

# **Financial Institutions (Miscellaneous Amendments) Bill**

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**Bill No. 4/2013.**

*Read the first time on 4th February 2013.*

A BILL

*i n t i t u l e d*

An Act to amend certain statutes of the Republic of Singapore relating to, or in connection with, the regulation of financial institutions, financial entities or financial instruments.

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

### **Short title and commencement**

1. This Act may be cited as the Financial Institutions (Miscellaneous Amendments) Act 2013 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### **Amendment of Banking Act**

2. The Banking Act (Cap. 19) is amended —

- (a) by deleting the words “Part VIIA” in section 20(1)(b) and (7) and substituting in each case the words “Part IVB of the Monetary Authority of Singapore Act (Cap. 186)”;
- (b) by inserting, immediately after subsection (7) of section 38, the following subsection:
- “(7A) A financial penalty collected by the Authority under subsection (7) shall be paid into the Consolidated Fund.”;
- (c) by inserting, immediately after subsection (7) of section 39, the following subsection:
- “(7A) A financial penalty collected by the Authority under subsection (7) shall be paid into the Consolidated Fund.”;
- (d) by renumbering section 48 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:
- “(2) Any bank which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.”;
- (e) by repealing sections 54, 54A and 54B and substituting the following section:

**“Disqualification or removal of director or executive officer**

**54.—**(1) Notwithstanding the provisions of any other written law —

- 5           (a) a bank in Singapore shall not, without the prior written consent of the Authority, permit a person to act as its executive officer; and
- (b) a bank in Singapore which is incorporated in Singapore shall not, without the prior written  
10           consent of the Authority, permit a person to act as its director,

if the person —

- 15           (i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 2(e) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —
  - (A) involving fraud or dishonesty;
  - 20           (B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
  - (C) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);
- 25           (ii) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (iii) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
- 30           (iv) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

5 (v) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A of the Securities and Futures Act (Cap. 289) made against him that remains in force; or

(vi) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

10 (A) which is being or has been wound up by a court; or

15 (B) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

20 (2) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director of a bank in Singapore which is incorporated in Singapore, or an executive officer of a bank in Singapore —

25 (a) has wilfully contravened or wilfully caused the bank to contravene any provision of this Act;

30 (b) has, without reasonable excuse, failed to secure the compliance of the bank with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or

(c) has failed to discharge any of the duties of his office,

35 the Authority may, if it thinks it necessary in the public interest or for the protection of the depositors of the bank, by notice in writing to the bank, direct the bank to

remove the director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the bank shall comply with the notice.

5 (3) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, when determining whether a director or an executive officer of a bank in Singapore has failed to discharge the duties of his office for the purposes of subsection (2)(c),  
10 have regard to such criteria as may be prescribed.

(4) Before directing a bank in Singapore to remove a person from his office or employment under subsection (2), the Authority shall —

15 (a) give the bank and the person notice in writing of its intention to do so; and

(b) in the notice referred to in paragraph (a), call upon the bank and the person to show cause, within such time as may be specified in the notice, why the person should not be removed.

20 (5) If the bank and the person referred to in subsection (4) —

(a) fail to show cause within the time specified under subsection (4)(b) or within such extended period of time as the Authority may allow; or

25 (b) fail to show sufficient cause,

the Authority may direct the bank to remove the person under subsection (2).

30 (6) Any bank in Singapore which, or any director or executive officer of a bank in Singapore who, is aggrieved by a direction of the Authority under subsection (2) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision shall be final.

5 (7) Any bank in Singapore which contravenes subsection (1) or fails to comply with a notice issued under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

10 (8) No criminal or civil liability shall be incurred by a bank in Singapore, or any person acting on behalf of the bank, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the bank under this section.

15 (9) In this section, unless the context otherwise requires —

20 “regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

25 “regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.”;

30 (f) by deleting subsection (4) of section 55 and substituting the following subsection:

“(4) It shall not be necessary to publish any notice in writing issued under this Act in the *Gazette*.”;

- (g) by deleting the Part heading to Part VIIA and substituting the following Part heading:

“VOLUNTARY TRANSFER OF BUSINESS”;

- (h) by repealing Divisions 2, 3 and 4 of Part VIIA;

- 5 (i) by repealing section 55O;

- (j) by deleting subsection (2) of section 57D and substituting the following subsection:

“(2) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.”;

- 10 (k) by repealing section 65;

- (l) by inserting, immediately after subsection (1) of section 69, the following subsection:

15 “(1A) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision which has been repealed) which —

(a) was compoundable under this section at the time the offence was committed; but

(b) has ceased to be so compoundable,

20 by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.”;

- 25 (m) by deleting the words “such sum of money” in section 69(2) and substituting the words “the sum of money referred to in subsection (1) or (1A)”;

- (n) by deleting subsection (4) of section 69 and substituting the following subsection:

30 “(4) All sums collected by the Authority under subsection (1) or (1A) shall be paid into the Consolidated Fund.”;

- (o) by inserting, at the end of section 74(1)(a), the word “and”;
- (p) by deleting the word “; and” at the end of section 74(1)(b)(v) and substituting a full-stop;
- (q) by deleting paragraph (c) of section 74(1);
- 5 (r) by inserting, immediately after subsection (1) of section 74, the following subsection:

“(1A) The Authority may recover on behalf of the Government any financial penalty imposed under section 38(7) or 39(7) on the bank concerned as though the financial penalty were a civil debt due to the Authority.”; and

- (s) by deleting items 4A, 4B and 4C of Part II of the Third Schedule and substituting the following items:

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<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<b>Purpose for which customer information may be disclosed</b>	<b>Persons to whom information may be disclosed</b>	<b>Conditions</b>
4A. Disclosure is solely in connection with the transfer or proposed transfer of the business of the bank to a company under Division 1 of Part VIIA, whether or not the transfer is subsequently carried out or completed.	Any — (a) transferor or transferee, defined in section 55A; (b) person affected by the transfer; (c) professional adviser appointed by any person referred to in paragraph (a) or (b); or (d) independent assessor appointed by the Minister or the Authority under section 55B.	

<p>4B. Disclosure is solely in connection with the transfer or proposed transfer of the business of the bank to a company under Division 2 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186), whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) transferor or transferee, defined in section 30AAR of the Monetary Authority of Singapore Act;</li> <li>(b) person affected by the transfer;</li> <li>(c) professional adviser appointed by any person referred to in paragraph (a) or (b); or</li> <li>(d) independent assessor appointed by the Authority under section 30AAS of the Monetary Authority of Singapore Act.</li> </ul>	
<p>4C. Disclosure is solely in connection with the transfer or proposed transfer of the shares in the bank under Division 3 of Part IVB of the Monetary Authority of Singapore Act, whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) transferor or transferee, defined in section 30AAV of the Monetary Authority of Singapore Act;</li> <li>(b) professional adviser appointed by the transferor or transferee; or</li> <li>(c) independent assessor appointed by the Authority under section 30AAW of the Monetary Authority of Singapore Act.</li> </ul>	

<p>4D. Disclosure is solely in connection with the restructuring or proposed restructuring of the share capital of the bank under Division 4 of Part IVB of the Monetary Authority of Singapore Act, whether or not the restructuring is carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> <li>(a) shareholder of the bank;</li> <li>(b) subscriber defined in section 30AAY of the Monetary Authority of Singapore Act;</li> <li>(c) professional adviser appointed by the bank or any person referred to in paragraph (a) or (b); or</li> <li>(d) independent assessor appointed by the Authority under section 30AAZ of the Monetary Authority of Singapore Act.</li> </ul>	
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### **Amendment of Business Trusts Act**

#### **3. The Business Trusts Act (Cap. 31A) is amended —**

- (a) by deleting the words “section 130A” in the definition of “advocate and solicitor” in section 2 and substituting the words “section 2(1)”;
- (b) by deleting subsection (5) of section 26 and substituting the following subsection:
 

“(5) It shall not be necessary to publish any written direction issued under this section in the *Gazette*.”;
- (c) by deleting subsection (8) of section 98 and substituting the following subsection:
 

“(8) It shall not be necessary to publish any code, guideline or no-action letter issued under this section in the *Gazette*.”; and

(d) by repealing section 111 and substituting the following section:

**“Composition of offences**

5       **111.**—(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 prescribed for that offence.

10       (2) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision which has been repealed) which —

      (a) was compoundable under this section at the time the offence was committed; but

15       (b) has ceased to be so compoundable,

by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.

20       (3) On payment of the sum of money referred to in subsection (1) or (2), no further proceedings shall be taken against that person in respect of the offence.

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

25       (5) All sums collected by the Authority under subsection (1) or (2) shall be paid into the Consolidated Fund.”.

### **Amendment of Companies Act**

**4.** Section 145(6) of the Companies Act (Cap. 50) is amended —

(a) by deleting “54B,” and substituting “54,”;

5 (b) by inserting, immediately after the words “Insurance Act (Cap. 142),”, the words “section 30AAI of the Monetary Authority of Singapore Act (Cap. 186), section 12A of the Money-changing and Remittance Businesses Act (Cap. 187),”; and

10 (c) by deleting the words “or 97” and substituting the words “, 97 or 292A”.

### **Amendment of Finance Companies Act**

**5.** The Finance Companies Act (Cap. 108) is amended —

(a) by inserting, immediately after the definition of “capital funds” in section 2, the following definition:

15 ““chief executive”, in relation to a finance company, means any person, by whatever name described, who —

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

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(b) is principally responsible for the management and conduct of the business of the finance company;”;

25 (b) by inserting, immediately after the definition of “director” in section 2, the following definition:

““executive officer”, in relation to a finance company, means any person, by whatever name described, who —

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

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

5 (c) by inserting, immediately after the definition of “Government securities” in section 2, the following definition:

“ “licence” means a licence granted under section 6;”;

(d) by deleting sub-paragraph (ii) of section 15(1)(c) and substituting the following sub-paragraph:

10 “(ii) if, upon the Authority exercising any power under section 35(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to  
15 the finance company, the Authority considers that it is in the public interest to revoke the licence.”;

(e) by deleting the words “directors, chief and deputy chief executive officers” in section 30(2)(d) and substituting the  
20 words “the directors, chief executive and deputy chief executive”;

(f) by inserting, immediately after subsection (3) of section 30, the following subsection:

25 “(4) It shall not be necessary to publish any notice in writing issued under this Act in the *Gazette*.”;

(g) by repealing section 34 and substituting the following sections:

**“Information of insolvency, etc.**

30 **34.—**(1) Any finance company which is or is likely to become insolvent, which is or is likely to become unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

5 (2) Any finance company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction.

### **Interpretation of sections 34A to 39**

**34A.** In this section and sections 35 to 39, unless the context otherwise requires —

10 “business” includes affairs and property;

“office holder”, in relation to a finance company, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the finance company, or acting in  
15 an equivalent capacity in relation to the finance company;

“relevant business” means any business of a finance company —

20 (a) which the Authority has assumed control of under section 35; or

(b) in relation to which a statutory adviser or a statutory manager has been appointed under section 35;

25 “statutory adviser” means a statutory adviser appointed under section 35;

“statutory manager” means a statutory manager appointed under section 35.”;

(h) by repealing sections 35 to 39 and substituting the following sections:

**“Action by Authority if finance company unable to meet obligations, etc.**

**35.—**(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

- (a) a finance company informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- (b) a finance company becomes unable to meet its obligations, or is insolvent, or suspends payments;
- (c) the Authority is of the opinion that a finance company —
  - (i) is carrying on its business in a manner likely to be detrimental to the interests of its depositors or creditors;
  - (ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;
  - (iii) has contravened any of the provisions of this Act; or
  - (iv) has failed to comply with any condition attached to its licence; or
- (d) the Authority considers it in the public interest to do so.

(2) Subject to subsection (1), the Authority may —

- (a) require the finance company immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

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

10 (c) assume control of and manage such of the  
business of the finance company as the Authority  
may determine, or appoint one or more persons  
as statutory manager to do so on such terms and  
conditions as the Authority may specify.

15 (3) Where the Authority appoints 2 or more persons as  
the statutory manager of a finance company, the  
Authority shall specify, in the terms and conditions of  
the appointment, which of the duties, functions and  
powers of the statutory manager —

- (a) may be discharged or exercised by such persons  
jointly and severally;
- 20 (b) shall be discharged or exercised by such persons  
jointly; and
- (c) shall be discharged or exercised by a specified  
person or such persons.

25 (4) Where the Authority has exercised any power  
under subsection (2), it may, at any time and without  
prejudice to its power under section 15(1)(c)(ii), do one  
or more of the following:

- 30 (a) vary or revoke any requirement of, any  
appointment made by or any action taken by the  
Authority in the exercise of such power, on such  
terms and conditions as it may specify;
- (b) further exercise any of the powers under  
subsection (2);
- (c) add to, vary or revoke any term or condition  
specified by the Authority under this section.

(5) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(a) the exercise or purported exercise of any power under this Act;

(b) the performance or purported performance of any function or duty under this Act; or

(c) the compliance or purported compliance with this Act.

(6) Any finance company that fails to comply with a requirement imposed by the Authority under subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction.

### **Effect of assumption of control under section 35**

**36.**—(1) Upon assuming control of the relevant business of a finance company, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of a finance company, the Authority or statutory manager —

(a) shall manage the relevant business of the finance company in the name of and on behalf of the finance company; and

(b) shall be deemed to be an agent of the finance company.

(3) In managing the relevant business of a finance company, the Authority or statutory manager —

(a) shall take into consideration the interests of the depositors of the finance company; and

(b) shall have all the duties, powers and functions of the members of the board of directors of the finance company (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the finance company, including powers of delegation, in relation to the relevant business of the finance company; but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the finance company under the Companies Act or the constitution of the finance company.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a finance company by the Authority or statutory manager, any appointment of a person as the chief executive or a director of the finance company, which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the finance company, for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a finance company, except with the approval of the Authority, no person shall be appointed as the chief executive or a director of the finance company.

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive or a director of a finance company, the Authority may at any time, by notice in writing to the person and the finance company, revoke that approval, and the

appointment shall be deemed to be revoked on the date specified in the notice.

5 (7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive or a director of a finance company is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive or a director of the finance company during the period when the Authority or statutory manager is in control of the relevant business of the finance company —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

15 (8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive or a director of a finance company in contravention of subsection (5) acts or purports to act as the chief executive or a director of the finance company during the period when the Authority or statutory manager is in control of the relevant business of the finance company —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

25 (9) During the period when the Authority or statutory manager is in control of the relevant business of a finance company —

(a) if there is any conflict or inconsistency between —

30 (i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive, director, member, executive officer, employee, agent or office holder, or the board of directors, of the finance company,

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

(b) no person shall exercise any voting or other right attached to any share in the finance company in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$20,000 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 \$2,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, “constitution”, in relation to a finance company, means the memorandum of association and articles of association of the finance company.

### **Duration of control**

**37.—**(1) The Authority shall cease to be in control of the relevant business of a finance company when the Authority is satisfied that —

(a) the reasons for the Authority’s assumption of control of the relevant business have ceased to exist; or

(b) it is no longer necessary for the protection of the depositors of the finance company.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a finance company on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a finance company may be revoked by the Authority at any time —

(a) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary for the protection of the depositors of the finance company; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the finance company.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(a) the Authority's assumption of control of the relevant business of a finance company;

(b) the cessation of the Authority's control of the relevant business of a finance company;

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

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

**Responsibilities of officers, member, etc., of finance company**

**38.**—(1) During the period when the Authority or statutory manager is in control of the relevant business of a finance company —

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(a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the finance company to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property, book, accounts, record or other documents, whether in electronic, print or other form, of the finance company which is comprised in, forms part of or relates to the relevant business of the finance company, and which is in the person's possession or control; and

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(b) any person who has ceased to be or who is still any chief executive, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the finance company shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the finance company, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

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

(b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 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 \$2,000 for every day or part thereof during which the offence continues after conviction.

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

**39.** The Authority may at any time fix the remuneration and expenses to be paid by a finance company —

(a) to a statutory manager or statutory adviser appointed in relation to the finance company, whether or not the appointment has been revoked; and

(b) where the Authority has assumed control of the relevant business of the finance company, to the Authority and any person authorised or appointed by the Authority under section 42 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.”;

(i) by inserting, immediately after section 39, the following Part:

## “PART VIA

### VOLUNTARY TRANSFER OF BUSINESS

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

**39A.** In this Part, unless the context otherwise requires —

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

“Court” means the High Court or a Judge thereof;

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

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

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

“transferee” means a finance company, or a company which has applied or will be applying for a licence to carry on financing business in Singapore, to which the whole or any part of a transferor’s business is, is to be or is proposed to be transferred under this Part;

“transferor” means a finance company the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Part.

#### **Voluntary transfer of business**

**39B.—(1)** A transferor may transfer the whole or any part of its business (including any business that is not financing business) to a transferee, if —

(a) the Authority has consented to the transfer;

(b) the transfer involves the whole or any part of the financing business of the transferor; and

(c) the Court has approved the transfer.

5 (2) Subsection (1) is without prejudice to the right of a finance company to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

10 (a) the transferee is a fit and proper person; and  
(b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

15 (4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Part.

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

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

25 (7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Part.

(8) Any person who —

30 (a) without reasonable excuse, fails to comply with any requirement under subsection (7); or  
(b) in purported compliance with any requirement under subsection (7), knowingly or recklessly

furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 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 \$2,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### **Approval of transfer**

**39C.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Part.

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

- (a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;
- (b) the transferor shall obtain the consent of the Authority under section 39B(1)(a);
- (c) the transferor and the transferee shall, if they intend to serve on their respective customers a summary of the transfer, obtain the Authority's approval of the summary;
- (d) the transferor shall, at least 15 days before the application is made but not earlier than one

5 month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

10 (e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and

15 (f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective customers affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (a) or a  
20 summary of the transfer approved by the Authority under paragraph (c).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

25 (a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(b) may make any application to the Court in relation to the transfer.

30 (4) The Court shall not approve the transfer if the Authority has not consented under section 39B(1)(a) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

- 5           (a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or
- (b) refuse to approve the transfer.

10       (6) If the transferee is not granted a licence by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being granted a licence by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

- 15       (a) the transfer to the transferee of the whole or any part of the business of the transferor;
- (b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for
- 20           any person;
- (c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;
- 25       (d) the dissolution, without winding up, of the transferor;
- (e) the provisions to be made for persons who are affected by the transfer;
- 30       (f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

- (a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;
- 5 (b) make provision in relation to any property which is held by the transferor as trustee; and
- (c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument
- 10 under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and

- (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

5 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection,  
10 shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”;

15 (j) by repealing section 45;

(k) by repealing section 47 and substituting the following section:

**“Disqualification or removal of director or executive officer**

20 **47.—**(1) Notwithstanding the provisions of any other written law, a finance company shall not, without the prior written consent of the Authority, permit a person to act as its director or executive officer, if the person —

25 (a) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 5(k) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —

- (i) involving fraud or dishonesty;
- 30 (ii) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(iii) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

(b) is an undischarged bankrupt, whether in Singapore or elsewhere;

(c) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;

(d) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

(e) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A of the Securities and Futures Act (Cap. 289) made against him that remains in force; or

(f) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

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

(ii) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

(2) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director or an executive officer of a finance company —

- (a) has wilfully contravened or wilfully caused the finance company to contravene any provision of this Act;
- 5 (b) has, without reasonable excuse, failed to secure the compliance of the finance company with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or
- 10 (c) has failed to discharge any of the duties of his office,

the Authority may, if it thinks it necessary in the public interest or for the protection of the depositors or creditors of the finance company, by notice in writing to the finance company, direct the finance company to remove  
15 the director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the finance company shall comply with the notice.

(3) Without prejudice to any other matter that the  
20 Authority may consider relevant, the Authority shall, when determining whether a director or an executive officer of a finance company has failed to discharge the duties of his office for the purposes of subsection (2)(c), have regard to such criteria as may be prescribed.

25 (4) Before directing a finance company to remove a person from his office or employment under subsection (2), the Authority shall —

- (a) give the finance company and the person notice in writing of its intention to do so; and
- 30 (b) in the notice referred to in paragraph (a), call upon the finance company and the person to show cause, within such time as may be specified in the notice, why the person should not be removed.

(5) If the finance company and the person referred to in subsection (4) —

5           (a) fail to show cause within the time specified under subsection (4)(b) or within such extended period of time as the Authority may allow; or

          (b) fail to show sufficient cause,

the Authority may direct the finance company to remove the person under subsection (2).

10          (6) Any finance company which, or any director or executive officer of a finance company who, is aggrieved by a direction of the Authority under subsection (2) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision shall be final.

15          (7) Any finance company which contravenes subsection (1) or fails to comply with a notice issued under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$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

25          (8) No criminal or civil liability shall be incurred by a finance company, or any person acting on behalf of the finance company, in respect of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the finance company under this section.

30          (9) In this section, unless the context otherwise requires —

“regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

35

5 “regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.”;

(l) by deleting subsection (2) of section 48;

10 (m) by inserting, immediately after section 48, the following sections:

**“Composition of offences**

15 **48A.**—(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 prescribed for that offence.

20 (2) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision which has been repealed) which —

(a) was compoundable under this section at the time the offence was committed; but

(b) has ceased to be so compoundable,

25 by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.

30 (3) On payment of the sum of money referred to in subsection (1) or (2), no further proceedings shall be taken against that person in respect of the offence.

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

(5) All sums collected by the Authority under subsection (1) or (2) shall be paid into the Consolidated Fund.

**Recovery of fees, expenses, etc.**

**48B.** There shall be recoverable as a civil debt due to the Authority from the finance company concerned —

(a) the amount of any fees payable under section 6(7); and

(b) any remuneration and expenses payable by the finance company to —

(i) a statutory adviser appointed under section 35(2);

(ii) a statutory manager appointed under section 35(2);

(iii) the Authority or any person authorised or appointed by the Authority under section 42 in relation to the Authority's assumption of control of any business of the finance company under section 35; and

(iv) any person appointed to perform any independent assessment under Part VIA.”; and

(n) by inserting, immediately after the words “the Companies Act (Cap. 50)” in section 54(1), the words “and Part IVB of the Monetary Authority of Singapore Act (Cap. 186)”.

**Amendment of Government Securities Act**

**6.** Section 29D of the Government Securities Act (Cap. 121A) is amended —

(a) by inserting, immediately after subsection (3), the following subsection:

“(3A) A financial penalty collected by the Authority under subsection (3) shall be paid into the Consolidated Fund.”; and

(b) by deleting subsection (9) and substituting the following subsection:

“(9) The Authority may recover on behalf of the Government any financial penalty ordered under subsection (3) as though the financial penalty were a civil debt due to the Authority.”.

## 10 **Amendment of Money-changing and Remittance Businesses Act**

7. The Money-changing and Remittance Businesses Act (Cap. 187) is amended —

(a) by inserting, immediately after section 12, the following section:

### 15 **“Removal of partner, director or executive officer**

**12A.**—(1) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director of a licensee which is incorporated in Singapore, or a partner or an executive officer of a licensee —

20 (a) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 7(a) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —

25 (i) involving fraud or dishonesty;

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

30 (iii) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

- (b) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (c) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
- (d) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
- (e) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A of the Securities and Futures Act (Cap. 289) made against him that remains in force;
- (f) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —
  - (i) which is being or has been wound up by a court; or
  - (ii) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory;
- (g) has wilfully contravened or wilfully caused the licensee to contravene any provision of this Act;
- (h) has, without reasonable excuse, failed to secure the compliance of the licensee with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or

(i) has failed to discharge any of the duties of his office,

the Authority may, if it thinks it necessary in the public interest or for the protection of the customers of the licensee, by notice in writing to the licensee, direct the licensee to remove the partner, director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the licensee shall comply with the notice.

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, when determining whether a partner, a director or an executive officer of a licensee has failed to discharge the duties of his office for the purposes of subsection (1)(i), have regard to such criteria as may be prescribed.

(3) Before directing a licensee to remove a person from his office or employment under subsection (1), the Authority shall —

(a) give the licensee and the person notice in writing of its intention to do so; and

(b) in the notice referred to in paragraph (a), call upon the licensee and the person to show cause, within such time as may be specified in the notice, why the person should not be removed.

(4) If the licensee and the person referred to in subsection (3) —

(a) fail to show cause within the time specified under subsection (3)(b) or within such extended period of time as the Authority may allow; or

(b) fail to show sufficient cause,

the Authority may direct the licensee to remove the person under subsection (1).

5 (5) Any licensee which, or any partner, director or executive officer of a licensee who, is aggrieved by a direction of the Authority under subsection (1) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision shall be final.

10 (6) Any licensee which fails to comply with a notice issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

15 (7) No criminal or civil liability shall be incurred by a licensee, or any person acting on behalf of the licensee, in respect of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the licensee under this section.

20 (8) In this section, unless the context otherwise requires —

“executive officer”, in relation to a licensee, means any person, by whatever name described, who —

- 25 (a) is in the direct employment of, or acting for or by arrangement with, the licensee; and
- (b) is concerned with or takes part in the management of the licensee on a day-to-day basis;

30 “regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

35 “regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any

function that corresponds to a regulatory function of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.”;

- 5 (b) by inserting, immediately after subsection (1) of section 29, the following subsection:

“(1A) The Authority may, in its discretion, compound any offence under this Act or any regulations made thereunder (including an offence under a provision which  
10 has been repealed) which —

(a) was compoundable under this section at the time the offence was committed; but

(b) has ceased to be so compoundable,

by collecting from a person reasonably suspected of  
15 having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.”;

- 20 (c) by deleting the words “such sum of money” in section 29(2) and substituting the words “the sum of money referred to in subsection (1) or (1A)”;

- (d) by deleting subsection (3) of section 29 and substituting the following subsection:

“(3) All sums collected by the Authority under  
25 subsection (1) or (1A) shall be paid into the Consolidated Fund.”.

### **Amendment of Payment Systems (Oversight) Act**

**8.** The Payment Systems (Oversight) Act (Cap. 222A) is amended —

- 30 (a) by inserting, immediately after the definition of “director” in section 2(1), the following definition:

“ “executive officer”, in relation to an operator or a settlement institution of a payment system, means any person, by whatever name described, who —

5           (a) is in the direct employment of, or acting for or by arrangement with, the operator or settlement institution, as the case may be; and

10           (b) is concerned with or takes part in the management of the operator or settlement institution, as the case may be, on a day-to-day basis;”;

(b) by deleting subsections (1) to (6) of section 22 and substituting the following subsections:

15           “(1) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director of a Singapore operator or Singapore settlement institution of a designated payment system, or an executive officer of an operator or a settlement institution of a designated payment system —

20           (a) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 8(b) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —

25                   (i) involving fraud or dishonesty;

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

30                   (iii) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

                  (b) is an undischarged bankrupt, whether in Singapore or elsewhere;

- (c) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
- 5 (d) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
- 10 (e) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A of the Securities and Futures Act (Cap. 289) made against him that remains in force;
- 15 (f) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —
  - (i) which is being or has been wound up by a court; or
  - 20 (ii) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory;
  - 25
- (g) has wilfully contravened or wilfully caused the operator or settlement institution to contravene any provision of this Act;
- 30 (h) has, without reasonable excuse, failed to secure the compliance of the operator or settlement institution with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or

(i) has failed to discharge any of the duties of his office,

the Authority may, if it thinks it necessary in the interests of the public or a section of the public, by notice in writing to the operator or settlement institution, direct the operator or settlement institution to remove the director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the operator or settlement institution shall comply with the notice.

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, when determining whether a director or an executive officer of an operator or a settlement institution of a designated payment system has failed to discharge the duties of his office for the purposes of subsection (1)(i), have regard to such criteria as may be prescribed.

(3) Subject to subsection (4), the Authority shall not direct an operator or a settlement institution of a designated payment system to remove a person from his office or employment under subsection (1) without giving the operator or settlement institution an opportunity to be heard.

(4) The Authority may direct an operator or a settlement institution of a designated payment system to remove a person from his office or employment under subsection (1) on any of the following grounds without giving the operator or settlement institution an opportunity to be heard:

- (a) the person is an undischarged bankrupt, whether in Singapore or elsewhere;
- (b) the person has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of

section 8(b) of the Financial Institutions  
(Miscellaneous Amendments) Act 2013 —

(i) involving fraud or dishonesty, or the  
conviction for which involved a finding  
that he had acted fraudulently or  
dishonestly; and

(ii) punishable with imprisonment for a term of  
3 months or more.

(5) Where the Authority directs an operator or a  
settlement institution of a designated payment system to  
remove a person from his office or employment under  
subsection (1), the Authority need not give that person an  
opportunity to be heard.

(6) An operator or a settlement institution of a  
designated payment system which is aggrieved by a  
direction of the Authority under subsection (1) may,  
within 30 days after the operator or settlement institution  
is notified of the direction, appeal in writing to the  
Minister, whose decision shall be final.”;

(c) by deleting subsections (9) and (10) of section 22 and  
substituting the following subsections:

“(9) An operator or a settlement institution of a  
designated payment system which fails to comply with a  
notice issued under subsection (1) shall be guilty of an  
offence and shall be liable on conviction to a fine not  
exceeding \$150,000 and, in the case of a continuing  
offence, to a further fine not exceeding \$15,000 for every  
day or part thereof during which the offence continues  
after conviction.

(10) No criminal or civil liability shall be incurred by  
an operator or a settlement institution of a designated  
payment system, or any person acting on behalf of the  
operator or settlement institution, in respect of anything  
done (including any statement made) or omitted to be  
done with reasonable care and in good faith in the

discharge or purported discharge of the obligations of the operator or settlement institution under this section.

(11) In this section, unless the context otherwise requires —

5 “regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

10 “regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under this Act, the Monetary  
15 Authority of Singapore Act or any of the written laws set out in the Schedule to that Act;

“Singapore operator” means an operator which is incorporated in Singapore;

20 “Singapore settlement institution” means a settlement institution which is incorporated in Singapore.”;

(d) by deleting the words “chief executive officer and directors” in the section heading of section 22 and substituting the words “director or executive officer”;

25 (e) by inserting, immediately after section 28, the following sections:

**“Responsibilities of officers, member, etc., of operator or settlement institution**

30 **28A.**—(1) During the period when the Authority, or a person directed by the Authority under section 28(1)(c) (referred to in this section as the directed person), is in control of the operations of an operator or a settlement institution of a designated payment system —

- 5 (a) the High Court may, on an application by the  
Authority or directed person, direct any person  
who has ceased to be or who is still any chief  
executive officer, director, member, executive  
officer, employee, agent, banker, auditor or  
office holder of, or trustee for, the operator or  
settlement institution to pay, deliver, convey,  
surrender or transfer to the Authority or directed  
person, within such period as the High Court  
10 may specify, any property, book, accounts,  
record or other documents, whether in electronic,  
print or other form, of the operator or settlement  
institution which is comprised in, forms part of  
or relates to the operations of the operator or  
settlement institution, and which is in the  
15 person's possession or control; and
- (b) any person who has ceased to be or who is still  
any chief executive officer, director, member,  
executive officer, employee, agent, banker,  
20 auditor or office holder of, or trustee for, the  
operator or settlement institution shall give to the  
Authority or directed person such information as  
the Authority or directed person may require for  
the discharge of the Authority's or directed  
25 person's duties or functions, or the exercise of  
the Authority's or directed person's powers, in  
relation to the operator or settlement institution,  
within such time and in such manner as may be  
specified by the Authority or directed person.
- 30 (2) Any person who —
- (a) without reasonable excuse, fails to comply with  
subsection (1)(b); or
- (b) in purported compliance with subsection (1)(b),  
35 knowingly or recklessly furnishes any  
information or document that is false or  
misleading in a material particular,

5 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

### **Interpretation of sections 28B, 28C and 28D**

**28B.** In this section and sections 28C and 28D, unless the context otherwise requires —

- 10 “business” includes affairs, property, right, obligation and liability;
- “Court” means the High Court or a Judge thereof;
- “debenture” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);
- 15 “property” includes property, right and power of every description;
- “Registrar of Companies” means the Registrar of Companies appointed under the Companies Act and includes any Deputy or Assistant Registrar of Companies appointed under that Act;
- 20 “transferee” means a person who is carrying on, or who intends to carry on, in Singapore the usual business of an operator or a settlement institution of a designated payment system, to which the whole or any part of a transferor’s business is, is to be or is proposed to be transferred under section 28C(1);
- 25 “transferor” means an operator or a settlement institution of a designated payment system the whole or any part of the business of which is, is to be, or is proposed to be transferred under section 28C(1).
- 30

### **Voluntary transfer of business**

**28C.**—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of an operator or a settlement institution of a designated payment system) to a transferee, if —

- (a) the Authority has consented to the transfer;
- (b) the transfer involves the whole or any part of the business of the transferor that is the usual business of an operator or a settlement institution of a designated payment system; and
- (c) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an operator or a settlement institution of a designated payment system to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

- (a) the transferee is a fit and proper person; and
- (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under subsection (1).

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

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

(7) The Authority may require a person to furnish, within the period and in the manner specified by the

Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this section and section 28D.

- 5 (8) Any person who —
- (a) without reasonable excuse, fails to comply with any requirement under subsection (7); or
  - 10 (b) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

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

### 25 **Approval of transfer**

**28D.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under section 28C(1).

- 30 (2) Before making an application under subsection (1) —
- (a) the transferor shall lodge with the Authority a report setting out such details of the transfer and

furnish such supporting documents as the Authority may specify;

(b) the transferor shall obtain the consent of the Authority under section 28C(1)(a);

5 (c) the transferor and the transferee shall, if they intend to serve on their respective customers a summary of the transfer, obtain the Authority's approval of the summary;

10 (d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

20 (e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and

25 (f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective customers affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (a) or a summary of the transfer approved by the Authority under paragraph (c).

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(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

5 (b) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 28C(1)(a) to the transfer.

10 (5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(b) refuse to approve the transfer.

15 (6) If the transferee is not identified under section 7(2) as the operator or settlement institution of the designated payment system, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being so identified.

20 (7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(a) the transfer to the transferee of the whole or any part of the business of the transferor;

25 (b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

30 (c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(d) the dissolution, without winding up, of the transferor;

(e) the provisions to be made for persons who are affected by the transfer;

5 (f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

10 (a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(b) make provision in relation to any property which is held by the transferor as trustee; and

15 (c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

20 (9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case  
25 of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

30 (10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign

country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and
- 10 (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

15 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”;

25 (f) by inserting, immediately after the words “one half of” in section 50(1), the words “the amount of”;

(g) by inserting, immediately after subsection (1) of section 50, the following subsection:

30 “(1A) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision which has been repealed) which —

- (a) was compoundable under this section at the time the offence was committed; but
- (b) has ceased to be so compoundable,

by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.”;

(h) by deleting the words “such sum of money” in section 50(2) and substituting the words “the sum of money referred to in subsection (1) or (1A)”;

(i) by deleting subsection (4) of section 50 and substituting the following subsection:

“(4) All sums collected by the Authority under subsection (1) or (1A) shall be paid into the Consolidated Fund.”;

(j) by repealing section 55 and substituting the following section:

**“Directions and notices need not be published in  
*Gazette***

**55.** It shall not be necessary to publish any written direction or notice in writing given by the Authority under this Act in the *Gazette*.”; and

(k) by deleting subsection (7) of section 57 and substituting the following subsection:

“(7) It shall not be necessary to publish any code, guideline, policy statement or practice note issued under this section in the *Gazette*.”.

**Amendment of Securities and Futures Act**

**9.—(1)** The Securities and Futures Act (Cap. 289) is amended —

(a) by inserting, immediately after the definition of “entity” in section 2(1), the following definition:

“ “executive officer”, in relation to an approved exchange, a recognised market operator, a licensed trade repository, a licensed foreign trade

repository, an approved clearing house, a recognised clearing house, an approved holding company, the holder of a capital markets services licence, or any other corporation, means any person, by whatever name called, who is —

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

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

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(b) by inserting, immediately after paragraph (d) of section 13(1), the following paragraph:

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“(da) upon the Authority exercising any power under section 44B(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval or recognition, as the case may be;”;

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(c) by repealing section 31;

(d) by inserting, immediately after section 44, the following sections:

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**“Interpretation of sections 44A to 44F**

**44A.** In this section and sections 44B to 44F, unless the context otherwise requires —

“business” includes affairs and property;

5 “office holder”, in relation to an approved exchange or a recognised market operator, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved exchange or recognised  
10 market operator (as the case may be), or acting in an equivalent capacity in relation to the approved exchange or recognised market operator (as the case may be);

15 “relevant business” means any business of an approved exchange or a recognised market operator —

(a) which the Authority has assumed control of under section 44B; or

20 (b) in relation to which a statutory adviser or a statutory manager has been appointed under section 44B;

“statutory adviser” means a statutory adviser appointed under section 44B;

25 “statutory manager” means a statutory manager appointed under section 44B.

**Action by Authority if approved exchange or recognised market operator unable to meet obligations, etc.**

30 **44B.**—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

(a) an approved exchange or a recognised market operator informs the Authority that it is or is

likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

- 5                   (b) an approved exchange or a recognised market operator becomes unable to meet its obligations, or is insolvent, or suspends payments;
- (c) the Authority is of the opinion that an approved exchange or a recognised market operator —
  - 10                   (i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 5;
  - 15                   (ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;
  - (iii) has contravened any of the provisions of this Act; or
  - 20                   (iv) has failed to comply with any condition or restriction imposed on it under section 8(4) or (5); or
  - (d) the Authority considers it in the public interest to do so.
- 25

(2) Subject to subsections (1) and (3), the Authority may —

- 30                   (a) require the approved exchange or recognised market operator (as the case may be) immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

- 5                   (b) appoint one or more persons as statutory adviser,  
on such terms and conditions as the Authority  
may specify, to advise the approved exchange or  
recognised market operator (as the case may be)  
on the proper management of such of the  
business of the approved exchange or recognised  
market operator (as the case may be) as the  
Authority may determine; or
- 10                   (c) assume control of and manage such of the  
business of the approved exchange or recognised  
market operator (as the case may be) as the  
Authority may determine, or appoint one or more  
persons as statutory manager to do so on such  
terms and conditions as the Authority may  
specify.

15                   (3) In the case of an approved exchange, or a  
recognised market operator, which is incorporated  
outside Singapore, any appointment of a statutory  
adviser or statutory manager or any assumption of  
control by the Authority of any business of the approved  
exchange or recognised market operator (as the case may  
be) under subsection (2) shall only be in relation to —

- 20                   (a) the business or affairs of the approved exchange  
or recognised market operator (as the case may  
be) carried on in, or managed in or from,  
Singapore; or
- 25                   (b) the property of the approved exchange or  
recognised market operator (as the case may be)  
located in Singapore, or reflected in the books of  
the approved exchange or recognised market  
operator (as the case may be) in Singapore, as the  
case may be, in relation to its operations in  
Singapore.

30                   (4) Where the Authority appoints 2 or more persons as  
the statutory manager of an approved exchange or a  
recognised market operator, the Authority shall specify,

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in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

- 5           (a) may be discharged or exercised by such persons jointly and severally;
- (b) shall be discharged or exercised by such persons jointly; and
- (c) shall be discharged or exercised by a specified person or such persons.

10       (5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 13(1)(*da*), do one or more of the following:

- 15           (a) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;
- (b) further exercise any of the powers under subsection (2);
- 20           (c) add to, vary or revoke any term or condition specified by the Authority under this section.

          (6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done  
25 with reasonable care and in good faith in the course of or in connection with —

- (a) the exercise or purported exercise of any power under this Act;
- 30           (b) the performance or purported performance of any function or duty under this Act; or
- (c) the compliance or purported compliance with this Act.

5 (7) Any approved exchange or recognised market operator that fails to comply with a requirement imposed by the Authority under subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

### **Effect of assumption of control under section 44B**

10 **44C.**—(1) Upon assuming control of the relevant business of an approved exchange or a recognised market operator, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

15 (2) During the period when the Authority or statutory manager is in control of the relevant business of an approved exchange or a recognised market operator, the Authority or statutory manager —

20 (a) shall manage the relevant business of the approved exchange or recognised market operator (as the case may be) in the name of and on behalf of the approved exchange or recognised market operator (as the case may be); and

25 (b) shall be deemed to be an agent of the approved exchange or recognised market operator (as the case may be).

30 (3) In managing the relevant business of an approved exchange or a recognised market operator, the Authority or statutory manager —

(a) shall take into consideration the interests of the public or the section of the public referred to in section 44B(1)(c)(i), and the need to protect investors; and

5 (b) shall have all the duties, powers and functions of  
the members of the board of directors of the  
approved exchange or recognised market  
operator (as the case may be) (collectively and  
individually) under this Act, the Companies Act  
(Cap. 50) and the constitution of the approved  
exchange or recognised market operator (as the  
case may be), including powers of delegation, in  
10 relation to the relevant business of the approved  
exchange or recognised market operator (as the  
case may be); but nothing in this paragraph shall  
require the Authority or statutory manager to call  
any meeting of the approved exchange or  
recognised market operator (as the case may be)  
15 under the Companies Act or the constitution of  
the approved exchange or recognised market  
operator (as the case may be).

20 (4) Notwithstanding any written law or rule of law,  
upon the assumption of control of the relevant business  
of an approved exchange or a recognised market operator  
by the Authority or statutory manager, any appointment  
of a person as the chief executive officer or a director of  
the approved exchange or recognised market operator (as  
the case may be), which was in force immediately before  
25 the assumption of control, shall be deemed to be  
revoked, unless the Authority gives its approval, by  
notice in writing to the person and the approved  
exchange or recognised market operator (as the case may  
be), for the person to remain in the appointment.

30 (5) Notwithstanding any written law or rule of law,  
during the period when the Authority or statutory  
manager is in control of the relevant business of an  
approved exchange or a recognised market operator,  
except with the approval of the Authority, no person  
35 shall be appointed as the chief executive officer or a  
director of the approved exchange or recognised market  
operator (as the case may be).

5 (6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of an approved exchange or a recognised market operator, the Authority may at any time, by notice in writing to the person and the approved exchange or recognised market operator (as the case may be), revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

10 (7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of an approved exchange or a recognised market operator is revoked under subsection (4) or (6), acts or purports to act after the  
15 revocation as the chief executive officer or a director of the approved exchange or recognised market operator (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved exchange or recognised market operator (as  
20 the case may be) —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

25 (8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved exchange or a recognised market operator in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the approved exchange  
30 or recognised market operator (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved exchange or recognised market operator (as the case may be) —

35 (a) the act or purported act of the person shall be invalid and of no effect; and

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

(9) During the period when the Authority or statutory manager is in control of the relevant business of an approved exchange or a recognised market operator —

5 (a) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

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(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the approved exchange or recognised market operator (as the case may be),

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

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(b) no person shall exercise any voting or other right attached to any share in the approved exchange or recognised market operator (as the case may be) in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

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(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding

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\$15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, “constitution”, in relation to an approved exchange or a recognised market operator, means the memorandum of association and articles of association of the approved exchange or recognised market operator (as the case may be).

### **Duration of control**

**44D.**—(1) The Authority shall cease to be in control of the relevant business of an approved exchange or a recognised market operator when the Authority is satisfied that —

- (a) the reasons for the Authority’s assumption of control of the relevant business have ceased to exist; or
- (b) it is no longer necessary in the interests of the public or the section of the public referred to in section 44B(1)(c)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved exchange or a recognised market operator on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved exchange or a recognised market operator may be revoked by the Authority at any time —

(a) if the Authority is satisfied that —

- (i) the reasons for the appointment have ceased to exist; or
- (ii) it is no longer necessary in the interests of the public or the section of the public

referred to in section 44B(1)(c)(i) or for the protection of investors; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved exchange or recognised market operator (as the case may be).

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(a) the Authority's assumption of control of the relevant business of an approved exchange or a recognised market operator;

(b) the cessation of the Authority's control of the relevant business of an approved exchange or a recognised market operator;

(c) the appointment of a statutory manager in relation to the relevant business of an approved exchange or a recognised market operator; and

(d) the revocation of a statutory manager's appointment in relation to the relevant business of an approved exchange or a recognised market operator.

#### **Responsibilities of officers, member, etc., of approved exchange or recognised market operator**

**44E.**—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved exchange or a recognised market operator —

(a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive

5 officer, employee, agent, banker, auditor or  
 office holder of, or trustee for, the approved  
 exchange or recognised market operator (as the  
 case may be) to pay, deliver, convey, surrender  
 or transfer to the Authority or statutory manager,  
 within such period as the High Court may  
 specify, any property or book of the approved  
 exchange or recognised market operator (as the  
 case may be) which is comprised in, forms part  
 10 of or relates to the relevant business of the  
 approved exchange or recognised market  
 operator (as the case may be), and which is in the  
 person's possession or control; and

15 (b) any person who has ceased to be or who is still  
 any chief executive officer, director, member,  
 executive officer, employee, agent, banker,  
 auditor or office holder of, or trustee for, the  
 approved exchange or recognised market  
 operator (as the case may be) shall give to the  
 Authority or statutory manager such information  
 20 as the Authority or statutory manager may  
 require for the discharge of the Authority's or  
 statutory manager's duties or functions, or the  
 exercise of the Authority's or statutory  
 manager's powers, in relation to the approved  
 exchange or recognised market operator (as the  
 case may be), within such time and in such  
 manner as may be specified by the Authority or  
 statutory manager.

30 (2) Any person who —

- (a) without reasonable excuse, fails to comply with  
 subsection (1)(b); or
- 35 (b) in purported compliance with subsection (1)(b),  
 knowingly or recklessly furnishes any  
 information or document that is false or  
 misleading in a material particular,

5 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

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

10 **44F.**—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved exchange or a recognised market operator —

15 (a) to a statutory manager or statutory adviser appointed in relation to the approved exchange or recognised market operator (as the case may be), whether or not the appointment has been revoked; and

20 (b) where the Authority has assumed control of the relevant business of the approved exchange or recognised market operator (as the case may be), to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

25 (2) The approved exchange or recognised market operator (as the case may be) shall reimburse the Authority any remuneration and expenses payable by the approved exchange or recognised market operator (as the case may be) to a statutory manager or statutory adviser.”;

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(e) by inserting, immediately after section 46, the following Division:

*“Division 5 — Voluntary Transfer of Business of  
Approved Exchange or Recognised Market Operator*

**Interpretation of this Division**

**46AA.** In this Division, unless the context otherwise  
requires —

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

“Court” means the High Court or a Judge thereof;

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

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

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

“transferee” means an approved exchange or a  
recognised market operator, or a corporation  
which has applied or will be applying for  
approval or recognition to carry on in Singapore  
the usual business of an approved exchange or a  
recognised market operator, to which the whole  
or any part of a transferor’s business is, is to be or  
is proposed to be transferred under this Division;

“transferor” means an approved exchange or a  
recognised market operator the whole or any part  
of the business of which is, is to be, or is  
proposed to be transferred under this Division.

**Voluntary transfer of business**

**46AAA.—(1)** A transferor may transfer the whole or  
any part of its business (including any business that is  
not the usual business of an approved exchange or a  
recognised market operator) to a transferee, if —

- (a) the Authority has consented to the transfer;
- (b) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved exchange or a recognised market operator; and
- (c) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an approved exchange or a recognised market operator to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

- (a) the transferee is a fit and proper person; and
- (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

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

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

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

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

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

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### **Approval of transfer**

**46AAB.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

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

(a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(b) the transferor shall obtain the consent of the Authority under section 46AAA(1)(a);

- (c) the transferor and the transferee shall, if they intend to serve on their respective participants a summary of the transfer, obtain the Authority's approval of the summary;
  - 5 (d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or  
10 newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;
  - (e) the transferor and the transferee shall keep at  
15 their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in  
20 paragraph (d) in the *Gazette*; and
  - (f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective participants affected by the transfer, at least  
25 15 days before the application is made, a copy of the report referred to in paragraph (a) or a summary of the transfer approved by the Authority under paragraph (c).
- (3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —
- 30 (a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and
  - (b) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 46AAA(1)(a) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(b) refuse to approve the transfer.

(6) If the transferee is not approved as an approved exchange or recognised as a recognised market operator by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being approved as an approved exchange or recognised as a recognised market operator by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(a) the transfer to the transferee of the whole or any part of the business of the transferor;

(b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(d) the dissolution, without winding up, of the transferor;

(e) the provisions to be made for persons who are affected by the transfer;

(f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

5 (8) Any order under subsection (7) may —

(a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

10 (b) make provision in relation to any property which is held by the transferor as trustee; and

(c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

15 (9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be  
20 transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

25 (10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

30 (11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- 5 (a) a copy of the order with the Registrar of Companies and with the Authority; and
- (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

10 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection,  
 15 shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”;

20 (f) by inserting, immediately after paragraph (d) of section 81Z(1), the following paragraph:

“(da) upon the Authority exercising any power under section 81ZGC(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186)  
 25 in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval;”;

30 (g) by inserting, immediately after section 81ZG, the following sections:

**“Information of insolvency, etc.**

**81ZGA.**—(1) Any approved holding company which is or is likely to become insolvent, which is or is likely to become unable to meet its obligations, or which has

suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

(2) Any approved holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

### **Interpretation of sections 81ZGB to 81ZGG**

**81ZGB.** In this section and sections 81ZGC to 81ZGG, unless the context otherwise requires —

“business” includes affairs and property;

“office holder”, in relation to an approved holding company, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved holding company, or acting in an equivalent capacity in relation to the approved holding company;

“relevant business” means any business of an approved holding company —

(a) which the Authority has assumed control of under section 81ZGC; or

(b) in relation to which a statutory adviser or a statutory manager has been appointed under section 81ZGC;

“statutory adviser” means a statutory adviser appointed under section 81ZGC;

“statutory manager” means a statutory manager appointed under section 81ZGC.

**Action by Authority if approved holding company  
unable to meet obligations, etc.**

**81ZGC.**—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

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- (a) an approved holding company informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- (b) an approved holding company becomes unable to meet its obligations, or is insolvent, or suspends payments;
- (c) the Authority is of the opinion that an approved holding company —
  - (i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 81T;
  - (ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;
  - (iii) has contravened any of the provisions of this Act; or
  - (iv) has failed to comply with any condition or restriction imposed on it under section 81W(1) or (2); or
- (d) the Authority considers it in the public interest to do so.

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(2) Subject to subsections (1) and (3), the Authority may —

5 (a) require the approved holding company immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

10 (b) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the approved holding company on the proper management of such of the business of the approved holding company as the Authority may determine; or

15 (c) assume control of and manage such of the business of the approved holding company as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

20 (3) In the case of an approved holding company incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the approved holding company under subsection (2) shall only be in relation to —

25 (a) the business or affairs of the approved holding company carried on in, or managed in or from, Singapore; or

30 (b) the property of the approved holding company located in Singapore, or reflected in the books of the approved holding company in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of an approved holding company, the Authority shall specify, in the terms and conditions

of the appointment, which of the duties, functions and powers of the statutory manager —

- (a) may be discharged or exercised by such persons jointly and severally;
- 5 (b) shall be discharged or exercised by such persons jointly; and
- (c) shall be discharged or exercised by a specified person or such persons.

10 (5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 81Z(1)(da), do one or more of the following:

- 15 (a) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;
- (b) further exercise any of the powers under subsection (2);
- 20 (c) add to, vary or revoke any term or condition specified by the Authority under this section.

25 (6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

- (a) the exercise or purported exercise of any power under this Act;
- (b) the performance or purported performance of any function or duty under this Act; or
- 30 (c) the compliance or purported compliance with this Act.

(7) Any approved holding company that fails to comply with a requirement imposed by the Authority

under subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

### **Effect of assumption of control under section 81ZGC**

**81ZGD.**—(1) Upon assuming control of the relevant business of an approved holding company, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of an approved holding company, the Authority or statutory manager —

(a) shall manage the relevant business of the approved holding company in the name of and on behalf of the approved holding company; and

(b) shall be deemed to be an agent of the approved holding company.

(3) In managing the relevant business of an approved holding company, the Authority or statutory manager —

(a) shall take into consideration the interests of the public or the section of the public referred to in section 81ZGC(1)(c)(i), and the need to protect investors; and

(b) shall have all the duties, powers and functions of the members of the board of directors of the approved holding company (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the approved holding company, including powers of delegation, in relation to the relevant business of the approved holding company; but nothing in

5                   this paragraph shall require the Authority or  
statutory manager to call any meeting of the  
approved holding company under the Companies  
Act or the constitution of the approved holding  
company.

10               (4) Notwithstanding any written law or rule of law,  
upon the assumption of control of the relevant business  
of an approved holding company by the Authority or  
statutory manager, any appointment of a person as the  
chief executive officer or a director of the approved  
holding company, which was in force immediately  
before the assumption of control, shall be deemed to be  
revoked, unless the Authority gives its approval, by  
notice in writing to the person and the approved holding  
company, for the person to remain in the appointment.

15               (5) Notwithstanding any written law or rule of law,  
during the period when the Authority or statutory  
manager is in control of the relevant business of an  
approved holding company, except with the approval of  
the Authority, no person shall be appointed as the chief  
executive officer or a director of the approved holding  
company.

20               (6) Where the Authority has given its approval under  
subsection (4) or (5) to a person to remain in the  
appointment of, or to be appointed as, the chief executive  
officer or a director of an approved holding company, the  
Authority may at any time, by notice in writing to the  
person and the approved holding company, revoke that  
approval, and the appointment shall be deemed to be  
revoked on the date specified in the notice.

25               (7) Notwithstanding any written law or rule of law, if  
any person, whose appointment as the chief executive  
officer or a director of an approved holding company is  
revoked under subsection (4) or (6), acts or purports to  
act after the revocation as the chief executive officer or a  
director of the approved holding company during the  
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period when the Authority or statutory manager is in control of the relevant business of the approved holding company —

5           (a) the act or purported act of the person shall be invalid and of no effect; and

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

          (8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved holding company in  
10           contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the approved holding company during the period when the Authority or statutory manager is in control of the relevant business of the approved holding company —

15           (a) the act or purported act of the person shall be invalid and of no effect; and

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

          (9) During the period when the Authority or statutory manager is in control of the relevant business of an  
20           approved holding company —

          (a) if there is any conflict or inconsistency between —

                  (i) a direction or decision given by the Authority or statutory manager (including a  
25                   direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

                  (ii) a direction or decision given by any chief executive officer, director, member,  
30                   executive officer, employee, agent or office holder, or the board of directors, of the approved holding company,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the

conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

5           (b) no person shall exercise any voting or other right attached to any share in the approved holding company in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

10           (10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding  
15           \$15,000 for every day or part thereof during which the offence continues after conviction.

          (11) In this section, “constitution”, in relation to an approved holding company, means the memorandum of association and articles of association of the approved  
20           holding company.

### **Duration of control**

**81ZGE.**—(1) The Authority shall cease to be in control of the relevant business of an approved holding company when the Authority is satisfied that —

25           (a) the reasons for the Authority’s assumption of control of the relevant business have ceased to exist; or

          (b) it is no longer necessary in the interests of the public or the section of the public referred to in  
30           section 81ZGC(1)(c)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved

holding company on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved holding company may be revoked by the Authority at any time —

(a) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 81ZGC(1)(c)(i) or for the protection of investors; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved holding company.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(a) the Authority's assumption of control of the relevant business of an approved holding company;

(b) the cessation of the Authority's control of the relevant business of an approved holding company;

(c) the appointment of a statutory manager in relation to the relevant business of an approved holding company; and

(d) the revocation of a statutory manager's appointment in relation to the relevant business of an approved holding company.

**Responsibilities of officers, member, etc., of approved holding company**

**81ZGF.**—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved holding company —

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(a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved holding company to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the approved holding company which is comprised in, forms part of or relates to the relevant business of the approved holding company, and which is in the person's possession or control; and

(b) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved holding company shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the approved holding company, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

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

(b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

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

**81ZGG.**—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved holding company —

(a) to a statutory manager or statutory adviser appointed in relation to the approved holding company, whether or not the appointment has been revoked; and

(b) where the Authority has assumed control of the relevant business of the approved holding company, to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

(2) The approved holding company shall reimburse the Authority any remuneration and expenses payable by the approved holding company to a statutory manager or statutory adviser.”;

- (h) by inserting, immediately after section 81ZL, the following Division:

*“Division 3 — Voluntary Transfer of Business of  
Approved Holding Company*

5                   **Interpretation of this Division**

**81ZM.** In this Division, unless the context otherwise requires —

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

10           “Court” means the High Court or a Judge thereof;

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

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

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

20           “transferee” means an approved holding company, or a corporation which has applied or will be applying for approval or recognition to carry on in Singapore the usual business of an approved holding company, to which the whole or any part of a transferor’s business is, is to be or is proposed to be transferred under this Division;

25           “transferor” means an approved holding company the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

30                   **Voluntary transfer of business**

**81ZN.**—(1) A transferor may transfer the whole or any part of its business (including any business that is not the

usual business of an approved holding company) to a transferee, if —

- (a) the Authority has consented to the transfer;
- (b) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved holding company; and
- (c) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an approved holding company to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

- (a) the transferee is a fit and proper person; and
- (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

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

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

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

- (a) without reasonable excuse, fails to comply with any requirement under subsection (7); or
- (b) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### **Approval of transfer**

**81ZO.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

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

- (a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;
- (b) the transferor shall obtain the consent of the Authority under section 81ZN(1)(a);
- (c) the transferor and the transferee shall, if they intend to serve on their respective shareholders a

summary of the transfer, obtain the Authority's approval of the summary;

- 5           (d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;
- 10           (e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and
- 15           (f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective shareholders affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (a) or a summary of the transfer approved by the Authority under paragraph (c).
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(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

- 30           (a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and
- (b) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 81ZN(1)(a) to the transfer.

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(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

5           (a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

          (b) refuse to approve the transfer.

10       (6) If the transferee is not approved as an approved holding company by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being approved as an approved holding company by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

15           (a) the transfer to the transferee of the whole or any part of the business of the transferor;

20           (b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

          (c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

25           (d) the dissolution, without winding up, of the transferor;

          (e) the provisions to be made for persons who are affected by the transfer;

30           (f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

- (a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;
- (b) make provision in relation to any property which is held by the transferor as trustee; and
- (c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and

- (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

5 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection,  
10 shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”;

- 15 (i) by inserting, immediately after paragraph (e) of section 95(2), the following paragraph:

“(ea) upon the Authority exercising any power under section 97E(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the holder, the Authority considers that it is in the public interest to revoke the licence;”;

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- (j) by deleting subsection (1) of section 97 and substituting the following subsections:
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“(1) Notwithstanding the provisions of any other written law —

(a) a holder of a capital markets services licence shall not, without the prior written consent of the Authority, permit a person to act as its executive officer; and

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(b) a holder of a capital markets services licence which is incorporated in Singapore shall not, without the prior written consent of the Authority, permit a person to act as its director,

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if the person —

- 5 (i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 9(1)(j) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —

  - (A) involving fraud or dishonesty;
  - 10 (B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
  - (C) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);
- 15 (ii) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (iii) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
- 20 (iv) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
- 25 (v) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A made against him that remains in force; or
- 30 (vi) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —
  - (A) which is being or has been wound up by a court; or

5 (B) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

10 (1A) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director of a holder of a capital markets services licence which is incorporated in Singapore, or an executive officer of a holder of a capital markets services licence —

- 15 (a) has wilfully contravened or wilfully caused the holder to contravene any provision of this Act;
- (b) has, without reasonable excuse, failed to secure the compliance of the holder with this Act, the Monetary Authority of Singapore Act (Cap. 186)
- 20 or any of the written laws set out in the Schedule to that Act; or
- (c) has failed to discharge any of the duties of his office,

25 the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing to the holder, direct the holder to remove the director or executive officer, as the case may be, from his office or employment within such period as may be specified by

30 the Authority in the notice, and the holder shall comply with the notice.”;

(k) by deleting subsections (2) and (3) of section 97 and substituting the following subsections:

35 “(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall,

when determining whether a director or an executive officer of a holder of a capital markets services licence has failed to discharge the duties of his office for the purposes of subsection (1A)(c), have regard to such criteria as may be prescribed or as may be specified in written directions.

(3) The Authority shall not direct a holder of a capital markets services licence to remove a person from his office under subsection (1A) without giving the holder an opportunity to be heard.”;

(l) by deleting subsection (4) of section 97;

(m) by deleting subsection (5) of section 97 and substituting the following subsection:

“(5) Where the Authority directs a holder of a capital markets services licence to remove a person from his office or employment under subsection (1A), the Authority need not give that person an opportunity to be heard.”;

(n) by inserting, immediately after the words “in respect of anything done” in section 97(6), the words “(including any statement made)”;

(o) by inserting, immediately after subsection (6) of section 97, the following subsection:

“(7) In this section, unless the context otherwise requires —

“regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

“regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function

of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.”;

(p) by inserting, immediately after section 97B, the following sections:

**“Information of insolvency, etc.**

**97C.**—(1) Any holder of a capital markets services licence which is or is likely to become insolvent, which is or is likely to become unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

(2) Any holder of a capital markets services licence which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

**Interpretation of sections 97D to 97I**

**97D.** In this section and sections 97E to 97I, unless the context otherwise requires —

“business” includes affairs and property;

“office holder”, in relation to a holder of a capital markets services licence, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the holder, or acting in an equivalent capacity in relation to the holder;

“relevant business” means any business of a holder of a capital markets services licence —

(a) which the Authority has assumed control of under section 97E; or

(b) in relation to which a statutory adviser or a statutory manager has been appointed under section 97E;

5 “statutory adviser” means a statutory adviser appointed under section 97E;

“statutory manager” means a statutory manager appointed under section 97E.

**Action by Authority if holder of capital markets services licence unable to meet obligations, etc.**

10 **97E.**—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

15 (a) a holder of a capital markets services licence informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

20 (b) a holder of a capital markets services licence becomes unable to meet its obligations, or is insolvent, or suspends payments;

(c) the Authority is of the opinion that a holder of a capital markets services licence —

25 (i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors;

30 (ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction in its licence (being a condition or restriction imposed under section 88(1) or (2)); or

5           (d) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

10           (a) require the holder of a capital markets services licence immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

15           (b) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the holder of a capital markets services licence on the proper management of such of the business of the holder as the Authority may determine; or

20           (c) assume control of and manage such of the business of the holder of a capital markets services licence as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

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(3) In the case of a holder of a capital markets services licence incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the holder under subsection (2) shall only be in relation to —

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

35           (b) the property of the holder located in Singapore, or reflected in the books of the holder in

Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of a holder of a capital markets services licence, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

- (a) may be discharged or exercised by such persons jointly and severally;
- (b) shall be discharged or exercised by such persons jointly; and
- (c) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 95(2)(ea), do one or more of the following:

- (a) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;
- (b) further exercise any of the powers under subsection (2);
- (c) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

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

- (b) the performance or purported performance of any function or duty under this Act; or
- (c) the compliance or purported compliance with this Act.

5 (7) Any holder of a capital markets services licence that fails to comply with a requirement imposed by the Authority under subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing  
10 offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

#### **Effect of assumption of control under section 97E**

15 **97F.**—(1) Upon assuming control of the relevant business of a holder of a capital markets services licence, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

20 (2) During the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence, the Authority or statutory manager —

- (a) shall manage the relevant business of the holder in the name of and on behalf of the holder; and
- (b) shall be deemed to be an agent of the holder.

25 (3) In managing the relevant business of a holder of a capital markets services licence, the Authority or statutory manager —

- 30 (a) shall take into consideration the interests of the public or the section of the public referred to in section 97E(1)(c)(i), and the need to protect investors; and
- (b) shall have all the duties, powers and functions of the members of the board of directors of the

holder (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the holder, including powers of delegation, in relation to the relevant business of the holder; but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the holder under the Companies Act or the constitution of the holder.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a holder of a capital markets services licence by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the holder, which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the holder, for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the holder.

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of a holder of a capital markets services licence, the Authority may at any time, by notice in writing to the person and the holder, revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of a holder of a capital markets services licence is revoked under subsection (4) or (6),

acts or purports to act after the revocation as the chief executive officer or a director of the holder during the period when the Authority or statutory manager is in control of the relevant business of the holder —

5           (a) the act or purported act of the person shall be invalid and of no effect; and

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

          (8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of a holder of a capital markets services licence in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the holder during the period when the Authority or statutory manager is in control of the relevant business of the holder —

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          (a) the act or purported act of the person shall be invalid and of no effect; and

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

          (9) During the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence —

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          (a) if there is any conflict or inconsistency between —

                  (i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

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                  (ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the holder,

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

- 5                   (b) no person shall exercise any voting or other right attached to any share in the holder in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall  
10                   be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of  
15                   a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, “constitution”, in relation to a holder of a capital markets services licence, means the memorandum of association and articles of association of  
20                   the holder.

### **Duration of control**

**97G.**—(1) The Authority shall cease to be in control of the relevant business of a holder of a capital markets services licence when the Authority is satisfied that —  
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- (a) the reasons for the Authority’s assumption of control of the relevant business have ceased to exist; or  
  
(b) it is no longer necessary in the interests of the  
30                   public or the section of the public referred to in section 97E(1)(c)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a holder of a

capital markets services licence on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a holder of a capital markets services licence may be revoked by the Authority at any time —

(a) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 97E(1)(c)(i) or for the protection of investors; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the holder.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(a) the Authority's assumption of control of the relevant business of a holder of a capital markets services licence;

(b) the cessation of the Authority's control of the relevant business of a holder of a capital markets services licence;

(c) the appointment of a statutory manager in relation to the relevant business of a holder of a capital markets services licence; and

(d) the revocation of a statutory manager's appointment in relation to the relevant business of a holder of a capital markets services licence.

**Responsibilities of officers, member, etc., of holder of capital markets services licence**

**97H.**—(1) During the period when the Authority or statutory manager is in control of the relevant business of a holder of a capital markets services licence —

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(a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the holder to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the holder which is comprised in, forms part of or relates to the relevant business of the holder, and which is in the person's possession or control; and

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(b) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the holder shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the holder, within such time and in such manner as may be specified by the Authority or statutory manager.

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(2) Any person who —

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

(b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

5 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during  
10 which the offence continues after conviction.

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

15 **97I.**—(1) The Authority may at any time fix the remuneration and expenses to be paid by a holder of a capital markets services licence —

- (a) to a statutory manager or statutory adviser appointed in relation to the holder, whether or not the appointment has been revoked; and
- 20 (b) where the Authority has assumed control of the relevant business of the holder, to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business,  
25 whether or not the Authority has ceased to be in control of the relevant business.

(2) The holder of a capital markets services licence shall reimburse the Authority any remuneration and expenses payable by the holder to a statutory manager or statutory adviser.”;

30 (q) by inserting, immediately after section 99A, the following Division:

*“Division 1A — Voluntary Transfer of Business of  
Holder of Capital Markets Services Licence*

**Interpretation of this Division**

**99AA.** In this Division, unless the context otherwise  
requires —

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

“Court” means the High Court or a Judge thereof;

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

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

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

“transferee” means a holder of a capital markets  
services licence, or a corporation which has  
applied or will be applying for approval or  
recognition to carry on in Singapore the usual  
business of a holder of a capital markets services  
licence, to which the whole or any part of a  
transferor’s business is, is to be or is proposed to  
be transferred under this Division;

“transferor” means a holder of a capital markets  
services licence the whole or any part of the  
business of which is, is to be, or is proposed to be  
transferred under this Division.

**Voluntary transfer of business**

**99AB.**—(1) A transferor may transfer the whole or any  
part of its business (including any business that is not the  
usual business of a holder of a capital markets services  
licence) to a transferee, if —

- (a) the Authority has consented to the transfer;
- (b) the transfer involves the whole or any part of the business of the transferor that is the usual business of a holder of a capital markets services licence; and
- (c) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of a holder of a capital markets services licence to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

- (a) the transferee is a fit and proper person; and
- (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

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

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

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

- (a) without reasonable excuse, fails to comply with any requirement under subsection (7); or
- (b) in purported compliance with any requirement under subsection (7), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### **Approval of transfer**

**99AC.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

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

- (a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;
- (b) the transferor shall obtain the consent of the Authority under section 99AB(1)(a);
- (c) the transferor and the transferee shall, if they intend to serve on their respective customers a

summary of the transfer, obtain the Authority's approval of the summary;

(d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and

(f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective customers affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (a) or a summary of the transfer approved by the Authority under paragraph (c).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(b) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 99AB(1)(a) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

5           (a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

          (b) refuse to approve the transfer.

10       (6) If the transferee is not granted a capital markets services licence by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being granted a capital markets services licence by the Authority.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

15           (a) the transfer to the transferee of the whole or any part of the business of the transferor;

20           (b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

          (c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

25           (d) the dissolution, without winding up, of the transferor;

          (e) the provisions to be made for persons who are affected by the transfer;

30           (f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

- (a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;
- (b) make provision in relation to any property which is held by the transferor as trustee; and
- (c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and

- (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

5 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection,  
10 shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”;

15 (r) by inserting, immediately after subsection (4) of section 289, the following subsection:

“(4A) Where, upon the Authority exercising any power under section 292D(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in  
20 relation to an approved trustee, the Authority considers that it is in the public interest to do so, the Authority may —

25 (a) revoke the approval granted to the approved trustee under this section; and

(b) direct the manager for the collective investment scheme or schemes, which the approved trustee was acting for, to appoint a new trustee for the scheme or schemes.”;

30 (s) by inserting, immediately after section 292, the following sections:

**“Disqualification or removal of director or executive officer**

**292A.**—(1) Notwithstanding the provisions of any other written law —

- 5           (a) an approved trustee shall not, without the prior written consent of the Authority, permit a person to act as its executive officer; and
- (b) an approved trustee which is incorporated in Singapore shall not, without the prior written
- 10           consent of the Authority, permit a person to act as its director,

if the person —

- 15           (i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 9(1)(s) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —
  - 20           (A) involving fraud or dishonesty;
  - (B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
  - (C) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);
  - 25           (ii) is an undischarged bankrupt, whether in Singapore or elsewhere;
  - (iii) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in
  - 30           part;
  - (iv) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement

with his creditors, being a compromise or scheme of arrangement that is still in operation;

(v) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A made against him that remains in force; or

(vi) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

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

(B) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

(2) Notwithstanding the provisions of any other written law, where the Authority is satisfied that a director of an approved trustee which is incorporated in Singapore, or an executive officer of an approved trustee —

(a) has wilfully contravened or wilfully caused the approved trustee to contravene any provision of this Act;

(b) has, without reasonable excuse, failed to secure the compliance of the approved trustee with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or

(c) has failed to discharge any of the duties of his office,

5 the Authority may, if it thinks it necessary in the interests of the public or a section of the public or for the protection of investors, by notice in writing to the approved trustee, direct the approved trustee to remove the director or executive officer, as the case may be, from his office or employment within such period as may be specified by the Authority in the notice, and the approved trustee shall comply with the notice.

10 (3) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, when determining whether a director or an executive officer of an approved trustee has failed to discharge the duties of his office for the purposes of subsection (2)(c), have regard to such criteria as may be prescribed.

15 (4) Before directing an approved trustee to remove a person from his office or employment under subsection (2), the Authority shall —

- (a) give the approved trustee and the person notice in writing of its intention to do so; and
- 20 (b) in the notice referred to in paragraph (a), call upon the approved trustee and the person to show cause, within such time as may be specified in the notice, why the person should not be removed.

25 (5) If the approved trustee and the person referred to in subsection (4) —

- (a) fail to show cause within the time specified under subsection (4)(b) or within such extended period of time as the Authority may allow; or
- 30 (b) fail to show sufficient cause,

the Authority may direct the approved trustee to remove the person under subsection (2).

(6) Any approved trustee which, or any director or executive officer of an approved trustee who, is

aggrieved by a direction of the Authority under subsection (2) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision shall be final.

5 (7) Any approved trustee which contravenes subsection (1) or fails to comply with a notice issued under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a  
10 further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(8) No criminal or civil liability shall be incurred by an approved trustee, or any person acting on behalf of the  
15 approved trustee, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the approved trustee under this section.

(9) In this section, unless the context otherwise requires —  
20

“regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or  
25 authorised by the Authority;

“regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function  
30 of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.

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

35 **292B.**—(1) Any approved trustee which is or is likely to become insolvent, which is or is likely to become

unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

5 (2) Any approved trustee which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

### 10 **Interpretation of sections 292C to 292H**

**292C.** In this section and sections 292D to 292H, unless the context otherwise requires —

“business” includes affairs and property;

15 “office holder”, in relation to an approved trustee, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved trustee, or acting in an equivalent capacity in relation to the approved trustee;

20 “relevant business” means any business of an approved trustee —

(a) which the Authority has assumed control of under section 292D; or

25 (b) in relation to which a statutory adviser or a statutory manager has been appointed under section 292D;

“statutory adviser” means a statutory adviser appointed under section 292D;

30 “statutory manager” means a statutory manager appointed under section 292D.

**Action by Authority if approved trustee unable to meet obligations, etc.**

**292D.**—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

- (a) an approved trustee informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- (b) an approved trustee becomes unable to meet its obligations, or is insolvent, or suspends payments;
- (c) the Authority is of the opinion that an approved trustee —
  - (i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors;
  - (ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;
  - (iii) has contravened any of the provisions of this Act; or
  - (iv) has failed to comply with any condition or restriction imposed on it under section 289(1) or (1A); or
- (d) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

- (a) require the approved trustee immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;
- 5 (b) appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the approved trustee on the proper management of such of the business of the approved trustee as the Authority may determine; or
- 10 (c) assume control of and manage such of the business of the approved trustee as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.
- 15 (3) Where the Authority appoints 2 or more persons as the statutory manager of an approved trustee, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —
- 20 (a) may be discharged or exercised by such persons jointly and severally;
- (b) shall be discharged or exercised by such persons jointly; and
- 25 (c) shall be discharged or exercised by a specified person or such persons.
- (4) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 289(4A), do one or more of the following:
- 30 (a) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(b) further exercise any of the powers under subsection (2);

(c) add to, vary or revoke any term or condition specified by the Authority under this section.

5 (5) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

10 (a) the exercise or purported exercise of any power under this Act;

(b) the performance or purported performance of any function or duty under this Act; or

15 (c) the compliance or purported compliance with this Act.

(6) Any approved trustee that fails to comply with a requirement imposed by the Authority under subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

### **Effect of assumption of control under section 292D**

25 **292E.**—(1) Upon assuming control of the relevant business of an approved trustee, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of an approved trustee, the Authority or statutory manager —

30 (a) shall manage the relevant business of the approved trustee in the name of and on behalf of the approved trustee; and

(b) shall be deemed to be an agent of the approved trustee.

(3) In managing the relevant business of an approved trustee, the Authority or statutory manager —

5           (a) shall take into consideration the interests of the public or the section of the public referred to in section 292D(1)(c)(i), and the need to protect investors; and

10           (b) shall have all the duties, powers and functions of the members of the board of directors of the approved trustee (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the approved trustee, including powers of delegation, in relation to the  
15           relevant business of the approved trustee; but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the approved trustee under the Companies Act or the constitution of the  
20           approved trustee.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of an approved trustee by the Authority or statutory manager, any appointment of a person as the chief  
25           executive officer or a director of the approved trustee, which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the approved trustee, for the person to remain  
30           in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of an approved trustee, except with the approval of the  
35           Authority, no person shall be appointed as the chief executive officer or a director of the approved trustee.

5 (6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of an approved trustee, the Authority may at any time, by notice in writing to the person and the approved trustee, revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

10 (7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of an approved trustee is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the approved trustee during the period when the Authority or statutory manager is in control of the relevant business of the approved trustee —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

20 (8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved trustee in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the approved trustee during the period when the Authority or statutory manager is in control of the relevant business of the approved trustee —

(a) the act or purported act of the person shall be invalid and of no effect; and

30 (b) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of an approved trustee —

35 (a) if there is any conflict or inconsistency between —

5 (i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

10 (ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the approved trustee,

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

15 (b) no person shall exercise any voting or other right attached to any share in the approved trustee in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

20 (10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

25 (11) In this section, “constitution”, in relation to an approved trustee, means the memorandum of association and articles of association of the approved trustee.

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### **Duration of control**

**292F.**—(1) The Authority shall cease to be in control of the relevant business of an approved trustee when the Authority is satisfied that —

(a) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

5 (b) it is no longer necessary in the interests of the public or the section of the public referred to in section 292D(1)(c)(i) or for the protection of investors.

10 (2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved trustee on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved trustee may be revoked by the Authority at any time —

15 (a) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

20 (ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 292D(1)(c)(i) or for the protection of investors; or

(b) on any other ground,

25 and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved trustee.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

30 (a) the Authority's assumption of control of the relevant business of an approved trustee;

(b) the cessation of the Authority's control of the relevant business of an approved trustee;

- (c) the appointment of a statutory manager in relation to the relevant business of an approved trustee; and
- 5 (d) the revocation of a statutory manager's appointment in relation to the relevant business of an approved trustee.

**Responsibilities of officers, member, etc., of approved trustee**

10 **292G.**—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved trustee —

- 15 (a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved trustee to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the approved trustee which is comprised in, forms part of or relates to the relevant business of the approved trustee, and which is in the person's possession or control; and
- 25 (b) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved trustee shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of
- 30 the Authority's or statutory manager's powers, in
- 35

relation to the approved trustee, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

- 5           (a) without reasonable excuse, fails to comply with subsection (1)(b); or
- (b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or
- 10           misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine

15           not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

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

20           **292H.**—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved trustee —

- 25           (a) to a statutory manager or statutory adviser appointed in relation to the approved trustee, whether or not the appointment has been revoked; and
- (b) where the Authority has assumed control of the relevant business of the approved trustee, to the Authority and any person appointed by the Authority under section 320 in relation to the
- 30           Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

- (2) The approved trustee shall reimburse the Authority any remuneration and expenses payable by the approved trustee to a statutory manager or statutory adviser.”; and
- (t) by inserting, immediately after section 295C, the following Subdivision:

*“Subdivision (2A) — Voluntary transfer of business of approved trustee*

**Interpretation of this Subdivision**

**295D.** In this Subdivision, unless the context otherwise requires —

“approved trustee” means a trustee for collective investment schemes which are authorised under section 286 and constituted as unit trusts;

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

“Court” means the High Court or a Judge thereof;

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

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

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

“transferee” means an approved trustee, or a public company which has applied or will be applying for the Authority’s approval under section 289(1) to act as an approved trustee, to which the whole or any part of a transferor’s business is, is to be or is proposed to be transferred under this Subdivision;

“transferor” means an approved trustee the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Subdivision.

### **Voluntary transfer of business**

5       **295E.**—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of an approved trustee) to a transferee, if —

(a) the Authority has consented to the transfer;

10       (b) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved trustee; and

(c) the Court has approved the transfer.

15       (2) Subsection (1) is without prejudice to the right of an approved trustee to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

(a) the transferee is a fit and proper person; and

20       (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

25       (4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor’s business (or any part thereof) under this Subdivision.

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

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

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Subdivision.

(8) Any person who —

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

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

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### **Approval of transfer**

**295F.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Subdivision.

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

- (a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;
- 5 (b) the transferor shall obtain the consent of the Authority under section 295E(1)(a);
- (c) the transferor and the transferee shall, if they intend to serve on the participants of their respective collective investment schemes a summary of the transfer, obtain the Authority's approval of the summary;
- 10 (d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;
- 15 (e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and
- 25 (f) unless the Court directs otherwise, the transferor and the transferee shall serve on the participants of their respective collective investment schemes affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (a) or a summary of the transfer approved by the Authority under paragraph (c).
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(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(b) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 295E(1)(a) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(b) refuse to approve the transfer.

(6) If the transferee does not have the Authority's approval under section 289(1) to act as an approved trustee, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee obtaining the Authority's approval under section 289(1) to act as an approved trustee.

(7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(a) the transfer to the transferee of the whole or any part of the business of the transferor;

(b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

(c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(d) the dissolution, without winding up, of the transferor;

(e) the provisions to be made for persons who are affected by the transfer;

(f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

(a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(b) make provision in relation to any property which is held by the transferor as trustee; and

(c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

(9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

(10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made

with respect to the transfer or vesting of that land by the appropriate authority.

5 (11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and
- 15 (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

20 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”.

(2) The Securities and Futures Act in force immediately before the date of commencement of this subsection is amended —

- 30 (a) by inserting, immediately after paragraph (d) of section 46H(1), the following paragraph:

35 “(da) upon the Authority exercising any power under section 46ZIB(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186)

in relation to the corporation, the Authority considers that it is in the public interest to revoke the trade repository licence or foreign trade repository licence, as the case may be;”;

- 5 (b) by repealing section 46W;
- (c) by inserting, immediately before section 46ZJ in Division 4 of Part IIA, the following sections:

**“Interpretation of sections 46ZIA to 46ZIF**

10 **46ZIA.** In this section and sections 46ZIB to 46ZIF, unless the context otherwise requires —

“business” includes affairs and property;

15 “office holder”, in relation to a licensed trade repository or licensed foreign trade repository, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the licensed trade repository or licensed foreign trade repository (as the case may be), or acting in an equivalent capacity in relation to the licensed trade repository or licensed foreign trade repository (as the case may be);

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“relevant business” means any business of a licensed trade repository or licensed foreign trade repository —

25 (a) which the Authority has assumed control of under section 46ZIB; or

(b) in relation to which a statutory adviser or a statutory manager has been appointed under section 46ZIB;

30 “statutory adviser” means a statutory adviser appointed under section 46ZIB;

“statutory manager” means a statutory manager appointed under section 46ZIB.

**Action by Authority if licensed trade repository  
unable to meet obligations, etc.**

**46ZIB.**—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

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- (a) a licensed trade repository or licensed foreign trade repository informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- (b) a licensed trade repository or licensed foreign trade repository becomes unable to meet its obligations, or is insolvent, or suspends payments;
- (c) the Authority is of the opinion that a licensed trade repository or licensed foreign trade repository —
  - (i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 46A;
  - (ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;
  - (iii) has contravened any of the provisions of this Act; or
  - (iv) has failed to comply with any condition or restriction imposed on it under section 46E(3) or (4); or
- (d) the Authority considers it in the public interest to do so.

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in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of a licensed trade repository or licensed foreign trade repository, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

- (a) may be discharged or exercised by such persons jointly and severally;
- (b) shall be discharged or exercised by such persons jointly; and
- (c) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 46H(1)(da), do one or more of the following:

- (a) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;
- (b) further exercise any of the powers under subsection (2);
- (c) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

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

- (b) the performance or purported performance of any function or duty under this Act; or
- (c) the compliance or purported compliance with this Act.

5 (7) Any licensed trade repository or licensed foreign trade repository that fails to comply with a requirement imposed by the Authority under subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a  
10 continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

#### **Effect of assumption of control under section 46ZIB**

15 **46ZIC.**—(1) Upon assuming control of the relevant business of a licensed trade repository or licensed foreign trade repository, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

20 (2) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository, the Authority or statutory manager —

- 25 (a) shall manage the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be) in the name of and on behalf of the licensed trade repository or licensed foreign trade repository (as the case may be); and
- 30 (b) shall be deemed to be an agent of the licensed trade repository or licensed foreign trade repository (as the case may be).

(3) In managing the relevant business of a licensed trade repository or licensed foreign trade repository, the Authority or statutory manager —

(a) shall take into consideration the interests of the public or the section of the public referred to in section 46ZIB(1)(c)(i), and the need to protect investors; and

5 (b) shall have all the duties, powers and functions of the members of the board of directors of the licensed trade repository or licensed foreign trade repository (as the case may be) (collectively and individually) under this Act, the Companies Act  
10 (Cap. 50) and the constitution of the licensed trade repository or licensed foreign trade repository (as the case may be), including powers of delegation, in relation to the relevant business of the licensed trade repository or licensed  
15 foreign trade repository (as the case may be); but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the licensed trade repository or licensed foreign trade repository (as the case may  
20 be) under the Companies Act or the constitution of the licensed trade repository or licensed foreign trade repository (as the case may be).

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business  
25 of a licensed trade repository or licensed foreign trade repository by the Authority or statutory manager, any appointment of a person as the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository (as the case may be), which was  
30 in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the licensed trade repository or licensed foreign trade repository (as the case may be), for the person to remain  
35 in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory

manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository (as the case may be).

(6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of a licensed trade repository or licensed foreign trade repository, the Authority may at any time, by notice in writing to the person and the licensed trade repository or licensed foreign trade repository (as the case may be), revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of a licensed trade repository or licensed foreign trade repository is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be) —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

(8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of a licensed trade repository or licensed foreign trade repository in contravention of subsection (5) acts or purports to act as the chief executive officer or a director of the licensed trade

repository or licensed foreign trade repository (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be) —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

(9) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository —

(a) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the licensed trade repository or licensed foreign trade repository (as the case may be),

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

(b) no person shall exercise any voting or other right attached to any share in the licensed trade repository or licensed foreign trade repository (as the case may be) in any manner that may defeat

or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

5 (10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of  
10 a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, “constitution”, in relation to a licensed trade repository or licensed foreign trade repository, means the memorandum of association and  
15 articles of association of the licensed trade repository or licensed foreign trade repository (as the case may be).

### **Duration of control**

**46ZID.**—(1) The Authority shall cease to be in control of the relevant business of a licensed trade repository or  
20 licensed foreign trade repository when the Authority is satisfied that —

- (a) the reasons for the Authority’s assumption of control of the relevant business have ceased to exist; or
- 25 (b) it is no longer necessary in the interests of the public or the section of the public referred to in section 46ZIB(1)(c)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a licensed  
30 trade repository or licensed foreign trade repository on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a licensed trade repository or

licensed foreign trade repository may be revoked by the Authority at any time —

(a) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 46ZIB(1)(c)(i) or for the protection of investors; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be).

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(a) the Authority's assumption of control of the relevant business of a licensed trade repository or licensed foreign trade repository;

(b) the cessation of the Authority's control of the relevant business of a licensed trade repository or licensed foreign trade repository;

(c) the appointment of a statutory manager in relation to the relevant business of a licensed trade repository or licensed foreign trade repository; and

(d) the revocation of a statutory manager's appointment in relation to the relevant business of a licensed trade repository or licensed foreign trade repository.

**Responsibilities of officers, member, etc., of licensed trade repository**

**46ZIE.**—(1) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository —

- (a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the licensed trade repository or licensed foreign trade repository (as the case may be) to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the licensed trade repository or licensed foreign trade repository (as the case may be) which is comprised in, forms part of or relates to the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be), and which is in the person's possession or control; and
- (b) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the licensed trade repository or licensed foreign trade repository (as the case may be) shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the licensed trade repository or licensed foreign trade

repository (as the case may be), within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

- 5           (a) without reasonable excuse, fails to comply with subsection (1)(b); or
- (b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or
- 10           misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine

15           not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

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

20           **46ZIF.**—(1) The Authority may at any time fix the remuneration and expenses to be paid by a licensed trade repository or licensed foreign trade repository —

- 25           (a) to a statutory manager or statutory adviser appointed in relation to the licensed trade repository or licensed foreign trade repository (as the case may be), whether or not the appointment has been revoked; and
- 30           (b) where the Authority has assumed control of the relevant business of the licensed trade repository or licensed foreign trade repository (as the case may be), to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the

Authority has ceased to be in control of the relevant business.

(2) The licensed trade repository or licensed foreign trade repository (as the case may be) shall reimburse the Authority any remuneration and expenses payable by the licensed trade repository or licensed foreign trade repository (as the case may be) to a statutory manager or statutory adviser.”;

(d) by inserting, immediately after section 46ZL, the following Division:

*“Division 5 — Voluntary Transfer of Business of  
Licensed Trade Repository or Licensed Foreign Trade  
Repository*

**Interpretation of this Division**

**46ZM.** In this Division, unless the context otherwise requires —

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

“Court” means the High Court or a Judge thereof;

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

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

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

“transferee” means a licensed trade repository or licensed foreign trade repository, or a corporation which has applied or will be applying for a trade repository licence or foreign trade repository licence, to which the whole or any part of a

transferor's business is, is to be or is proposed to be transferred under this Division;

5       “transferor” means a licensed trade repository or licensed foreign trade repository the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

### **Voluntary transfer of business**

10       **46ZN.**—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of a licensed trade repository or licensed foreign trade repository) to a transferee, if —

- (a) the Authority has consented to the transfer;
- (b) the transfer involves the whole or any part of the business of the transferor that is the usual business of a licensed trade repository or licensed foreign trade repository; and
- 15       (c) the Court has approved the transfer.

20       (2) Subsection (1) is without prejudice to the right of a licensed trade repository or licensed foreign trade repository to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

- (a) the transferee is a fit and proper person; and
- 25       (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

30       (4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

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

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

10 (7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

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

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

20 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part thereof  
25 during which the offence continues after conviction.

30 (9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### Approval of transfer

**46ZO.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

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

(a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(b) the transferor shall obtain the consent of the Authority under section 46ZN(1)(a);

(c) the transferor and the transferee shall, if they intend to serve on their respective participants a summary of the transfer, obtain the Authority's approval of the summary;

(d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and

(f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective

5 participants affected by the transfer, at least  
15 days before the application is made, a copy of  
the report referred to in paragraph (a) or a  
summary of the transfer approved by the  
Authority under paragraph (c).

(3) The Authority and any person who, in the opinion  
of the Court, is likely to be affected by the transfer —

10 (a) shall have the right to appear before and be heard  
by the Court in any proceedings relating to the  
transfer; and

(b) may make any application to the Court in  
relation to the transfer.

15 (4) The Court shall not approve the transfer if the  
Authority has not consented under section 46ZN(1)(a) to  
the transfer.

(5) The Court may, after taking into consideration the  
views, if any, of the Authority on the transfer —

20 (a) approve the transfer without modification or  
subject to any modification agreed to by the  
transferor and the transferee; or

(b) refuse to approve the transfer.

25 (6) If the transferee is not granted a trade repository  
licence or foreign trade repository licence by the  
Authority, the Court may approve the transfer on terms  
that the transfer shall take effect only in the event of the  
transferee being granted a trade repository licence or  
foreign trade repository licence by the Authority.

30 (7) The Court may by the order approving the transfer  
or by any subsequent order provide for all or any of the  
following matters:

(a) the transfer to the transferee of the whole or any  
part of the business of the transferor;

- 5 (b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;
- (c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;
- 10 (d) the dissolution, without winding up, of the transferor;
- (e) the provisions to be made for persons who are affected by the transfer;
- 15 (f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

- 20 (a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;
- (b) make provision in relation to any property which is held by the transferor as trustee; and
- 25 (c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

30 (9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from

any charge which by virtue of the transfer is to cease to have effect.

5 (10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

10 (11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and
- 20 (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

25 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”;

(e) by inserting, immediately after paragraph (d) of section 56(1), the following paragraph:

5 “(da) upon the Authority exercising any power under section 81SAA(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval or recognition, as the case may be;”;

(f) by repealing section 81SA and substituting the following sections:

10 **“Interpretation of sections 81SA to 81SAE**

**81SA.** In this section and sections 81SAA to 81SAE, unless the context otherwise requires —

“business” includes affairs and property;

15 “office holder”, in relation to an approved clearing house or a recognised clearing house, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the approved clearing house or recognised clearing house (as the case may be), or  
20 acting in an equivalent capacity in relation to the approved clearing house or recognised clearing house (as the case may be);

25 “relevant business” means any business of an approved clearing house or a recognised clearing house —

(a) which the Authority has assumed control of under section 81SAA; or

30 (b) in relation to which a statutory adviser or a statutory manager has been appointed under section 81SAA;

“statutory adviser” means a statutory adviser appointed under section 81SAA;

“statutory manager” means a statutory manager appointed under section 81SAA.

**Action by Authority if approved clearing house or recognised clearing house unable to meet obligations, etc.**

**81SAA.**—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

- 5
- 10 (a) an approved clearing house or a recognised clearing house informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- 15 (b) an approved clearing house or a recognised clearing house becomes unable to meet its obligations, or is insolvent, or suspends payments;
- 20 (c) the Authority is of the opinion that an approved clearing house or a recognised clearing house —
  - 25 (i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or the protection of investors, or to the objectives specified in section 47;
  - (ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;
  - 30 (iii) has contravened any of the provisions of this Act; or
  - (iv) has failed to comply with any condition or restriction imposed on it under section 51(4) or (5); or

(d) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

- 5           (a) require the approved clearing house or  
recognised clearing house (as the case may be)  
immediately to take any action or to do or not to  
do any act or thing whatsoever in relation to its  
business as the Authority may consider  
10           necessary;
- (b) appoint one or more persons as statutory adviser,  
on such terms and conditions as the Authority  
may specify, to advise the approved clearing  
house or recognised clearing house (as the case  
15           may be) on the proper management of such of  
the business of the approved clearing house or  
recognised clearing house (as the case may be) as  
the Authority may determine; or
- (c) assume control of and manage such of the  
20           business of the approved clearing house or  
recognised clearing house (as the case may be) as  
the Authority may determine, or appoint one or  
more persons as statutory manager to do so on  
such terms and conditions as the Authority may  
25           specify.

(3) In the case of a recognised clearing house which is incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the  
30           recognised clearing house under subsection (2) shall only be in relation to —

- (a) the business or affairs of the recognised clearing house carried on in, or managed in or from, Singapore; or

- (b) the property of the recognised clearing house located in Singapore, or reflected in the books of the recognised clearing house in Singapore, as the case may be, in relation to its operations in Singapore.

5

(4) Where the Authority appoints 2 or more persons as the statutory manager of an approved clearing house or a recognised clearing house, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

10

- (a) may be discharged or exercised by such persons jointly and severally;

- (b) shall be discharged or exercised by such persons jointly; and

15

- (c) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 56(1)(da), do one or more of the following:

20

- (a) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

25

- (b) further exercise any of the powers under subsection (2);

- (c) add to, vary or revoke any term or condition specified by the Authority under this section.

30

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

- (a) the exercise or purported exercise of any power under this Act;
- (b) the performance or purported performance of any function or duty under this Act; or
- 5 (c) the compliance or purported compliance with this Act.

(7) Any approved clearing house or recognised clearing house that fails to comply with a requirement imposed by the Authority under subsection (2)(a) shall  
 10 be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

#### 15 **Effect of assumption of control under section 81SAA**

**81SAB.**—(1) Upon assuming control of the relevant business of an approved clearing house or a recognised clearing house, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant  
 20 business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house, the Authority or statutory manager —

- 25 (a) shall manage the relevant business of the approved clearing house or recognised clearing house (as the case may be) in the name of and on behalf of the approved clearing house or recognised clearing house (as the case may be); and
- 30 (b) shall be deemed to be an agent of the approved clearing house or recognised clearing house (as the case may be).

(3) In managing the relevant business of an approved clearing house or a recognised clearing house, the Authority or statutory manager —

5           (a) shall take into consideration the interests of the public or the section of the public referred to in section 81SAA(1)(c)(i), and the need to protect investors; and

10           (b) shall have all the duties, powers and functions of the members of the board of directors of the approved clearing house or recognised clearing house (as the case may be) (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the approved clearing house or recognised clearing house (as  
15           as the case may be), including powers of delegation, in relation to the relevant business of the approved clearing house or recognised clearing house (as the case may be); but nothing in this paragraph shall require the Authority or statutory manager to call any meeting of the approved clearing house or recognised clearing house (as  
20           as the case may be) under the Companies Act or the constitution of the approved clearing house or recognised clearing house (as the case may be).

25           (4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of an approved clearing house or a recognised clearing house by the Authority or statutory manager, any appointment of a person as the chief executive officer or  
30           a director of the approved clearing house or recognised clearing house (as the case may be), which was in force immediately before the assumption of control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the  
35           approved clearing house or recognised clearing house (as the case may be), for the person to remain in the appointment.

5 (5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house, except with the approval of the Authority, no person shall be appointed as the chief executive officer or a director of the approved clearing house or recognised clearing house (as the case may be).

10 (6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive officer or a director of an approved clearing house or a recognised clearing house, the Authority may at any time, by notice in writing to the person and the approved clearing house or recognised clearing house (as the case may be), revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

20 (7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive officer or a director of an approved clearing house or a recognised clearing house is revoked under subsection (4) or (6), acts or purports to act after the revocation as the chief executive officer or a director of the approved clearing house or recognised clearing house (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved clearing house or recognised clearing house (as the case may be) —

- 30 (a) the act or purported act of the person shall be invalid and of no effect; and
- (b) the person shall be guilty of an offence.

35 (8) Notwithstanding any written law or rule of law, if any person who is appointed as the chief executive officer or a director of an approved clearing house or a recognised clearing house in contravention of

subsection (5) acts or purports to act as the chief executive officer or a director of the approved clearing house or recognised clearing house (as the case may be) during the period when the Authority or statutory manager is in control of the relevant business of the approved clearing house or recognised clearing house (as the case may be) —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

(9) During the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house —

(a) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the approved clearing house or recognised clearing house (as the case may be),

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

(b) no person shall exercise any voting or other right attached to any share in the approved clearing house or recognised clearing house (as the case

may be) in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

5 (10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a  
10 continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, “constitution”, in relation to an approved clearing house or a recognised clearing house, means the memorandum of association and articles of  
15 association of the approved clearing house or recognised clearing house (as the case may be).

### **Duration of control**

**81SAC.**—(1) The Authority shall cease to be in control of the relevant business of an approved clearing house or  
20 a recognised clearing house when the Authority is satisfied that —

- (a) the reasons for the Authority’s assumption of control of the relevant business have ceased to exist; or
- 25 (b) it is no longer necessary in the interests of the public or the section of the public referred to in section 81SAA(1)(c)(i) or for the protection of investors.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of an approved  
30 clearing house or a recognised clearing house on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of an approved clearing house or

a recognised clearing house may be revoked by the Authority at any time —

(a) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 81SAA(1)(c)(i) or for the protection of investors; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the approved clearing house or recognised clearing house (as the case may be).

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

(a) the Authority's assumption of control of the relevant business of an approved clearing house or a recognised clearing house;

(b) the cessation of the Authority's control of the relevant business of an approved clearing house or a recognised clearing house;

(c) the appointment of a statutory manager in relation to the relevant business of an approved clearing house or a recognised clearing house; and

(d) the revocation of a statutory manager's appointment in relation to the relevant business of an approved clearing house or a recognised clearing house.

**Responsibilities of officers, member, etc., of approved clearing house or recognised clearing house**

**81SAD.**—(1) During the period when the Authority or statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house —

- (a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved clearing house or recognised clearing house (as the case may be) to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the approved clearing house or recognised clearing house (as the case may be) which is comprised in, forms part of or relates to the relevant business of the approved clearing house or recognised clearing house (as the case may be), and which is in the person's possession or control; and
- (b) any person who has ceased to be or who is still any chief executive officer, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the approved clearing house or recognised clearing house (as the case may be) shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of the Authority's or statutory manager's duties or functions, or the exercise of the Authority's or statutory manager's powers, in relation to the approved clearing house or recognised clearing house (as

the case may be), within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

- 5           (a) without reasonable excuse, fails to comply with subsection (1)(b); or
- (b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or
- 10                 misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine

15                 not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

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

20           **81SAE.**—(1) The Authority may at any time fix the remuneration and expenses to be paid by an approved clearing house or a recognised clearing house —

- 25           (a) to a statutory manager or statutory adviser appointed in relation to the approved clearing house or recognised clearing house (as the case may be), whether or not the appointment has been revoked; and
- 30           (b) where the Authority has assumed control of the relevant business of the approved clearing house or recognised clearing house (as the case may be), to the Authority and any person appointed by the Authority under section 320 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority

has ceased to be in control of the relevant business.

- (2) The approved clearing house or recognised clearing house (as the case may be) shall reimburse the Authority any remuneration and expenses payable by the approved clearing house or recognised clearing house (as the case may be) to a statutory manager or statutory adviser.”; and
- (g) by inserting, immediately after section 81SB, the following Division:

*“Division 6 — Voluntary Transfer of Business of  
Approved Clearing House or Recognised Clearing  
House*

**Interpretation of this Division**

**81SC.** In this Division, unless the context otherwise requires —

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

“Court” means the High Court or a Judge thereof;

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

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

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

“transferee” means an approved clearing house or a recognised clearing house, or a corporation which has applied or will be applying for approval or recognition to carry on in Singapore the usual business of an approved clearing house or a recognised clearing house, to which the whole or

any part of a transferor's business is, is to be or is proposed to be transferred under this Division;

"transferor" means an approved clearing house or a recognised clearing house the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Division.

### **Voluntary transfer of business**

**81SD.**—(1) A transferor may transfer the whole or any part of its business (including any business that is not the usual business of an approved clearing house or a recognised clearing house) to a transferee, if —

- (a) the Authority has consented to the transfer;
- (b) the transfer involves the whole or any part of the business of the transferor that is the usual business of an approved clearing house or a recognised clearing house; and
- (c) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of an approved clearing house or a recognised clearing house to transfer the whole or any part of its business under any law.

(3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

- (a) the transferee is a fit and proper person; and
- (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor's business (or any part thereof) under this Division.

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

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

10 (7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Division.

(8) Any person who —

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

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

20 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part thereof  
25 during which the offence continues after conviction.

30 (9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### Approval of transfer

**81SE.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Division.

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

(a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;

(b) the transferor shall obtain the consent of the Authority under section 81SD(1)(a);

(c) the transferor and the transferee shall, if they intend to serve on their respective participants a summary of the transfer, obtain the Authority's approval of the summary;

(d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;

(e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and

(f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective

5 participants affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (a) or a summary of the transfer approved by the Authority under paragraph (c).

(3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

10 (a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

(b) may make any application to the Court in relation to the transfer.

15 (4) The Court shall not approve the transfer if the Authority has not consented under section 81SD(1)(a) to the transfer.

(5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

20 (a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(b) refuse to approve the transfer.

25 (6) If the transferee is not approved as an approved clearing house or recognised as a recognised clearing house by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being approved as an approved clearing house or recognised as a recognised clearing house by the Authority.

30 (7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(a) the transfer to the transferee of the whole or any part of the business of the transferor;

- 5 (b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;
- (c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;
- 10 (d) the dissolution, without winding up, of the transferor;
- (e) the provisions to be made for persons who are affected by the transfer;
- 15 (f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

- 20 (a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;
- (b) make provision in relation to any property which is held by the transferor as trustee; and
- 25 (c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

30 (9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case of any particular property (if the order so directs) from

any charge which by virtue of the transfer is to cease to have effect.

5 (10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

10 (11) If any business specified in an order under subsection (7) is governed by the law of any foreign country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and
- 20 (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

25 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”.

30

(3) The Securities and Futures Act in force immediately before the date of commencement of this subsection is amended —

- 5       (a) by deleting the word “registered” in paragraph (e) of the definition of “specified person” in section 124 and substituting the word “licensed”; and
- (b) by deleting the word “registered” in paragraph (d) of the definition of “specified person” in section 129B and substituting the word “licensed”.

### **Amendment of Trust Companies Act**

10       **10.** The Trust Companies Act (Cap. 336) is amended —

- (a) by deleting the words “section 130A” in the definition of “advocate and solicitor” in section 2 and substituting the words “section 2(1)”;
- 15       (b) by inserting, immediately after the definition of “book” in section 2, the following definition:
  - “ “chief executive”, in relation to a licensed trust company, means any person, by whatever name described, who —
  - 20               (a) is in the direct employment of, or acting for or by arrangement with, the licensed trust company; and
  - (b) is principally responsible for the management and conduct of the business of the licensed trust company;”;
- 25       (c) by inserting, immediately after the definition of “director” in section 2, the following definition:
  - “ “executive officer”, in relation to a licensed trust company, means any person, by whatever name described, who —
  - 30               (a) is in the direct employment of, or acting for or by arrangement with, the licensed trust company; and

(b) is concerned with or takes part in the management of the licensed trust company on a day-to-day basis;”;

(d) by inserting, immediately after paragraph (d) of section 10(2), the following paragraph:

“(da) upon the Authority exercising any power under section 21C(2) or the Minister exercising any power under Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to the licensed trust company, the Authority considers that it is in the public interest to revoke or suspend the trust business licence;”;

(e) by inserting, immediately after section 21, the following Parts:

### “PART IIIA

#### CONTROL OVER LICENSED TRUST COMPANY

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

**21A.** In this Part, unless the context otherwise requires —

“business” includes affairs and property;

“office holder”, in relation to a licensed trust company, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the licensed trust company, or acting in an equivalent capacity in relation to the licensed trust company;

“relevant business” means any business of a licensed trust company —

(a) which the Authority has assumed control of under section 21C; or

(b) in relation to which a statutory adviser or a statutory manager has been appointed under section 21C;

5 “statutory adviser” means a statutory adviser appointed under section 21C;

“statutory manager” means a statutory manager appointed under section 21C.

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

10 **21B.**—(1) Any licensed trust company which is or is likely to become insolvent, which is or is likely to become unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

15 (2) Any licensed trust company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

### **Action by Authority if licensed trust company unable to meet obligations, etc.**

20 **21C.**—(1) The Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary, where —

25 (a) a licensed trust company informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

30 (b) a licensed trust company becomes unable to meet its obligations, or is insolvent, or suspends payments;

(c) the Authority is of the opinion that a licensed trust company —

(i) is carrying on its business in a manner likely to be detrimental to the interests of the public or a section of the public or of the protected parties of the licensed trust company;

(ii) is or is likely to become insolvent, or is or is likely to become unable to meet its obligations, or is about to suspend payments;

(iii) has contravened any of the provisions of this Act; or

(iv) has failed to comply with any condition or restriction attached to its trust business licence; or

(d) the Authority considers it in the public interest to do so.

(2) Subject to subsections (1) and (3), the Authority may —

(a) require the licensed trust company immediately to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;

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

(c) assume control of and manage such of the business of the licensed trust company as the Authority may determine, or appoint one or more persons as statutory manager to do so on such

terms and conditions as the Authority may specify.

(3) In the case of a licensed trust company incorporated outside Singapore, any appointment of a statutory adviser or statutory manager or any assumption of control by the Authority of any business of the licensed trust company under subsection (2) shall only be in relation to —

(a) the business or affairs of the licensed trust company carried on in, or managed in or from, Singapore; or

(b) the property of the licensed trust company located in Singapore, or reflected in the books of the licensed trust company in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of a licensed trust company, the Authority shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

(a) may be discharged or exercised by such persons jointly and severally;

(b) shall be discharged or exercised by such persons jointly; and

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

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 10(2)(da), do one or more of the following:

(a) vary or revoke any requirement of, any appointment made by or any action taken by the

Authority in the exercise of such power, on such terms and conditions as it may specify;

(b) further exercise any of the powers under subsection (2);

5 (c) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager or a statutory adviser for anything done (including any statement made) or omitted to be done  
10 with reasonable care and in good faith in the course of or in connection with —

(a) the exercise or purported exercise of any power under this Act;

15 (b) the performance or purported performance of any function or duty under this Act; or

(c) the compliance or purported compliance with this Act.

(7) Any licensed trust company that fails to comply with a requirement imposed by the Authority under subsection (2)(a) shall be guilty of an offence and shall  
20 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.

## 25 **Effect of assumption of control under section 21C**

**21D.**—(1) Upon assuming control of the relevant business of a licensed trust company, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

30 (2) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trust company, the Authority or statutory manager —

(a) shall manage the relevant business of the licensed trust company in the name of and on behalf of the licensed trust company; and

5 (b) shall be deemed to be an agent of the licensed trust company.

(3) In managing the relevant business of a licensed trust company, the Authority or statutory manager —

10 (a) shall take into consideration the interests of the public or the section of the public referred to in section 21C(1)(c)(i), or of the protected parties of the licensed trust company; and

15 (b) shall have all the duties, powers and functions of the members of the board of directors of the licensed trust company (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the licensed trust company, including powers of delegation, in relation to the relevant business of the licensed trust company; but nothing in this paragraph  
20 shall require the Authority or statutory manager to call any meeting of the licensed trust company under the Companies Act or the constitution of the licensed trust company.

25 (4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a licensed trust company by the Authority or statutory manager, any appointment of a person as the chief executive or a director of the licensed trust company, which was in force immediately before the assumption of  
30 control, shall be deemed to be revoked, unless the Authority gives its approval, by notice in writing to the person and the licensed trust company, for the person to remain in the appointment.

35 (5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory

manager is in control of the relevant business of a licensed trust company, except with the approval of the Authority, no person shall be appointed as the chief executive or a director of the licensed trust company.

5 (6) Where the Authority has given its approval under subsection (4) or (5) to a person to remain in the appointment of, or to be appointed as, the chief executive or a director of a licensed trust company, the Authority  
10 may at any time, by notice in writing to the person and the licensed trust company, revoke that approval, and the appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as the chief executive or a director of a licensed trust company is revoked under  
15 subsection (4) or (6), acts or purports to act after the revocation as the chief executive or a director of the licensed trust company during the period when the Authority or statutory manager is in control of the relevant business of the licensed trust company —  
20

(a) the act or purported act of the person shall be invalid and of no effect; and

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

(8) Notwithstanding any written law or rule of law, if  
25 any person who is appointed as the chief executive or a director of a licensed trust company in contravention of subsection (5) acts or purports to act as the chief executive or a director of the licensed trust company during the period when the Authority or statutory  
30 manager is in control of the relevant business of the licensed trust company —

(a) the act or purported act of the person shall be invalid and of no effect; and

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

(9) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trust company —

(a) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive, director, member, executive officer, employee, agent or office holder, or the board of directors, of the licensed trust company,

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

(b) no person shall exercise any voting or other right attached to any share in the licensed trust company in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section, “constitution”, in relation to a licensed trust company, means the memorandum of

association and articles of association of the licensed trust company.

### **Duration of control**

**21E.**—(1) The Authority shall cease to be in control of the relevant business of a licensed trust company when the Authority is satisfied that —

(a) the reasons for the Authority's assumption of control of the relevant business have ceased to exist; or

(b) it is no longer necessary in the interests of the public or the section of the public referred to in section 21C(1)(c)(i) or for the protection of the protected parties of the licensed trust company.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a licensed trust company on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a licensed trust company may be revoked by the Authority at any time —

(a) if the Authority is satisfied that —

(i) the reasons for the appointment have ceased to exist; or

(ii) it is no longer necessary in the interests of the public or the section of the public referred to in section 21C(1)(c)(i) or for the protection of the protected parties of the licensed trust company; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the licensed trust company.

(4) The Authority shall, as soon as practicable, publish in the *Gazette* the date, and such other particulars as the Authority thinks fit, of —

- 5           (a) the Authority's assumption of control of the relevant business of a licensed trust company;
- (b) the cessation of the Authority's control of the relevant business of a licensed trust company;
- 10          (c) the appointment of a statutory manager in relation to the relevant business of a licensed trust company; and
- (d) the revocation of a statutory manager's appointment in relation to the relevant business of a licensed trust company.

15           **Responsibilities of officers, member, etc., of licensed trust company**

**21F.—**(1) During the period when the Authority or statutory manager is in control of the relevant business of a licensed trust company —

- 20           (a) the High Court may, on an application by the Authority or statutory manager, direct any person who has ceased to be or who is still any chief executive, director, member, executive officer, employee, agent, banker, auditor or office holder of, or trustee for, the licensed trust company to
- 25           pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the licensed trust company which is comprised in, forms part of or relates to
- 30           the relevant business of the licensed trust company, and which is in the person's possession or control; and
- (b) any person who has ceased to be or who is still any chief executive, director, member, executive

5 officer, employee, agent, banker, auditor or  
 office holder of, or trustee for, the licensed trust  
 company shall give to the Authority or statutory  
 manager such information as the Authority or  
 statutory manager may require for the discharge  
 of the Authority's or statutory manager's duties  
 or functions, or the exercise of the Authority's or  
 statutory manager's powers, in relation to the  
 licensed trust company, within such time and in  
 10 such manner as may be specified by the  
 Authority or statutory manager.

(2) Any person who —

- (a) without reasonable excuse, fails to comply with  
 subsection (1)(b); or
- 15 (b) in purported compliance with subsection (1)(b),  
 knowingly or recklessly furnishes any  
 information or document that is false or  
 misleading in a material particular,

shall be guilty of an offence and shall be liable on  
 20 conviction to a fine not exceeding \$50,000 or to  
 imprisonment for a term not exceeding 3 years or to both  
 and, in the case of a continuing offence, to a further fine  
 not exceeding \$5,000 for every day or part thereof during  
 which the offence continues after conviction.

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

**21G.**—(1) The Authority may at any time fix the  
 remuneration and expenses to be paid by a licensed trust  
 company —

- 30 (a) to a statutory manager or statutory adviser  
 appointed in relation to the licensed trust  
 company, whether or not the appointment has  
 been revoked; and

5           (b) where the Authority has assumed control of the relevant business of the licensed trust company, to the Authority and any person appointed by the Authority under section 73 in relation to the Authority's assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

10           (2) The licensed trust company shall reimburse the Authority any remuneration and expenses payable by the licensed trust company to a statutory manager or statutory adviser.

## PART IIIB

### VOLUNTARY TRANSFER OF BUSINESS

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

15           **21H.** In this Part, unless the context otherwise requires —

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

          “Court” means the High Court or a Judge thereof;

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

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

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

30           “transferee” means a licensed trust company, or a corporation which has applied or will be applying for a trust business licence, to which the whole or any part of a transferor's business is, is to be or is proposed to be transferred under this Part;

“transferor” means a licensed trust company the whole or any part of the business of which is, is to be, or is proposed to be transferred under this Part.

5                   **Voluntary transfer of business**

**21I.—**(1) A transferor may transfer the whole or any part of its business (including any business that is not trust business) to a transferee, if —

- (a) the Authority has consented to the transfer;
- 10           (b) the transfer involves the whole or any part of the trust business of the transferor; and
- (c) the Court has approved the transfer.

(2) Subsection (1) is without prejudice to the right of a licensed trust company to transfer the whole or any part of its business under any law.

15           (3) The Authority may consent to a transfer under subsection (1)(a) if the Authority is satisfied that —

- (a) the transferee is a fit and proper person; and
- 20           (b) the transferee will conduct the business of the transferor prudently and comply with the provisions of this Act.

(4) The Authority may at any time appoint one or more persons to perform an independent assessment of, and furnish a report on, the proposed transfer of a transferor’s business (or any part thereof) under this Part.

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

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

(7) The Authority may require a person to furnish, within the period and in the manner specified by the Authority, any information or document that the Authority may reasonably require for the discharge of its duties or functions, or the exercise of its powers, under this Part.

(8) Any person who —

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

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

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(9) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (7), that the information or document might tend to incriminate him, the information or document shall not be admissible in evidence against him in criminal proceedings other than proceedings under subsection (8).

### **Approval of transfer**

**21J.**—(1) A transferor shall apply to the Court for its approval of the transfer of the whole or any part of the business of the transferor to the transferee under this Part.

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

- (a) the transferor shall lodge with the Authority a report setting out such details of the transfer and furnish such supporting documents as the Authority may specify;
- 5 (b) the transferor shall obtain the consent of the Authority under section 21I(1)(a);
- (c) the transferor and the transferee shall, if they intend to serve on their respective protected parties a summary of the transfer, obtain the Authority's approval of the summary;
- 10 (d) the transferor shall, at least 15 days before the application is made but not earlier than one month after the report referred to in paragraph (a) is lodged with the Authority, publish in the *Gazette* and in such newspaper or newspapers as the Authority may determine a notice of the transferor's intention to make the application and containing such other particulars as may be prescribed;
- 15 (e) the transferor and the transferee shall keep at their respective offices in Singapore, for inspection by any person who may be affected by the transfer, a copy of the report referred to in paragraph (a) for a period of 15 days after the publication of the notice referred to in paragraph (d) in the *Gazette*; and
- 20 (f) unless the Court directs otherwise, the transferor and the transferee shall serve on their respective protected parties affected by the transfer, at least 15 days before the application is made, a copy of the report referred to in paragraph (a) or a summary of the transfer approved by the Authority under paragraph (c).
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35 (3) The Authority and any person who, in the opinion of the Court, is likely to be affected by the transfer —

(a) shall have the right to appear before and be heard by the Court in any proceedings relating to the transfer; and

5 (b) may make any application to the Court in relation to the transfer.

(4) The Court shall not approve the transfer if the Authority has not consented under section 21I(1)(a) to the transfer.

10 (5) The Court may, after taking into consideration the views, if any, of the Authority on the transfer —

(a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(b) refuse to approve the transfer.

15 (6) If the transferee is not granted a trust business licence by the Authority, the Court may approve the transfer on terms that the transfer shall take effect only in the event of the transferee being granted a trust business licence by the Authority.

20 (7) The Court may by the order approving the transfer or by any subsequent order provide for all or any of the following matters:

(a) the transfer to the transferee of the whole or any part of the business of the transferor;

25 (b) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

30 (c) the continuation by (or against) the transferee of any legal proceedings pending by (or against) the transferor;

(d) the dissolution, without winding up, of the transferor;

(e) the provisions to be made for persons who are affected by the transfer;

5 (f) such incidental, consequential and supplementary matters as are, in the opinion of the Court, necessary to secure that the transfer is fully effective.

(8) Any order under subsection (7) may —

10 (a) provide for the transfer of any business, whether or not the transferor otherwise has the capacity to effect the transfer in question;

(b) make provision in relation to any property which is held by the transferor as trustee; and

15 (c) make provision as to any future or contingent right or liability of the transferor, including provision as to the construction of any instrument under which any such right or liability may arise.

20 (9) Subject to subsection (10), where an order made under subsection (7) provides for the transfer to the transferee of the whole or any part of the transferor's business, then by virtue of the order the business (or part thereof) of the transferor specified in the order shall be transferred to and vest in the transferee, free in the case  
25 of any particular property (if the order so directs) from any charge which by virtue of the transfer is to cease to have effect.

30 (10) No order under subsection (7) shall have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) If any business specified in an order under subsection (7) is governed by the law of any foreign

country or territory, the Court may order the transferor to take all necessary steps for securing that the transfer of the business to the transferee is fully effective under the law of that country or territory.

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

- (a) a copy of the order with the Registrar of Companies and with the Authority; and
- 10 (b) where the order relates to land in Singapore, an office copy of the order with the appropriate authority concerned with the registration or recording of dealings in that land.

15 (13) A transferor or transferee which contravenes subsection (12), and every officer of the transferor or transferee (as the case may be) who fails to take all reasonable steps to secure compliance by the transferor or transferee (as the case may be) with that subsection, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.”;

25 (f) by inserting, immediately after the words “one half of” in section 69(1), the words “the amount of”;

(g) by inserting, immediately after subsection (1) of section 69, the following subsection:

30 “(1A) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision which has been repealed) which —

- (a) was compoundable under this section at the time the offence was committed; but
- (b) has ceased to be so compoundable,

5 by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.”;

(h) by deleting the words “such sum of money” in section 69(2) and substituting the words “the sum of money referred to in subsection (1) or (1A)”;

10 (i) by deleting subsection (4) of section 69 and substituting the following subsection:

“(4) All sums collected by the Authority under subsection (1) or (1A) shall be paid into the Consolidated Fund.”;

15 (j) by deleting subsection (8) of section 74 and substituting the following subsection:

“(8) It shall not be necessary to publish any code, guideline, policy statement, practice note or no-action letter issued under this section in the *Gazette*.”; and

20 (k) by deleting subsection (4) of section 76 and substituting the following subsection:

“(4) It shall not be necessary to publish any direction issued under subsection (1) in the *Gazette*.”.

### **Savings and transitional provision**

25 **11.** For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such provisions of a savings or transitional nature consequent on the enactment of that provision as he may consider necessary or expedient.

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## EXPLANATORY STATEMENT

This Bill seeks to amend various Acts relating to, or in connection with, the regulation of financial institutions, financial entities or financial instruments.

Clause 1 relates to the short title and commencement.

Clause 2 makes various amendments to the Banking Act (Cap. 19).

Clause 2(a) amends section 20(1)(b) and (7) of the Banking Act, as Divisions 2, 3 and 4 of Part VIIA of that Act will be repealed (by clause 2(h)) and replaced by the new Divisions 2, 3 and 4 of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) to be inserted by the Monetary Authority of Singapore (Amendment) Bill 2013 (the MAS Bill).

Clause 2(b) and (c) inserts new sections 38(7A) and 39(7A) into the Banking Act to provide for the financial penalties collected by the Authority under sections 38(7) and 39(7) of that Act to be paid into the Consolidated Fund.

Clause 2(d) amends section 48 of the Banking Act to make a contravention of that section an offence, independently of section 71 of that Act.

Clause 2(e) repeals and re-enacts section 54, and repeals sections 54A and 54B, of the Banking Act. Sections 54 and 54A are repealed, as those sections will be replaced by the new sections 30AAO and 30AAP of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill). Section 54B is repealed, as that section will be replaced by the re-enacted section 54. The re-enacted section 54 prohibits a bank in Singapore from permitting a person to act as its director or executive officer, without the prior written consent of the Authority, in certain circumstances. The re-enacted section 54 also provides for the removal of a director or an executive officer of a bank in Singapore from his office or employment in certain circumstances.

Clause 2(f) replaces section 55(4) of the Banking Act. Instead of deeming any notice in writing issued under the Act not to be subsidiary legislation, the amendment provides that it will not be necessary for any such notice in writing to be published in the *Gazette* to have legal effect.

Clause 2(g) replaces the Part heading to Part VIIA of the Banking Act as a consequence of the repeal of Divisions 2, 3 and 4 of that Part (by clause 2(h)).

Clause 2(h) repeals Divisions 2, 3 and 4 of Part VIIA of the Banking Act, as those Divisions will be replaced by the new Divisions 2, 3 and 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill).

Clause 2(i) repeals section 55O of the Banking Act, as that section will be replaced by the new section 30AAZM of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill).

Clause 2(j) replaces section 57D(2) of the Banking Act. Instead of deeming any direction issued under section 57D(1) of that Act not to be subsidiary

legislation, the amendment provides that it will not be necessary for any such direction to be published in the *Gazette* to have legal effect.

Clause 2(*k*) repeals section 65 of the Banking Act, as that section will be replaced by the re-enacted section 54 of that Act.

Clause 2(*l*), (*m*) and (*n*) amends section 69 of the Banking Act —

(*a*) to enable the Authority to compound —

(i) offences under provisions of that Act that have been repealed;  
and

(ii) offences under that Act that were compoundable when the offences were committed, but have ceased to be compoundable;

(*b*) to provide for all composition sums collected by the Authority to be paid into the Consolidated Fund; and

(*c*) to make certain technical changes.

Clause 2(*o*), (*p*) and (*q*) makes amendments to section 74(1) of the Banking Act that are consequential to the changes made by clause 2(*b*), (*c*) and (*r*).

Clause 2(*r*) inserts new section 74(1A) into the Banking Act to enable the Authority to recover on behalf of the Government any financial penalty imposed under section 38(7) or 39(7) on a bank as though the financial penalty were a debt due to the Authority.

Clause 2(*s*) replaces items 4A, 4B and 4C of Part II of the Third Schedule to the Banking Act and inserts new item 4D into that Part of that Schedule, as Divisions 2, 3 and 4 of Part VIIA of that Act will be repealed (by clause 2(*h*)) and replaced by the new Divisions 2, 3 and 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill).

Clause 3 makes various amendments to the Business Trusts Act (Cap. 31A).

Clause 3(*a*) makes a technical amendment to the definition of “advocate and solicitor” in section 2 of the Business Trusts Act to update the cross-reference therein to the Legal Profession Act (Cap. 161), which was amended by the Legal Profession (Amendment) Act 2008 (Act 19 of 2008).

Clause 3(*b*) replaces section 26(5) of the Business Trusts Act. Instead of deeming any written direction issued under section 26 of that Act not to be subsidiary legislation, the amendment provides that it will not be necessary for any such written direction to be published in the *Gazette* to have legal effect.

Clause 3(*c*) replaces section 98(8) of the Business Trusts Act. Instead of deeming any code, guideline or no-action letter issued under section 98 of that Act not to be subsidiary legislation, the amendment provides that it will not be

necessary for any such code, guideline or no-action letter to be published in the *Gazette* to have legal effect.

Clause 3(d) repeals and re-enacts section 111 of the Business Trusts Act —

- (a) to enable the Authority to compound —
  - (i) offences under provisions of that Act that have been repealed; and
  - (ii) offences under that Act that were compoundable when the offences were committed, but have ceased to be compoundable;
- (b) to provide that on payment of the composition sum, no further proceedings will be taken against the person who paid that sum in respect of the compounded offence;
- (c) to empower the Authority to make regulations, independently of section 114 of that Act, to prescribe the offences which may be compounded; and
- (d) to provide for all composition sums collected by the Authority to be paid into the Consolidated Fund.

Clause 4 makes amendments to section 145(6) of the Companies Act (Cap. 50) that are consequential to —

- (a) the replacement of section 54B of the Banking Act with the re-enacted section 54 of that Act (by clause 2(e));
- (b) the insertion of the new section 30AAI of the Monetary Authority of Singapore Act (by the MAS Bill);
- (c) the insertion of the new section 12A of the Money-changing and Remittance Businesses Act (Cap. 187) (by clause 7(a)); and
- (d) the insertion of the new section 292A of the Securities and Futures Act (Cap. 289) (by clause 9(1)(s)).

Clause 5 makes various amendments to the Finance Companies Act (Cap. 108).

Clause 5(a), (b) and (c) amends section 2 of the Finance Companies Act by inserting new definitions for the terms “chief executive”, “executive officer” and “licence”.

Clause 5(d) replaces section 15(1)(c)(ii) of the Finance Companies Act to enable the Authority to revoke the licence of a finance company if, upon the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill) in relation to the finance company, the Authority considers that it is in the public interest to revoke the licence.

Clause 5(e) amends section 30(2)(d) of the Finance Companies Act to align the terminology used in that provision with the terminology to be used elsewhere in that Act (as amended by clause 5).

Clause 5(f) replaces section 30(3) of the Finance Companies Act. Instead of deeming any notice in writing issued under that Act not to be subsidiary legislation, the amendment provides that it will not be necessary for any such notice in writing to be published in the *Gazette* to have legal effect.

Clause 5(g) and (h) repeals and re-enacts sections 34 to 39 of, and inserts new section 34A into, the Finance Companies Act.

The re-enacted section 34 requires a finance company which is distressed or insolvent to immediately inform the Authority of that fact.

The new section 34A defines certain terms used in the new sections 34A to 39.

The re-enacted section 35 empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on a finance company;
- (b) appoint a statutory adviser to advise a finance company on the proper management of its business; or
- (c) assume control of and manage the business of a finance company, or appoint a statutory manager to do so.

The re-enacted section 36 sets out the effects of an assumption of control of the relevant business of a finance company by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive or a director of the finance company.

The re-enacted section 37 provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of a finance company.

The re-enacted section 38 requires the present or former holders of certain appointments in, or in relation to, a finance company to provide the Authority or a statutory manager with certain documents or information relating to the finance company.

The re-enacted section 39 empowers the Authority to fix the remuneration and expenses to be paid by a finance company to a statutory manager, a statutory adviser or the Authority.

Clause 5(i) inserts new Part VIA (comprising new sections 39A, 39B and 39C) into the Finance Companies Act to provide for the voluntary transfer of the business of a finance company. The new section 39A defines certain terms used in the new Part VIA. A finance company may transfer the whole or part of its

business (including any business that is not financing business) to a transferee, if the new sections 39B and 39C are complied with and the High Court has approved the transfer. The new sections 39B and 39C do not affect the voluntary transfer of any business of a finance company under any other written law or under an agreement.

Clause 5(j) repeals section 45 of the Finance Companies Act, as that section will be replaced by the new section 30AAO of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill).

Clause 5(k) repeals and re-enacts section 47 of the Finance Companies Act. The re-enacted section 47 prohibits a finance company from permitting a person to act as its director or executive officer, without the prior written consent of the Authority, in certain circumstances. The re-enacted section 47 also provides for the removal of a director or an executive officer of a finance company from his office or employment in certain circumstances.

Clause 5(l) deletes section 48(2) of the Finance Companies Act, as that provision will be replaced by the new section 48A of that Act (to be inserted by clause 5(m)).

Clause 5(m) inserts new sections 48A and 48B into the Finance Companies Act.

The new section 48A provides for the composition of offences under the Finance Companies Act. Among other things, the new section 48A —

- (a) enables the Authority to compound —
  - (i) offences under provisions of the Finance Companies Act that have been repealed; and
  - (ii) offences under that Act that were compoundable when the offences were committed, but have ceased to be compoundable;
- (b) provides that on payment of the composition sum, no further proceedings will be taken against the person who paid that sum in respect of the compounded offence;
- (c) empowers the Authority to make regulations, independently of section 57 of that Act, to prescribe the offences which may be compounded; and
- (d) provides for all composition sums collected by the Authority to be paid into the Consolidated Fund.

The new section 48B enables the Authority to recover certain specified amounts from a finance company as civil debts due to the Authority.

Clause 5(*n*) amends section 54(1) of the Finance Companies Act to clarify that section 54(1) does not detract from the new Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill).

Clause 6 amends section 29D of the Government Securities Act (Cap. 121A).

Clause 6(*a*) inserts new section 29D(3A) into the Government Securities Act to provide for the financial penalties collected by the Authority under section 29D(3) of that Act to be paid into the Consolidated Fund.

Clause 6(*b*) replaces section 29D(9) of the Government Securities Act to enable the Authority to recover on behalf of the Government any financial penalty ordered under section 29D(3) of that Act as though the financial penalty were a debt due to the Authority.

Clause 7 amends the Money-changing and Remittance Businesses Act.

Clause 7(*a*) inserts new section 12A into the Money-changing and Remittance Businesses Act to provide for the removal of a partner, a director or an executive officer of a licensee under that Act from his office or employment in certain circumstances.

Clause 7(*b*), (*c*) and (*d*) amends section 29 of the Money-changing and Remittance Businesses Act —

(*a*) to enable the Authority to compound —

- (i) offences under provisions of that Act that have been repealed; and
- (ii) offences under that Act that were compoundable when the offences were committed, but have ceased to be compoundable;

(*b*) to provide for all composition sums collected by the Authority to be paid into the Consolidated Fund; and

(*c*) to make certain technical changes.

Clause 8 makes various amendments to the Payment Systems (Oversight) Act (Cap. 222A).

Clause 8(*a*) amends section 2(1) of the Payment Systems (Oversight) Act by inserting a new definition for the term “executive officer”.

Clause 8(*b*), (*c*) and (*d*) amends section 22 of the Payment Systems (Oversight) Act to provide for the removal of a director or an executive officer of an operator or a settlement institution of a designated payment system from his office or employment in certain circumstances.

Clause 8(*e*) inserts new sections 28A to 28D into the Payment Systems (Oversight) Act.

The new section 28A requires the present or former holders of certain appointments in, or in relation to, an operator or a settlement institution of a designated payment system to provide the Authority, or a person directed by the Authority under section 28(1)(c) of the Payment Systems (Oversight) Act, with certain documents or information relating to the operator or settlement institution.

The new section 28B defines certain terms used in the new sections 28B, 28C and 28D.

The new sections 28C and 28D provide for the voluntary transfer of the business of an operator or a settlement institution of a designated payment system. An operator or a settlement institution of a designated payment system may transfer the whole or part of its business (including any business that is not the usual business of an operator or a settlement institution of a designated payment system) to a transferee, if the new sections 28C and 28D are complied with and the High Court has approved the transfer. The new sections 28C and 28D do not affect the voluntary transfer of any business of an operator or a settlement institution of a designated payment system under any other written law or under an agreement.

Clause 8(f), (g), (h) and (i) amends section 50 of the Payment Systems (Oversight) Act —

- (a) to enable the Authority to compound —
  - (i) offences under provisions of that Act that have been repealed; and
  - (ii) offences under that Act that were compoundable when the offences were committed, but have ceased to be compoundable;
- (b) to provide for all composition sums collected by the Authority to be paid into the Consolidated Fund; and
- (c) to make certain technical changes.

Clause 8(j) repeals and re-enacts section 55 of the Payment Systems (Oversight) Act. Instead of deeming any written direction or notice in writing given by the Authority under the Act not to be subsidiary legislation, the amendment provides that it will not be necessary for any such written direction or notice in writing to be published in the *Gazette* to have legal effect.

Clause 8(k) replaces section 57(7) of the Payment Systems (Oversight) Act. Instead of deeming any code, guideline, policy statement or practice note issued under section 57 of that Act not to be subsidiary legislation, the amendment provides that it will not be necessary for any such code, guideline, policy statement or practice note to be published in the *Gazette* to have legal effect.

Clause 9(1) makes various amendments to the Securities and Futures Act, while clause 9(2) and (3) makes changes to that Act as amended by sections 6, 7 and 27 of the Securities and Futures (Amendment) Act 2012 (Act 34 of 2012).

Clause 9(1)(a) amends section 2(1) of the Securities and Futures Act by inserting a new definition for the term “executive officer”.

Clause 9(1)(b) inserts new section 13(1)(da) into the Securities and Futures Act to enable the Authority to revoke the approval or recognition of a corporation as an approved exchange or a recognised market operator (as the case may be) if, upon the Authority exercising any power under the new section 44B(2) of that Act (to be inserted by clause 9(1)(d)) or the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval or recognition (as the case may be).

Clause 9(1)(c) repeals section 31 of the Securities and Futures Act, as that section will be replaced by the new sections 44A to 44F of that Act (to be inserted by clause 9(1)(d)).

Clause 9(1)(d) inserts new sections 44A to 44F into the Securities and Futures Act.

The new section 44A defines certain terms used in the new sections 44A to 44F.

The new section 44B empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on an approved exchange or a recognised market operator;
- (b) appoint a statutory adviser to advise an approved exchange or a recognised market operator on the proper management of its business; or
- (c) assume control of and manage the business of an approved exchange or a recognised market operator, or appoint a statutory manager to do so.

The new section 44C sets out the effects of an assumption of control of the relevant business of an approved exchange or a recognised market operator by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive officer or a director of the approved exchange or recognised market operator.

The new section 44D provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of an approved exchange or a recognised market operator.

The new section 44E requires the present or former holders of certain appointments in, or in relation to, an approved exchange or a recognised market operator to provide the Authority or a statutory manager with certain documents or information relating to the approved exchange or recognised market operator.

The new section 44F empowers the Authority to fix the remuneration and expenses to be paid by an approved exchange or a recognised market operator to a statutory manager, a statutory adviser or the Authority.

Clause 9(1)(e) inserts a new Division 5 (comprising new sections 46AA, 46AAA and 46AAB) into Part II of the Securities and Futures Act to provide for the voluntary transfer of the business of an approved exchange or a recognised market operator. The new section 46AA defines certain terms used in the new Division 5 of Part II. An approved exchange or a recognised market operator may transfer the whole or part of its business (including any business that is not the usual business of an approved exchange or a recognised market operator) to a transferee, if the new sections 46AAA and 46AAB are complied with and the High Court has approved the transfer. The new sections 46AAA and 46AAB do not affect the voluntary transfer of any business of an approved exchange or a recognised market operator under any other written law or under an agreement.

Clause 9(1)(f) inserts new section 81Z(1)(da) into the Securities and Futures Act to enable the Authority to revoke the approval of a corporation as an approved holding company if, upon the Authority exercising any power under the new section 81ZGC(2) of that Act (to be inserted by clause 9(1)(g)) or the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval.

Clause 9(1)(g) inserts new sections 81ZGA to 81ZGG into the Securities and Futures Act.

The new section 81ZGA requires an approved holding company which is distressed or insolvent to immediately inform the Authority of that fact.

The new section 81ZGB defines certain terms used in the new sections 81ZGB to 81ZGG.

The new section 81ZGC empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on an approved holding company;
- (b) appoint a statutory adviser to advise an approved holding company on the proper management of its business; or
- (c) assume control of and manage the business of an approved holding company, or appoint a statutory manager to do so.

The new section 81ZGD sets out the effects of an assumption of control of the relevant business of an approved holding company by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive officer or a director of the approved holding company.

The new section 81ZGE provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of an approved holding company.

The new section 81ZGF requires the present or former holders of certain appointments in, or in relation to, an approved holding company to provide the Authority or a statutory manager with certain documents or information relating to the approved holding company.

The new section 81ZGG empowers the Authority to fix the remuneration and expenses to be paid by an approved holding company to a statutory manager, a statutory adviser or the Authority.

Clause 9(1)(h) inserts a new Division 3 (comprising new sections 81ZM, 81ZN and 81ZO) into Part IIIA of the Securities and Futures Act to provide for the voluntary transfer of the business of an approved holding company. The new section 81ZM defines certain terms used in the new Division 3 of Part IIIA. An approved holding company may transfer the whole or part of its business (including any business that is not the usual business of an approved holding company) to a transferee, if the new sections 81ZN and 81ZO are complied with and the High Court has approved the transfer. The new sections 81ZN and 81ZO do not affect the voluntary transfer of any business of an approved holding company under any other written law or under an agreement.

Clause 9(1)(i) inserts new section 95(2)(ea) into the Securities and Futures Act to enable the Authority to revoke a capital markets services licence if, upon the Authority exercising any power under the new section 97E(2) of that Act (to be inserted by clause 9(1)(p)) or the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill) in relation to the holder of the licence, the Authority considers that it is in the public interest to revoke the licence.

Clause 9(1)(j), (k), (l), (m), (n) and (o) amends section 97 of the Securities and Futures Act —

- (a) to prohibit a holder of a capital markets services licence from permitting a person to act as its director or executive officer, without the prior written consent of the Authority, in certain circumstances; and
- (b) to provide for the removal of a director or an executive officer of a holder of a capital markets services licence from his office or employment in certain circumstances.

Clause 9(1)(p) inserts new sections 97C to 97I into the Securities and Futures Act.

The new section 97C requires a holder of a capital markets services licence which is distressed or insolvent to immediately inform the Authority of that fact.

The new section 97D defines certain terms used in the new sections 97D to 97I.

The new section 97E empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on a holder of a capital markets services licence;
- (b) appoint a statutory adviser to advise a holder of a capital markets services licence on the proper management of its business; or
- (c) assume control of and manage the business of a holder of a capital markets services licence, or appoint a statutory manager to do so.

The new section 97F sets out the effects of an assumption of control of the relevant business of a holder of a capital markets services licence by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive officer or a director of the holder.

The new section 97G provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of a holder of a capital markets services licence.

The new section 97H requires the persons who presently hold or formerly held certain appointments in, or in relation to, a holder of a capital markets services licence to provide the Authority or a statutory manager with certain documents or information relating to the holder of the capital markets services licence.

The new section 97I empowers the Authority to fix the remuneration and expenses to be paid by a holder of a capital markets services licence to a statutory manager, a statutory adviser or the Authority.

Clause 9(1)(q) inserts a new Division 1A (comprising new sections 99AA, 99AB and 99AC) into Part IV of the Securities and Futures Act to provide for the voluntary transfer of the business of a holder of a capital markets services licence. The new section 99A defines certain terms used in the new Division 1A of Part IV. A holder of a capital markets services licence may transfer the whole or part of its business (including any business that is not the usual business of a holder of a capital markets services licence) to a transferee, if the new sections 99AB and 99AC are complied with and the High Court has approved the transfer. The new sections 99AB and 99AC do not affect the voluntary transfer of any business of a holder of a capital markets services licence under any other written law or under an agreement.

Clause 9(1)(r) inserts new section 289(4A) into the Securities and Futures Act to enable the Authority to revoke the approval granted to an approved trustee under section 289 of that Act, and to direct the manager for the collective investment scheme or schemes, which the approved trustee was acting for, to appoint a new trustee for the scheme or schemes. The Authority may do this where, upon the Authority exercising any power under the new section 292D(2) of that Act (to be inserted by clause 9(1)(s)) or the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill) in relation to the approved trustee, the Authority considers that it is in the public interest to do so.

Clause 9(1)(s) inserts new sections 292A to 292H into the Securities and Futures Act.

The new section 292A prohibits an approved trustee from permitting a person to act as its director or executive officer, without the prior written consent of the Authority, in certain circumstances. The section also provides for the removal of a director or an executive officer of an approved trustee from his office or employment in certain circumstances.

The new section 292B requires an approved trustee which is distressed or insolvent to immediately inform the Authority of that fact.

The new section 292C defines certain terms used in the new sections 292C to 292H.

The new section 292D empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on an approved trustee;
- (b) appoint a statutory adviser to advise an approved trustee on the proper management of its business; or
- (c) assume control of and manage the business of an approved trustee, or appoint a statutory manager to do so.

The new section 292E sets out the effects of an assumption of control of the relevant business of an approved trustee by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive officer or a director of the approved trustee.

The new section 292F provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of an approved trustee.

The new section 292G requires the present or former holders of certain appointments in, or in relation to, an approved trustee to provide the Authority or a statutory manager with certain documents or information relating to the approved trustee.

The new section 292H empowers the Authority to fix the remuneration and expenses to be paid by an approved trustee to a statutory manager, a statutory adviser or the Authority.

Clause 9(1)(t) inserts a new Subdivision (2A) (comprising new sections 295D, 295E and 295F) into Division 2 of Part XIII of the Securities and Futures Act to provide for the voluntary transfer of the business of an approved trustee. The new section 295D defines certain terms used in the new Subdivision (2A) of Division 2 of Part XIII. An approved trustee may transfer the whole or part of its business (including any business that is not the usual business of an approved trustee) to a transferee, if the new sections 295E and 295F are complied with and the High Court has approved the transfer. The new sections 295E and 295F do not affect the voluntary transfer of any business of an approved trustee under any other written law or under an agreement.

Clause 9(2)(a) inserts new section 46H(1)(da) into the Securities and Futures Act (as amended by section 6 of the Securities and Futures (Amendment) Act 2012) to enable the Authority to revoke a trade repository licence or foreign trade repository licence granted to a corporation if, upon the Authority exercising any power under the new section 46ZIB(2) of the Securities and Futures Act (to be inserted by clause 9(2)(c)) or the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill) in relation to the corporation, the Authority considers that it is in the public interest to revoke the trade repository licence or foreign trade repository licence (as the case may be).

Clause 9(2)(b) repeals section 46W of the Securities and Futures Act (as amended by section 6 of the Securities and Futures (Amendment) Act 2012), as that section will be replaced by the new sections 46ZIA to 46ZIF of the Securities and Futures Act (to be inserted by clause 9(2)(c)).

Clause 9(2)(c) inserts new sections 46ZIA to 46ZIF into the Securities and Futures Act (as amended by section 6 of the Securities and Futures (Amendment) Act 2012).

The new section 46ZIA defines certain terms used in the new sections 46ZIA to 46ZIF.

The new section 46ZIB empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on a licensed trade repository or licensed foreign trade repository;
- (b) appoint a statutory adviser to advise a licensed trade repository or licensed foreign trade repository on the proper management of its business; or

- (c) assume control of and manage the business of a licensed trade repository or licensed foreign trade repository, or appoint a statutory manager to do so.

The new section 46ZIC sets out the effects of an assumption of control of the relevant business of a licensed trade repository or licensed foreign trade repository by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive officer or a director of the licensed trade repository or licensed foreign trade repository.

The new section 46ZID provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of a licensed trade repository or licensed foreign trade repository.

The new section 46ZIE requires the present or former holders of certain appointments in, or in relation to, a licensed trade repository or licensed foreign trade repository to provide the Authority or a statutory manager with certain documents or information relating to the licensed trade repository or licensed foreign trade repository.

The new section 46ZIF empowers the Authority to fix the remuneration and expenses to be paid by a licensed trade repository or licensed foreign trade repository to a statutory manager, a statutory adviser or the Authority.

Clause 9(2)(d) inserts a new Division 5 (comprising new sections 46ZM, 46ZN and 46ZO) into Part IIA of the Securities and Futures Act (as amended by section 6 of the Securities and Futures (Amendment) Act 2012) to provide for the voluntary transfer of the business of a licensed trade repository or licensed foreign trade repository. The new section 46ZM defines certain terms used in the new Division 5 of Part IIA. A licensed trade repository or licensed foreign trade repository may transfer the whole or part of its business (including any business that is not the usual business of a licensed trade repository or licensed foreign trade repository) to a transferee, if the new sections 46ZN and 46ZO are complied with and the High Court has approved the transfer. The new sections 46ZN and 46ZO do not affect the voluntary transfer of any business of a licensed trade repository or licensed foreign trade repository under any other written law or under an agreement.

Clause 9(2)(e) inserts new section 56(1)(da) into the Securities and Futures Act (as amended by section 7 of the Securities and Futures (Amendment) Act 2012) to enable the Authority to revoke the approval or recognition of a corporation as an approved clearing house or a recognised clearing house (as the case may be) if, upon the Authority exercising any power under the new section 81SAA(2) of the Securities and Futures Act (to be inserted by clause 9(2)(f)) or the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by

the MAS Bill) in relation to the corporation, the Authority considers that it is in the public interest to revoke the approval or recognition (as the case may be).

Clause 9(2)(f) repeals and re-enacts section 81SA of, and inserts new sections 81SAA to 81SAE into, the Securities and Futures Act (as amended by section 7 of the Securities and Futures (Amendment) Act 2012).

The new section 81SA defines certain terms used in the new sections 81SAA to 81SAE.

The new section 81SAA empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on an approved clearing house or a recognised clearing house;
- (b) appoint a statutory adviser to advise an approved clearing house or a recognised clearing house on the proper management of its business; or
- (c) assume control of and manage the business of an approved clearing house or a recognised clearing house, or appoint a statutory manager to do so.

The new section 81SAB sets out the effects of an assumption of control of the relevant business of an approved clearing house or a recognised clearing house by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive officer or a director of the approved clearing house or recognised clearing house.

The new section 81SAC provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of an approved clearing house or a recognised clearing house.

The new section 81SAD requires the present or former holders of certain appointments in, or in relation to, an approved clearing house or a recognised clearing house to provide the Authority or a statutory manager with certain documents or information relating to the approved clearing house or recognised clearing house.

The new section 81SAE empowers the Authority to fix the remuneration and expenses to be paid by an approved clearing house or a recognised clearing house to a statutory manager, a statutory adviser or the Authority.

Clause 9(2)(g) inserts a new Division 6 (comprising new sections 81SC, 81SD and 81SE) into Part III of the Securities and Futures Act (as amended by section 7 of the Securities and Futures (Amendment) Act 2012) to provide for the voluntary transfer of the business of an approved clearing house or a recognised clearing house. The new section 81SC defines certain terms used in the new Division 6 of Part III. An approved clearing house or a recognised clearing house may transfer the whole or part of its business (including any

business that is not the usual business of an approved clearing house or a recognised clearing house) to a transferee, if the new sections 81SD and 81SE are complied with and the High Court has approved the transfer. The new sections 81SD and 81SE do not affect the voluntary transfer of any business of an approved clearing house or a recognised clearing house under any other written law or under an agreement.

Clause 9(3) amends the definitions of the term “specified person” in sections 124 and 129B of the Securities and Futures Act (as amended by section 27 of the Securities and Futures (Amendment) Act 2012). These amendments are consequential to changes, to be made by the Insurance (Amendment) Bill 2013, to the manner in which insurers are regulated under the Insurance Act (Cap. 142).

Clause 10 makes various changes to the Trust Companies Act (Cap. 336).

Clause 10(a) makes a technical amendment to the definition of “advocate and solicitor” in section 2 of the Trust Companies Act to update the cross-reference therein to the Legal Profession Act, which was amended by the Legal Profession (Amendment) Act 2008.

Clause 10(b) and (c) amends section 2 of the Trust Companies Act by inserting new definitions for the terms “chief executive” and “executive officer”.

Clause 10(d) inserts new section 10(2)(da) into the Trust Companies Act to enable the Authority to revoke or suspend the trust business licence of a licensed trust company if, upon the Authority exercising any power under the new section 21C(2) of that Act (to be inserted by clause 10(e)) or the Minister exercising any power under the new Division 2, 3 or 4 of Part IVB of the Monetary Authority of Singapore Act (to be inserted by the MAS Bill) in relation to the licensed trust company, the Authority considers that it is in the public interest to revoke or suspend the trust business licence.

Clause 10(e) inserts new Parts IIIA and IIIB into the Trust Companies Act.

The new Part IIIA (comprising new sections 21A to 21G) empowers the Authority to exercise certain forms of control over a licensed trust company in certain circumstances.

The new section 21A defines certain terms used in the new Part IIIA.

The new section 21B requires a licensed trust company which is distressed or insolvent to immediately inform the Authority of that fact.

The new section 21C empowers the Authority to do one or more of the following in certain circumstances:

- (a) impose requirements on a licensed trust company;
- (b) appoint a statutory adviser to advise a licensed trust company on the proper management of its business; or

- (c) assume control of and manage the business of a licensed trust company, or appoint a statutory manager to do so.

The new section 21D sets out the effects of an assumption of control of the relevant business of a licensed trust company by the Authority or a statutory manager, including the powers exercisable by the Authority or statutory manager, and the status of the chief executive or a director of the licensed trust company.

The new section 21E provides for matters relating to the commencement and termination of the period when the Authority or a statutory manager is in control of the relevant business of a licensed trust company.

The new section 21F requires the present or former holders of certain appointments in, or in relation to, a licensed trust company to provide the Authority or a statutory manager with certain documents or information relating to the licensed trust company.

The new section 21G empowers the Authority to fix the remuneration and expenses to be paid by a licensed trust company to a statutory manager, a statutory adviser or the Authority.

The new Part IIIB (comprising new sections 21H, 21I and 21J) provides for the voluntary transfer of the business of a licensed trust company.

The new section 21H defines certain terms used in the new Part IIIB.

A licensed trust company may transfer the whole or part of its business (including any business that is not trust business) to a transferee, if the new sections 21I and 21J are complied with and the High Court has approved the transfer. The new sections 21I and 21J do not affect the voluntary transfer of any business of a licensed trust company under any other written law or under an agreement.

Clause 10(f), (g), (h) and (i) amends section 69 of the Trust Companies Act —

- (a) to enable the Authority to compound —
  - (i) offences under provisions of that Act that have been repealed; and
  - (ii) offences under that Act that were compoundable when the offences were committed, but have ceased to be compoundable;
- (b) to provide for all composition sums collected by the Authority to be paid into the Consolidated Fund; and
- (c) to make certain technical changes.

Clause 10(j) replaces section 74(8) of the Trust Companies Act. Instead of deeming any code, guideline, policy statement, practice note or no-action letter issued under section 74 of that Act not to be subsidiary legislation, the amendment provides that it will not be necessary for any such code, guideline, policy statement, practice note or no-action letter to be published in the *Gazette* to have legal effect.

Clause 10(k) replaces section 76(4) of the Trust Companies Act. Instead of deeming any direction issued under section 76(1) of that Act not to be subsidiary legislation, the amendment provides that it will not be necessary for any such direction to be published in the *Gazette* to have legal effect.

Clause 11 empowers the Minister to make regulations of a savings and transitional nature.

## EXPENDITURE OF PUBLIC MONEY

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

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