of certain regulatory powers under certain Acts.

Clause 215 contains saving and transitional provisions for the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 (as in force immediately before the date of commencement of clause 193 of the Bill), in relation to certain banks and merchant banks, for the purposes of sections 20(1)(b) and (7) and 55ZA(1)(b)(ii) and (7)(b) of the Banking Act 1970.

Clause 216 contains a saving and transitional provision for the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 (as in force immediately before the date of commencement of clause 199 of the Bill), in relation to certain finance companies, for the purposes of section 15(1)(c)(ii) of the Finance Companies Act 1967.

Clause 217 contains a saving and transitional provision for any prohibition order made under section 68(1) of the Financial Advisers Act 2001, as in force immediately before the date of commencement of clause 200(1)(b) and (2) to (7) of the Bill. The clause also includes a saving and transitional provision for a prohibition order to continue to be made under section 68(1) of that Act, as in force immediately before the date of commencement of clause 200(1)(b) and (2) to (7) of the Bill, under certain circumstances.

Clause 218 contains a saving and transitional provision for any order made under section 74(1) of the Insurance Act 1966, as in force immediately before the date of commencement of clause 204(1) to (4) of the Bill. The clause also includes a saving and transitional provision for a prohibition order to continue to be made under section 74(1) of that Act, as in force immediately before the date of commencement of clause 204(1) to (4) of the Bill, under certain circumstances.

Clause 219 contains saving and transitional provisions for the imposition of certain obligations, the exercise of certain powers by the Minister or the Authority, and the making of orders, directions and approvals of a Court, under the Monetary Authority of Singapore Act 1970, as in force immediately before the dates of commencement of clause 205(2)(a), (b), (c) or (d) (as the case may be) of the Bill.

Clause 220 contains saving and transitional provisions for the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 (as in force immediately before the date of commencement of clause 209(3) of the Bill), in relation to certain corporations, licensees and approved trustees, for the purposes of sections 14(1)(e), 46H(1)(da), 56(1)(da), 81Z(1)(da), 95(2)(ea) and 289(4A) of the Securities and Futures Act 2001. The clause also contains saving and transitional provisions for —

- (a) any prohibition order made under section 101A(1) or 123ZZC(1) of the Securities and Futures Act 2001, as in force immediately before the date of commencement of clause 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Bill; and
- (b) a prohibition order to continue to be made under sections 101A(1) and 123ZZC(1) of the Securities and Futures Act 2001, as in force immediately before the date of commencement of clause 209(1)(a), (c) and (d), (4) to (14), (17) and (18) of the Bill, under certain circumstances.

Clause 221 contains a saving and transitional provision for the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part 4B of the Monetary Authority of Singapore Act 1970 (as in force immediately before the date of commencement of clause 210 of the Bill), in relation to certain licensed trust companies, for the purposes of section 10(2)(e) of the Trust Companies Act 2005.

Clause 222 empowers the Minister to make regulations of a saving and transitional nature for a limited time.

The First Schedule sets out the services that are digital token services, and the services that are not digital token services, for the purposes of the definition of digital token service in clause 136(1). In addition, Part 3 of the First Schedule defines certain terms used in that Schedule.

The Second Schedule sets out certain persons to whom the requirement to have in force a licence to carry on a business of providing digital token services under clause 137(5) of the Bill does not apply.

## EXPENDITURE OF PUBLIC MONEY

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

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## TABLE OF DERIVATIONS

This Table of Derivations is provided for the convenience of users of the Act. It is not part of the Act.

<i>Financial Services and Markets Bill 2022</i>		<i>Derivations</i>	
<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
PRELIMINARY	PART 1		
Short title and commencement	1	—	—
Interpretation	2	—	—
GENERAL POWERS OVER FINANCIAL INSTITUTIONS	PART 2		
Power to issue directions to financial institutions	3	27	—
Power to approve financial institutions and control their operations	4	28	—
Fees	5	29	—
PROHIBITION ORDER	PART 3		
<i>General provisions on prohibition order</i>	<i>Division 1</i>		
Interpretation of this Part	6	—	—
Power of Authority to make prohibition orders	7	—	Section 68 of FAA Section 74 of IA Sections 101A and 123ZZC of SFA



<i>Financial Services and Markets Bill 2022</i>		<i>Derivations</i>	
<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
Effect of prohibition orders	8	—	Section 69 of FAA Sections 101B and 123ZZD of SFA
Variation or revocation of prohibition orders	9	—	Section 70 of FAA Sections 101C and 123ZZE of SFA
Date and effect of prohibition orders	10	—	Section 71 of FAA Sections 101D and 123ZZF of SFA
Power of Authority to publish information	11	—	Section 77 of FAA Section 322 of SFA
Records of prohibition orders	12	—	Section 72(2) of FAA Sections 101A(7) and 123ZZC(6) of SFA
<i>Appeals on prohibition orders and miscellaneous</i>	<i>Division 2</i>		
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<i>Financial Services and Markets Bill 2022</i>		<i>Derivations</i>	
<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
POWERS REGARDING INTERNATIONAL OBLIGATIONS AND PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING, AND ASSISTANCE TO FOREIGN AUTHORITIES AND DOMESTIC AUTHORITIES CONCERNING MONEY LAUNDERING, TERRORISM FINANCING AND OTHER OFFENCES	PART 4		
<i>Power to issue directions or make regulations</i>	<i>Division 1</i>		
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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Action by Authority if relevant financial institution unable to meet obligations, etc.	41	33	—
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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<i>Recognition of foreign resolutions</i>	<i>Division 9</i>		
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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<i>Section Heading</i>	<i>Clause</i>	<i>Monetary Authority of Singapore Act 1970 (Section)</i>	<i>Others</i>
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#### Abbreviations

CBA	Credit Bureau Act 2016
FAA	Financial Advisers Act 2001
IA	Insurance Act 1966
PSA	Payment Services Act 2019
SFA	Securities and Futures Act 2001
MAS (DRS) Regulations 2007	Monetary Authority of Singapore (Dispute Resolution Schemes) Regulations 2007 (S 436/2007)