

Deposit Insurance and Policy Owners’ Protection Schemes Bill

Bill No. 10/2011.

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DEPOSIT INSURANCE AND POLICY OWNERS’ PROTECTION SCHEMES ACT 2011

(No. of 2011)

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A BILL

i n t i t u l e d

An Act to reconstitute the Deposit Insurance Scheme for the purpose of providing limited compensation to insured depositors under certain circumstances, to establish a Policy Owners' Protection Scheme for the purpose of compensating (in part or whole) or otherwise assisting or protecting insured policy owners and beneficiaries under certain circumstances, to repeal the Deposit Insurance Act (Chapter 77A of the 2006 Revised Edition), to make consequential amendments to certain other written laws, and for matters connected therewith.

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

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

“accident and health policy” has the same meaning as in the First Schedule to the Insurance Act (Cap. 142);

“account with the electronic service”, in relation to any person, means a computer account within the electronic service which is assigned by the Authority to that person for the storage and retrieval of electronic records relating to that person;

“Agency” means the company designated by the Minister under section 56 to be the deposit insurance and policy owners' protection fund agency;

“appointed day” means the date of commencement of this Act;

“authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;

“Authority” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

“bank” has the same meaning as in section 2(1) of the Banking Act (Cap. 19);

“beneficiary”, in relation to an insured policy covered under the PPF General Fund which provides third party benefits, means any person entitled to claim the third party benefits under the terms of that insured policy;

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

5 “captive insurer” has the same meaning as in section 1A of the Insurance Act (Cap. 142);

“Chief Executive” means the Chief Executive of the Agency appointed under section 62 and includes any person acting in that capacity;

10 “claim event” means the contingency upon which policy moneys are payable under an insured policy;

“client account”, in relation to an insured depositor, means an account maintained by the insured depositor with a DI Scheme member for the purpose of holding moneys by the insured depositor for a client of the insured depositor, whether or not other moneys may be held in that account;

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“commuted value”, in relation to an insured policy which provides for the payment of an annuity, means the present value of the expected future payments to be made —

20 (a) for a term dependant on the continuation of human life; or
 (b) upon the death of the life assured or surrender of the insured policy by the insured policy owner,
 as specified under the terms of the insured policy;

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

“compulsory insurance policy” means any policy of insurance which complies with the requirements of —

(a) the Motor Vehicles (Third-Party Risks and Compensation) Act (Cap. 189); or
 30 (b) the Work Injury Compensation Act (Cap. 354);

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

“coupon deposit”, in relation to any insured policy, means any sum of money, being part of the policy moneys which the insurer is

obliged to pay to the insured policy owner at agreed intervals under the terms of the insured policy, including any amount due at maturity, which the insured policy owner instructs the insurer not to pay out to him but for the sum of money to be deposited with the insurer to earn interest at an agreed rate;

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“CPFIS” means the Central Provident Fund Investment Scheme introduced by the Central Provident Fund Board under the Central Provident Fund (Investment Schemes) Regulations (Cap. 36, Rg 9);

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“CPFMS” means the Central Provident Fund Minimum Sum Scheme introduced by the Central Provident Fund Board under the Central Provident Fund (Minimum Sum Scheme) Regulations (Cap. 36, Rg 16);

“deposit” means a sum of money paid on terms —

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(a) under which it will be repaid, with or without interest or a premium, or with any consideration in money or money’s worth, either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it; and

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(b) which are not referable to the provision of property or services;

“deposit-taking business” has the same meaning as in section 4B of the Banking Act (Cap. 19);

“depositor” means any person who is entitled to repayment of a deposit, whether or not the deposit is made by him;

25

“DI exempt member” means a full bank or finance company which has been exempted by the Authority under section 6 from the requirement to be a DI Scheme member;

“DI Fund” means the Deposit Insurance Fund reconstituted under section 9;

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“direct insurer” has the same meaning as in section 1A of the Insurance Act (Cap. 142);

“DI Scheme” means the Deposit Insurance Scheme reconstituted under section 4;

“DI Scheme member” means a member of the DI Scheme;

“electronic record” has the same meaning as in section 2 of the Electronic Transactions Act 2010 (Act 16 of 2010);

“electronic service” means the electronic service provided by the Authority under section 86;

5 “excluded person” means —

(a) any bank;

(b) any person who carries on business activities outside of Singapore which, if conducted in Singapore, would require the person to be licensed under the Banking Act (Cap. 19);
10 and

(c) such other person or class of persons as the Authority may prescribe;

“failed DI Scheme member” means a DI Scheme member in respect of which the Authority has determined that compensation shall be paid out of the DI Fund to the insured depositors of that DI Scheme member, and any reference to “failure” in relation to a DI Scheme member shall be construed accordingly;
15

“failed PPF Scheme member” means a PPF Scheme member in respect of which the Authority has determined that compensation shall be paid out of the PPF Life Fund or PPF General Fund, as the case may be, or that the PPF Life Fund or PPF General Fund is to be utilised for the funding of a transfer or run-off of the insurance business of that PPF Scheme member, and any reference to “failure” in relation to a PPF Scheme member shall be construed accordingly;
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“finance company” has the same meaning as in section 2 of the Finance Companies Act (Cap. 108);

“full bank” means any bank holding a licence granted by the Authority under the Banking Act which permits the bank to carry on the full range of banking business;
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“general business” and “life business” have the same meanings as in section 2 of the Insurance Act (Cap. 142), read with section 3(1B) of that Act;

“group policy” means any policy of insurance in respect of which the policy owner is not an individual;
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“guaranteed policy liabilities”, in relation to insured policies, means the policy liabilities, relating to benefits guaranteed under the insured policies only, calculated in accordance with regulations prescribed pursuant to section 18 of the Insurance Act (Cap. 142) for the valuation of assets and liabilities in an insurance fund;

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“health policy” means any accident and health policy which is not a personal accident policy;

“individual policy” means a policy of insurance in respect of which the policy owner is an individual;

10

“insured deposit” has the meaning given to it in the First Schedule;

“insured deposit base” has the meaning given to it in section 3;

“insured depositor” means any person who is not an excluded person and is entitled to the repayment of any insured deposit, whether or not the insured deposit is made by him, and includes —

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(a) in the case of a deposit held by a trustee under a trust, the trustee; and

(b) for the avoidance of doubt, in the case of a deposit held by a depositor in a client account, the depositor;

“insured policy” means —

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(a) any life policy;

(b) any accident and health policy;

(c) any compulsory insurance policy; or

(d) any specified personal line insurance policy which is a Singapore policy;

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“insured policy owner” means the policy owner of an insured policy;

“life policy” has the same meaning as in the First Schedule to the Insurance Act;

“liquidator” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

30

“marine mutual insurance business” means the business of providing the insurance of liabilities under insurance policies on the basis of mutual insurance —

- (a) upon goods, merchandise or property of any description transported on board any vessel, including incidental transit before and after shipment;
- 5 (b) upon the freight of, or any other interest in or relating to, vessels;
- (c) upon vessels, or upon machinery, tackle furniture or equipment of vessels;
- (d) against damage arising out of or in connection with the use of vessels, including third-party risks;
- 10 (e) against risks incidental to the construction, repair or docking of vessels, including third-party risks; or
- (f) against such other risks as the Authority considers to be connected with or incidental to marine adventures or any of the matters referred to in paragraphs (a) to (e);
- 15 “Maximum DI Coverage” has the meaning given to it in the First Schedule;
- “non-voluntary group insurance policy” means a group policy to insure the lives of certain individuals which is not taken out at the request or discretion of any of the life assureds;
- 20 “officer” has the same meaning as in section 2(1) of the Banking Act (Cap. 19);
- “parent bank” has the same meaning as in section 2(1) of the Banking Act;
- 25 “parent supervisory authority” has the same meaning as in section 2(1) of the Banking Act;
- “personal accident policy” means an accident and health policy in respect of which accident and health benefits are paid out only —
- (a) in the event of an injury to, or disability of, the life assured as a result of accident;
- 30 (b) on the death by accident of the life assured; or
- (c) on the occurrence of a combination of the events referred to in paragraphs (a) and (b);
- “policy” has the same meaning as in the First Schedule to the Insurance Act (Cap. 142);

“policy owner” has the same meaning as in the First Schedule to the Insurance Act (Cap. 142);

“PPF exempt member” means a relevant insurer which has been exempted by the Authority under section 32 from the requirement to be a PPF Scheme member;

“PPF General Fund” means the Policy Owners’ Protection General Fund established under section 34(1)(b);

“PPF Life Fund” means the Policy Owners’ Protection Life Fund established under section 34(1)(a);

“PPF Scheme” means the Policy Owners’ Protection Scheme established under section 30;

“PPF Scheme member” means a member of the PPF Scheme;

“premium year”, in relation to the determination and payment of premium contributions and levies, means such period as may be prescribed by the Authority as a premium year —

(a) under section 12(4), in respect of the premium contributions payable by DI Scheme members; or

(b) under section 37(4), in respect of the levies payable by PPF Scheme members;

“prescribed product” means any product which is prescribed by the Authority as an insured deposit under the First Schedule;

“protected liabilities” has the meaning given to it in the Third Schedule;

“protection ratio” has the meaning given to it in the Fourth Schedule;

“quantification date” means —

(a) in relation to a DI Scheme member —

(i) the date on which the DI Scheme member is wound up; or

(ii) where a DI Scheme member is not wound up, the date on which the notice of payment of compensation is published in the *Gazette* under section 21(4);

(b) in relation to a PPF Scheme member —

- (i) the date on which the PPF Scheme member is wound up; or
- (ii) where a PPF Scheme member is not wound up, the date on which the notice of payment of compensation from the PPF Life Fund or PPF General Fund or notice that the PPF Life Fund or PPF General Fund is to be utilised for the funding of any transfer or run-off of the business of the failed PPF Scheme member is published in the *Gazette* under section 46(4);

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“relevant insured deposits” has the meaning given to it in section 3;

“relevant insurer” means —

- (a) a direct insurer registered to carry on life business under the Insurance Act (Cap. 142) (other than a captive insurer); or
- (b) a direct insurer registered to carry on general business under the Insurance Act (other than a captive insurer or specialist insurer);

15

“repealed Act” means the Deposit Insurance Act (Cap. 77A, 2006 Ed.) repealed by this Act;

“Rules” means any rules issued by the Agency under section 63;

20

“Singapore policy” has the same meaning as in the First Schedule to the Insurance Act;

“specialist insurer” means —

- (a) an insurer which is registered under section 8 of the Insurance Act and which is permitted by its registration to carry on the business of issuing financial guarantee policies;
- (b) an insurer which is registered under section 8 of the Insurance Act as a direct insurer to carry on general business and which is permitted by its registration to carry on the business of issuing trade credit and political risk policies only; or
- (c) an insurer registered under section 8 of the Insurance Act as a direct insurer to carry on general business and which is permitted to carry on marine mutual insurance business only;

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“specified personal line insurance policy” means —

- (a) a policy of insurance which provides personal motor cover;

- (b) a policy of insurance which provides personal travel cover;
- (c) a policy of insurance which provides personal property (structure and contents) cover; or
- (d) a policy of insurance which provides cover in connection with the employment of a foreign domestic worker;

“Supplementary Retirement Scheme” has the same meaning as in section 2(1) of the Income Tax Act (Cap. 134);

“unclaimed moneys”, in relation to an insured policy issued by a failed PPF Scheme member, means any policy moneys which, as a result of a contingency happening, have been ascertained by the failed PPF Scheme member to be due and payable under that insured policy before the quantification date but which have not been paid to or have been paid but not yet received by the person entitled to payment of the policy moneys.

(2) For the purposes of the definition of “deposit”, money is paid on terms which are referable to the provision of property or services if, and only if, it is paid by way of advance or part payment under a contract for the sale, hire or other provision of property or services, and is repayable only in the event that the property or services is or are not in fact sold, hired or otherwise provided.

Meanings of “insured deposit base” and “relevant insured deposits”

3.—(1) In this Act, unless the context otherwise requires, “insured deposit base”, in relation to a DI Scheme member, means the aggregate of the amount of every relevant insured deposit of all the insured depositors of the DI Scheme member.

(2) In subsection (1), “relevant insured deposits”, in relation to an insured depositor of a DI Scheme member, means —

- (a) the aggregate of the amounts, not exceeding the Maximum DI Coverage, of insured deposits placed with the DI Scheme member which —
 - (i) are held by that insured depositor in its or his own right;
 - (ii) are held by that insured depositor in its or his own right jointly with one or more persons in a joint account;

- (iii) where the insured depositor is a sole-proprietor, are held in the name of the sole-proprietorship; and
- (iv) consist of moneys denominated in Singapore dollars placed with the failed DI Scheme member under the Supplementary Retirement Scheme;
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- (b) the amount, not exceeding the Maximum DI Coverage, of insured deposits held by that insured depositor as a trustee under a trust in every account opened with the DI Scheme member;
- (c) the amount, not exceeding the Maximum DI Coverage, of insured deposits held by that insured depositor in every client
- 10 account opened with the DI Scheme member;
- (d) any moneys, denominated in Singapore dollars, placed by that insured depositor with the DI Scheme member under the CPFIS and CPFMS, not exceeding the Maximum DI Coverage; and
- (e) the amount, not exceeding the Maximum DI Coverage, of one or more prescribed products held by that insured depositor and placed with the DI Scheme member, which the Minister has, by order published in the *Gazette*, determined that it or they shall not be aggregated with any of the insured deposits under paragraphs (a), (b), (c) and (d) and shall be subject to separate
- 15 coverage under the DI Scheme of an amount not exceeding the Maximum DI Coverage, whether on its own or in aggregation with other prescribed products.
- 20
- (3) For the purposes of subsection (2) —
- (a) a reference to an insured deposit includes a reference to part of the insured deposit;
- (b) where an insured depositor holds an insured deposit in his own right jointly with one or more persons in a joint account, each of them, whether or not he is an insured depositor, shall be deemed
- 30 to have an equal share in the insured deposit unless there is an express provision to the contrary in the books of the DI Scheme member;
- (c) where there are 2 or more insured depositors holding any insured deposit in an account under a trust or a client account jointly,
- 35 each of them shall be deemed to have an equal interest in the insured deposit; and

- (d) where the Minister does not make the determination referred to in subsection (2)(e) in respect of any prescribed product, that prescribed product shall be aggregated with the insured deposits referred to in subsection (2)(a).

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PART II

DEPOSIT INSURANCE SCHEME

Reconstitution of Deposit Insurance Scheme

4. For the purposes of this Act, the Deposit Insurance Scheme shall continue and be reconstituted in accordance with this Act for the benefit of insured depositors in respect of their insured deposits placed with DI Scheme members.

Membership of DI Scheme

5.—(1) Every full bank or finance company which is not exempted under section 6 shall be a DI Scheme member so long as it holds a valid licence under the Banking Act (Cap. 19) or the Finance Companies Act (Cap. 108), as the case may be.

(2) Every full bank or finance company, which holds a valid licence under the Banking Act or the Finance Companies Act, as the case may be, immediately before the appointed day, shall be deemed to be a DI Scheme member from that day.

(3) Every full bank or finance company, which is granted a licence under the Banking Act or the Finance Companies Act, as the case may be, on or after the appointed day, shall be a DI Scheme member from the date on which its licence is granted.

Exemption from DI Scheme membership

6.—(1) Any full bank or finance company may apply in writing to the Authority to be exempted from the requirement under section 5(1) to be a DI Scheme member.

(2) Upon an application by a full bank or finance company under subsection (1), the Authority may, subject to subsection (4), exempt the full bank or finance company from the requirement under section 5(1), and notice of every such exemption shall be published in the *Gazette*.

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

(4) Without prejudice to the generality of subsection (2), the Authority shall, in determining whether to grant an exemption under subsection (2), have regard to —

(a) the scope of deposit-taking business conducted by the applicant in Singapore;

(b) in the case of any applicant which is a full bank incorporated in a jurisdiction other than Singapore —

(i) whether the deposits accepted by its branches and offices located within Singapore are insured by a deposit insurance scheme, or any other scheme of a similar nature, established and maintained in the jurisdiction in which the full bank is incorporated (referred to in this section as the foreign scheme); and

(ii) whether the scope and level of protection available to those deposits under the foreign scheme are not less than the scope and level of protection that would be available to the deposits under the DI Scheme if those deposits were insured by the DI Scheme; and

(c) the business activities conducted by the applicant in Singapore and its obligations to customers.

(5) The Authority may, when granting any exemption under subsection (2), impose on the DI exempt member by notice in writing such conditions or restrictions relating to the exemption as the Authority may think fit.

(6) The Authority may at any time —

(a) by notice in writing to a DI exempt member, add to, vary or revoke any existing condition or restriction imposed by the Authority under subsection (5); or

(b) by notice in writing to every DI exempt member in a particular class of such DI exempt members impose such conditions or restrictions as the Authority may think fit on the class.

(7) Every DI exempt member shall comply with all the conditions and restrictions imposed on it under subsections (5) and (6).

(8) Any DI exempt member which contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine of \$10,000 for every day or part thereof during which the offence continues after conviction.

Withdrawal of exemption from DI Scheme

7.—(1) The Authority may withdraw the exemption granted to a DI exempt member under section 6(2) if —

- (a) the DI exempt member fails to comply with any condition or restriction imposed in respect of the exemption under section 6(5) or (6); or
- (b) the Authority considers it necessary to do so in the public interest.

(2) Before withdrawing any exemption under subsection (1), the Authority shall —

- (a) give the DI exempt member notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the DI exempt member to show cause, within such time as may be specified in the notice, why the exemption should not be withdrawn.

(3) If the DI exempt member to whom a notice is given under subsection (2) —

- (a) fails to show cause within the time specified in the notice or within such extended period of time as the Authority may allow in any particular case; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the DI exempt member of the withdrawal of the exemption and the date on which such withdrawal is to take effect.

(4) Where a withdrawal of exemption becomes effective, the Authority shall publish a notice of the withdrawal in the *Gazette*.

Maintenance of assets in Singapore for DI Scheme members

8.—(1) The Authority may by regulations require any DI Scheme member, or any class of DI Scheme members, to maintain, in relation to its or their insured deposit base, such minimum amount of assets in Singapore as may be specified in such regulations for meeting its or their liabilities in respect of insured deposits placed with the DI Scheme member.

(2) The Authority may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations for or with respect to —

- (a) the circumstances under which, and the manner in which, the Authority may impose an asset maintenance requirement;
- (b) the types of assets that are to be treated as assets maintained in Singapore and the minimum amount of assets for the purpose of an asset maintenance requirement; and
- (c) the method for the valuation of assets maintained in Singapore.

(3) If the Authority is satisfied that a DI Scheme member has failed to comply with any asset maintenance requirement under subsection (1), the Authority may impose a financial penalty.

(4) Any DI Scheme member which fails to comply with any asset maintenance requirement of the Authority under subsection (1) shall be liable to pay, upon being called to do so by the Authority, for every day or part thereof of such failure, a financial penalty in accordance with such formula as the Minister may, by order published in the *Gazette*, prescribe.

(5) Before imposing a financial penalty on any DI Scheme member, the Authority shall —

- (a) give the DI Scheme member notice in writing of its intention to do so, including the basis for its decision to impose the financial penalty; and
- (b) in the notice referred to in paragraph (a), call upon the DI Scheme member to show cause, within such time as may be specified in the notice, why the financial penalty should not be imposed.

(6) If the DI Scheme member to whom a notice is given under subsection (5) —

(a) fails to show cause within the time specified in the notice or within such extended period of time as the Authority may allow; or

(b) fails to show sufficient cause,

5 the Authority shall give notice in writing to the DI Scheme member of the imposition of the financial penalty and the date by which the payment of the financial penalty must be made.

(7) Where a DI Scheme member is given a notice under subsection (6), the DI Scheme member shall pay the financial penalty to the Authority by
10 the date of payment specified in the notice.

(8) Any financial penalty payable under this Act shall be recoverable as a debt due to the Authority by the DI Scheme member.

(9) Notwithstanding any provision in the Limitation Act (Cap. 163), an action to recover any financial penalty recoverable by virtue of this
15 section shall not be brought after the expiration of 3 years from the date on which the cause of action accrued.

(10) Any financial penalty paid to or recovered by the Authority shall be paid into the DI Fund.

(11) Where the Authority has commenced any proceedings in a court to
20 recover a financial penalty from a DI Scheme member, the Authority shall be entitled to claim costs on a full indemnity basis from that DI Scheme member.

(12) Any DI Scheme member which is aggrieved by a decision of the Authority to impose a financial penalty under subsection (6) may, within
25 30 days after the decision of the Authority, appeal in writing to the Minister whose decision shall be final and shall be given effect to by the Authority.

(13) For the avoidance of doubt, the period of limitation referred to in
30 subsection (9) shall not be postponed solely on account of an appeal under subsection (12).

PART III

DEPOSIT INSURANCE FUND

Reconstitution of Deposit Insurance Fund

5 **9.**—(1) For the purposes of this Act, the Deposit Insurance Fund shall continue and be reconstituted in accordance with this Act.

(2) There shall be paid into the DI Fund —

- (a) all premium contributions, additional premium contributions and late payment fees paid by DI Scheme members under this Act;
- 10 (b) all moneys borrowed by the Agency for the purpose of performing its functions in respect of the DI Scheme under this Act;
- (c) all moneys recovered by the Agency from, or out of the assets of, failed DI Scheme members;
- (d) any interest, dividend and other income derived from the investment of the moneys in the DI Fund;
- 15 (e) all moneys paid to or recovered by the Authority as a financial penalty under section 8; and
- (f) all other moneys lawfully paid into the DI Fund.

20 (3) The DI Fund shall be used for the objects and purposes of the DI Scheme as provided in this Act.

(4) The DI Fund shall, subject to the directions of the Minister, be controlled and administered by the Agency, and shall be maintained by the Agency separately and apart from the PPF Life Fund and the PPF General Fund.

25 (5) For the avoidance of doubt, the DI Fund shall not be a fund of the Agency or the Authority.

Withdrawal and application of moneys of DI Fund

30 **10.**—(1) In carrying out the objects and purposes of DI Scheme, the moneys in the DI Fund may be withdrawn and applied as the Agency considers proper for all or any of the following purposes only:

- (a) the payment of all expenses incurred in or incidental to —

- (i) the reconstitution and maintenance of the DI Scheme;
 - (ii) the administration and management of the DI Fund;
 - (iii) the administration and management of the Agency and the performance of the duties and functions of the Agency in respect of the DI Scheme under this Act; and
 - (iv) the conduct of any investigation by the Agency for the purpose of determining the entitlement of insured depositors to any compensation;
- (b) the payment of any fees to agents appointed by the Agency for the purposes of carrying out any services in respect of the DI Scheme under this Act;
 - (c) the withdrawal of all other moneys authorised or determined to be paid out of the DI Fund in accordance with this Act.

(2) Notwithstanding subsection (1), the Authority may recover from the Agency out of the DI Fund all expenses incurred by the Authority in connection with the discharge of the functions and responsibilities of the Authority under sections 8, 13, 14 and 15.

Investment of DI Fund

11.—(1) The Agency may invest any moneys in the DI Fund in all or any of the following:

- (a) any security issued by the Government or by the Authority;
- (b) Singapore dollar deposits placed with the Authority;
- (c) any debenture or debt security issued by Singapore Sukuk Pte. Ltd.;
- (d) such other investments, with the objects of capital preservation and maintenance of liquidity, as may be approved by the Minister.

(2) The Agency may delegate, subject to such conditions or restrictions as it thinks fit, all or any of its powers and functions under subsection (1) to such employee or agent as it may appoint.

(3) The Agency may pay to any person appointed under subsection (2) a reasonable fee for any service rendered in exercise of any power and function delegated to that person under that subsection.

(4) The Agency may continue to exercise any power conferred upon it or perform any function under subsection (1) notwithstanding the delegation of such power or function to an employee or agent under this section.

5

PART IV

PREMIUM CONTRIBUTIONS FOR DI SCHEME

Premium contributions payable by DI Scheme members

10 **12.**—(1) Every DI Scheme member shall pay a premium contribution for any premium year or part thereof in respect of the insured deposits placed with the DI Scheme member.

(2) Subject to the provisions of this Act, the premium contribution shall be of such amount as may be computed by the Authority under section 13.

(3) The premium year for the DI Scheme shall be such period as may be prescribed in regulations under subsection (4).

15 (4) The Authority may make regulations for the purpose of prescribing the premium year.

Determination of premium rates and premium contributions

20 **13.**—(1) The Authority shall assess and determine the premium rates for the purposes of computing the premium contributions payable by DI Scheme members.

(2) The Authority shall, on the basis of the premium rates determined under subsection (1) and the insured deposit base of a DI Scheme member, compute the amount of premium contribution payable by the DI Scheme member for any premium year or part thereof.

25 (3) For the purposes of assessing and determining the premium rates and computing the amounts of premium contributions payable, the Authority may, in consultation with the Agency, make regulations for or in respect of all or any of the following matters:

30 (a) the establishment of a system of classifying DI Scheme members into different categories;

(b) the criteria and procedure for determining the category in which a DI Scheme member is to be classified;

- (c) the prescribing of the premium rate applicable to each category of DI Scheme members;
 - (d) the manner in which the premium rate for each category of DI Scheme members is to be determined;
 - 5 (e) the prescribing of a minimum premium contribution payable by DI Scheme members;
 - (f) the manner in which the amount of premium contribution for each category of DI Scheme members is to be determined;
 - 10 (g) the computation of premium contribution on a pro rata basis where a full bank or finance company becomes a DI Scheme member, or is no longer exempted from the requirement to be a DI Scheme member, at any time during a premium year;
 - (h) the size of the DI Fund;
 - (i) such other matters as the Authority considers necessary.
- 15 (4) Regulations made pursuant to or dealing with the matters referred to in subsection (3)(c) or (d) may provide for different premium rates for different categories of DI Scheme members.
- (5) If the Authority wishes to amend or vary any regulations made under subsection (3), such regulations shall not be amended or varied without consulting the Agency.

Notice of payment of premium contribution

- 25 **14.**—(1) Where the Authority has computed the amount of premium contribution payable by any DI Scheme member for any premium year or part thereof under section 13(2), the Authority shall notify the Agency accordingly.
- (2) Upon receipt of the notification referred to in subsection (1), the Agency shall, within a reasonable time prior to the date on which the DI Scheme member is required to pay its premium contribution under the DI Scheme for that premium year or part thereof, give the DI Scheme member notice in writing of the amount of premium contribution payable and the date by which such premium contribution shall be paid.
- 30

Additional premium contributions where DI Fund insufficient to pay compensation

5 **15.**—(1) Where, in the opinion of the Authority, there are insufficient moneys in the DI Fund to pay any compensation due to insured depositors under this Act, the Authority may, with the concurrence of the Agency, determine —

- (a) that DI Scheme members shall be required to pay additional premium contributions for any premium year or part thereof; and
- 10 (b) the premium rate or rates for the purposes of computing the additional premium contributions.

(2) Where a determination is made under subsection (1) —

- (a) the Authority shall, as soon as practicable —
 - 15 (i) publish a notice in the *Gazette* of the requirement to pay additional premium contributions and the premium rate or rates for the purposes of computing the additional premium contributions referred to in subsection (1); and
 - (ii) compute the additional premium contributions payable by DI Scheme members for that premium year or part thereof and notify the Agency accordingly; and
- 20 (b) the Agency shall, upon receipt of the notification referred to in paragraph (a)(ii), give notice in writing to every DI Scheme member of the additional premium contribution that that DI Scheme member is required to pay for that premium year or part thereof and the date by which the additional premium contribution shall be paid.

25 (3) Notwithstanding subsections (1) and (2), no DI Scheme member shall, without the prior approval of the Minister, be required to pay additional premium contribution for any premium year exceeding such percentage of the insured deposit base of that DI Scheme member as the Minister may by order published in the *Gazette* prescribe.

30 (4) For the purposes of subsection (3), the insured deposit base of any DI Scheme member shall be determined on such date as the Authority may notify in the *Gazette* for computing the amounts of additional premium contributions payable by DI Scheme members.

Payment of premium contributions and late payment fees

16.—(1) Where any DI Scheme member is given notice in writing to pay any premium contribution under section 14(2) or any additional premium contribution under section 15(2) for any premium year or part thereof, the DI Scheme member shall pay to the Agency on or before the date of payment specified in the notice, the amount of premium contribution or additional premium contribution, as the case may be, that the DI Scheme member is required to pay for that premium year or part thereof.

10 (2) Subject to subsection (3), if a DI Scheme member fails to pay the premium contribution or additional premium contribution or any part thereof on or before the date of payment specified in the notice in contravention of subsection (1) —

15 (a) the Agency may, by notice in writing, impose on the DI Scheme member such late payment fee as the Agency may by Rules determine; and

20 (b) the DI Scheme member shall pay to the Agency such late payment fee together with the unpaid premium contribution or additional premium contribution, as the case may be, on or before the date of payment specified in the notice under paragraph (a).

(3) The late payment fee referred to in subsection (2) shall not exceed the amount of premium contribution or additional premium contribution, as the case may be, owing by the DI Scheme member.

25 (4) The amount of premium contribution or additional premium contribution owing by the DI Scheme member and the late payment fee shall be paid in such manner as may be specified in the Rules.

30 (5) Without prejudice to any other remedy, any premium contribution, additional premium contribution or late payment fee payable under this Act shall be recoverable as a debt due to the Agency by the DI Scheme member.

35 (6) Where the Agency has commenced any legal proceedings in a court in Singapore to recover any premium contribution, additional premium contribution or late payment fee from a DI Scheme member, the Agency shall be entitled to claim costs on a full indemnity basis from that DI Scheme member.

Power to refund or remit premium contributions, etc.

17. The Agency may, with the approval of the Minister, refund or remit in whole or in part any premium contribution or additional premium contribution paid or payable by any DI Scheme member under this Act.

5 **Refund of premium contributions, etc., paid in excess**

18.—(1) Where it appears to the Authority that a DI Scheme member has paid any premium contribution or additional premium contribution in excess of the amount payable under this Act, the Authority shall notify the Agency accordingly.

10 (2) Upon receipt of the notification referred to in subsection (1), the Agency shall refund to the DI Scheme member the amount of premium contribution or additional premium contribution paid in excess.

Re-computation of premium contributions and additional premium contributions

15 **19.**—(1) Where it appears to the Authority —

(a) that the premium contribution for any premium year or part thereof —

(i) computed by the Authority under section 13(2) and notified to the Agency under section 14(1); or

20 (ii) in respect of which a DI Scheme member has been required to pay under section 14(2) or has so paid; or

(b) that the additional premium contribution for any premium year or part thereof —

25 (i) computed by the Authority and notified to the Agency under section 15(2)(a); or

(ii) in respect of which a DI Scheme member has been required to pay under section 15(2)(b) or has so paid,

30 is of an amount less than that which ought to have been computed, imposed or paid (referred to in this section as shortfall), the Authority may at any time during a period of 6 years after the premium year during which there is a shortfall, re-compute such amount of premium contribution or additional premium contribution which ought to have been computed, imposed or paid, as the case may be, under this Act.

(2) Sections 14, 15 and 16 shall apply, with the necessary modifications, to any amount of premium contribution or additional premium contribution re-computed under subsection (1) and the recovery of any shortfall in premium contribution or additional premium contribution upon a re-computation under that subsection as if the reference to premium contribution or additional premium contribution were a reference to the shortfall amount which is the difference between —

- (a) the amount of premium contribution or additional premium contribution as re-computed; and
- (b) the amount of premium contribution or additional premium contribution that was originally computed, imposed or paid, as the case may be, under this Act.

Disclosure of information relating to premium contributions

20.—(1) Subject to subsections (2) and (3), no DI Scheme member or officer of any DI Scheme member shall disclose to any person —

- (a) the premium rate applicable to that DI Scheme member;
- (b) the category in which that DI Scheme member is classified pursuant to section 13;
- (c) where the system of classifying DI Scheme members incorporates a rating of that DI Scheme member based on the assessment by the Authority of the risks arising from the activities of that DI Scheme member, the rating of that DI Scheme member; and
- (d) any information which if disclosed, would enable any of the information referred to in paragraph (a), (b) or (c) to be identified or deduced.

(2) Notwithstanding subsection (1), a DI Scheme member or any officer of a DI Scheme member may disclose to —

- (a) any director or other officer of that DI Scheme member;
- (b) in the case where the DI Scheme member is a full bank, the head office, parent bank or parent supervisory authority of that DI Scheme member; or
- (c) such other person or class of persons as the Authority may approve,

any of the matters referred to in subsection (1) where such disclosure is necessary for the performance of the duties of the person referred to in paragraph (a), (b) or (c), as the case may be.

5 (3) No person to whom any DI Scheme member or an officer of any DI Scheme member has disclosed information pursuant to subsection (2) shall disclose that information to any other person except as approved by the Authority.

10 (4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

PART V

COMPENSATION UNDER DI SCHEME

Occurrence of events precipitating payment of compensation

21.—(1) Where, on or after the appointed day —

15 (a) an order is made by a court in Singapore or elsewhere to wind up a DI Scheme member; or

(b) the Authority is of the opinion that a DI Scheme member is insolvent, unable or likely to become unable to meet its obligations, or about to suspend payments,

20 the Authority may determine that compensation shall be paid out of the DI Fund to the insured depositors of the DI Scheme member in accordance with this Act.

25 (2) Where the Authority determines that compensation shall be paid out of the DI Fund under subsection (1), the Authority shall immediately give notice in writing to the Agency of its determination.

(3) The notice in writing referred to in subsection (2) shall be in such form and contain such information as may be agreed between the Authority and the Agency.

30 (4) The Agency shall, as soon as practicable upon receiving the notice referred to in subsection (2), publish a notice in the *Gazette* stating that a payment of compensation shall be made out of the DI Fund.

Entitlement to compensation

22.—(1) Subject to subsection (5) and section 23, where an insured depositor has one or more insured deposits placed with a failed DI Scheme member (other than any moneys, denominated in Singapore dollars, placed with the failed DI Scheme member under the CPFIS and CPFMS), which —

- (a) the insured depositor holds in his own right;
- (b) the insured depositor holds in his own right jointly with one or more other persons in a joint account;
- 10 (c) the insured depositor holds in the name of his sole-proprietorship; or
- (d) consists of moneys denominated in Singapore dollars placed with the failed DI Scheme member under the Supplementary Retirement Scheme,

15 the insured depositor shall be entitled to compensation from the DI Fund computed on the basis of the aggregate amount, as at the quantification date, of such insured deposits falling within paragraphs (a), (b), (c) and (d), and such compensation shall not exceed the aggregate amount of such insured deposits or the Maximum DI Coverage, whichever is the lower.

20 (2) Where any insured depositor has one or more insured deposits placed with a failed DI Scheme member (other than moneys denominated in Singapore dollars, placed with the failed DI Scheme member under the CPFIS and CPFMS) which the insured depositor holds in an account as trustee under a trust or holds in a client account, the insured depositor shall be entitled, in respect of every such account, to compensation from the DI Fund, not exceeding the amount of such insured deposits in that account or the Maximum DI Coverage, whichever is the lower.

30 (3) For the purposes of subsection (2), where there are 2 or more insured depositors holding any insured deposit in an account under a trust or in a client account jointly, the compensation referred to in subsection (2) shall be divided equally among those insured depositors and paid accordingly.

35 (4) Where any insured deposit of any insured depositor placed with a failed DI Scheme member consists of moneys, denominated in Singapore dollars, placed with the failed DI Scheme member under the CPFIS or CPFMS, such moneys shall not be aggregated with his other insured deposits placed with that failed DI Scheme member for the purposes of

determining the amount of compensation that the insured depositor is entitled to, and the insured depositor shall be entitled, in respect of moneys denominated in Singapore dollars placed with the failed DI Scheme member under the CPFIS and CPFMS, to compensation from the DI Fund, not exceeding the amount of such moneys placed with the failed DI Scheme member or the Maximum DI Coverage, whichever is the lower.

(5) Where an insured depositor has one or more prescribed products placed with a failed DI Scheme member, which the Minister has, by order published in the *Gazette*, determined to be subject to separate coverage under the DI Scheme (referred to in this section as the first-mentioned prescribed products), whether on their own or in aggregation with other prescribed products (referred to in this section as the other prescribed products) —

(a) the insured depositor shall be entitled to compensation from the DI Fund computed on the basis of the aggregate amount, as at the quantification date —

(i) of the first-mentioned prescribed products; or

(ii) of the first-mentioned prescribed products in aggregation with the other prescribed products,

as the case may be; and

(b) such compensation shall not exceed —

(i) in the case where the first-mentioned prescribed products are subject to separate coverage on their own, the aggregate of the amounts of all the first-mentioned prescribed products held by him or the Maximum DI Coverage, whichever is the lower; or

(ii) in the case where the first-mentioned prescribed products are to be aggregated with the other prescribed products, the aggregate of the amounts of all the prescribed products held by him or the Maximum DI Coverage, whichever is the lower.

(6) For the purposes of determining the amount of compensation which an insured depositor is entitled under this section, the liabilities, if any, that are owing from the insured depositor to the failed DI Scheme member shall be disregarded.

(7) Notwithstanding the provisions in this section —

- (a) in the case of an insured depositor who is deceased, the Agency shall pay the compensation to the personal representatives of the deceased insured depositor;
- 5 (b) in the case where a final order under Order 49, Rule 1 of the Rules of Court (Cap. 322, R 5) has been made with respect to the insured deposit pursuant to an order to show cause served on the failed DI Scheme member prior to the quantification date, the Agency shall pay the whole or part (as the case may be) of the
10 compensation to the judgment creditor in favour of whom the final order is made; and
- (c) the Agency shall pay the compensation to such other persons in such circumstances as the Minister may prescribe.

Deposits in own right and joint accounts

15 **23.**—(1) Where an insured depositor holds any insured deposit in his own right, the insured depositor is entitled, in respect of the insured deposit as at the quantification date, to compensation from the DI Fund.

(2) Where there are 2 or more insured depositors holding any insured deposit, each of those insured depositors is entitled, in respect of his share
20 in the insured deposit as at the quantification date, to compensation from the DI Fund.

(3) For the purposes of determining the share of any insured depositor in an insured deposit under subsection (2), each insured depositor holding such insured deposit shall be deemed to have an equal share in the insured
25 deposit unless there is an express provision to the contrary in the books of the failed DI Scheme member.

(4) For the avoidance of doubt, subsection (3) does not affect any rights as between the persons holding such insured deposit themselves.

Restrictions on entitlement to compensation under DI Scheme

30 **24.** Where the Agency has paid an insured depositor the full amount of compensation payable to the insured depositor or any person referred to in section 22(7) or both, as the case may be, in respect of his insured deposits in accordance with this Act, no other person is entitled, in respect of those same insured deposits, to compensation under this Part.

Computation and method of payment of compensation under DI Scheme

5 **25.**—(1) The Agency shall compute the amount of compensation due to any insured depositor in respect of his insured deposits placed with a failed DI Scheme member in accordance with this Act.

10 (2) In determining the eligibility and entitlement of any insured depositor to compensation and computing the amount of compensation due to any insured depositor, the Agency is entitled to rely on the books of the failed DI Scheme member and any other books which, in the opinion of the Agency, are relevant for such determination and computation.

(3) Subject to subsection (4), the Agency shall pay the compensation in such form and manner as may be specified in the Rules.

(4) The Authority may make regulations for the purposes of payment of compensation by the Agency.

15 (5) Without prejudice to the generality of subsection (4), such regulations may —

- (a) specify the person to whom, or the account into which, payment of compensation is to be made for the benefit of any insured depositor who is entitled to compensation under this Act;
 - 20 (b) provide for the payment of compensation in respect of any insured depositor holding insured deposits in different accounts; and
 - (c) provide for the payment of compensation into an equivalent account with another DI Scheme member and for such compensation to be held in that account in a manner equivalent to the manner of holding of the original insured deposit.
- 25

Merger or consolidation of, or acquisition by, DI Scheme members

26.—(1) Where —

- 30 (a) a DI Scheme member merges or consolidates with another DI Scheme member; or
- (b) a DI Scheme member (referred to in this section as the acquiring DI Scheme member) acquires the deposit-taking business of another DI Scheme member to form part of the business of the acquiring DI Scheme member,

and there is a subsequent failure of the merged or consolidated DI Scheme member or acquiring DI Scheme member, as the case may be, within one year after the date of the merger, consolidation or acquisition (referred to in this section as an additional cover period), any insured depositor, who has insured deposits placed with both of the original DI Scheme members immediately before the merger, consolidation or acquisition, as the case may be, shall be entitled to compensation in accordance with this Act as if the merger, consolidation or acquisition did not take place; and in respect of his insured deposits with each of the original DI Scheme members, shall be entitled to compensation of an amount not exceeding the Maximum DI Coverage or the amount of insured deposits placed with the relevant DI Scheme member, whichever is the lower.

(2) The Minister may extend the additional cover period for the insured deposits under subsection (1) —

- (a) where the Minister is satisfied that it is in the interest of the insured depositors of any DI Scheme member or the public to do so; or
- (b) to maintain financial stability in Singapore.

Subrogation

27.—(1) Upon payment out of the DI Fund of any compensation under this Act to, or for the benefit of, any insured depositor in respect of his insured deposit or any person referred to in section 22(7) in respect of that insured deposit, the Agency shall be subrogated to the extent of such payment to all the rights and remedies of —

- (a) the insured depositor;
- (b) the person who received the compensation on behalf of the insured depositor;
- (c) the person referred to in section 22(7);
- (d) in the case where payment is made to an insured depositor who is a trustee, the trustee; or
- (e) in the case where payment is made to an insured depositor who held the insured deposit in a client account, that insured depositor,

as the case may be, in respect of the insured deposit in priority over —

(i) the rights and remedies of the insured depositor, the person who received the compensation on behalf of the insured depositor or the person referred to in section 22(7), as the case may be, in relation to that insured deposit; and

5 (ii) the rights and remedies of any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of any of the persons referred to in paragraphs (a), (b), (c), (d) and (e) in relation to that insured deposit,

10 and may maintain an action in respect of those rights and remedies in the name of the person referred to in paragraph (a), (b), (c), (d) or (e), as the case may be, or in the name of the Agency, subject to subsection (2).

(2) Where the Agency maintains an action in respect of the rights and remedies in the name of the person referred to in subsection (1)(a), (b), (c), (d) or (e), as the case may be, the following provisions shall apply:

15 (a) in the case where the failed DI Scheme member is not wound up, the Agency shall be entitled to recover the full amount of compensation claimed against the failed DI Scheme member, notwithstanding any liabilities owing by the insured depositor to the DI Scheme member; and

20 (b) in the case where the failed DI Scheme member is wound up, the insolvency rules relating to set-off shall not apply in relation to the rights and remedies of the insured depositor.

25 (3) For the purposes of subsection (1), where the Agency is unable to effect payment to an insured depositor (due to incorrect or outdated addresses, in respect of accounts which are dormant or any other reasons beyond the reasonable control of the Agency), the Agency shall be deemed to have made payment out of the DI Fund of compensation under this Act to, or for the benefit of, an insured depositor in respect of his insured deposit, if the Agency makes payment of the compensation to the
30 Public Trustee appointed under the Public Trustee Act (Cap. 260) to be held on trust for the insured depositor.

35 (4) The persons referred to in paragraphs (a), (b), (c), (d) and (e) of subsection (1), or any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of those persons, shall not be entitled to receive any amount from, or out of, the assets of the failed DI Scheme member until the Agency has been reimbursed in full

the amount of compensation paid to those persons and any expenses under subsection (5).

(5) Notwithstanding any provision in the Companies Act (Cap. 50), the Agency shall be entitled —

5 (a) in the case where the failed DI Scheme member is wound up, to be reimbursed out of the assets of the failed DI Scheme member for the expenses incurred in —

10 (i) the payment of any compensation to insured depositors including any interest charged on moneys borrowed by the Agency for the purpose of making payment of any compensation to insured depositors under the DI Scheme; and

15 (ii) the lodging of any claim with the liquidator of the failed DI Scheme member for any compensation that has been paid out to insured depositors; or

(b) in any other case, to be reimbursed by the failed DI Scheme member or the provisional liquidator of the failed DI Scheme member, as the case may be, for the expenses incurred in —

20 (i) the payment of any compensation to insured depositors, including any interest charged on moneys borrowed by the Agency for the purpose of making payment of any compensation to insured depositors under the DI Scheme; and

25 (ii) where a claim has been lodged with the provisional liquidator of the failed DI Scheme member for any compensation that has been paid out to insured depositors, the lodging of the claim.

30 (6) The Authority may by regulations, provide for the manner, process or method by which the Agency may exercise its rights to be subrogated to the rights and remedies as set out in subsection (1).

35 (7) For the purposes of making payment of compensation by the Agency to the Public Trustee under subsection (3) and payment of compensation by the Public Trustee to insured depositors and any person referred to in section 22(7), the Authority may, with the concurrence of the Public Trustee and in consultation with the Agency, make regulations for or in respect of all or any of the following matters:

(a) the manner in which moneys paid by the Agency to the Public Trustee are to be paid to insured depositors or any person referred to in section 22(7);

5 (b) the fees to be paid by the Agency to the Public Trustee and the manner of payment of such fees;

(c) such other matters as the Authority considers necessary.

(8) The provisions in the Fifth Schedule shall apply in relation to the holding and payment of compensation under this Act by the Public Trustee to insured depositors and any person referred to in section 22(7).

10 (9) If the Authority wishes to amend or vary any regulations made under subsection (7), the Authority shall first conduct a joint review with the Public Trustee and such regulations shall not be amended or varied without the concurrence of the Public Trustee and consulting the Agency.

Recovery of compensation paid in excess or in error under DI Scheme

15 **28.**—(1) If —

(a) any compensation paid to, or for the benefit of, an insured depositor out of the DI Fund is in excess of what ought to have been paid to the insured depositor under this Act; or

(b) any compensation is paid in error to any person,

20 the Agency may recover the amount paid in error or excess from the person who received the compensation, in such manner and within such period as may be specified by the Agency to that person.

25 (2) Without prejudice to any other remedy, any amount paid in error or excess to any person shall be recoverable as a debt due to the Agency by that person.

30 (3) Notwithstanding any provision in the Limitation Act (Cap. 163), an action to recover any amount paid in error or excess to any person recoverable by virtue of this section shall not be brought after the expiration of the period during which the action may be brought against the person under the Limitation Act or the date of completion of the winding up of the failed DI Scheme member, whichever is the later.

(4) Upon the recovery of any amount paid in error or excess from any person under this section (referred in this section as the recovered amount), the Agency shall do the following:

- 5 (a) in the case where the failed DI Scheme member is not wound up or where the winding up of the failed DI Scheme member has not completed and the Agency has not recovered or has not recovered in full from the failed DI Scheme member or its liquidator, as the case may be, the compensation which it paid out to the insured depositors, the Agency shall deduct from the recovered amount the shortfall in compensation and pay such deducted amount to the DI Fund, and pay the amount remaining from the recovered amount after the deduction, if any, to the failed DI Scheme member or its liquidator, as the case may be;
- 10
- 15 (b) in the case where the failed DI Scheme member is not wound up or where the winding up of the failed DI Scheme member has not completed and the Agency has recovered from the failed DI Scheme member or its liquidator, as the case may be, in full the compensation which it paid out to the insured depositors, the Agency shall pay the recovered amount to the failed DI Scheme member or its liquidator, as the case may be;
- 20 (c) in the case where the winding up of the failed DI Scheme member has completed and the Agency has not recovered or has not recovered in full from the liquidator the compensation which it paid out to the insured depositors, the Agency shall deduct from the recovered amount the shortfall in compensation and pay such deducted amount to the DI Fund, and pay the amount remaining from the recovered amount after the deduction, if any, to the Official Receiver to be placed to the credit of the Companies Liquidation Account; and
- 25
- 30 (d) in the case where the winding up of the failed DI Scheme member has completed and the Agency has recovered from the liquidator in full the compensation which it paid out to the insured depositors, the Agency shall pay the recovered amount to the Official Receiver to be placed to the credit of the Companies Liquidation Account.

35 (5) Section 322(3), (6), (7), (8) and (9) of the Companies Act (Cap. 50) shall apply, with the necessary modifications, to the money paid to the Official Receiver under subsection (4)(c) and (d).

Powers of liquidator in respect of claims against insured depositor

29.—(1) Subject to subsection (3), notwithstanding any written law or rule of law, where —

- 5 (a) the Agency has paid compensation to an insured depositor or any person referred to in section 22(7) out of the DI Fund in accordance with this Act;
- (b) such compensation is, or will be, accorded priority in the event of the winding up of the failed DI Scheme member under section 62 of the Banking Act (Cap. 19) or section 44A of the Finance
10 Companies Act (Cap. 108), as the case may be; and
- (c) the failed DI Scheme member has one or more existing claims against the insured depositor,

the liquidator may bring legal proceedings with respect to those claims in the name, and on behalf, of the failed DI Scheme member against the
15 insured depositor or any person who received compensation on behalf of the insured depositor, to recover such moneys as may be necessary to put the failed DI Scheme member into the position it would have been as against the insured depositor with respect to those claims, if —

- 20 (i) the Agency had not paid out any compensation or been accorded priority under section 62 of the Banking Act or section 44A of the Finance Companies Act, as the case may be, in respect of the compensation paid to the insured depositor; and
- (ii) the liquidator had applied the same rules with regard to the
25 respective rights of debts provable and the valuation of future and contingent liabilities as are in force for the time being under the law relating to bankruptcy in relation to the estates of persons adjudged bankrupt, as if the failed DI Scheme member were a person so adjudged.

(2) Such moneys shall be recoverable as a debt due to the failed DI
30 Scheme member by the insured depositor or any person who received compensation on behalf of the insured depositor.

(3) This section shall not apply to any moneys held by the Public Trustee pursuant to any payment of compensation by the Agency under section 27(3).

PART VI

POLICY OWNERS' PROTECTION SCHEME

Establishment of Policy Owners' Protection Scheme

5 **30.** There shall be established a scheme to be called the Policy Owners' Protection Scheme for the purposes of compensating (in part or whole) or otherwise assisting or protecting insured policy owners and beneficiaries in respect of the insured policies issued by PPF Scheme members and for securing the continuity of insurance for insured policy owners as far as reasonably practicable.

10 Membership of PPF Scheme

31.—(1) Every relevant insurer which is not exempted under section 32 shall be a PPF Scheme member so long as it is registered by the Authority to carry on insurance business under the Insurance Act (Cap. 142).

15 (2) Every relevant insurer which is registered to carry on insurance business under the Insurance Act immediately before the appointed day, shall be deemed to be a PPF Scheme member from that day.

 (3) Every relevant insurer which is registered to carry on insurance business under the Insurance Act on or after the appointed day, shall be a PPF Scheme member from the date on which it is registered.

20 Exemption from PPF Scheme membership

32.—(1) Any relevant insurer may apply in writing to the Authority to be exempted from the requirement under section 31(1) to be a PPF Scheme member.

25 (2) Upon application by a relevant insurer under subsection (1), the Authority may, subject to subsection (4), exempt the relevant insurer from the requirement under section 31(1), and notice of such exemption shall be published in the *Gazette*.

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

(4) Without prejudice to the generality of subsection (2), the Authority shall, in determining whether to grant an exemption under subsection (2), have regard to —

- 5 (a) the scope of insurance business conducted by the applicant in Singapore;
- (b) in the case of any applicant which is a direct insurer registered to carry on general business, whether or not that applicant issues any insured policy;
- 10 (c) in the case of any applicant which is incorporated in a jurisdiction other than Singapore —
 - (i) whether the policies issued by the applicant's branches and offices located within Singapore are insured by a policy owners' protection scheme, or any other scheme of a similar nature, established and maintained in the jurisdiction in which the applicant is incorporated (referred to in this section as the foreign scheme); and
 - 15 (ii) whether the scope and level of protection available to those policies under the foreign scheme are not less than the scope and level of protection that would be available to the policies under the PPF Scheme if those policies were insured by the PPF Scheme.
- 20

(5) The Authority may, when granting any exemption under subsection (2), impose on the PPF exempt member by notice in writing such conditions or restrictions relating to the exemption as the Authority may think fit.

- (6) The Authority may at any time —
- (a) by notice in writing to a PPF exempt member, add to, vary or revoke any existing condition or restriction imposed by the Authority under subsection (5); or
 - 30 (b) by notice in writing to every PPF exempt member in a particular class of such PPF exempt members impose such conditions or restrictions as the Authority may think fit on the class.

(7) Every PPF exempt member shall comply with all the conditions and restrictions imposed on it under subsections (5) and (6).

(8) Any PPF exempt member which contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine of \$10,000 for every day or part thereof during which the offence continues after conviction.

Withdrawal of exemption from PPF Scheme

33.—(1) The Authority may withdraw the exemption granted to a PPF exempt member under section 32(2) if —

- (a) the PPF exempt member fails to comply with any condition or restriction imposed in respect of the exemption under section 32(5) or (6); or
- (b) the Authority considers it necessary to do so in the public interest.

(2) Before withdrawing any exemption granted to a PPF exempt member under subsection (1), the Authority shall —

- (a) give the PPF exempt member notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the PPF exempt member to show cause, within such time as may be specified in the notice, why the exemption should not be withdrawn.

(3) If the PPF exempt member to whom a notice is given under subsection (2) —

- (a) fails to show cause within the time specified in the notice or within such extended period of time as the Authority may allow in any particular case; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the PPF exempt member of the withdrawal of the exemption and the date on which such withdrawal of the exemption is to take effect.

(4) Where a withdrawal of exemption becomes effective, the Authority shall publish a notice of the withdrawal in the *Gazette*.

PART VII

POLICY OWNERS' PROTECTION LIFE FUND AND POLICY
OWNERS' PROTECTION GENERAL FUND**Establishment of Policy Owners' Protection Life Fund and Policy
Owners' Protection General Fund**

5 **34.**—(1) There shall be established under the PPF Scheme 2 funds to be called —

10 (a) the Policy Owners' Protection Life Fund to cover insured policies comprised in insurance funds established and maintained under section 17 of the Insurance Act (Cap. 142) by direct insurers registered to carry on life business; and

15 (b) the Policy Owners' Protection General Fund to cover insured policies comprised in insurance funds established and maintained under section 17 of the Insurance Act by direct insurers registered to carry on general business.

(2) There shall be paid into the PPF Life Fund —

20 (a) all levies, additional levies and late payment fees paid by PPF Scheme members under this Act in respect of the insured policies comprised in insurance funds established and maintained under section 17 of the Insurance Act by direct insurers registered to carry on life business;

25 (b) all moneys borrowed by the Agency for the purpose of performing its functions under this Act in respect of the insured policies comprised in insurance funds established and maintained under section 17 of the Insurance Act by direct insurers registered to carry on life business;

(c) all moneys recovered by the Agency from, or out of the assets of, failed PPF Scheme members under this Act in respect of the PPF Scheme for life business;

30 (d) any interest, dividend and other income derived from the investment of the moneys in the PPF Life Fund; and

(e) all other moneys lawfully paid into the PPF Life Fund.

(3) There shall be paid into the PPF General Fund —

- 5 (a) all levies, additional levies and late payment fees paid by PPF Scheme members under this Act in respect of the insured policies comprised in insurance funds established and maintained under section 17 of the Insurance Act by direct insurers registered to carry on general business;
- 10 (b) all moneys borrowed by the Agency for the purpose of performing its functions under this Act in respect of the insured policies comprised in insurance funds established and maintained under section 17 of the Insurance Act by direct insurers registered to carry on general business;
- (c) all moneys recovered by the Agency from, or out of the assets of, failed PPF Scheme members under this Act in respect of the PPF Scheme for general business;
- 15 (d) any interest, dividend and other income derived from the investment of the moneys in the PPF General Fund; and
- (e) all other moneys lawfully paid into the PPF General Fund.

20 (4) The PPF Life Fund and the PPF General Fund shall be used for the objects and purposes of the PPF Scheme as provided in this Act, and shall, subject to the directions of the Minister, be controlled and administered by the Agency.

(5) The PPF Life Fund shall be maintained by the Agency separately and apart from the PPF General Fund and the DI Fund.

(6) The PPF General Fund shall be maintained by the Agency separately and apart from the PPF Life Fund and the DI Fund.

25 (7) For the avoidance of doubt, the PPF Life Fund and the PPF General Fund shall not be funds of the Agency or the Authority.

Withdrawal and application of moneys of PPF Life Fund and PPF General Fund

30 **35.**—(1) In carrying out the objects and purposes of the PPF Scheme, the moneys in the PPF Life Fund and the PPF General Fund may be withdrawn and applied as the Agency considers proper for all or any of the following purposes only:

- (a) all expenses incurred in or incidental to —
- (i) the establishment and maintenance of the PPF Scheme;

- (ii) the administration and management of the PPF Life Fund and the PPF General Fund;
 - (iii) the administration and management of the Agency and the performance of the duties and functions of the Agency in respect of the PPF Scheme under this Act;
 - (iv) the conduct of any investigation by the Agency for the purpose of determining the entitlement of insured policy owners or beneficiaries to any compensation;
 - (v) the transfer of the whole or part of the insurance business of a failed PPF Scheme member to another insurer; and
 - (vi) the run-off of the insurance business of a failed PPF Scheme member;
- (b) the payment of any fees to agents appointed by the Agency for the purposes of carrying out any services in respect of the PPF Scheme under this Act;
 - (c) the withdrawal of all other moneys authorised or determined to be paid out of the PPF Life Fund and the PPF General Fund in accordance with this Act.

(2) Notwithstanding subsection (1), the Authority may recover from the Agency out of the PPF Life Fund and the PPF General Fund, all expenses incurred by the Authority in the establishment of the Agency and in connection with the discharge of the functions and responsibilities of the Authority under sections 38, 39 and 40.

Investment of PPF Life Fund and PPF General Fund

- 36.**—(1) The Agency may invest any moneys in the PPF Life Fund and the PPF General Fund in all or any of the following:
- (a) any security issued by the Government or the Authority;
 - (b) Singapore dollar deposits placed with the Authority;
 - (c) any debenture or debt security issued by Singapore Sukuk Pte. Ltd.;
 - (d) such other investments, with the objects of capital preservation and maintenance of liquidity, as may be approved by the Minister.

(2) The Agency may delegate, on such conditions or restrictions as it thinks fit, all or any of its powers and functions under subsection (1) to such employee or agent as it may appoint.

5 (3) The Agency may pay to any person appointed under subsection (2) a reasonable fee for any service rendered in exercise of any power and function delegated to that person under that subsection.

10 (4) The Agency may continue to exercise any power conferred upon it or perform any function under subsection (1) notwithstanding the delegation of such power or function to an employee or agent under this section.

PART VIII

LEVIES FOR PPF SCHEME

Levies payable by PPF Scheme members

15 **37.**—(1) Every PPF Scheme member shall, from the effective date appointed under section 46(5), pay a levy for any premium year or part thereof in respect of the insured policies issued by the PPF Scheme member.

(2) Subject to the provisions of this Act, the levy shall be of such amount as may be computed by the Authority under section 38.

20 (3) The premium year for the PPF Scheme shall be such period as may be prescribed in regulations under subsection (4).

(4) The Authority may make regulations for the purpose of prescribing the premium year.

Determination of levy rates and levies

25 **38.**—(1) The Authority shall assess and determine the levy rates for the purposes of computing the levies payable by PPF Scheme members.

(2) The Authority shall, on the basis of the levy rates determined under subsection (1) and —

30 (a) the aggregate protected liabilities of a PPF Scheme member, in respect of —

(i) insured policies covered under the PPF Life Fund; or

(ii) insured policies covered under the PPF General Fund where the PPF Scheme member is not taking in any new insurance business or renewing any existing insurance policy; or

5 (b) subject to paragraph (a)(ii), the gross premium income of a PPF Scheme member, in respect of insured policies covered under the PPF General Fund,

compute the amount of levy payable by the PPF Scheme member for any premium year or part thereof.

10 (3) For the purposes of assessing and determining the levy rates and computing the levies payable, the Authority may, in consultation with the Agency, make regulations for or in respect of all or any of the following matters:

- (a) the establishment of a system of classifying PPF Scheme members into different categories;
- 15 (b) the criteria and procedure for determining the category in which a PPF Scheme member is to be classified;
- (c) the prescribing of the levy rate applicable to each category of PPF Scheme members;
- (d) the manner in which the levy rate for each category of PPF Scheme members is to be determined;
- 20 (e) the prescribing of a minimum levy payable by PPF Scheme members;
- (f) the manner in which the amount of levy for each category of PPF Scheme members is to be determined;
- 25 (g) the computation of levy payable on a pro rata basis where a life insurer or general insurer becomes a PPF Scheme member, or is no longer exempted from the requirement to be a PPF Scheme member, at any time during a premium year;
- (h) the size of the PPF Life Fund and the PPF General Fund;
- 30 (i) such other matters as the Authority considers necessary.

(4) Regulations made pursuant to or dealing with the matters referred to in subsection (3)(c) or (d) may provide for different levy rates for different categories of PPF Scheme members.

(5) If the Authority wishes to amend or vary any regulations made under subsection (3), such regulations shall not be amended or varied without consulting the Agency.

5 (6) For the purposes of computing the levies payable, insured policies covered under the PPF Life Fund shall be classified into any of the categories in the Second Schedule.

Notice of payment of levy

10 **39.**—(1) Where the Authority has computed the amount of levy payable by any PPF Scheme member for any premium year or part thereof under section 38(2), the Authority shall notify the Agency accordingly.

15 (2) Upon receipt of the notification referred to in subsection (1), the Agency shall, within a reasonable time prior to the date on which the PPF Scheme member is required to pay its levy under the PPF Scheme for that premium year or part thereof, give the PPF Scheme member notice in writing of the amount of levy payable and the date by which such levy shall be paid.

Additional levies where PPF Life Fund or PPF General Fund insufficient to pay compensation

20 **40.**—(1) Where, in the opinion of the Authority, there are insufficient moneys in the PPF Life Fund or the PPF General Fund, as the case may be, to pay any compensation due to insured policy owners or beneficiaries, or to fund any transfer or run-off of the insurance business of any failed PPF Scheme member under this Act, the Authority may, with the concurrence of the Agency, determine —

- 25 (a) that PPF Scheme members shall be required to pay additional levies for any premium year or part thereof; and
- (b) the levy rate or rates for the purposes of computing the additional levies.

(2) Where a determination is made under subsection (1) —

- 30 (a) the Authority shall, as soon as practicable —
- (i) publish a notice in the *Gazette* of the requirement to pay additional levies and the levy rate or rates for the purposes of computing the additional levies referred to in subsection (1); and

(ii) compute the additional levies payable by PPF Scheme members for that premium year or part thereof and notify the Agency accordingly; and

5 (b) the Agency shall, upon receipt of the notification referred to in paragraph (a)(ii), give notice in writing to every PPF Scheme member of the additional levy that that PPF Scheme member is required to pay for that premium year or part thereof and the date by which the additional levy shall be paid.

10 (3) Notwithstanding subsections (1) and (2), no PPF Scheme member shall, without the prior approval of the Minister, be required to pay additional levy for any premium year exceeding such percentage of the protected liabilities or gross premium income, as the case may be, of the PPF Scheme member as the Minister may, by order published in the *Gazette*, prescribe.

15 (4) For the purposes of subsection (3), the insured policy base or gross premium income, as the case may be, of any PPF Scheme member shall be determined on such date as the Authority may notify in the *Gazette* for computing the amounts of additional levies payable by PPF Scheme members.

20 **Payment of levies and late payment fees**

41.—(1) Where any PPF Scheme member is given notice in writing to pay any levy under section 39(2) or any additional levy under section 40(2) for any premium year or part thereof, the PPF Scheme member shall pay to the Agency on or before the date of payment specified in the notice, the amount of levy or additional levy, as the case may be, that the PPF Scheme member is required to pay for that premium year or part thereof.

30 (2) Subject to subsection (3), if a PPF Scheme member fails to pay the levy or additional levy or any part thereof on or before the date of payment specified in the notice in contravention of subsection (1) —

(a) the Agency may, by notice in writing, impose on the PPF Scheme member such late payment fee as the Agency may by Rules determine; and

35 (b) the PPF Scheme member shall pay to the Agency the late payment fee together with the unpaid levy or additional levy, as

the case may be, on or before the date of payment specified in the notice under paragraph (a).

(3) The late payment fee referred to in subsection (2) shall not exceed the amount of levy or additional levy, as the case may be, owing by the PPF Scheme member.

(4) The amount of levy or additional levy owing by the PPF Scheme member and the late payment fee shall be paid in such manner as may be specified in the Rules.

(5) Without prejudice to any other remedy, any levy, additional levy or late payment fee payable under this Act shall be recoverable as a debt due to the Agency by the PPF Scheme member.

(6) Where the Agency has commenced any legal proceedings in a court in Singapore to recover any levy, additional levy or late payment fee from a PPF Scheme member, the Agency shall be entitled to claim costs on a full indemnity basis from that PPF Scheme member.

Power to refund or remit levies, etc.

42. The Agency may, with the approval of the Minister, refund or remit in whole or in part any levy or additional levy paid or payable by any PPF Scheme member under this Act.

Refund of levies, etc., paid in excess

43.—(1) Where it appears to the Authority that a PPF Scheme member has paid any levy or additional levy in excess of the amount payable under this Act, the Authority shall notify the Agency accordingly.

(2) Upon receipt of the notification referred to in subsection (1), the Agency shall refund to the PPF Scheme member the amount of levy or additional levy paid in excess.

Re-computation of levies and additional levies

44.—(1) Where it appears to the Authority —

(a) that the levy for any premium year or part thereof —

(i) computed by the Authority under section 38(2) and notified to the Agency under section 39(1); or

(ii) in respect of which a PPF Scheme member has been required to pay under section 39(2) or has so paid; or

(b) that the additional levy for any premium year or part thereof —

(i) computed by the Authority and notified to the Agency under section 40(2)(a); or

(ii) in respect of which a PPF Scheme member has been required to pay under section 40(2)(b) or has so paid,

is of an amount less than that which ought to have been computed, imposed or paid (referred to in this section as shortfall), the Authority may at any time during a period of 6 years after the premium year during which there is a shortfall, re-compute such amount of levy or additional levy which ought to have been computed, imposed or paid, as the case may be, under this Act.

(2) Sections 39, 40 and 41 shall apply, with the necessary modifications, to any amount of levy or additional levy re-computed under subsection (1) and the recovery of any shortfall in levy or additional levy upon a re-computation under that subsection as if the reference to levy or additional levy were a reference to the shortfall amount which is the difference between —

(a) the amount of levy or additional levy as re-computed; and

(b) the amount of levy or additional levy that was originally computed, imposed or paid, as the case may be, under this Act.

Disclosure of information relating to levies

45.—(1) Subject to subsections (2) and (3), no PPF Scheme member or officer of any PPF Scheme member shall disclose to any person —

(a) the levy rate applicable to the PPF Scheme member;

(b) the category in which the PPF Scheme member is classified pursuant to section 38;

(c) where the system of classifying a PPF Scheme member incorporates a rating of the PPF Scheme member based on the assessment by the Authority of the risks arising from the activities of the PPF Scheme member, the rating of the PPF Scheme member; and

(d) any information which if disclosed, would enable any of the information referred to in paragraph (a), (b) or (c) to be identified or deduced.

(2) Notwithstanding subsection (1), a PPF Scheme member or an officer of a PPF Scheme member may disclose to —

- (a) any director or officer of the PPF Scheme member;
- 5 (b) in the case where the PPF Scheme member is a branch, the head office, parent corporation or parent supervisory authority of the PPF Scheme member;
- (c) in the case where the PPF Scheme member is a company which is a subsidiary of a foreign corporation, the foreign corporation or the parent supervisory authority of the foreign corporation; or
- 10 (d) such other person or class of persons as the Authority may approve,

any of the matters referred to in subsection (1) where such disclosure is necessary for the performance of the duties of the person referred to in paragraph (a), (b) or (c), as the case may be.

15 (3) No person to whom the PPF Scheme member or officer of the PPF Scheme member has disclosed information pursuant to subsection (2) shall disclose that information to any other person except as approved by the Authority.

20 (4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

PART IX

COMPENSATION AND USE OF PPF LIFE FUND AND PPF GENERAL FUND

25 **Occurrence of events precipitating compensation or use of PPF Life Fund and PPF General Fund**

46.—(1) Where, on or after the effective date —

- (a) an order is made by a court in Singapore or elsewhere to wind up a PPF Scheme member;
- 30 (b) the Authority is of the opinion that a PPF Scheme member is insolvent, unable or likely to become unable to meet its obligations, or about to suspend payments; or

- (c) the Authority is exercising or is likely to exercise, or has exercised its powers under Part IIIAA of the Insurance Act (Cap. 142),

the Authority may determine —

- 5 (i) that compensation shall be paid out of the PPF Life Fund or the PPF General Fund to the insured policy owners, and also to the beneficiaries in the case of insured policies covered under the PPF General Fund which provide third party benefits, in accordance with this Act; or
- 10 (ii) that the PPF Life Fund or the PPF General Fund be utilised for either or both of the following purposes:
- (A) to fund, whether in whole or in part, the transfer of the whole or part of the business of the failed PPF Scheme member to another insurer;
- 15 (B) to fund the run-off of the insurance business of the failed PPF Scheme member without taking in any new insurance business or renewing any existing policies (other than a policy which has a provision providing for guaranteed renewability).
- 20 (2) Where the Authority makes any determination referred to in subsection (1), the Authority shall immediately give notice in writing to the Agency of its determination.
- (3) The notice in writing referred to in subsection (2) shall be in such form and contain such information as may be agreed between the
- 25 Authority and the Agency.
- (4) The Agency shall, as soon as practicable upon receiving the notice referred to in subsection (2), publish a notification in the *Gazette* stating that a payment of compensation shall be made out of the PPF Life Fund or the PPF General Fund, or that the PPF Life Fund or the PPF General Fund
- 30 shall be utilised to fund the transfer or run-off the insurance business of the failed PPF Scheme member, as the case may be.
- (5) For the purposes of this Act, the Minister shall by notification in the *Gazette* appoint a date to be the effective date.

Entitlement to compensation for life business

47.—(1) Subject to subsection (2) and section 49, where an insured policy owner has one or more insured policies covered under the PPF Life Fund, issued by a failed PPF Scheme member, which —

- 5 (a) is issued to the insured policy owner; or
- (b) is issued to the insured policy owner jointly with one or more other persons as joint policy owners,

the insured policy owner shall be entitled to compensation from the PPF Life Fund of one or more of the following amounts:

- 10 (i) in the case of a Category 1 insured policy referred to in the Second Schedule, an amount equivalent to the product of the protection ratio referred to in paragraph 2(a) of the Fourth Schedule and the amount of policy moneys payable in respect of that insured policy;
- 15 (ii) in the case of a Category 2 insured policy referred to in the Second Schedule, an amount equivalent to —
 - 20 (A) the product of the protection ratio for sum assured referred to in paragraph 2(b) of the Fourth Schedule and the sum assured guaranteed under that insured policy in the event that a claim event occurs before the quantification date; or
 - 25 (B) the product of the protection ratio for surrender value referred to in paragraph 2(c) of the Fourth Schedule and the surrender value guaranteed under that insured policy in the event that the insured policy owner has given notice in writing to the failed PPF Scheme member to surrender that insured policy before the quantification date;
- 30 (iii) in the case of a Category 3 insured policy referred to in the Second Schedule, an amount equivalent to the product of the protection ratio referred to in paragraph 2(d) of the Fourth Schedule and the amount of policy moneys guaranteed to be payable under the annuity by the failed PPF Scheme member;
- (iv) in the case of a Category 4 insured policy referred to in the Second Schedule, an amount equivalent to —
 - 35 (A) the product of the protection ratio for sum assured referred to in paragraph 2(e)(i) of the Fourth Schedule and the sum

assured guaranteed under that insured policy in the event that a claim event occurs before the quantification date;

(B) the product of the protection ratio for surrender value referred to in paragraph 2(e)(ii) of the Fourth Schedule and the surrender value guaranteed under that insured policy in the event of a surrender before the quantification date; or

(C) the product of the protection ratio for the commuted value referred to in paragraph 2(e)(iii) of the Fourth Schedule and the amount of policy moneys which are guaranteed to be payable in the case of an annuity.

(2) Where a claim event for an insured policy has occurred or where an insured policy has been terminated, on or before the quantification date, the amount of compensation referred to in subsection (1) shall be an amount after deducting any outstanding loan taken out against that insured policy.

Entitlement to compensation for general business

48.—(1) Subject to subsection (2) and section 49, where an insured policy owner has one or more insured policies covered under the PPF General Fund issued by a failed PPF Scheme member, which —

(a) is issued to the insured policy owner; or

(b) is issued to the insured policy owner jointly with one or more other persons as joint policy owners,

the insured policy owner shall be entitled to compensation from the PPF General Fund of the aggregate amount of the protected liabilities in respect of all such insured policies.

(2) Where any of the insured policies referred to in subsection (1) is an insured policy covered under the PPF General Fund which provides third party benefits, the insured policy owner or any beneficiary or both shall be entitled to compensation from the PPF General Fund of the full amount of the protected liabilities in respect of such insured policy.

Joint insured policies

49.—(1) Where there are 2 or more insured policy owners in respect of any insured policy, each of those insured policy owners is entitled, as at

the quantification date, to compensation from the PPF Life Fund or the PPF General Fund, as the case may be.

(2) For the purposes of determining the share of an insured policy owner in an insured policy under subsection (1), each insured policy owner holding such insured policy shall be deemed to have an equal share in the insured policy unless there is an express provision to the contrary in the books of the failed PPF Scheme member.

(3) For the avoidance of doubt, subsection (2) does not affect any rights as between the insured policy owners themselves.

Restrictions on entitlement to compensation under PPF Scheme

50. Where, in respect of any insured policy, the Agency has paid —

(a) to any insured policy owner the full amount of compensation payable to him in respect of the insured policy in accordance with this Act; or

(b) to any insured policy owner or beneficiary or both, the full amount of compensation payable to him or them in accordance with this Act, in the case where the insured policy is covered under the PPF General Fund and provides third party benefits,

no other person is entitled, in respect of those insured policies, to compensation under this Part.

Computation and method of payment of compensation under PPF Scheme

51.—(1) The Agency shall compute the amount of compensation due to an insured policy owner in respect of his insured policies, or a beneficiary in the case where an insured policy is covered under the PPF General Fund and provides third party benefits, issued by a failed PPF Scheme member in accordance with this Act.

(2) In determining —

(a) the eligibility and entitlement of an insured policy owner to compensation and computing the amount of compensation due to an insured policy owner; and

(b) the eligibility and entitlement of a beneficiary under an insured policy which is covered under the PPF General Fund and

provides third party benefits to compensation and computing the amount of compensation due to such a beneficiary,

the Agency is entitled to rely on the books of the failed PPF Scheme member and any other books which, in the opinion of the Agency, are relevant for such computation.

(3) Subject to subsection (4), the Agency shall pay the compensation in such form and manner as may be specified in the Rules.

(4) The Authority may make regulations for the purposes of payment of compensation by the Agency.

(5) Without prejudice to the generality of subsection (4), such regulations may —

(a) specify the person to whom, or the account into which, payment of compensation is to be made for the benefit of an insured policy owner who is entitled to compensation, or a beneficiary who is entitled to compensation under an insured policy which is covered under the PPF General Fund and provides third party benefits, under this Act; and

(b) provide for the payment of compensation into an equivalent account with a financial institution and for such compensation to be held in that account in a manner equivalent to the manner of holding of the original insured policy.

Subrogation

52.—(1) Upon payment out of the PPF Life Fund or the PPF General Fund of any compensation under this Act to, or for the benefit of, any insured policy owner in respect of his insured policy, or any beneficiary in the case of any insured policy which is covered under the PPF General Fund and provides third party benefits, the Agency shall be subrogated to the extent of such payment to all the rights and remedies of —

(a) the insured policy owner;

(b) the beneficiary; or

(c) the person who received the compensation on behalf of the insured policy owner or beneficiary,

as the case may be, in respect of the insured policy in priority over —

- (i) the rights and remedies of the insured policy owner or the person who received the compensation on behalf of the insured policy owner, as the case may be, in relation to that insured policy;
- 5 (ii) in the case where the insured policy is covered under the PPF General Fund and provides third party benefits, the rights and remedies of the beneficiary or the person who received the compensation on behalf of the beneficiary, as the case may be, in relation to that insured policy; and
- 10 (iii) the rights and remedies of any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of any of the persons referred to in paragraphs (a), (b) and (c) in relation to that insured life policy,

and may maintain an action in respect of those rights and remedies in the name of the person referred to in paragraph (a), (b) or (c), as the case may be, or in the name of the Agency, subject to subsection (2).

(2) Where the Agency maintains an action in respect of the rights and remedies in the name of the person referred to in subsection (1)(a), (b) or (c), as the case may be, the following provisions shall apply:

- 20 (a) in the case where the failed PPF Scheme member is not wound up, the Agency shall be entitled to recover the full amount of compensation claimed against the failed PPF Scheme member, notwithstanding any liabilities owing by the insured policy owner to the PPF Scheme member; and
- 25 (b) in the case where the failed PPF Scheme member is wound up, the insolvency rules relating to set-off shall not apply in relation to the rights and remedies of the insured policy owner.

(3) For the purposes of subsection (1), where the Agency is unable to effect payment to an insured policy owner, or a beneficiary in the case where the insured policy is covered under the PPF General Fund and provides third party benefits (due to incorrect or outdated addresses, in respect of accounts which are dormant or any other reasons beyond the reasonable control of the Agency), the Agency shall be deemed to have made payment out of the PPF Life Fund or the PPF General Fund, as the case may be, of compensation under this Act to, or for the benefit of —

- 35 (a) an insured policy owner in respect of his insured policy; or

(b) in the case where the insured policy is covered under the PPF General Fund and provides third party benefits, a beneficiary,

if the Agency makes payment of the compensation to the Public Trustee appointed under the Public Trustee Act (Cap. 260) to be held on trust for the insured policy owner or the beneficiary, as the case may be.

(4) The persons referred to in paragraphs (a), (b) and (c) of subsection (1), or any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of those persons, shall not be entitled to receive any amount from, or out of, the assets of the failed PPF Scheme member until the Agency has been reimbursed in full the amount of compensation paid to those persons.

(5) Notwithstanding any provision in the Companies Act (Cap. 50), the Agency shall be entitled —

(a) in the case where the failed PPF Scheme member is wound up, to be reimbursed out of the assets of the failed PPF Scheme member for the expenses incurred in —

(i) the payment of any compensation to insured policy owners and beneficiaries including any interest charged on moneys borrowed by the Agency for the purpose of making payment of any compensation under the PPF Scheme; and

(ii) the lodging of a claim with the liquidator of the failed PPF Scheme member for any compensation that has been paid out to insured policy owners and beneficiaries; or

(b) in any other case, to be reimbursed by the failed PPF Scheme member or the provisional liquidator of the failed PPF Scheme member, as the case may be, for the expenses incurred in —

(i) the payment of any compensation to insured policy owners and beneficiaries including any interest charged on moneys borrowed by the Agency for the purpose of making payment of any compensation under the PPF Scheme; and

(ii) the lodging of a claim with the provisional liquidator of the failed PPF Scheme member for any compensation that has been paid out to insured policy owners and beneficiaries.

(6) The Authority may by regulations, provide for the manner, process or method by which the Agency may exercise its rights to be subrogated to the rights and remedies as set out in subsection (1).

(7) For the purposes of making payment of compensation by the Agency to the Public Trustee under subsection (3) and payment of compensation by the Public Trustee to insured policy owners and beneficiaries under this Act, the Authority, may, with the concurrence of the Public Trustee and in consultation with the Agency, make regulations for or in respect of all or any of the following matters:

- (a) the manner in which moneys paid by the Agency to the Public Trustee are to be paid to insured policy owners and beneficiaries under this Act;
- (b) the fees to be paid by the Agency to the Public Trustee and the manner of payment of such fees;
- (c) such other matters as the Authority considers necessary.

(8) The provisions in the Fifth Schedule shall apply in relation to the holding and payment of compensation by the Public Trustee to insured policy owners and beneficiaries under this Act.

(9) If the Authority wishes to amend or vary any regulations made under subsection (7), the Authority shall first conduct a joint review with the Public Trustee and such regulations shall not be amended or varied without the concurrence of the Public Trustee and consulting the Agency.

Recovery of compensation paid in excess or in error under PPF Scheme

53.—(1) If —

- (a) any compensation paid to, or for the benefit of, an insured policy owner out of the PPF Life Fund or the PPF General Fund is in excess of what ought to have been paid to the insured policy owner under this Act;
- (b) any compensation paid to, or for the benefit of, a beneficiary in the case where the insured policy is covered under the PPF General Fund and provides third party benefits out of the PPF General Fund is in excess of what ought to have been paid to the beneficiary under this Act; or

(c) any compensation is paid in error to any person, the Agency may recover the amount paid in error or excess from the person who received the compensation, in such manner and within such period as may be specified by the Agency to that person.

(2) Without prejudice to any other remedy, any amount paid in error or excess to any person shall be recoverable as a debt due to the Agency by that person.

5 (3) Notwithstanding any provision in the Limitation Act (Cap. 163), an action to recover any amount paid in error or excess to any person recoverable by virtue of this section shall not be brought after the expiration of the period during which the action may be brought against the person under the Limitation Act or the date of completion of the winding up of the failed PPF Scheme member, whichever is the later.

10 (4) Upon the recovery of any amount paid in error or excess from any person under this section (referred to in this section as the recovered amount), the Agency shall do the following:

15 (a) in the case where the failed PPF Scheme member is not wound up or where the winding up of the failed PPF Scheme member has not completed and the Agency has not recovered or has not recovered in full from the failed PPF Scheme member or its liquidator, as the case may be, the compensation which it paid out to the insured policy owners or the beneficiaries in the case where the insured policies are covered under the PPF General Fund and provides third party benefits, the Agency shall deduct from the recovered amount the shortfall in compensation and pay such deducted amount to the PPF Life Fund or the PPF General Fund, as the case may be, and pay the amount remaining from the recovered amount after the deduction, if any, to the failed PPF Scheme member or its liquidator, as the case may be;

20 (b) in the case where the failed PPF Scheme member is not wound up or where the winding up of the failed PPF Scheme member has not completed and the Agency has recovered from the failed PPF Scheme member or its liquidator, as the case may be, in full the compensation which it paid out to the insured policy owners or the beneficiaries in the case where the insured policies are covered under the PPF General Fund and provides third party benefits, the Agency shall pay the recovered amount to the failed PPF Scheme member or its liquidator, as the case may be;

25 (c) in the case where the winding up of the failed PPF Scheme member has completed and the Agency has not recovered or has not recovered in full from the liquidator the compensation which it paid out to the insured policy owners or the beneficiaries in the

case where the insured policies are covered under the PPF General Fund and provides third party benefits, the Agency shall deduct from the recovered amount the shortfall in the compensation and pay such deducted amount to the PPF Life Fund or the PPF General Fund, as the case may be, and pay the amount remaining from the recovered amount after the deduction, if any, to the Official Receiver to be placed to the credit of the Companies Liquidation Account; and

(d) in the case where the winding up of the failed PPF Scheme member has completed and the Agency has recovered from the liquidator in full the compensation which it paid out to the insured policy owners or the beneficiaries in the case where the insured policies are covered under the PPF General Fund and provides third party benefits, the Agency shall pay the recovered amount to the Official Receiver to be placed to the credit of the Companies Liquidation Account.

(5) Section 322(3), (6), (7), (8) and (9) of the Companies Act (Cap. 50) shall apply, with the necessary modifications, to the money paid to the Official Receiver under subsection (4)(c) and (d).

Use of PPF Life Fund or PPF General Fund for transfer or run-off of insurance business

54.—(1) In determining —

(a) whether the PPF Life Fund or the PPF General Fund is to be utilised to fund any transfer of the whole or part of the insurance business of the failed PPF Scheme member to another insurer or run-off of the insurance business of the failed PPF Scheme member pursuant to section 46; and

(b) the amount of the PPF Life Fund or the PPF General Fund to be utilised,

the Authority shall (without prejudice to any other factors that the Authority may consider relevant) have regard to —

(i) the cost of transferring the whole or part of the insurance business of the failed PPF Scheme member or the cost of the run-off, as the case may be, as compared to the cost of paying compensation to the insured policy owners or the beneficiaries in

the case where the insured policies are covered under the PPF General Fund and provide third party benefits; and

- (ii) the impact of not transferring the whole or part of the insurance business of the failed PPF Scheme member or not proceeding to run-off the insurance business of the failed PPF Scheme member, as the case may be.

(2) For the purposes of subsection (1), the Authority shall, prior to notifying the Agency of its determination under section 46, obtain the approval of the Minister for the amount to be paid out of the PPF Life Fund or the PPF General Fund, as the case may be, by the Agency.

(3) Where the insurance business of a failed PPF Scheme member is transferred to another insurer or the insurance business is run-off by the Agency or any person appointed to carry on such run-off —

- (a) the benefits that an insured policy owner is entitled to receive under his insured policy; or
- (b) the benefits that an insured policy owner or a beneficiary or both, as the case may be, are entitled to receive under an insured policy which is covered under the PPF General Fund and provides third party benefits,

in the event that the contingency upon which policy moneys are payable occurs after the transfer or during the run-off of the insurance business, shall be an amount not less than the protected liabilities in respect of his or the insured policy.

(4) For the purposes of subsection (3), the protected liabilities in respect of an insured policy of the insured policy owner shall be computed in accordance with the Third Schedule.

(5) The Agency shall be entitled to be reimbursed by the failed PPF Scheme member or the provisional liquidator of the failed PPF Scheme member, as the case may be, for the expenses incurred in —

- (a) in the event of a transfer of the whole or part of the business from the failed PPF Scheme member to another insurer, the costs and expenses of such transfer; and
- (b) in the event of the run-off of the whole or part of the business of the failed PPF Scheme member, the costs and expenses of setting up a company to run-off the insurance policies and outsourcing the administration of the insurance policies to a third party.

Powers of liquidator in respect of claims against insured policy owner

55.—(1) Subject to subsection (3), notwithstanding any written law or rule of law, where —

- 5 (a) the Agency has paid compensation to an insured policy owner, a beneficiary of an insured policy which is covered under the PPF General Fund and provides third party benefits, or both, as the case may be, out of the PPF Life Fund or the PPF General Fund in accordance with this Act;
- 10 (b) such compensation is, or will be, accorded priority in the event of the winding up of the failed PPF Scheme member under section 49FR of the Insurance Act (Cap. 142); and
- (c) the failed PPF Scheme member has one or more existing claims against the insured policy owner,

15 the liquidator may bring legal proceedings with respect to those claims in the name, and on behalf, of the failed PPF Scheme member against the insured policy owner or any person who received compensation on behalf of the insured policy owner, to recover such moneys as may be necessary to put the failed PPF Scheme member into the position it would have been as against the insured policy owner with respect to those claims, if —

- 20 (i) the Agency had not paid out any compensation or been accorded priority under section 49FR of the Insurance Act in respect of the compensation paid to the insured policy owner; and
- (ii) the liquidator had applied the same rules with regard to the respective rights of debts provable and the valuation of future and contingent liabilities as are in force for the time being under
25 the law relating to bankruptcy in relation to the estates of persons adjudged bankrupt, as if the failed PPF Scheme member were a person so adjudged.

30 (2) Such moneys shall be recoverable as a debt due to the failed PPF Scheme member by the insured policy owner or any person who received compensation on behalf of the insured policy owner.

(3) This section shall not apply to any moneys held by the Public Trustee pursuant to any payment of compensation by the Agency under section 52(3).

PART X

DEPOSIT INSURANCE AND POLICY OWNERS'
PROTECTION FUND AGENCY**Designation of company to be deposit insurance and policy owners'
protection fund agency**

5 **56.** The Minister may, by notification in the *Gazette*, designate a company incorporated in Singapore to be the deposit insurance and policy owners' protection fund agency for the purposes of this Act.

Objects, functions and powers of Agency

10 **57.**—(1) Subject to the provisions of this Act, the objects of the Agency shall be —

- (a) to administer the DI Scheme and PPF Scheme in accordance with this Act;
- 15 (b) to administer and manage the DI Fund, PPF Life Fund and PPF General Fund in accordance with this Act;
- (c) to administer and manage the insurance business of a failed PPF Scheme member; and
- (d) to take such steps as may be directed by the Minister or after
20 consultation with the Authority, to contribute to the stability of the financial system.

(2) Without prejudice to the generality of subsection (1), the functions of the Agency shall include the following:

- (a) collect premium contributions and levies payable by DI Scheme members and PPF Scheme members under this Act;
- 25 (b) make payments of compensation in respect of insured deposits to insured depositors out of the DI Fund after the Agency has determined the eligibility and entitlement of the depositors;
- (c) make payments of compensation in respect of protected liabilities to insured policy owners and beneficiaries of insured
30 policies covered under the PPF General Fund which provide third party benefits out of the PPF Life Fund and the PPF

General Fund after the Agency has determined their eligibility and entitlement;

- 5 (d) make interim payments of compensation out of the DI Fund to insured depositors of such amounts as the Agency considers appropriate;
- 10 (e) make interim payments of compensation out of the PPF Life Fund and the PPF General Fund to insured policy owners and make interim payment of compensation out of the PPF General Fund to beneficiaries of insured policies which are covered under the PPF General Fund and provide third party benefits of such amounts as the Agency considers appropriate;
- 15 (f) where the transfer of the whole or part of the insurance business from a failed PPF Scheme member to another PPF Scheme member is reasonably practicable, make payment out of the PPF Life Fund or the PPF General Fund to fund such transfer;
- (g) make payment out of the PPF Life Fund or the PPF General Fund to —
- 20 (i) fund the run-off of the insurance business of the failed PPF Scheme member;
- (ii) set up a company to hold the insured policies of the failed PPF Scheme member; and
- (iii) outsource the administration of the insured policies of the failed PPF Scheme member to a third party;
- 25 (h) carry on the run-off of the insurance business of the failed PPF Scheme member and to set up a company to hold the insured policies of the failed PPF Scheme member;
- (i) claim from the failed DI Scheme member for reimbursement of the amount of compensation paid to the insured depositors out of the DI Fund, together with any interest accrued thereon;
- 30 (j) claim from the failed PPF Scheme member for reimbursement of the amount of compensation paid to the insured policy owners and beneficiaries of insured policies covered under the PPF General Fund which provide third party benefits out of the PPF Life Fund and the PPF General Fund, together with any interest
- 35 accrued thereon;

- (k) claim payment from the liquidator or provisional liquidator of a failed DI Scheme member, out of the assets of the failed DI Scheme member, for reimbursement of the amount of compensation paid to the insured depositors out of the DI Fund, together with any interest accrued thereon;
- (l) claim payment from the liquidator or provisional liquidator of a failed PPF Scheme member, out of the assets of the failed PPF Scheme member, for reimbursement of the amount of compensation paid to the insured policy owners and beneficiaries of insured policies covered under the PPF General Fund which provide third party benefits out of the PPF Life Fund or the PPF General Fund, together with any interest accrued thereon;
- (m) educate the public on the DI Scheme and the PPF Scheme.

(3) The Agency shall have the power to do anything for the purpose of fulfilling its objects and discharging its functions under this Act or any other written law, or which is incidental or conducive to the fulfilment of those objects and discharge of those functions.

(4) Notwithstanding sections 9(4) and 34(5) and (6), the Agency may transfer to its account for the purpose of paying expenses of the Agency, moneys from the DI Fund, PPF Life Fund and PPF General Fund up to the amount approved under section 77 by the Minister as annual estimates and supplementary estimates of income and expenditure of the DI Fund, PPF Life Fund and PPF General Fund.

Amendment to memorandum and articles of association of Agency

58.—(1) Notwithstanding any provision in the Companies Act (Cap. 50), the Agency shall not amend the memorandum and articles of association of the Agency without the prior approval of the Minister.

(2) Any amendment made to the memorandum and articles of association of the Agency without the prior approval of the Minister shall be void.

Appointment of board of directors

59.—(1) This section shall have effect notwithstanding any provision in the Companies Act and the memorandum and articles of association of the Agency.

(2) The board of directors of the Agency shall consist of —

- (a) a Chairman who shall be appointed by the board of directors; and
- (b) not less than 4 but not more than 9 other directors.

(3) A director shall hold office for a term not exceeding 3 years and shall be eligible for reappointment.

- 5 (4) No person shall be appointed as or remain a director on the board of directors if he is a substantial shareholder, a director or an employee of —
- (a) any DI Scheme member or PPF Scheme member; or
 - (b) a related corporation of any DI Scheme member or PPF Scheme member.

10 (5) In this section —

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

“substantial shareholder” has the same meaning as in section 81 of the Companies Act.

15 **Board to be accountable to Minister**

60. The board of directors shall be accountable to the Minister for its acts and decisions.

Salaries, fees and allowances payable to Chairman and directors

20 **61.** There shall be paid to the Chairman of the board of directors and directors of the Agency out of the DI Fund, PPF Life Fund and PPF General Fund such salaries, fees and allowances as the Minister may, from time to time, determine upon the recommendation of the Agency.

Appointment of Chief Executive, officers and employees, etc.

25 **62.—**(1) The board of directors shall appoint a Chief Executive on such terms and conditions as the board may determine.

(2) The Chief Executive shall —

- (a) be known by such designation as the board of directors may determine; and
 - (b) be responsible to the board of directors for the proper administration and management of the functions and affairs of the Agency in accordance with the policies and directions laid down by the board.
- 30

(3) Where the Chief Executive is temporarily absent from Singapore or temporarily incapacitated by reason of illness, or is for any other reason temporarily unable to perform his duties, a person may be appointed by the board of directors to act in the place of the Chief Executive during any such period of absence from duty.

(4) The Agency may, from time to time, appoint and employ on such terms and conditions as it may determine, such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

Rules issued by Agency for DI Scheme and PPF Scheme

63.—(1) The Agency may issue, and in its discretion publish for information in the *Gazette* or in any other manner as it considers appropriate, Rules for any matter relating to any of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), such Rules may provide for —

- (a) the manner and method of collection of premium contributions, levies and late payment fees;
- (b) the manner of disclosure by DI Scheme members as to whether their products are insured deposits;
- (c) the manner of disclosure by PPF Scheme members as to whether their products are insured policies;
- (d) the particulars to be recorded in, or in respect of, books kept by DI Scheme members for the purpose of computing the amount of insured deposits placed with the DI Scheme members, and the particulars to be recorded in, or in respect of, books kept by PPF Scheme members for the purpose of confirming the insured policies issued by a PPF Scheme member;
- (e) the manner in which compensation is to be paid to insured depositors and persons referred to in section 22(7) from the DI Fund, insured policy owners from the PPF Life Fund and the PPF General Fund, and beneficiaries of insured policies which are covered under the PPF General Fund and provide third party benefits from the PPF General Fund;

- (f) the collection from any DI Scheme member by the Agency of any information in relation to its insured deposits and insured depositors, for the purpose of computing the amount of compensation which is to be paid to the insured depositors; and
- 5 (g) the collection from any PPF Scheme member by the Agency of any information in relation to the insured policies, insured policy owners and beneficiaries of insured policies which are covered under the PPF General Fund and provide third party benefits, for the purpose of computing the amount of compensation which is
- 10 to be paid to the insured policy owners or beneficiaries.

(3) The Agency may, at any time, amend or revoke the whole or part of any Rule issued under this section.

(4) Without limiting the operation of any other provision of this Act, the Rules shall bind the Agency, the DI Scheme members and the PPF

15 Scheme members to the same extent as if the Rules had been contained in properly executed agreements on the part of the Agency and each DI Scheme member, or the Agency and each PPF Scheme member, as the case may be, to observe and comply with all the Rules.

(5) For the avoidance of doubt, no person, other than the Agency, a DI

20 Scheme member or a PPF Scheme member, shall have any right to enforce the observance of or compliance with any of the Rules where such Rule is relevant.

(6) For the avoidance of doubt, any Rules issued under this section shall be deemed not to be subsidiary legislation.

25 (7) No Rule issued by the Agency shall be inconsistent with any regulations made by the Authority under this Act and any such Rule which is so inconsistent shall, to the extent of inconsistency, be void.

Regulations on disclosure and operational preparedness by Authority

30 **64.**—(1) The Authority may, for the purposes of ensuring disclosure of relevant information by the DI Scheme members and PPF Scheme members to the Agency, depositors, policy owners, customers or potential customers of the DI Scheme members and PPF Scheme members, make regulations for or in respect of all or any of the following matters:

- 35 (a) the disclosure by DI Scheme members and PPF Scheme members as to whether their products are insured deposits or insured policies, as the case may be;

(b) the manner of disclosure of relevant information by DI Scheme members and PPF Scheme members when they cease to be Scheme members.

(2) The Authority may, for the purposes of ensuring the operational preparedness of the DI Scheme members and PPF Scheme members in the event of an occurrence of any event precipitating the use of the DI Fund, PPF Life Fund or PPF General Fund, as the case may be, make regulations for or in respect of all or any of the following matters:

(a) the necessary systems and processes that a DI Scheme member or PPF Scheme member shall have in place;

(b) the appointment of one or more independent persons to assess the operational preparedness of a DI Scheme member or PPF Scheme member;

(c) the employment of requisite personnel and qualified persons by a DI Scheme member or PPF Scheme member in respect of the proper functioning of the systems and processes.

(3) The regulations made under subsection (1) may provide that any contravention of any provision of the regulations shall be an offence punishable 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 of \$12,500 for every day or part thereof during which the offence continues after conviction.

(4) The regulations made under subsection (2) may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$125,000 and, in the case of a continuing offence, with a further fine of \$12,500 for every day or part thereof during which the offence continues after conviction.

Power of court to order observance of or compliance with Rules

65.—(1) Where any person who is bound to observe or comply with the Rules fails to do so, the High Court may, on the application of the Agency, a DI Scheme member or a PPF Scheme member, and after giving the first-mentioned person an opportunity to be heard, make an order directing the first-mentioned person to observe or comply with those Rules.

(2) This section is in addition to, and not in derogation of, any other remedy available to the Agency, the DI Scheme member or the PPF Scheme member.

PART XI

OFFENCES

5

Offences committed by bodies corporate, etc.

66.—(1) Where an offence under this Act committed by a body corporate is proved —

10 (a) to have been committed with the consent or connivance of an officer; or

 (b) to be attributable to any act or default on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

15 (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

 (3) Where an offence under this Act committed by a partnership is proved —

20 (a) to have been committed with the consent or connivance of a partner; or

 (b) to be attributable to any act or default on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

25 (4) Where an offence under this Act committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner or manager of the limited liability partnership, the partner or manager (as the case may be) as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

30

 (5) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any act or default on the part of such an officer or a member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(6) In this section —

“body corporate” and “partnership” exclude a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A);

“officer” —

(a) in relation to a body corporate, means any director, member of the committee of management, chief executive officer, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; and

(b) 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, or any person holding a position analogous to that of the president, secretary or member of the committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(7) The Minister may make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate, limited liability partnership or unincorporated association formed or recognised under the law of a territory outside Singapore.

False statements regarding membership, insured deposits and insured policies

67.—(1) No person shall, knowingly or recklessly, make a false or misleading statement as to whether or not —

- (a) any person is a DI Scheme member;
- (b) any person is a PPF Scheme member;
- (c) any deposit or product is an insured deposit; or
- (d) any policy is an insured policy.

5 (2) Any person who contravenes subsection (1) shall, notwithstanding
 that a contract does not come into being, 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
 10 day or part thereof during which the offence continues after conviction.

Offence by officer

68.—(1) Any officer of a full bank, finance company or relevant insurer
 who fails to take all reasonable steps to secure —

- 15 (a) compliance by the full bank, finance company or relevant
 insurer, as the case may be, with any provision of this Act; or
- (b) the accuracy and correctness of any statement submitted to the
 Authority, the Agency or such other person as may be required
 under this Act,

20 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.

25 (2) In any proceedings against a person under subsection (1), it shall be
 a defence for the person to prove that he had reasonable grounds for
 believing that another person was charged with the duty of securing
 compliance with the requirements of this Act, or with the duty of ensuring
 that those statements were accurate and correct, as the case may be, and
 that that person was competent, and in a position, to discharge that duty.

30 (3) A person shall not be sentenced to imprisonment for any offence
 under subsection (1) unless, in the opinion of the court, he committed the
 offence wilfully.

(4) Notwithstanding subsection (1), no officer shall be guilty of an
 offence where the contravention of any provision of this Act by a full
 bank, finance company or relevant insurer results in the imposition of

only a financial penalty on the full bank, finance company or relevant insurer.

Duty not to furnish false information to Authority or Agency

5 **69.**—(1) Any person who furnishes the Authority or the Agency with any information under or for the purposes of any provision of this Act shall use due care to ensure that the information is not false or misleading in any material particular.

10 (2) Subsection (1) applies only to a requirement in relation to which no other provision of this Act creates an offence in connection with the furnishing of information.

(3) Any person who contravenes subsection (1) 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.

General penalty

15 **70.** Any person who is guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

20 **Penalty for corporation**

25 **71.**—(1) Subject to subsections (2) and (3), where a corporation or body corporate is convicted of an offence under this Act, the penalty that the court may impose is a fine not exceeding 2 times the maximum amount that the court could, but for this subsection, impose as a fine for that offence.

(2) Subsection (1) shall not apply to —

(a) offences under sections 6(8) and 32(8); and

30 (b) offences under the subsidiary legislation made under this Act where it is expressly provided in the subsidiary legislation that subsection (1) shall not apply to those offences.

(3) Where an individual is convicted of an offence under this Act by virtue of section 66, he shall be liable to the fine or imprisonment or both as prescribed for that offence and subsection (1) shall not apply.

Jurisdiction of court

72. Notwithstanding any provision to the contrary in the Criminal Procedure Code 2010 (Act 15 of 2010), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Composition of offences

73.—(1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine that is prescribed for the offence.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Authority may make regulations to prescribe the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Authority.

PART XII

FINANCIAL AND AUDIT PROVISIONS

Financial provisions with respect to DI Fund, PPF Life Fund and PPF General Fund

74. The financial provisions set out in the Sixth Schedule shall have effect with respect to all moneys in the DI Fund, the PPF Life Fund and the PPF General Fund, respectively.

Financial provisions with respect to Agency

75. The financial provisions set out in the Seventh Schedule shall have effect with respect to the Agency.

Annual report of Agency

76. The Agency shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Agency during the preceding financial year and containing such information relating to the

proceedings and policy of the Agency as the Minister may, from time to time, direct.

Annual estimates

5 **77.**—(1) The Agency shall, in every financial year, prepare or cause to be prepared annual estimates of income and expenditure of the DI Fund, the PPF Life Fund, the PPF General Fund and the Agency for the ensuing financial year and a supplementary estimate for any financial year.

(2) All annual estimates and supplementary estimates shall be presented to the Minister for his approval.

10 **Reporting to Minister**

78. If the auditor in the course of the performance of his duties as an auditor of the Agency or the DI Fund, PPF Life Fund or PPF General Fund is satisfied that —

- 15 (a) there has been a serious contravention of any provisions of this Act or the Companies Act (Cap. 50) or that an offence involving fraud or dishonesty has been committed; or
- (b) serious irregularities have occurred, including irregularities that jeopardise the interests of insured depositors or insured policy owners,

20 the auditor shall immediately report the matter in writing to the Minister.

PART XIII

MISCELLANEOUS

Protection from liability

79. No liability shall be incurred by —

- 25 (a) the Agency;
- (b) any director, officer, employee or agent of the Agency; or
- (c) any person acting under the direction of the Agency,

as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in —

- 30 (i) the exercise or purported exercise of any power under this Act;

- (ii) the performance or purported performance of any function or duty under this Act; or
- (iii) the execution or purported execution of this Act.

Preservation of confidentiality

5 **80.**—(1) No person who is or has been a member, a director, an officer, an employee or an agent of the Agency shall disclose any information relating to the affairs of the Agency or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions unless such disclosure is made —

- 10 (a) with the permission of the person from whom the information was obtained or, where the information is the confidential information of a third person, with the permission of that third person;
- 15 (b) for the purpose of the performance of his duties or the exercise of his functions under this Act;
- (c) in compliance with the requirement of any court or the provisions of any written law; or
- 20 (d) for the purpose of assisting any public officer or officer of any other statutory board in the investigation or prosecution of any offence under any written law.

25 (2) No person who is or has been a member, a director, an officer, an employee or an agent of the Agency shall, for his own personal benefit or for the personal benefit of any other person, make use of any information, whether directly or indirectly, which has been obtained by him in the performance of his duties or the exercise of his functions.

30 (3) For the purpose of this section, the reference to a person disclosing or making use of any information includes his permitting any other person to have any access to any record, document or other thing which is in his possession or under his control by virtue of his being or having been a member, a director, an officer, an employee or an agent of the Agency.

 (4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

General exemption

81.—(1) The Minister may, by regulations, exempt any person or class of persons from all or any of the provisions of this Act, subject to such terms or conditions as may be prescribed.

5 (2) The Minister may, on application of any person, by notice in writing exempt the person from all or any of the provisions of this Act if the Minister considers it appropriate to do so in the circumstances of the case.

(3) An exemption under subsection (2) —

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

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

(c) may be withdrawn at any time by the Minister if he considers it necessary in the public interest.

15 (4) Any person who contravenes any term or condition prescribed under subsection (1) or specified by the Minister under subsection (3)(a) shall be guilty of an offence.

Appointment of assistants

20 **82.**—(1) The Authority may, subject to such conditions or restrictions as it thinks fit, appoint any person to exercise any of its powers or perform any of its functions or duties under this Act, either generally or in any particular case, except the power to make subsidiary legislation.

(2) Any person appointed by the Authority under subsection (1) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

25 Inspection of books of DI Scheme members and PPF Scheme members

83.—(1) The Authority may from time to time inspect, under conditions of secrecy, the books of any DI Scheme member or PPF Scheme member for the purposes of this Act.

30 (2) For the purposes of an inspection under this section —

(a) the DI Scheme member or PPF Scheme member and any other person who is in possession of the books of the DI Scheme member or PPF Scheme member shall produce such books to the

Authority and give such information or facilities as may be required by the Authority;

5 (b) the DI Scheme member or PPF Scheme member shall procure that any other person who is in possession of its books produce its books to the Authority and give such information or facilities as may be required by the Authority; and

(c) the Authority may —

(i) make copies of, or take possession of, any of such books;

10 (ii) use, or permit the use of, any of such books for the purposes of any proceedings under this Act; and

(iii) retain possession of any of such books for so long as is necessary —

(A) for the purposes of exercising a power conferred by this section;

15 (B) for a decision to be made on whether or not proceedings should be commenced under this Act in relation to such books; or

(C) for such proceedings to be commenced and carried on.

20 (3) No person shall be entitled, as against the Authority, to claim a lien on any of the books, but such a lien is not otherwise prejudiced.

(4) The Authority may require a person who produced any book to the Authority to explain, to the best of his knowledge and belief, any matter about the compilation of the book or to which the book relates.

25 (5) Any person who, without reasonable excuse, contravenes subsection (2) or a requirement of the Authority under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding
30 \$10,000 for every day or part thereof during which the offence continues after conviction.

Provision of information and production of books

84.—(1) The Authority may, by notice in writing, require a DI Scheme member or PPF Scheme member to —

- (a) provide such information; or
- (b) produce any book,

at such time and in such manner as the Authority may reasonably require for the proper discharge of its functions.

5 (2) Any information received from a DI Scheme member or PPF Scheme member under this section shall be treated as secret by the Authority.

(3) Nothing in subsection (2) shall preclude the Authority from disclosing the information if —

- 10 (a) the information is already in the public domain;
- (b) the information is disclosed in such a manner that the identity of an individual DI Scheme member or PPF Scheme member cannot be ascertained;
- (c) the DI Scheme member or PPF Scheme member consents to the
15 disclosure; or
- (d) disclosure of the information on individual DI Scheme member or PPF Scheme member is necessary for the Authority's performance of its functions or in the exercise of its powers.

20 (4) Any DI Scheme member or PPF Scheme member which fails to or neglects to furnish any information or produce any book required by the Authority under this section shall be guilty of an offence.

Service of documents, etc.

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

- 25 (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to the person;
- 30 (c) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or
- (d) in the case of a body corporate, firm or body of persons —

(i) by delivering it to the secretary or other like officer of the body corporate, firm or body of persons at its registered office or principal place of business; or

5 (ii) by sending it by registered post addressed to the body corporate, firm or body of persons at its registered office or principal place of business.

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

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

15 **Electronic service**

86.—(1) The Authority may provide an electronic service for the service of any notice that is required or authorised by this Act to be served on any person.

20 (2) The Authority may use the electronic service to serve any notice on behalf of the Agency.

(3) 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.

25 (4) Notwithstanding section 85, where any person has given his consent for any notice to be served on him through the electronic service, the Authority may serve the notice on that person by transmitting an electronic record of the notice to that person's account with the electronic service.

30 (5) Where a person has given his consent for a notice to be served on him through the electronic service, the notice shall be deemed to have been served at the time when an electronic record of the notice enters his account with the electronic service.

(6) Notwithstanding any other written law, in any proceedings under this Act —

(a) an electronic record of any notice that was served through the electronic service; or

5 (b) any copy or print-out of that electronic record,

shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out —

10 (i) is certified by the Authority to contain all or any information served through the electronic service in accordance with this section; and

(ii) is duly authenticated in the manner specified in subsection (8) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

15 (7) For the avoidance of doubt —

(a) an electronic record of any notice that was served through the electronic service; or

(b) any copy or print-out of that electronic record,

20 shall not be inadmissible in evidence merely because the notice was served without the delivery of any equivalent document or counterpart in paper form.

(8) For the purposes of this section, a certificate —

(a) giving the particulars of —

25 (i) any person whose authentication code was used to serve the notice; and

(ii) any person or device involved in the production or transmission of the electronic record of the notice, or the copy or print-out thereof;

30 (b) identifying the nature of the electronic record or copy or print-out thereof; and

(c) purporting to be signed by the Authority or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

5 (9) Where the electronic record of any notice, or a copy or print-out of that electronic record, is admissible under subsection (6), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

10 (10) The Authority may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service.

Copies or extracts of books to be admitted in evidence

15 **87.**—(1) Subject to this section, a copy of or an extract from a book mentioned in this Act that is proved to be a true copy of the book or of the relevant part of the book is admissible in evidence as if it were the original book or the relevant part of the original book.

20 (2) For the purposes of subsection (1), evidence that a copy of or an extract from a book is a true copy of the book or of a part of the book may be given by a person who has compared the copy or extract with the book or the relevant part of the book and may be given orally or by an affidavit sworn, or by a declaration made, before a person authorised to take affidavits or statutory declarations.

Application of Companies Act

25 **88.** Nothing in this Act, with the exception of sections 58, 59, 60, 62 and 79, shall affect the operation of the Companies Act (Cap. 50) in relation to its application to a company that is designated as the deposit insurance and policy owners' protection fund agency under section 56.

Insurance Act not to apply in relation to certain parts

30 **89.** The provisions of the Insurance Act (Cap. 142) (except where expressly mentioned) shall not apply to the Agency and anything done by it under this Act.

Amendment of Schedules

90.—(1) The Minister may at any time, by order published in the *Gazette*, amend any Schedule except the Fifth, Sixth and Seventh Schedules.

5 (2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

10 **Regulations**

91.—(1) The Minister may, with the exception of those matters which may be prescribed by the Authority under this Act, make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

15 (2) Except as otherwise expressly provided in this Act, regulations made under this Act may —

(a) be of general or specific application; and

(b) provide that a contravention thereof shall be punishable —

20 (i) in the case of an individual, with a fine not exceeding \$12,500 or with imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, with a further fine not exceeding \$1,250 for every day or part thereof during which the offence continues after conviction; or

25 (ii) in the case of a company or body corporate, with a fine not exceeding \$25,000 and, in the case of a continuing offence, with a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

30 **Repeal**

92. The Deposit Insurance Act (Cap. 77A) is repealed.

Consequential amendments to other written laws

93.—(1) The Banking Act (Cap. 19, 2008 Ed.) is amended —

- 5 (a) by deleting the words “Deposit Insurance Act (Cap. 77A) or any rules issued by the deposit insurance agency under the Deposit Insurance Act” in section 20(1)(a)(viii) and substituting the words “Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 or any Rules issued by the deposit insurance and policy owners’ protection fund agency under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011”;
- 10 (b) by deleting the words “Deposit Insurance Act (Cap. 77A)” in section 62(1)(a) and substituting the words “Deposit Insurance and Policy Owners’ Protection Schemes Act 2011”;
- (c) by deleting paragraph (b) of section 62(1) and substituting the following paragraph:
- 15 “(b) secondly, liabilities incurred by the bank in respect of insured deposits, up to the amount of compensation paid or payable out of the DI Fund by the Agency under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 in respect of such insured deposits;”;
- 20 (d) by deleting subsection (5) of section 62 and substituting the following subsection:
- “ (5) In this section, “Agency”, “DI Fund” and “insured deposit” have the same respective meanings as in section 2(1) of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011.”;
- 25 (e) by deleting the words “Deposit Insurance Act (Cap. 77A)” in the first column of item 9 in Part I of the Third Schedule and substituting the words “Deposit Insurance and Policy Owners’ Protection Schemes Act 2011”;
- 30 (f) by deleting item 10 in Part II of the Third Schedule and substituting the following item:

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
Purpose for which customer information may be disclosed	Persons to whom information may be disclosed	Conditions
<p>“10. Disclosure is solely in connection with the payment of compensation under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 to insured depositors or persons referred to in section 22(7) of that Act.</p>	<p>(a) The deposit insurance and policy owners’ protection fund agency;</p> <p>(b) the Public Trustee; or</p> <p>(c) any person authorised or appointed by the deposit insurance and policy owners’ protection fund agency or the Public Trustee (as the case may be) to perform its functions under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011.</p>	<p>(a) The disclosure by the deposit insurance and policy owners’ protection fund agency or the Public Trustee to any person referred to in paragraph (c) of the second column shall be subject to such conditions as may be specified in a notice issued by the Authority or otherwise imposed by the Authority.</p> <p>(b) The disclosure by any person referred to in paragraph (a), (b) or (c) of the second column to any other person referred to in the same paragraph shall be</p>

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
Purpose for which customer information may be disclosed	Persons to whom information may be disclosed	Conditions
		<p>subject to such conditions as may be specified in a notice issued by the Authority or otherwise imposed by the Authority.</p> <p>(c) The Public Trustee may disclose customer information to such persons or class of persons and subject to such conditions, as may be determined by the Minister.</p>

- (g) by deleting the definition of “deposit insurance agency” in Part III of the Third Schedule and substituting the following definition:

““deposit insurance and policy owners’ protection fund agency” means the deposit insurance and policy owners’ protection fund agency designated under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;” and

- (h) by deleting the words “Deposit Insurance Act” in the definition of “insured depositor” in Part III of the Third Schedule and

substituting the words “Deposit Insurance and Policy Owners’ Protection Schemes Act 2011”.

(2) The Finance Companies Act (Cap. 108, 2000 Ed.) is amended —

5 (a) by deleting the words “Deposit Insurance Act 2005 or any rules issued by the deposit insurance agency under the Deposit Insurance Act 2005” in section 15(1)(a)(vi) and substituting the words “Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 or any Rules issued by the deposit insurance and policy owners’ protection fund agency under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011”;

(b) by deleting the words “Deposit Insurance Act 2005” in section 44A(1)(a) and substituting the words “Deposit Insurance and Policy Owners’ Protection Schemes Act 2011”;

15 (c) by deleting paragraph (b) of section 44A(1) and substituting the following paragraph:

20 “(b) secondly, liabilities incurred by the finance company under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 in respect of insured deposits, up to the amount of compensation paid or payable out of the DI Fund by the Agency under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011 in respect of such insured deposits.”; and

25 (d) by inserting, immediately after subsection (2) of section 44A, the following subsection:

“(3) In this section, “Agency” and “DI Fund” have the same respective meanings as in section 2(1) of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011.”.

30 (3) The Monetary Authority of Singapore Act (Cap. 186, 1999 Ed.) is amended by deleting item 6 in the Schedule and substituting the following item:

“6. Deposit Insurance and Policy Owners’ Protection Schemes Act 2011”.

35 (4) The Public Trustee Act (Cap. 260, 1985 Ed.) is amended by deleting the full-stop at the end of paragraph (b) of section 4(1A) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) undertake such role, functions and duties as set out in the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011.”.

Savings and transitional provisions

5 **94.**—(1) Any exemption granted by the Authority under section 6(2) of the repealed Act immediately before the appointed day —

(a) shall continue and be deemed to have been granted under section 6(2) of this Act; and

10 (b) any condition to which the exemption was subject immediately before that day shall continue and be deemed to have been imposed under section 6(5) of this Act.

(2) Any assets, investments or moneys which were part of the DI Fund established under section 9(1) of the repealed Act (whether held in the name of the DI Fund or otherwise) immediately before the appointed day, 15 shall be deemed to be assets, investments and moneys forming part of the DI Fund reconstituted under section 9(1) of this Act.

(3) Any approval granted by the Minister under section 11 of the repealed Act in respect of the types of investments that the Agency may invest any money in the DI Fund, shall continue and be deemed to have 20 been granted by the Minister under section 11 of this Act.

(4) Any director holding office at the company designated by the Minister under section 12 of the repealed Act to be the deposit insurance agency immediately before the appointed day, shall continue to hold 25 appointment as such at the company designated by the Minister under section 56 of this Act.

(5) The following provisions shall apply to the Chief Executive, other officers, employees, consultants and agents appointed as such by the company designated by the Minister under section 12 of the repealed Act to be the deposit insurance agency, pursuant to section 18 of that Act 30 immediately before the appointed day:

(a) the Chief Executive, other officers, employees, consultants and agents shall continue to hold such appointments and be deemed to have been appointed as such under section 62 of this Act; and

35 (b) the terms and conditions to which their appointments were subject to immediately before the appointed day shall continue

and be deemed to have been imposed under or pursuant to this Act.

5 (6) Subject to subsection (8), every DI Scheme member which has received a notice to pay a premium contribution under section 23 of the repealed Act for the premium year beginning on 1st April 2011 and ending on 31st March 2012, may from the appointed day be required to pay a further premium contribution under this Act in respect of the period commencing on the appointed day until 31st March 2012 (both days inclusive).

10 (7) Sections 12, 14, 16, 17 and 18 of this Act shall apply, with the necessary modifications, to any payment of further premium contribution.

15 (8) Notwithstanding subsection (7), the Authority shall, when computing the amount of further premium contribution payable by a DI Scheme member, take into consideration any premium contribution which that DI Scheme member has paid under the repealed Act for the premium year beginning on 1st April 2011 and ending on 31st March 2012.

20 (9) Section 19 of this Act shall apply, with the necessary modifications, to any premium contribution which a DI Scheme member has received a notice to pay under section 23 of the repealed Act for the premium year beginning on 1st April 2011 and ending on 31st March 2012.

25 (10) Any act or purported act of the Agency (including the entering into of an agreement by the Agency and any act done on behalf of the Agency by an officer or agent of the Agency under any purported authority, whether express or implied, of the Agency) in respect of the PPF Scheme after the appointed day but before the memorandum and articles of association of the Agency have been amended shall not be invalid by reason only of the fact that the Agency was without capacity or power to do such act.

30 (11) For the avoidance of doubt, section 25(2) and (3) of the Companies Act (Cap. 50) shall not apply to any act or purported act of the Agency referred to in subsection (10).

35 (12) For a period of 2 years after the appointed day, the Minister may, by regulations published in the *Gazette*, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of this Act, as he may consider necessary or expedient.

(13) In this section, a reference to a provision of the repealed Act is a reference to that provision of that Act in force immediately before the appointed day.

FIRST SCHEDULE

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Section 2(1)

INSURED DEPOSIT AND MAXIMUM DI COVERAGE

In this Act —

“insured deposit” means —

- 10 (a) any of the following deposits in Singapore dollars, placed with any DI Scheme member in any of its branches in Singapore:
- (i) a deposit in a savings account;
 - (ii) a deposit in a fixed deposit account;
 - (iii) a deposit in a current account,
- 15 including any accrued interest that has been credited to the relevant accounts for each of the deposits specified in sub-paragraphs (i), (ii) and (iii), regardless of whether such a deposit is pledged, charged or secured as collateral or whether such a deposit or part thereof is set aside in respect of any debt owing to the DI Scheme member and cannot be withdrawn until and unless the debt is repaid;
- 20 (b) any moneys denominated in Singapore dollars, placed with any DI Scheme member under the CPFIS, CPFMS or the Supplementary Retirement Scheme; and
- (c) such product as may be prescribed by the Authority,
- 25 but does not include any structured deposit as defined in the Financial Advisers (Structured Deposits — Prescribed Investment Product and Exemption) Regulations (Cap. 110, Rg 7);

“Maximum DI Coverage” means the amount of \$50,000.

SECOND SCHEDULE

Sections 38(6) and 47(1)

CATEGORIES OF INSURED POLICIES

Insured policies shall be classified into one of the following 4 categories:

- 5 (a) Category 1 insured policies, comprising any of the following types of policies or riders:
- (i) any individual accident and health policy;
- (ii) any rider to an individual policy, with the exception of a term rider which accelerates the payment of part or all of the sum assured stated in the policy or provides for a payout of an additional sum of money over and above the sum assured stated in the policy upon occurrence of a claim event;
- 10 (iii) any group health policy;
- (iv) any group personal accident policy;
- (v) the part of any insured policy, whether or not it is a Category 1 insured policy, comprising the accumulated values (including interest which has accrued on such values) of coupon deposits, advance premium payments and unclaimed moneys under such insured policy, where applicable;
- 15 (b) Category 2 insured policies, comprising any of the following types of policies or riders:
- (i) any individual policy or rider (other than a Category 1 or 3 insured policy);
- (ii) any voluntary group term policy;
- 20 (iii) any voluntary group whole life policy;
- (iv) any voluntary group endowment policy;
- (v) any term rider which accelerates the payment of all or part of the sum assured stated in the policy or provides for a payout of an additional sum of money over and above the sum assured stated in the policy upon occurrence of a claim event,
- 25 except that any accident and health benefit (other than those benefits that accelerate the payment of part or all of the sum assured stated in the policy) payable under any such policy, shall be classified as a Category 1 insured policy;
- 30 (c) Category 3 insured policies, comprising any annuity where the policy owner is an individual and any voluntary group annuity policy;
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- (d) Category 4 insured policies, comprising any non-voluntary group insurance policy (which is a non-voluntary group term policy, non-voluntary group whole life policy, non-voluntary group endowment policy or non-voluntary group annuity policy).

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THIRD SCHEDULE

Sections 2(1) and 54(4) and Fourth Schedule

PROTECTED LIABILITIES

1. For the purposes of computing the levies payable by PPF Scheme members under section 38, the aggregate amount of the protected liabilities of a PPF Scheme member in respect of its insured policies covered under the PPF Life Fund shall be the aggregate of all the following amounts:

- (a) in the case of Category 1 insured policies, an amount equivalent to the product of the protection ratio referred to in paragraph 2(a) of the Fourth Schedule and the guaranteed policy liabilities for each of such policies;
- (b) in the case of Category 2 insured policies, an amount calculated in accordance with the following formula:

$$\frac{(A + B)}{2} \times C,$$

where A is the protection ratio for sum assured referred to in paragraph 2(b) of the Fourth Schedule;

B is the protection ratio for surrender value referred to in paragraph 2(c) of the Fourth Schedule; and

C is the guaranteed policy liabilities for each of such Category 2 insured policies;

- (c) in the case of Category 3 insured policies, an amount equivalent to the product of the protection ratio referred to in paragraph 2(d) of the Fourth Schedule and the guaranteed policy liabilities for each of such policies;
- (d) in the case of Category 4 insured policies —
- (i) where the insured policies are group term policies, group endowment policies or group whole life policies, an amount calculated in accordance with the following formula:

$$\frac{(D + E)}{2} \times F,$$

where D is the protection ratio for sum assured referred to in paragraph 2(e)(i) of the Fourth Schedule;

E is the protection ratio for surrender value referred to in paragraph 2(e)(ii) of the Fourth Schedule; and

F is the guaranteed policy liabilities for each of such group term policies, group endowment policies or group whole life policies; and

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(ii) where the insured policies are group annuity policies, an amount equivalent to the product of the protection ratio for commuted value referred to in paragraph 2(e)(iii) of the Fourth Schedule and the guaranteed policy liabilities for each of such policies.

10 2. For the purposes of computing the compensation to be paid out to an insured policy owner from the PPF General Fund under section 48, the aggregate amount of the protected liabilities in respect of the insured policy owner's insured policy issued by a failed PPF Scheme member shall be calculated in the following manner:

15 (a) in the case of a compulsory insurance policy, the full amount of any liability of the failed PPF Scheme member under the insured policy, in respect of a sum payable to any person entitled to the benefit under the terms of any compulsory insurance policy, which arises from a liability of the policy owner that is subject to compulsory insurance, including the full amount of any such liability which becomes payable before, or within 30 days after, a winding up order is made against the failed PPF Scheme member where the failed PPF Scheme member is wound up;

20 (b) in all other cases, the full amount of any liability of the failed PPF Scheme member to the insured policy owner under the terms of the insured policy, including the full amount of any such liability which becomes payable before, or within 30 days after, a winding up order is made against the failed PPF Scheme member where the failed PPF Scheme member is wound up.

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30 3. For the purposes of determining the amount of benefits that an insured policy owner is entitled to receive from the PPF Life Fund in the event of a claim under his insured policy, which occurs after the transfer or during the run-off of the insurance business of the failed PPF Scheme member under section 54, the protected liabilities in respect of his insured policy shall be computed in the following manner:

(a) in the case of a Category 1 insured policy, the product of the protection ratio referred to in paragraph 2(a) of the Fourth Schedule and the guaranteed policy liabilities for the policy;

35 (b) in the case of a Category 2 insured policy, the policy liabilities valued in accordance with regulations prescribed pursuant to section 17 of the Insurance Act (Cap. 142) for the valuation of assets and liabilities in an insurance fund using —

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(i) the adjusted guaranteed sum assured, which is the product of the protection ratio for sum assured referred to in paragraph 2(b) of the Fourth Schedule and the sum assured guaranteed under the policy; and

- (ii) the adjusted surrender value which is the product of the protection ratio for surrender value referred to in paragraph 2(c) of the Fourth Schedule and the surrender value guaranteed under the policy;
- (c) in the case of a Category 3 insured policy, the product of the protection ratio referred to in paragraph 2(d) of the Fourth Schedule and the guaranteed policy liabilities for the policy;
- (d) in the case of a Category 4 insured policy —
- (i) where the policy is a group term policy, group endowment policy or group whole life policy, the policy liabilities valued in accordance with regulations prescribed pursuant to section 17 of the Insurance Act for the valuation of assets and liabilities in an insurance fund using —
- (A) the adjusted sum assured which is the product of the protection ratio for sum assured referred to in paragraph 2(e)(i) of the Fourth Schedule and the sum assured guaranteed under the policy; and
- (B) the adjusted surrender value which is the product of the protection ratio for surrender value referred to in paragraph 2(e)(ii) of the Fourth Schedule and the surrender value guaranteed under the policy;
- (ii) where the policy is a group annuity policy, the product of the protection ratio for commuted value referred to in paragraph 2(e)(iii) of the Fourth Schedule and the guaranteed policy liabilities for the policy.

FOURTH SCHEDULE

Sections 2(1) and 47(1) and Third Schedule

PROTECTION RATIO

1. In this Schedule —
- “Maximum Annuity Sum” means the amount of \$100,000;
- “Maximum Group Sum Assured” means the amount of \$100,000;
- “Maximum Group Surrender Value” means the amount of \$50,000;
- “Maximum Sum Assured” means the amount of \$500,000;
- “Maximum Surrender Value” means the amount of \$100,000.
2. For the purposes of section 47 and the Third Schedule, the protection ratio shall be determined in the following manner:
- (a) in the case of Category 1 insured policies, 1;
- (b) for the sum assured for Category 2 insured policies, in respect of each life assured —

- 5 (i) the ratio of the Maximum Sum Assured to the aggregate amount of the sum assured on that life assured guaranteed under all such policies (other than term riders which accelerate the payment of all or part of the sum assured stated in the policy), upon the occurrence of a claim event (including term riders which provide additional payout of sum assured upon the occurrence of a claim event); or
- (ii) 1,
- whichever is the lower;
- 10 (c) for the surrender value for Category 2 insured policies, in respect of each life assured —
- (i) the ratio of the Maximum Surrender Value to the aggregate amount of the surrender value guaranteed (in the event that the insured policy owner has given notice in writing to the failed PPF Scheme member to surrender the policy) under all such policies; or
- 15 (ii) 1,
- whichever is the lower;
- (d) in the case of Category 3 insured policies, in respect of each life assured —
- (i) the ratio of the Maximum Annuity Sum to the aggregate amount of commuted value of benefits guaranteed under all such policies; or
- 20 (ii) 1,
- whichever is the lower;
- (e) in the case of Category 4 insured policies, in respect of each life assured per policy —
- (i) for the sum assured under a group policy —
- 25 (A) the ratio of the Maximum Group Sum Assured to the amount of sum assured guaranteed under each group term, endowment policy or whole life policy, as the case may be; or
- (B) 1,
- whichever is the lower;
- 30 (ii) for the surrender value under a group policy —
- (A) the ratio of the Maximum Group Surrender Value to the amount of surrender value guaranteed for each group endowment or whole life policy, as the case may be; or
- (B) 1,
- 35 whichever is the lower;
- (iii) for the commuted value of group annuity —

(A) the ratio of the Maximum Annuity Sum to the amount of commuted value of guaranteed benefits for each group annuity policy; or

(B) 1,

5

whichever is the lower.

FIFTH SCHEDULE

Sections 27(8) and 52(8)

PROVISIONS APPLICABLE TO THE HOLDING AND PAYMENT OF COMPENSATION BY THE PUBLIC TRUSTEE TO PERSONS ENTITLED TO 10 PAYMENT OF COMPENSATION UNDER THIS ACT

1. The Public Trustee shall hold the payment of compensation made to him under sections 27 and 52 (referred to in this Schedule as compensation moneys) as a bare trustee until such compensation moneys are paid out to the insured depositors, persons referred to in section 22(7), insured policy owners, or beneficiaries under insured
15 policies which are covered under the PPF General Fund and provide third party benefits, as the case may be, (referred to in this Schedule as the entitled persons) or the Consolidated Fund.

2. The Public Trustee shall not be under a duty to do any of the following:

(a) take any step to trace or contact any entitled person for the purpose of making payment of the compensation moneys to him;
20

(b) notwithstanding section 10(1) of the Public Trustee Act (Cap. 260) and rule 22 of the Public Trustee Rules (Cap. 260, R 1), invest any compensation moneys for the benefit of any entitled person;

(c) notwithstanding section 21 of the Public Trustee Act and rule 22 of the Public Trustee Rules, pay any interest on any compensation moneys to any
25 entitled person.

3. The Public Trustee shall hold the compensation moneys up to a maximum period of 7 years from the date of receipt of such compensation moneys and if they remain unclaimed at the expiration of that period, the compensation moneys together with any
30 interest earned thereon shall be paid into the Consolidated Fund.

4. If any claim is made by any entitled person to any part of the compensation moneys so transferred to the Consolidated Fund and if the claim is established to the satisfaction of the Public Trustee, the amount certified by the Public Trustee to be due to the claimant shall be paid to him, without interest, from the Consolidated Fund.

35 5. The Agency shall, based on the books of the failed DI Scheme member or PPF Scheme member, as the case may be, furnish the particulars of each entitled person and the amount of compensation moneys due to such person (referred to in this Schedule as

the computed compensation amount) to the Public Trustee at the time of payment of the compensation moneys to the Public Trustee.

5 6. In the event that an entitled person makes a claim to any part of the compensation moneys with the Public Trustee, the Public Trustee shall make payment of the computed compensation amount to the entitled person and in making payment of such moneys to the entitled person, the Public Trustee shall be entitled to rely on the particulars and computed compensation amount referred in paragraph 5.

10 7. Where the particulars of a claimant are not found in the particulars furnished by the Agency to the Public Trustee under paragraph 5, the Public Trustee shall refer the claimant to the Agency and the Agency shall determine whether the claimant is an entitled person. If the Agency determines that the claimant is an entitled person, the Agency shall provide a confirmation to the Public Trustee stating the computed compensation amount due to the claimant, whereupon the Public Trustee shall be entitled to rely on the confirmation and make payment of the computed compensation amount to the claimant.

20 8. Where an entitled person makes a claim for an amount of compensation moneys with the Public Trustee which is greater than the computed compensation amount, the Public Trustee shall only pay the computed compensation amount to the entitled person and refer the entitled person to the Agency to claim the shortfall between the first-mentioned amount and the computed compensation amount.

9. Where any compensation moneys is paid in error or excess by the Agency to the Public Trustee, the Agency shall notify the Public Trustee in writing of such amount paid in error or excess and the following shall apply:

25 (a) in the case where such amount paid in error or excess has not been paid out by the Public Trustee in accordance with this Schedule, the Public Trustee shall refund the amount paid in error or excess to the Agency; and

30 (b) in the case where such amount paid in error or excess has been paid out by the Public Trustee to an entitled person in accordance with this Schedule, the Agency shall recover the amount paid in error or excess from the entitled person under section 28 or 53, as the case may be.

10. No liability shall be incurred by the Public Trustee as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the performance or purported performance of any function or duty referred to in this Act.

SIXTH SCHEDULE

Section 74

FINANCIAL PROVISIONS WITH RESPECT TO DI FUND,
PPF LIFE FUND AND PPF GENERAL FUND5 **Financial year**

1.—(1) The financial year of the DI Fund shall begin on 1st April of every year and end on 31st March of the following year.

(2) The financial year of the PPF Life Fund and the PPF General Fund shall begin on 1st April of every year and end on 31st March of the following year, except that the first financial year of the PPF Life Fund and the PPF General Fund shall begin on the effective date and end on 31st March of the following year.

Accounts of DI Fund, PPF Life Fund and PPF General Fund

2. The Agency shall —

- (a) keep or cause to be kept proper accounts and records of the transactions and affairs in respect of the DI Fund, PPF Life Fund and PPF General Fund; and
- (b) after the close of each financial year prepare financial statements in respect of the DI Fund, PPF Life Fund and PPF General Fund for that year.

Auditor

3. The accounts shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Agency in consultation with the Auditor-General.

Appointment of auditor

4. A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

25 **Annual financial statements**

5. The Agency shall, as soon as practicable after the close of each financial year, prepare and submit financial statements in respect of that year to the auditor.

Remuneration of auditor

6. The remuneration of the auditor shall be paid out of the DI Fund, PPF Life Fund or PPF General Fund in such proportion as the Agency considers proper.

Duties of auditor

7. The auditor shall in his report state —

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the DI Fund, PPF Life Fund and PPF General Fund, respectively;
- 5 (b) whether proper accounting and other records have been kept, including records of all assets of the DI Fund, PPF Life Fund and PPF General Fund, respectively, whether purchased, donated or otherwise;
- (c) whether the receipts, expenditure and investment of moneys by the DI Fund, PPF Life Fund and PPF General Fund, respectively, during the financial year were in accordance with the provisions of this Act; and
- 10 (d) such other matters arising from the audit as he considers necessary.

Auditor's report

8.—(1) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Agency.

- 15 (2) The auditor shall submit such periodical and special reports to the Minister and to the Agency as may appear to him to be necessary or as the Minister or the Agency may require.

Powers of auditor

- 9.—(1) The auditor or any person authorised by him shall be entitled at all reasonable times to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the DI Fund, PPF Life Fund and PPF General Fund, and may make copies of or extracts from any such accounting and other records.
- 20

- (2) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of his functions under this Act.
- 25

Penalty for obstructing auditor

10. Any person who fails, without reasonable excuse, to comply with any requirement of the auditor under paragraph 9(2) or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000.
- 30

Presentation of audited financial statements and auditor's report

11. The Agency shall, as soon as the financial statements have been audited in accordance with the provisions of this Act, submit a copy of the audited financial statements, together with a copy of the auditor's report, to the Minister.

Copy of auditor's report for Auditor-General

35

12. Where the Auditor-General is not the auditor of the DI Fund, PPF Life Fund or PPF General Fund, the Agency shall cause to be sent to the Auditor-General a copy of

the audited financial statements and any report made by the auditor at the same time they are submitted to the Minister.

SEVENTH SCHEDULE

Section 75

5 FINANCIAL PROVISIONS WITH RESPECT TO AGENCY

Financial year

1. The financial year of the Agency shall comprise such period as may be specified in the memorandum and articles of association of the Agency.

Accounts of Agency

10 2. The Agency shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are properly authorised and correctly made and that adequate control is maintained over the assets of, or in the custody of, the Agency and over the expenditure incurred by the Agency.

Auditor

15 3. The accounts of the Agency shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Agency in consultation with the Auditor-General.

Appointment of auditor

20 4. A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

Remuneration of auditor

25 5. The remuneration of the auditor shall be paid out of the DI Fund, PPF Life Fund and PPF General Fund in such proportion as the Agency considers proper.

Annual financial statements

6. The Agency shall, as soon as practicable after the close of each financial year, prepare and submit financial statements in respect of that year to the auditor of the Agency.

Duties of auditor

30 7. The auditor shall in his report state —

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Agency;
- (b) whether proper accounting and other records have been kept, including records of all assets of the Agency, whether purchased, donated or otherwise;
- 5 (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Agency during the financial year were in accordance with the provisions of this Act; and
- (d) such other matters arising from the audit as he considers necessary.

Auditor's report

10 8.—(1) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Agency.

(2) The auditor shall submit such periodical and special reports to the Minister and to the Agency as may appear to him to be necessary or as the Minister or the Agency may require.

Powers of auditor

15 9.—(1) The auditor or any person authorised by him shall be entitled at all reasonable times to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Agency and may make copies of or extracts from any such accounting and other records.

20 (2) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of his functions under this Act.

Penalty for obstructing auditor

25 10. Any person who fails, without reasonable excuse, to comply with any requirement of the auditor under paragraph 9(2) or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000.

Presentation of audited financial statements and auditor's report

30 11. The Agency shall, as soon as the financial statements have been audited in accordance with the provisions of this Act, submit a copy of the audited financial statements, together with a copy of the auditor's report, to the Minister.

Copy of auditor's report for Auditor-General

35 12. Where the Auditor-General is not the auditor of the Agency, the Agency shall cause to be sent to the Auditor-General a copy of the audited financial statements and any report made by the auditor at the same time they are submitted to the Minister.

EXPLANATORY STATEMENT

This Bill seeks —

- (a) to reconstitute the Deposit Insurance Scheme for the purpose of providing limited compensation to insured depositors under certain circumstances;
- (b) to establish a Policy Owners’ Protection Scheme in Singapore for the purpose of compensating (in part or whole) or otherwise assisting or protecting insured policy owners and beneficiaries under certain circumstances by —
 - (i) specifying that every relevant insurer is to be a member of the Policy Owners’ Protection Scheme;
 - (ii) empowering the Minister to designate a company to be the deposit insurance and policy owners’ protection fund agency (the Agency); and
 - (iii) setting out the insurance policies which are covered, the persons who will be compensated, the circumstances under which moneys from the Policy Owners’ Protection Funds may be used and the amount of compensation that is available under the Policy Owners’ Protection Scheme;
- (c) to repeal the Deposit Insurance Act (Cap. 77A);
- (d) to make consequential amendments to other written laws; and
- (e) to provide for matters connected therewith.

PART I

PRELIMINARY

Part I (clauses 1 to 3) deals with preliminary matters.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

Clause 3 defines the terms “insured deposit base” and “relevant insured deposits”.

PART II

DEPOSIT INSURANCE SCHEME

Part II (clauses 4 to 8) contains provisions relating to the continuation and reconstitution of the Deposit Insurance Scheme.

Clause 4 provides for the continuation and reconstitution of the Deposit Insurance Scheme (“DI Scheme”).

Clause 5 requires every full bank and finance company to be a member of the DI Scheme.

Clause 6 provides that a full bank or finance company may apply to the Monetary Authority of Singapore (the Authority) for specific exemption from being a DI Scheme member. The clause also provides that the Authority may impose such conditions or restrictions on a DI exempt member as it thinks fit. A DI exempt member which contravenes any condition or restriction commits an offence.

Clause 7 provides that the Authority may in certain circumstances withdraw any exemption granted to a DI exempt member after giving the DI exempt member an opportunity to be heard.

Clause 8 empowers the Authority to require a DI Scheme member to maintain assets in Singapore for the purposes of meeting liabilities in respect of insured deposits placed with the DI Scheme member. The clause provides that the Authority may make regulations for this purpose and may impose the payment of a financial penalty on any DI Scheme member which contravenes an asset maintenance requirement.

PART III

DEPOSIT INSURANCE FUND

Part III (clauses 9 to 11) relates to the continuation and reconstitution of the Deposit Insurance Fund.

Clause 9 provides for the continuation and reconstitution of the Deposit Insurance Fund (“DI Fund”). The clause also specifies what is to be paid into the DI Fund and that the DI Fund will, subject to the directions of the Minister, be controlled and administered by the company designated by the Minister under clause 56 to be the Agency.

Clause 10 provides for the withdrawal and application of moneys of the DI Fund.

Clause 11 empowers the Agency to invest the moneys of the DI Fund in certain instruments. The clause also provides that the Agency may delegate its powers and functions to invest the moneys of the DI Fund to such employee or agent as it may appoint.

PART IV

PREMIUM CONTRIBUTIONS FOR DI SCHEME

Part IV (clauses 12 to 20) relates to the payment of premium contributions by DI Scheme members, determination of premium rates, computation of premium contributions and imposition of additional premium contributions under certain circumstances.

Clause 12 requires every DI Scheme member to pay premium contribution, for any premium year or part thereof, of an amount computed by the Authority under clause 13, in respect of the insured deposits placed with the DI Scheme member.

Clause 13 empowers the Authority to assess and determine the premium rates for the purposes of computing the premium contributions. The clause provides that the Authority will, on the basis of the premium rates and the insured deposit base of a DI

Scheme member, compute the amount of premium contribution payable by the DI Scheme member. The clause further empowers the Authority to make regulations for the purposes of assessing and determining the premium rates and computing the premium contributions payable. Where the Authority wishes to amend or vary the regulations, the clause provides that the regulations must not be amended or varied without consulting the Agency.

Clause 14 states that where the Authority has computed the amount of premium contribution payable by any DI Scheme member, the Authority will notify the Agency and the Agency will, in turn, notify the DI Scheme member.

Clause 15 provides that where, in the opinion of the Authority, the DI Fund is insufficient to pay any compensation due to insured depositors, the Authority may, with the concurrence of the Agency, impose on DI Scheme members additional premium contributions for any premium year or part thereof. The clause further provides that the prior approval of the Minister must be obtained for the imposition of additional premium contribution exceeding the prescribed percentage of the insured deposit base of a DI Scheme member.

Clause 16 provides for the payment of premium contributions and additional premium contributions to the Agency. The clause also empowers the Agency to impose on DI Scheme members late payment fees. The clause further provides that any unpaid premium contribution, additional premium contribution or late payment fee will be recoverable as a debt due to the Agency by the DI Scheme member.

Clause 17 provides that the Agency may, with the approval of the Minister, refund or remit in whole or in part any premium contribution or additional premium contribution paid or payable by a DI Scheme member.

Clause 18 provides for the refund of any excess premium contribution or additional premium contribution paid by a DI Scheme member.

Clause 19 empowers the Authority to re-compute any premium contribution or any additional premium contribution where the premium contribution or additional premium contribution, as the case may be, which has been computed and notified to the Agency, imposed or paid is less than that which ought to have been computed, imposed or paid.

Clause 20 provides that no DI Scheme member or officer of any DI Scheme member is to disclose to any person certain specified information relating to premium contributions, including information which if disclosed, would enable a person to deduce such specified information. However, where disclosure is necessary for the performance of the duties of a person referred to in clause 20(2)(a), (b) or (c), the clause provides that the information may be disclosed to that person. The clause prohibits that person from disclosing the information to any other person except as approved by the Authority.

PART V

COMPENSATION UNDER DI SCHEME

Part V (clauses 21 to 29) relates to the compensation that is to be paid to the insured depositors of a failed DI Scheme member and certain other persons.

Clause 21 stipulates the 2 events which can precipitate the payment of compensation out of the DI Fund to the insured depositors of a failed DI Scheme member. The clause further provides that where the Authority has determined that compensation is to be paid, the Authority must immediately give notice in writing to the Agency.

Clause 22 provides for the entitlement of an insured depositor to compensation from the DI Fund.

Clause 23 deals with the entitlement of an insured depositor to compensation where he holds an insured deposit in his own right or in a joint account.

Clause 24 provides that where an insured depositor or a person referred to in clause 22(7) has been paid compensation in full for his insured deposits in accordance with the Bill, no other person is entitled to compensation in respect of the same insured deposits.

Clause 25 deals with the computation and method of payment of compensation under the DI Scheme.

Clause 26 provides that where a DI Scheme member merges or consolidates with another DI Scheme member and there is a subsequent failure of the merged or consolidated DI Scheme member or where a DI Scheme member acquires the deposit-taking business of another DI Scheme member to form part of the business of the acquiring DI Scheme member and the acquiring DI Scheme member subsequently fails, any insured depositor who has insured deposits placed with both of the original DI Scheme members will be entitled to compensation for a period of one year after the date of the merger, consolidation or acquisition, as though the merger, consolidation or acquisition had not occurred, and will be entitled to compensation, in respect of his insured deposits with each of the original DI Scheme members, of an amount not exceeding Maximum DI Coverage or the amount of the insured deposits placed with the original DI Scheme member, whichever is the lower.

Clause 27 relates to the right of subrogation of the Agency. The clause also provides that where the Agency is unable to effect payment to an insured depositor, the Agency is deemed to have made payment of compensation under the Bill to or for the benefit of the insured depositor in respect of his insured deposit, if the Agency makes payment of the compensation to the Public Trustee. For the purposes of making payment of compensation by the Agency to the Public Trustee and the payment of compensation by the Public Trustee to insured depositors under the Bill, the Authority may, with the concurrence of the Public Trustee and in consultation with the Agency, make regulations for certain specified matters. The provisions in the Fifth Schedule will also apply in relation to the holding and payment of compensation by the Public Trustee to insured depositors under the Bill.

Clause 28 provides for the recovery by the Agency of any compensation paid in error or excess.

Clause 29 provides for the liquidator's power to commence legal proceeding against an insured depositor with respect to existing claims to recover any moneys as may be necessary to put the failed DI Scheme member into the position it would have been if the Agency had not paid out any compensation or been accorded priority under the Banking Act (Cap. 19) or the Finance Companies Act (Cap. 108) in respect of the compensation paid to the insured depositor and the liquidator had applied the same insolvency rules to set off mutual debts and liabilities owing between the failed DI Scheme member and the insured depositor.

PART VI

POLICY OWNERS' PROTECTION SCHEME

Part VI (clauses 30 to 33) contains provisions relating to the establishment of the Policy Owners' Protection Scheme.

Clause 30 establishes the Policy Owners' Protection Scheme ("PPF Scheme").

Clause 31 requires every relevant insurer to be a member of the PPF Scheme.

Clause 32 provides that a relevant insurer may apply to the Authority for specific exemption from being a PPF Scheme member. The clause also provides that the Authority may impose such conditions or restrictions on a PPF exempt member as it thinks fit. A PPF exempt member which contravenes any condition or restriction commits an offence.

Clause 33 provides that the Authority may withdraw any exemption granted to a PPF exempt member after giving the PPF exempt member an opportunity to be heard.

PART VII

POLICY OWNERS' PROTECTION LIFE FUND AND POLICY OWNERS' PROTECTION GENERAL FUND

Part VII (clauses 34 to 36) relates to the establishment of the Policy Owners' Protection Life Fund, with respect to life business, and Policy Owners' Protection General Fund, with respect to general business.

Clause 34 provides for the establishment of the Policy Owners' Protection Life Fund ("PPF Life Fund") and the Policy Owners' Protection General Fund ("PPF General Fund"). The clause also specifies what is to be paid into the PPF Life Fund and PPF General Fund. The clause further provides that the PPF Life Fund and PPF General Fund will, subject to the directions of the Minister, be controlled and administered by the company designated by the Minister under clause 56 to be the Agency.

Clause 35 provides for the withdrawal and application of moneys of the PPF Life Fund and PPF General Fund.

Clause 36 empowers the Agency to invest the moneys of the PPF Life Fund and PPF General Fund in certain instruments. The clause further provides that the Agency may delegate its powers and functions to invest the moneys of the PPF Life Fund and PPF General Fund to such employee or agent as it may appoint.

PART VIII

LEVIES FOR PPF SCHEME

Part VIII (clauses 37 to 45) relates to the payment of levies by PPF Scheme members, determination of levy rates and computation of levies, imposition of additional levies under certain circumstances.

Clause 37 requires every PPF Scheme member to pay levy, for any premium year or part thereof, of an amount computed by the Authority under clause 38, in respect of the insured policies issued by the PPF Scheme member.

Clause 38 empowers the Authority to assess and determine the levy rates for the purposes of computing the levies. The clause provides that the Authority will, on the basis of the levy rates and the aggregate protected liabilities or gross premium income of the PPF Scheme member, compute the amount of levy payable by the PPF Scheme member. The clause further empowers the Authority to make regulations for the purposes of assessing and determining the levy rates and computing the levies payable. Where the Authority wishes to amend or vary the regulations, the clause provides that the regulations must not be amended or varied without consulting the Agency.

Clause 39 states that where the Authority has computed the amount of levy payable by any PPF Scheme member, the Authority will notify the Agency, in turn, notify the PPF Scheme member.

Clause 40 provides that where, in the opinion of the Authority, the PPF Life Fund or PPF General Fund is insufficient to pay any compensation due to insured policy owners, to fund the transfer of the insurance business or to carry on the run-off of the insurance business of any failed PPF Scheme member, the Authority may, with the concurrence of the Agency, impose on PPF Scheme members additional levies for any premium year or part thereof. The clause further provides that the prior approval of the Minister must be obtained for the imposition of an additional premium contribution exceeding the prescribed percentage of the protected liabilities or gross premium income (as the case may be) of a PPF Scheme member.

Clause 41 provides for the payment of levies and additional levies to the Agency. The clause also empowers the Agency to impose on PPF Scheme members late payment fees. The clause further provides that any unpaid levy, additional levy or late payment fee will be recoverable as a debt due to the Agency by the PPF Scheme member.

Clause 42 provides that the Agency may, with the approval of the Minister, refund or remit in whole or in part any levy or additional levy paid or payable by a PPF Scheme member.

Clause 43 provides for the refund of any excess levy or additional levy paid by a PPF Scheme member.

Clause 44 empowers the Authority to re-compute any levy or any additional levy where the levy or additional levy, as the case may be, which has been computed and notified to the Agency, imposed or paid is less than that which ought to have been computed, imposed or paid.

Clause 45 provides that no PPF Scheme member or officer of any PPF Scheme member is to disclose to any person certain specified information relating to levies, including information which if disclosed, would enable a person to deduce such specified information. However, where disclosure is necessary for the performance of the duties of a person referred to in clause 45 (2)(a), (b) or (c), the clause provides that the information may be disclosed to that person. The clause prohibits that person from disclosing the information to any other person except as approved by the Authority.

PART IX

COMPENSATION AND USE OF PPF LIFE FUND AND PPF GENERAL FUND

Part IX (clauses 46 to 55) relates to the compensation that is to be paid to the insured policy owners of a failed PPF Scheme member or beneficiaries, and the use of the PPF Life Fund and PPF General Fund to fund the transfer of the whole or part of the insurance business or the run-off of the insurance business of the failed PPF Scheme member.

Clause 46 stipulates the 3 events which can precipitate the payment of compensation out of the PPF Life Fund or PPF General Fund, or the use of the PPF Life Fund or PPF General Fund to fund the transfer of the whole or part of the insurance business or the run-off of a failed PPF Scheme member. The clause further provides that where the Authority has determined that such compensation is to be paid or that the PPF Life Fund or PPF General Fund is to be so utilised, the Authority must immediately give notice in writing to the Agency.

Clause 47 provides for the entitlement of an insured policy owner or a beneficiary to compensation from the PPF Life Fund.

Clause 48 provides for the entitlement of an insured policy owner or a beneficiary to compensation from the PPF General Fund.

Clause 49 deals with the entitlement of an insured policy owner to compensation where he holds an insured policy jointly with another person.

Clause 50 provides that where an insured policy owner or a beneficiary has been paid compensation in full in accordance with the Bill, no other person is entitled to compensation in respect of the same insured policies.

Clause 51 deals with the computation and method of payment of compensation under the PPF Scheme.

Clause 52 relates to the right of subrogation of the Agency. The clause also provides that where the Agency is unable to effect payment to an insured policy owner or a beneficiary, the Agency is deemed to have made payment of compensation under the Bill to or for the benefit of the insured policy owner or the beneficiary, as the case may be, if the Agency makes payment of the compensation to the Public Trustee. For the purposes of making payment of compensation by the Agency to the Public Trustee and the payment of compensation by the Public Trustee to insured policy owners and beneficiaries under the Bill, the Authority may, with the concurrence of the Public Trustee and in consultation with the Agency, make regulations for certain specified matters. The provisions in the Fifth Schedule will also apply in relation to the holding and payment of compensation by the Public Trustee to insured policy owners and beneficiaries under the Bill.

Clause 53 provides for the recovery by the Agency of any compensation paid in error or excess.

Clause 54 deals with the use of PPF Life Fund or PPF General Fund to fund the transfer of the whole or part of the business of a failed PPF Scheme member to another insurer or to fund the run-off of the insurance business of a failed PPF Scheme member.

Clause 55 provides for the liquidator's power to commence legal proceeding against an insured policy owner with respect to existing claims to recover any moneys as may be necessary to put the failed PPF Scheme member into the position it would have been if the Agency had not paid out any compensation or been accorded priority under section 49FR of the Insurance Act (Cap. 142) in respect of the compensation paid to the insured policy owner and the liquidator had applied the same insolvency rules to set off mutual debts and liabilities owing between the failed PPF Scheme member and the insured policy owner.

PART X

DEPOSIT INSURANCE AND POLICY OWNERS' PROTECTION FUND AGENCY

Part X (clauses 56 to 65) contains provisions relating to the designation of the deposit insurance and policy owners' protection fund agency, the objects and functions of the Agency and other general matters relating to the Agency.

Clause 56 empowers the Minister to designate a company incorporated in Singapore to be the deposit insurance and policy owners' protection fund agency for the purposes of the Bill.

Clause 57 sets out the objects and functions of the Agency, which include administering the DI Scheme and the PPF Scheme and administering and managing the DI Fund, the PPF Life Fund and the PPF General Fund. The clause also sets out the powers of the Agency.

Clause 58 provides that the memorandum and articles of association of the Agency must not be amended without the prior approval of the Minister and that any such amendment without the prior approval of the Minister is void.

Clause 59 provides for the appointment of the board of directors of the Agency.

Clause 60 states that the board of directors of the Agency will be accountable to the Minister for its acts and decisions.

Clause 61 provides that the payment of salaries, fees and allowances to the Chairman and the directors of the Agency will be made out of the DI Fund, PPF Life Fund and PPF General Fund.

Clause 62 empowers the board of directors of the Agency to appoint a Chief Executive.

Clause 63 provides that the Agency may issue and publish Rules for any matter relating to any of its functions under the Bill. The clause also provides that the Rules are to bind the Agency, the DI Scheme members and the PPF Scheme members to the same extent as if the Rules were contained in properly executed agreements between the Agency and each DI Scheme member or the Agency and each PPF Scheme member, as the case may be, to observe and comply with all the Rules.

Clause 64 empowers the Authority to make regulations for the purposes of ensuring —

- (a) disclosure of relevant information to the Agency, depositors, policy owners, customers or potential customers of the DI Scheme members or PPF Scheme members; and
- (b) the operational preparedness of the DI Scheme members and PPF Scheme members in the event of an occurrence of any event precipitating the use of the DI Fund, PPF Life Fund or PPF General Fund.

Clause 65 provides that the High Court may, on the application of the Agency, a DI Scheme member or a PPF Scheme member, order observance of or compliance with the Rules.

PART XI

OFFENCES

Part XI (clauses 66 to 73) relates to offences under the Bill.

Clause 66 makes certain officers of a body corporate, a partnership, a limited liability partnership or an unincorporated association liable for offences committed by the body corporate, partnership, limited liability partnership or unincorporated association.

Clause 67 makes it an offence for any person to knowingly or recklessly make a false or misleading statement as to whether or not any person is a DI Scheme member or a PPF Scheme member, any deposit or other product is an insured deposit or any policy is an insured policy.

Clause 68 makes it an offence for an officer of a full bank, finance company or relevant insurer to fail to take all reasonable steps to ensure that the provisions of the

Bill are complied with and that statements submitted under the Bill are accurate and correct.

Clause 69 imposes a duty on persons who furnish the Authority or the Agency with any information under the Bill to ensure that the information is not false or misleading. This applies where no other provision of the Bill creates an offence in connection with the furnishing of information. Any person who contravenes the clause commits an offence.

Clause 70 provides for the penalties for offences under the Bill where no penalty is expressly provided.

Clause 71 allows a court to impose, on a corporation or body corporate that has been convicted of an offence under the Bill, up to 2 times the maximum fine that may otherwise be imposed but for the clause. Certain offences are, however, excluded from the application of the clause.

Clause 72 confers jurisdiction on a District Court to try any offence under the Bill and to impose the full penalty or punishment in respect of any such offence.

Clause 73 empowers the Authority to compound any offence under the Bill that is prescribed as a compoundable offence.

PART XII

FINANCIAL AND AUDIT PROVISIONS

Part XII (clauses 74 to 78) contains the financial and audit provisions.

Clause 74 (read with the Sixth Schedule) sets out the financial provisions applicable to all moneys in the DI Fund, PPF Life Fund and PPF General Fund.

Clause 75 (read with the Seventh Schedule) sets out the financial provisions applicable to the Agency.

Clause 76 requires the Agency to prepare and submit an annual report to the Minister.

Clause 77 requires the Agency to prepare annual estimates and supplementary estimates of income and expenditure of the DI Fund, PPF Life Fund and PPF General Fund and the Agency for approval by the Minister.

Clause 78 requires the auditor of the Agency, the DI Fund, PPF Life Fund or PPF General Fund to report to the Minister certain matters or irregularities which he discovers while performing his duties as such auditor.

PART XIII

MISCELLANEOUS

Part XIII (clauses 79 to 94) contains a number of miscellaneous provisions.

Clause 79 confers on the Agency, any director, officer, employee or agent of the Agency, or any person acting under the direction of the Agency, protection from

liability for anything done or omitted to be done in good faith in the exercise or purported exercise of any power under the Bill, performance or purported performance of any function or duty under the Bill, or execution or purported execution of the Bill.

Clause 80 provides for the preservation of confidentiality by any person who is or has been a member, a director, an officer, an employee or an agent of the Agency.

Clause 81 enables the Minister to exempt, subject to terms or conditions, any person or class of persons from all or any of the provisions of the Bill.

Clause 82 empowers the Authority to appoint, subject to conditions or restrictions imposed by the Authority, any person to exercise its powers or perform its functions or duties under the Bill.

Clause 83 empowers the Authority to inspect, under conditions of secrecy, the books of a DI Scheme member or PPF Scheme member for the purposes of the Bill.

Clause 84 empowers the Authority to require a DI Scheme member or PPF Scheme member to provide information and to produce any book that the Authority may require for the proper discharge of its functions.

Clause 85 relates to the service of documents.

Clause 86 provides for an electronic service for the service of any notice by the Authority and makes an electronic record of any notice, or any copy or print-out thereof, admissible in court as evidence of the facts stated therein if certain conditions are satisfied.

Clause 87 provides that a copy of or an extract from a book mentioned in the Bill that is proved to be a true copy of the book or of the relevant part of the book is admissible in evidence as if it were the original.

Clause 88 relates to the application of the Companies Act (Cap. 50) to a company that is designated as the Agency.

Clause 89 provides that the Insurance Act (Cap. 142), except where expressly mentioned, will not apply to anything done by the Agency under the Bill.

Clause 90 empowers the Minister to amend any Schedule, except the Fifth, Sixth and Seventh Schedules, by order published in the *Gazette* and provides that the order is to be presented to Parliament after the publication.

Clause 91 empowers the Minister to make regulations for the carrying out of the purposes and the provisions of the Bill.

Clause 92 provides for the repeal of the Deposit Insurance Act (Cap. 77A).

Clause 93 provides for consequential amendments to other written laws.

Clause 94 provides for transitional and savings arrangements.

The First Schedule sets out the meaning of insured deposit and the Maximum DI Coverage.

The Second Schedule sets out the categories of insured policies.

The Third Schedule provides for the computation of protected liabilities in respect of insured policies.

The Fourth Schedule provides for the computation of protection ratio in respect of insured policies.

The Fifth Schedule sets out the provisions which will apply in relation to the holding and payment of compensation by the Public Trustee to persons entitled to payment of compensation under the Bill.

The Sixth Schedule sets out the financial provisions with respect to the DI Fund, PPF Life Fund and PPF General Fund.

The Seventh Schedule sets out the financial provisions with respect to the Agency.

EXPENDITURE OF PUBLIC MONEY

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