

# Singapore Bond Market Guide



# Contents

<b>Acknowledgement .....</b>	<b>vii</b>
<b>I. Structure, Type and Characteristics of the Bond Market.....</b>	<b>1</b>
A. Overview .....	1
B. Descriptions for the Bond Market in Singapore .....	2
C. The Securities and Futures Act 2001 .....	5
D. Definition of Relevant Person .....	8
E. Definition of Accredited Investor, Expert Investor, and Institutional Investor .....	8
F. Descriptions of Public Offering .....	10
G. Provisions on Private Placement .....	12
H. Brief Summary of Exemptions from Prospectus Requirements.....	14
I. Overview of the Singapore Exchange Bond Listing Criteria .....	15
J. General Guide for Singapore Exchange Bond-Listing Requirements .....	15
K. Summary of Listing Criteria of Foreign Debt Securities on the Singapore Exchange .....	16
L. General Listing Procedures .....	18
M. Reference for Singapore Government Securities Listing .....	20
N. Singapore Exchange Rulebook on Debt Securities .....	20
O. Placement of Bonds in the Primary Market.....	20
P. Secondary Market Trading .....	21
Q. Methods of Issuing Bonds .....	22
R. Credit Rating Agencies and the Credit Rating of Bonds .....	23
S. Bond Related Systems for Investor Protection .....	24
T. Trustee System .....	25
U. Governing Laws on Bond Issuance.....	26
V. Definition of Securities .....	27
W. Related Legal and Regulatory Issues Behind the Market .....	29
X. Self-Governing Rules Behind the Market .....	30
Y. Bankruptcy Procedures.....	31
<b>II. Primary and Secondary Markets Regulatory Framework .....</b>	<b>32</b>
A. Regulations and Rules on Issuing Debt Instruments .....	32
B. Secondary Market-Related Regulations and Rules on Buying Debt Instruments .....	33
C. Financial Sector Incentive Tax Regimes.....	34
D. Taxation Framework and Tax Requirements .....	36

<b>III. Trading of Bonds and Trading Market Infrastructure.....</b>	<b>39</b>
A. Exchange Trading and Over-the-Counter Trading .....	39
B. Exchange Trading of Bonds .....	40
C. Primary Dealer System .....	42
D. Bond Repurchase Market.....	43
E. Transparency in Bond Pricing .....	44
<b>IV. Description of the Securities Settlement System.....</b>	<b>46</b>
A. Dematerialization or Immobilization versus Physical Securities .....	46
B. Clearing and Settlement System in Singapore .....	46
C. The Monetary Authority of Singapore Electronic Payment System .....	47
D. Bond Market Infrastructure Diagram.....	48
E. Business Process Flowchart Level 2: Singapore Bond Market and Delivery versus Payment.....	48
F. Over-the-Counter Bond Transaction Flow for Foreign Investors.....	50
G. Settlement Schemes for Government Bonds, Corporate Bonds and Other Bonds.....	51
<b>VI. Costs and Charging Methods .....</b>	<b>52</b>
A. Exchange Fees .....	52
<b>VII. Market Size and Statistics .....</b>	<b>54</b>
A. Size of Local Currency Bond Market in Percentage of Gross Domestic Product (Local Sources).....	54
B. Issuance Volume of Local Currency Bond Market.....	55
C. Bond Trading Volume .....	56
D. Breakdown of Local Currency Government Bond Market Issuance .....	57
E. Size of Foreign Currency Bond Market .....	59
F. Size of Foreign Currency Bond Market (Local Sources) .....	60
G. Domestic Financing Profile.....	61
<b>VIII. Next Step ⇒ Future Direction .....</b>	<b>62</b>
A. Future Direction .....	62
B. Group of 30 Compliance .....	63
C. Group of Experts Final Report: Summary of Barriers Market Assessment (April 2010) .....	64
<b>Appendixes .....</b>	<b>66</b>

# Boxes, Figures, and Tables

## Boxes

Box 1.1	Part XIII of the Securities and Futures Act 2001 .....	5
Box 1.2	Article on the Launch of the OPERA.....	11
Box 1.3	Provisions on Private Placement in the Securities and Futures Act .....	13
Box 1.4	Duties of Trustees .....	25
Box 1.5	Provisions on the Amendment to the Definition of Securities.....	29
Box A1.1	Securities and Futures Act (SFA) 2001 (CHAPTER 289) .....	66
Box A2.1	Singapore Exchange Rulebook.....	156

## Figures

Figure 1.1	Timeline of Registration Process .....	12
Figure 1.2	General Listing Procedure .....	19
Figure 3.1	Changes in the Singapore Exchange Trading Hours .....	42
Figure 4.1	Bond Market Infrastructure.....	48
Figure 4.2	Business Process Flowchart Level 2 .....	49
Figure 4.3	Over-the-Counter Bond Transaction Flow for Foreign Investors .....	50

## Tables

Table 1.1	Characteristics of Singapore Government Securities.....	3
Table 1.2	Criteria for Listing .....	15
Table 1.3	Auction Information .....	21
Table 1.4	Secondary Market Information.....	21
Table 1.5	Auction Conduct .....	22
Table 1.6	Definitions of Securities under the Securities and Futures Act 2001 .....	28
Table 1.7	Singapore Exchange Monthly Market Statistics, October 2011.....	31
Table 2.1	Details of the Approved Special Purpose Vehicles .....	35
Table 2.2	Details on the Tax Change Provisions.....	36
Table 2.3	Summary of Regulatory and Tax Information.....	38
Table 3.1	Fixed Income Products on the Singapore Exchange.....	39
Table 3.2	Minimum Bid Size for Debentures .....	40
Table 3.3	Revised Hong Kong Dollar and Japanese Yen Minimum Bids Schedule.....	40
Table 4.1	Main Changes to Settlement Timings .....	47
Table 5.1	Selected Costs and Charging Methods in the Singapore Bond Market.....	53
Table 6.1	Size of Local Currency Bond Market (% GDP) .....	54
Table 6.2	Issuance Volume of Local Currency Bond Market (\$ billions) .....	55
Table 6.3	Trading Volume (\$ billions) .....	56
Table 6.4	Government Issuance Breakdown (\$ billions) .....	57
Table 6.5	Foreign Currency Bonds to Gross Domestic Product Ratio (\$ billions).....	59
Table 6.6	Foreign Currency Bonds Outstanding (\$ billions) .....	60
Table 6.7	Domestic Financing Profile .....	61
Table 7.1	Group of 30 Compliance .....	63
Table 7.2	Group of Experts Summary of Barriers Market Assessment – Singapore .....	64



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The ADB Team has sole responsibility for the contents of this report.

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Asian Development Bank (ADB) Team





# I. Structure, Type and Characteristics of the Bond Market

## A. Overview

Singapore has one of the most developed bond markets in Asia. The Singapore bond market has become an open capital market in Asia over the past decade and a half. As of the second quarter of 2011, market capitalization was around SGD250.5 billion, of which 60% was in Singapore dollars and the rest mostly in US dollar, euro and yen. Sovereign bonds and statutory board bonds are vital features of the market, despite the government's strong fiscal position that does not require deficit financing.

Singapore Government Securities (SGS)—comprising Treasury bills and bonds—are issued primarily to stimulate market activity and provide a benchmark for corporate issues. SGS are also targeted to satisfy reserve requirements for Singapore-based financial institutions (both banks and non-banks), and are sought-after as collateral for repurchase transactions.

The Singapore dollar bond market comprises SGS, statutory board bonds, corporate bonds, and structured securities. Statutory board papers, issued by autonomous government agencies, are considered relatively liquid among debt instruments on the Singapore corporate bond market. As for issuance by corporates, property-related companies continue to be key issuers of Singapore dollar denominated corporate debt securities, while structured products include equity-linked notes, convertible bonds, credit-linked notes, and asset securitization transactions.

Islamic finance is growing as well. In 2005, Singapore was accepted as a full member of the Islamic Financial Services Board (IFSB), an international body based in Malaysia that defines regulatory and supervisory standards governing Islamic financial services. In January 2009, Singapore launched its first Islamic bond program worth SGD200 million. Market capitalization was around SGD250.5 billion, as of the second quarter of 2011, of which 60% was in Singapore dollars and the rest mostly in US dollars, euro and yen.

To attract greater foreign interest, the Monetary Authority of Singapore (MAS) began internationalizing the Singapore dollar in 1998, with foreign entities allowed to issue

Singapore dollar-denominated bonds. Singapore's debt market has grown to become a source of financing for local and foreign corporations, international organizations, and governments.

In January 2005, Singapore was the first Asian nation outside of Japan to join the widely-followed Citigroup World Government Bond Index (WGBI). SGS are also included in other leading indices such as the J.P. Morgan World Government Bond Index and the HSBC Asian Local Bond Index.

From 8 July 2011, individual investors were able to trade SGS bonds in the secondary market on the Singapore Exchange. Market makers, who are also SGS primary dealers, committed to provide two-way prices for the SGS bonds traded on the Exchange. With the new offering by SGX, investors were able to access SGS bond prices on SGX's website or through their brokers, and trade SGS bonds through their brokers in a manner similar to the way stocks are traded. Trading of SGS and corporate bonds remains over-the-counter (OTC) for institutional investors.

A total of 20 SGS bonds amounting to SGD82.3 billion are currently traded on the SGX, with maturities of 2 years or more. SGX's Central Depository (Pte.) Limited (CDP) acts as the custodian of SGS bonds traded on the exchange.

## B. Descriptions for the Bond Market in Singapore

### 1. Description of Each Bond

#### a. Singapore Government Securities

Singapore Government Securities (SGS) were initially issued to meet banks' needs for a risk-free asset in their liquid asset portfolios. In 1998, MAS spearheaded efforts to enhance the efficiency and liquidity of the SGS market as part of its strategy to develop Singapore as an international debt hub. This was further refined in May 2000 with the introduction of a focused issuance program aimed at building large and liquid benchmark bonds, primarily through larger issuance of new SGS bonds and re-opening of existing issues, to enlarge the free float and occasional bond purchase programs to re-channel liquidity from off-the-run issues to benchmark bonds. Since then, the SGS market has grown significantly.

MAS is the fiscal agent of the Singapore Government. As such, it is empowered by the *Development Loan Act* and the *Government Securities Act* to undertake the issuance and management of securities on behalf of the government. The amount of SGS issued is authorized by a resolution of Parliament and with the President's concurrence. Each year, MAS seeks approval from the Minister for Finance for the total amount of SGS issuance for the new financial year. MAS decides, in consultation with the SGS primary dealers, the timing and amount of individual bond issues.<sup>1</sup>

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<sup>1</sup> Detailed information on Singapore Government Securities market can be found at the SGS website. <http://www.sgs.gov.sg/index.html>

SGS are issued by the MAS, on behalf of the Government of Singapore. Unlike many other countries, the Singapore Government does not need to finance its expenditures through the issuance of government bonds as it operates a balanced budget and often enjoys budget surpluses. This allows the government to focus on the development of Singapore's capital markets instead, and the issuance of SGS serves primarily to:

- (i) Build a liquid SGS market to provide a robust government yield curve for the pricing of private debt securities;
- (ii) Foster the growth of an active secondary market, both for cash transactions and derivatives, to enable efficient risk management; and
- (iii) Encourage issuers and investors, both domestic and international, to participate in the Singapore bond market.

SGS comprise marketable short-term T-bills and medium- and long-term bonds. SGS T-bills are zero-coupon, and issued and traded on a discount basis. On the other hand, SGS Treasury bonds carry a fixed semi-annual coupon paid on the first and 15th of the particular month. They are non-callable or non-puttable bonds with bullet redemptions.

SGS T-bill and bond auctions are held on a regular basis. Three-month T-bills are issued weekly, while 1-year T-bills and bonds are issued according to an annual issuance calendar.

The key characteristics of both securities are summarized in Table 1.1.

**Table 1.1 Characteristics of Singapore Government Securities**

	Treasury bills	Bonds
Issuer	Singapore Government	Singapore Government
Tenor	3M and 1Y	2Y, 5Y, 10Y, 15Y, 20Y (7Y non-benchmark)
Interest Rate	Discount	Fixed Coupon
Coupon Payments	N/A	Semi-annual (Every 6 months)
Minimum Denomination	SGD1,000	SGD1,000
Typical Issue Size	SGD2.3 billion–SGD4.0 billion	SGD2 billion–SGD3 billion for benchmark issues
M = months, Y = years Source: Monetary Authority of Singapore. <a href="http://www.sgs.gov.sg/market_characteristics/mktchar_auctions.html">www.sgs.gov.sg/market_characteristics/mktchar_auctions.html</a>		

## b. Corporate Bonds

Singapore's corporate bond market is mainly composed of statutory board bonds, domestic bonds, and non-domestic bonds open to both local and foreign investors. Corporate bonds are generally bought and traded over the counter.

### i. Statutory Board Bond Issuers

Statutory boards of the Singapore Government are autonomous organizations whose issues generally imply good credit ratings even though there may not be an explicit guarantee given by the government. Statutory board papers are considered the most

liquid among debt instruments on the Singapore corporate bond market. The three largest statutory board issuers are:

- (a) The Housing Development Board, the public housing authority that plans and develops public housing, under the Ministry of National Development;
- (b) The Land Transport Authority, a statutory board under the Ministry of Transport, which leads land transport developments; and
- (c) The PUB, the national water agency responsible for collection, production, distribution and reclamation of water.

### ii. Domestic Corporate Bond Issuers

Domestic corporate bond issuers are mainly composed of property-related companies, statutory boards, financial institutions, Government-linked companies (GLCs), and other non-property related companies. The GLCs include companies such as Singapore Airlines, SingTel, DBS Bank, SMRT Corporation, and PSA Corporation.

### iii. Non-Domestic or Foreign Bond Issuers

The Singapore dollar bond market is fully accessible to all issuers globally. There are no capital controls, hedging restrictions or withholding taxes. Non-domestic Singapore dollar corporate bond issues are composed of supranational, quasi-sovereign agencies, banks, and other corporations. The market's profile is international in nature, with foreign entities accounting for more than a quarter of bond issuance annually. These include the Asian Development Bank, Cheung Kong Holdings and Export-Import Bank of Korea among others.

Non-domestic Singapore dollar corporate bond issues are, for the most part, composed of supranational agencies, foreign banks, and foreign corporations from the United States, Europe, and Asia. These include Citigroup, Merrill Lynch & Company, and the Asian Development Bank, among others. Some, but not necessarily all, of these non-domestic Singapore dollar corporate bond issues are issued under the SGX Listed Euro-Medium Term Note (EMTN) Programme. The Singapore corporate bond market uses a wide range of debt structures that include fixed- and floating-rate notes (FRN), asset-backed securities (ABS), equity-linked notes, mortgage-backed securities (MBS), and many other structured products. If an issuer intends to use the proceeds outside Singapore where a currency swap facility exists, the swap tenure must match the bond tenure.

The structured note market continues to grow and comprises about half of the outstanding corporate issuance. The number of SPVs illustrates the importance of structured notes to the Singapore dollar market. The commercial mortgage-backed securities (CMBS) market has taken off largely through real estate investment trusts (REITs), which have been large issuers of CMBS. REITs offer investors access to a portfolio of property assets including commercial, retail, industrial and residential properties; and usually pay a dividend based on net proceeds from the property portfolio, rather than a coupon.<sup>2</sup>

<sup>2</sup> Monetary Authority of Singapore. *Overview of the Singapore Corporate Bond Market*. [http://www.mas.gov.sg/fin\\_development/debt\\_market/The\\_Singapore\\_Corporate\\_Bond\\_Market.html](http://www.mas.gov.sg/fin_development/debt_market/The_Singapore_Corporate_Bond_Market.html)

## C. The Securities and Futures Act 2001

The Securities and Futures Act 2001 (the SFA) is the single key piece of securities market regulation that integrates provisions on investors, issuers and issuance types, investor protection as well as market conduct. It, hence, has significance across all aspects of the securities market and will be referred to frequently in the course of this document. Additional laws and regulations effectively supplement the SFA, and are detailed further in Chapter II, sections A. and B. Box 1.1 shows the different articles contained under Part XIII of the Securities and Futures Act 2001 (SFA).<sup>3</sup>

### Box 1.1 Part XIII of the Securities and Futures Act 2001

**Securities and Futures Act (SFA) 2001**  
**CHAPTER 289**  
**2006 REVISED EDITION**

**PART XIII**

**OFFERS OF INVESTMENTS**

**Division 1—Shares and Debentures**

**SUBDIVISION (1)—Interpretation**

239 Preliminary provisions

239A Authority may disapply this Division to certain offers

239B Modification of provisions to certain offers

**SUBDIVISION (2)—PROSPECTUS REQUIREMENTS**

240 Requirement for prospectus and profile statement, where relevant

**240A Debenture issuance programme**

241 Lodging supplementary document or replacement document

242 Stop order for prospectus and profile statement

243 Contents of prospectus

244

245 Retention of over-subscriptions and statement of asset-backing in debenture issues

246 Contents of profile statement

247 **Exemption** from requirements as to form or content of prospectus or profile statement

248 **Exemption** for certain governmental and international entities as regards signing of copy of prospectus or profile statement by all directors or equivalent persons

249 Expert's consent to issue of prospectus or profile statement containing statement by him

249A Consent of issue manager and underwriter to being named in prospectus or profile statement

250 Duration of validity of prospectus and profile statement

251 Restrictions on advertisements, etc.

252 Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies

253 Criminal liability for false or misleading statements

254 Civil liability for false or misleading statements

255 Defences

256

257 Document containing offer of securities for sale deemed prospectus

258 Application and moneys to be held in trust in separate bank account until allotment

259 Allotment of securities where prospectus indicates application to list on securities exchange

260 Prohibition of allotment unless minimum subscription received

*continued on next page*

<sup>3</sup> A full version of the *Securities and Futures Act (SFA)* can be found in Appendix 1.

Box 1.1 continuation

### **SUBDIVISION (3)—DEBENTURES**

- 261 Preliminary provisions
- 262 Offer of asset-backed securities
- 263
- 264
- 265 Power of court in relation to certain irredeemable debentures

#### **266 Duties of trustees**

#### **267 Powers of trustee to apply to court for directions, etc.**

- 267A Right of Authority, securities exchange and holders of debentures to apply to court for order
- 268 Obligations of borrowing entity
- 269 Obligation of guarantor entity to furnish information
- 270 Loans and deposits to be immediately repayable on certain events

#### **271 Liability of trustees for debenture holders**

### **SUBDIVISION (4)—EXEMPTIONS**

- 272 Issue or transfer of securities for no consideration

#### **272A Small offers**

#### **272B Private placement**

#### **273 Offer made under certain circumstances**

#### **274 Offer made to institutional investors**

#### **275 Offer made to accredited investors and certain other persons**

#### **276 Offer of securities acquired pursuant to section 274 or 275**

#### **277 Offer made using offer information statement**

#### **278 Offer in respect of international debentures**

- 279 Offer of debentures made by Government or international financial institutions
- 280 Making offer using automated teller machine or electronic means
- 281 Revocation of exemption
- 282 Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

## **DIVISION 1A—BUSINESS TRUSTS**

### **SUBDIVISION (1)—INTERPRETATION**

- 282A Preliminary provisions
- 282B Division not to apply to certain business trusts which are collective investment schemes
- 282BA Modification of provisions to certain offers

### **SUBDIVISION (2)—PROSPECTUS REQUIREMENTS**

- 282C Requirement for prospectus and profile statement, where relevant
- 282D Lodging supplementary document or replacement document
- 282E Stop order for prospectus and profile statement
- 282F Contents of prospectus
- 282G Contents of profile statement
- 282H Exemption from requirements as to form or content of prospectus or profile statement
- 282I Expert's consent to issue of prospectus or profile statement containing statement by him
- 282J Consent of issue manager and underwriter to being named in prospectus or profile statement
- 282K Duration of validity of prospectus and profile statement
- 282L Restrictions on advertisements, etc.
- 282M Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies
- 282N Criminal liability for false or misleading statements
- 282O Civil liability for false or misleading statements
- 282P Defences
- 282Q Document containing offer of units or derivatives of units for sale deemed prospectus
- 282R Application and moneys to be held in trust in separate bank account until allotment
- 282S Allotment of units or derivatives of units where prospectus indicates application to list on securities exchange
- 282T Prohibition of allotment unless minimum subscription received

continued on next page

Box 1.1 continuation

### **SUBDIVISION (3)—EXEMPTIONS**

- 282U Issue or transfer of units or derivatives of units for no consideration
- 282V Small offers
- 282W Private placement
- 282X Offer made under certain circumstances
- 282Y Offer made to institutional investors
- 282Z Offer made to accredited investors and certain other persons
- 282ZA Offer of securities acquired pursuant to section 282Y or 282Z
- 282ZAA Offer of units converted from debentures
- 282ZB Offer made using offer information statement
- 282ZC Making offer using automated teller machine or electronic means
- 282ZD Revocation of exemption
- 282ZE Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

### **SUBDIVISION (4)—DEBENTURES**

- 282ZF Applicability of provisions relating to prospectus requirements

## **DIVISION 2—COLLECTIVE INVESTMENT SCHEMES**

### **SUBDIVISION (1)—INTERPRETATION**

- 283 Interpretation of this Division
- 283A Use of term “real estate investment trust”
- 284 Code on Collective Investment Schemes
- 284A Authority may disapply this Division to certain offers and invitations
- 284B Division not to apply to certain collective investment schemes which are business trusts
- 284C Modification of provisions to certain offers

### **SUBDIVISION (2)—AUTHORISATION AND RECOGNITION**

- 285 Requirement for authorisation or recognition
- 286 Authorised schemes
- 287 Recognised schemes
- 288 Revocation, suspension or withdrawal of authorisation or recognition
- 289 Approval of trustees**
- 290 Inspection of approved trustees**
- 291 Duty of trustees to furnish Authority with such return and information as Authority requires**
- 292 Liability of trustees**
- 293 Authority may issue directions
- 294 Service
- 295 Winding up
- 295A Power to acquire units of participants of real estate investment trust in certain circumstances
- 295B Unclaimed money to be paid to Official Receiver
- 295C Remedies in cases of oppression or injustice

### **SUBDIVISION (3)—PROSPECTUS REQUIREMENTS**

- 296 Requirement for prospectus and profile statement, where relevant
- 297 Stop order for prospectus and profile statement
- 298 Lodging supplementary document or replacement document
- 299 Duration of validity of prospectus and profile statement
- 300 Restrictions on advertisements, etc.
- 301 Issue of units where prospectus indicates application to list on securities exchange
- 302 Application of provisions relating to securities

### **SUBDIVISION (4)—EXEMPTIONS**

- 302A Issue or transfer for no consideration
- 302B Small offers**
- 302C Private placement**

continued on next page

Box 1.1 continuation

**303 Offer or invitation made under certain circumstances**  
**304 Offer made to institutional investors**  
**304A First sale of units acquired pursuant to section 304**  
**305 Offer made to accredited investors and certain other persons**  
**305A First sale of units acquired pursuant to section 305**  
**305B Offer made using offer information statement**  
 305C Making offer using automated teller machine or electronic means  
 306 Power of Authority to exempt  
 307 Revocation of exemption  
 308 Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

**DIVISION 3—SECURITIES HAWKING**

309 Securities hawking prohibited

Note: Emphases added by author.

Source: Attorney-General's Chamber. <http://statutes.agc.gov.sg>

## D. Definition of Relevant Person

A “relevant person” is defined under section 275(2) of the SFA to mean the following:

- (i) an “accredited investor”;<sup>4</sup>
- (ii) a corporation whose sole business is to hold investments and whose entire share capital is owned by one or more individuals, each of whom is an accredited investor;
- (iii) a trustee of a trust whose sole purpose is to hold investments, and each beneficiary of which is an individual who is an accredited investor;
- (iv) an officer or equivalent person of the person making the offer (such person being an entity), offeror (if it is an entity), or a spouse, parent, brother, sister, son or daughter of that officer, or equivalent person; or
- (v) a spouse, parent, brother, sister, son or daughter of that officer, or equivalent person, or of the person making the offer (if such person is an individual).

## E. Definition of Accredited Investor, Expert Investor, and Institutional Investor

Section 4A of the SFA (Chapter 289) provides for the definitions for specific classes of investors.<sup>5</sup>

<sup>4</sup> Section 4A of the SFA also provides for a more detailed definition of “accredited investor.” Also, see discussion in I.E.1.

<sup>5</sup> Attorney-General's Chamber. 2006. *Securities and Futures Act*, Chapter 289 (SFA), as amended, sec. 4A: Specific Classes of Investors. [http://statutes.agc.gov.sg/non\\_version/cgi-bin/cgi\\_retrieve.pl?actno=REVED-289&doctype=SECURITIES%20AND%20FUTURES%20ACT%0a&date=latest&method=part](http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-289&doctype=SECURITIES%20AND%20FUTURES%20ACT%0a&date=latest&method=part)



### 1. Accredited Investor

An “accredited investor” is defined as:

- (i) an individual whose net personal assets exceed SGD2 million, or whose income in the preceding 12 months is not less than SGD300,000;
- (ii) a corporation with net assets exceeding SGD10 million in value as determined by the most recent audited balance sheet of the corporation, or where the corporation is not required to prepare an audited account regularly, a balance sheet of the corporation certified by the corporation as giving a true and fair view of the corporation’s state of affairs;
- (iii) the trustee of a trust; or
- (iv) such other person as the MAS may prescribe.

### 2. Expert Investor

An “expert investor” is defined as:

- (i) a person whose business involves the acquisition and disposal, or the holding, of capital markets products, whether as principal or agent;
- (ii) the trustee of a trust; or
- (iii) such other person as the MAS may prescribe.

### 3. Institutional Investor

An “institutional investor” is defined as:

- (i) a bank that is licensed under the *Banking Act*;
- (ii) a merchant bank approved as a financial institution under section 28 of the *Monetary Authority of Singapore Act*;
- (iii) a finance company licensed under the *Finance Companies Act*;
- (iv) a company or society registered under the *Insurance Act* as an insurer;
- (v) a company licensed under the *Trust Companies Act*;
- (vi) the government;
- (vii) a statutory body;
- (viii) a pension fund or collective investment scheme;
- (ix) the holder of a capital-markets services licence for dealing in securities, fund management, providing custodial services for securities, real estate investment trust management, securities financing, or trading in futures contracts;

- (x) a person (other than an individual) who carries on the business of dealing in bonds with accredited investors or expert investors;
- (xi) the trustee of a trust; or
- (xii) such other person as the MAS may prescribe.

## F. Descriptions of Public Offering

### 1. General Explanation on Public Offering

Public offering is the selling of registered securities to the broad market rather than to a select group of investors. In Singapore, a public offer of bonds must be accompanied by a prospectus that is lodged with and registered by MAS, unless an exemption applies. The exemptions to the prospectus requirements include those for offers that are made only to institutional investors and accredited investors, and personal offers where the total amount raised within any 12-month period does not exceed USD5 million.<sup>6</sup>

Issuers of bonds that are offered to retail investors would normally seek a listing of these bonds on SGX, and the bonds are normally issued in small denominations.

Notices of bond offerings by statutory boards, domestic and foreign issuers are generally published in the newspapers or on the issuer's website. They outline issuance details such as auction dates, size and type of issue.

Bids are submitted through managing banks and the results—specifying the amount applied for, coupon rate, average yield and percentage allotted—are also publicly announced.

### 2. Offers and Prospectuses Electronic Repository and Access

General public offerings can be accessed through a prospectus database available in MAS' website under the Offers and Prospectuses Electronic Repository and Access (OPERA) tab. MAS launched OPERA in the context of making available more online services to market participants, as explained in the excerpt from the MAS Annual Report 2002/2003 in Box 1.2.

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<sup>6</sup> A detailed discussion on exemptions is found in I.H: Exemptions from Prospectus Requirements.

**Box 1.2 Article on the Launch of the OPERA**

**July 2002**  
**Launch of OPERA**

**MAS ANNUAL REPORT 2002 / 2003**

**ORGANISATIONAL INITIATIVES**

**INFORMATION TECHNOLOGY DEPARTMENT**

New Era of Easy Access to E-services

Our move towards the disclosure-based regime took a big step forward in July 2002 with the launch of OPERA, the Offers and Prospectuses Electronic Repository and Access system.

OPERA gives the public easy access via the internet to prospectuses and offers of investments lodged to MAS as well as a feedback channel.

An online Minimum Liquid Assets (MLA) returns system was set up for banks.

Under the risk-based Liquidity Supervision Framework, banks with stronger liquidity risk management have lower MLA requirements. The new system gives banks a convenient and secure channel to submit MLA.

The MAS website was revamped to improve usability and accessibility. Content was reorganised and navigation flow improved. An enhanced integrated search engine gives the public easy access to information on the MAS, OPERA and Singapore Government Securities websites.

A link is being built from the MAS Electronic Payment System (MEPS) to the Continuous Linked Settlement System (CLS) to prepare for the inclusion of the Singapore Dollar as a CLS settlement currency. This link will greatly reduce the settlement risk for foreign exchange transactions involving the Singapore Dollar. Work has also begun on the next generation of the Real-Time Gross Settlement system. Based on SWIFT standards, this system will enable the industry to meet new commercial and regulatory challenges.

With the merger of BCCS with MAS, IT systems and network infrastructures were smoothly integrated. A high-speed link gives staff at Currency House access to all IT facilities at MAS Building. A knowledge management portal is being built to improve operational effectiveness and efficiency, and to create a culture of shared purpose and team collaboration. A group of pilot users are testing the system, which will include a strong search engine that provides the ability to quickly find relevant information and knowledge assets.

Source: Monetary Authority of Singapore. *MAS Annual Report 2002/2003*. Singapore. [http://www.mas.gov.sg/about\\_us/annual\\_reports/annual20022003/f\\_organisational/organisational\\_f.html](http://www.mas.gov.sg/about_us/annual_reports/annual20022003/f_organisational/organisational_f.html)

OPERA is available for viewing of all relevant offer information everyday including Sundays, with the exception of its daily scheduled downtime between 4am and 7:30am Singapore Time (GMT+8).<sup>7</sup>

### 3. Prospectus Registration Process

A prospectus can consist of a base prospectus (valid for 2 years) and a pricing statement. The base prospectus is valid for all offers under the same program, and subsequent offers require only that a pricing statement be lodged and registered with the MAS.

A preliminary prospectus may be distributed to institutional and accredited investors only, to determine the appropriate amount and price of the securities to be offered, even before registration of the prospectus itself. Upon lodgment of the prospectus, the

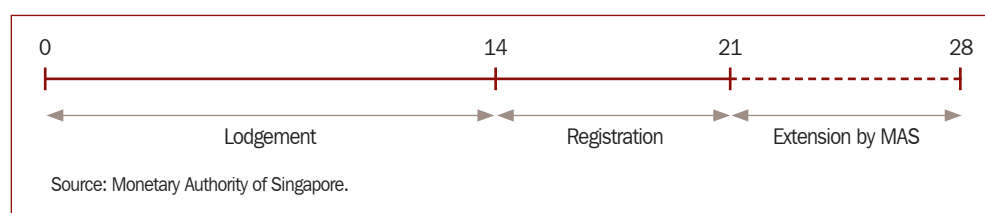
<sup>7</sup> Monetary Authority of Singapore. <http://masnet.mas.gov.sg/opera/sdrprosp.nsf>

issuer can conduct roadshow presentations to institutional and accredited investors, as well as commence book-building exercises. After lodgment, the prospectus is put up for public viewing and comment on the MAS website's OPERA portal.

A regulatory review is conducted by the MAS. The MAS will register the prospectus within 14 to 21 days, unless the period is extended for a maximum of 28 days, or the issuer requests a later registration date. The issuer can then launch the public offer and distribute the registered prospectus after registration.

The timeline of the registration process for a prospectus is further illustrated in Figure 1.1. for easy reference.

**Figure 1.1 Timeline of Registration Process**



## G. Provisions on Private Placement

Private placement (PP), or non-public offering, is the selling of unregistered securities directly, where an offer is made to not more than 50 investors within a 12-month period. Private bond placements sometimes are not listed on a stock exchange. An issuer who offered the bonds through private placement can still seek a listing on SGX.

Many primary issuances are made in the form of PP offers. Many Singapore dollar corporate bonds are placed privately at the issuer's or investor's (reverse enquiry) initiative.<sup>8</sup>

The SFA contains a number of specific provisions for Private Placement which are detailed in Box 1.3 for easy reference.

<sup>8</sup> Government of Singapore. Monetary Authority of Singapore. 2007. *Singapore Bond Market Guide*. [http://www.sgs.gov.sg/resource/pub\\_guide/guides/Bond\\_Market\\_Guide\\_Mar\\_2007.pdf](http://www.sgs.gov.sg/resource/pub_guide/guides/Bond_Market_Guide_Mar_2007.pdf)

**Box 1.3 Provisions on Private Placement in the Securities and Futures Act****Private placement:**

272B.—(1) Subdivisions (2: Prospectus requirements) and (3: DEBENTURES) of this Division (1: Shares and Debentures) (other than section 257) shall not apply to offers of securities of an entity that are made by a person if—

- (a) the offers are made to no more than 50 persons within any period of 12 months;
- (b) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;
- (c) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—
  - (i) the holder of a capital markets services licence to deal in securities;
  - (ii) an exempt person in respect of dealing in securities; or
  - (iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

(d) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered—

- (i) the prospectus has expired pursuant to section 250; or
- (ii) the person making the offer has before making the offer—

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

(2) The Authority may prescribe such other number of persons in substitution for the number specified in subsection (1) (a).  
[1/2005]

(3) In determining whether offers of securities by a person are made to no more than the applicable number of persons specified in subsection (1) (a) within a period of 12 months, each person to whom—

- (a) an offer of securities issued by the same entity is made by the first-mentioned person; or
- (b) an offer of securities of an entity, units or derivatives of units in a business trust, or units in a collective investment scheme, is made by the first-mentioned person or another person where such offer is a closely related offer,

if any, within that period in reliance on the exemption under this section, section 282W or 302C shall be included.  
[1/2005]

(4) Whether an offer is a closely related offer under subsection (3) shall be determined by considering such factors as the Authority may prescribe.  
[1/2005]

(5) For the purposes of subsection (1)—

- (a) an offer of securities to an entity or to a trustee shall be treated as an offer to a single person, provided that the entity or trust is not formed primarily for the purpose of acquiring the securities which are the subject of the offer;
- (b) an offer of securities to an entity or to a trustee shall be treated as an offer to the equity owners, partners or members of that entity, or to the beneficiaries of the trust, as the case may be, if the entity or trust is formed primarily for the purpose of acquiring the securities which are the subject of the offer;
- (c) an offer of securities to 2 or more persons who will own the securities acquired as joint owners shall be treated as an offer to a single person;
- (d) an offer of securities to a person acting on behalf of another person (whether as an agent or otherwise) shall be treated as an offer made to that other person;

Box 1.3 continuation

- (e) offers of securities made by a person as an agent of another person shall be treated as offers made by that other person;
- (f) where an offer is made to a person with a view to another person acquiring an interest in those securities by virtue of section 4, only the second-mentioned person shall be counted for the purposes of determining whether offers of the securities are made to no more than the applicable number of persons specified in subsection (1) (a); and
- (g) where—
  - (i) an offer of securities is made to a person in reliance on the exemption under subsection (1) with a view to those securities being subsequently offered for sale to another person; and
  - (ii) that subsequent offer—
    - (A) is not made in reliance on an exemption under any provision of this Subdivision; or
    - (B) is made in reliance on an exemption under subsection (1) or section 280, both persons shall be counted for the purposes of determining whether offers of the securities are made to no more than the applicable number of persons specified in subsection (1) (a). [1/2005]
- (6) In subsection (1) (b), “advertisement” has the same meaning as in section 272A (10).

Note: Similarly, private placements are stipulated in sec. 282W and 302C of SFA.

Source: Attorney-General’s Chamber. *Securities and Futures Act*, sec. 272B. [http://statutes.agc.gov.sg/non\\_version/cgi-bin/cgi\\_retrieve.pl?actno=REVED-289](http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-289)

## H. Brief Summary of Exemptions from Prospectus Requirements

As previously mentioned, a number of exemptions from prospectus requirements exist, particularly for the specific categories of investors detailed in I.E. These exemptions can be summarized as:

- a. Offers made to institutional investors or accredited investors, and need to be accompanied by public advertisements.<sup>9</sup>
- b. Private placement offers made to no more than 50 persons.<sup>10</sup>
- c. An entity whose shares are already listed on the SGX may use an Offer Information Statement (OIS), instead of a prospectus, when issuing new types of securities such as bonds. An OIS has fewer disclosure requirements.
- d. Institutions offering continuously issued structured notes do not need to lodge and register a pricing statement with the MAS; the base prospectus, a transaction note setting out the offer details prior to the purchase or subscription, and a confirmation receipt to the investors at the time of offer, are sufficient.
- e. Small Offer: the total amount raised by the person from such offers within any period of 12 months does not exceed SGD5 million, or its equivalent in a foreign currency.<sup>11</sup>

<sup>9</sup> Footnote 5, sec. 274 and 275.

<sup>10</sup> Footnote 5, sec. 272B.

<sup>11</sup> Footnote 5, sec. 272.

These exemptions can also be found in the “2007 Singapore Bond Market Guide”.<sup>12</sup>

## I. Overview of the Singapore Exchange Bond Listing Criteria

### 1. Criteria for Listing: A General Guide for Bonds

For primary listing, companies must meet SGX’s initial listing requirements outlined in Table 1.2. After listing, companies have to comply with all of SGX’s continuing listing obligations. For secondary listing, companies already listed on another exchange of equivalent rules as SGX are able to seek secondary listing on SGX without having to comply with SGX’s continuing listing obligations.

### 2. Mainboard Requirements

A company may list on the mainboard under any of the three criteria below, which cater to a wide spectrum of companies with different business models.

**Table 1.2 Criteria for Listing**

	Criteria 1	Criteria 2	Criteria 3
Pre-Tax Profits	Cumulative pre-tax profit of at least USD7.5 million over the last 3 consecutive years, with a pre-tax profit of at least USD1 million in each of those 3 years	Cumulative pre-tax profit of at least USD10 million for the last 1 or 2 years	NA
Market Capitalisation	NA	NA	Market capitalisation of at least USD80 million at the time of the initial public offering, based on the issue price
Shareholding Spread	25% of issued shares in the hands of at least 1,000 shareholders (For market capitalisation > SGD300 million, shareholding spread will vary between 12%–20%). There should at least be 2,000 shareholders worldwide in the case of a secondary listing.		
Operating Track Record	3 years	NA	NA
Continuity of Management	3 years	1 or 2 years as the case may be	NA
Accounting Standard	Singapore, US or International Accounting Standards		
Continuing Listing Obligations	Yes	Yes	Yes
	Waived from having to comply with continuing listing obligations if listed on another recognized foreign stock exchange.		
Domicile	At the discretion of the issuer		
Trading and Reporting Currency	At the discretion of the issuer		
Business Operations	No requirement for operations in Singapore		
Independent Directors	At least 2 residents in Singapore		
Note: NA = not applicable Source: Singapore Exchange. <a href="http://www.sgx.com/wps/portal/sgxweb/home/listings/listing_products/!ut/p/c5/DcrrddolgAADgZ9kD71DMCi8xzuYfeMotiZuOaFHBYM5M590v891-QIAn2zyuqrifnW0MqIBYH7Mc-hHyYODf-AbGUbpPimlbpoeEHEiCuf5S1pPKzrsFCX0rifEqHHEImOcjPF74S3b23BbD0r1R2mZaNYa6YBM1NpJ-q3bV-T-uuutVhOBprv7ghfGyj3IX2RkLQzvMDqw7Jjz32JP2MKF51JqEDsVjDuWS9PNXuqDQICb_9DcyIFVd97_sBfDifZ_Aj5bTP7hCuE8!/dl3/d3/LOIDU0IKSWdra0EhIS9JIJBUipQ2dBek15cUEhL1ICSIAxTkMxTktfMjd3ISEvN19MTzA0SDI0MDkwM043MEIIS1JKU1NDQktENg!/?WCM_PORTLET=PC_7_LO04H240903N70IHKRJSSCBK6017268_WCM&amp;WCM_GLOBAL_CONTEXT=/wps/wcm/connect/sgx_en/home/listing_on_sgx/overview/">http://www.sgx.com/wps/portal/sgxweb/home/listings/listing_products/!ut/p/c5/DcrrddolgAADgZ9kD71DMCi8xzuYfeMotiZuOaFHBYM5M590v891-QIAn2zyuqrifnW0MqIBYH7Mc-hHyYODf-AbGUbpPimlbpoeEHEiCuf5S1pPKzrsFCX0rifEqHHEImOcjPF74S3b23BbD0r1R2mZaNYa6YBM1NpJ-q3bV-T-uuutVhOBprv7ghfGyj3IX2RkLQzvMDqw7Jjz32JP2MKF51JqEDsVjDuWS9PNXuqDQICb_9DcyIFVd97_sBfDifZ_Aj5bTP7hCuE8!/dl3/d3/LOIDU0IKSWdra0EhIS9JIJBUipQ2dBek15cUEhL1ICSIAxTkMxTktfMjd3ISEvN19MTzA0SDI0MDkwM043MEIIS1JKU1NDQktENg!/?WCM_PORTLET=PC_7_LO04H240903N70IHKRJSSCBK6017268_WCM&amp;WCM_GLOBAL_CONTEXT=/wps/wcm/connect/sgx_en/home/listing_on_sgx/overview/</a>			

## J. General Guide for Singapore Exchange Bond-Listing Requirements

Listing requirements for bonds are set out in the chapter on debt securities of the “Main Board Rules” in the *SGX Rulebook*.<sup>13</sup> Prospective issuers must fulfill the stated requirements before they are eligible to issue bonds.

<sup>12</sup> Footnote 8.

<sup>13</sup> Singapore Exchange Securities Trading, *Singapore Exchange Rulebook*, chapter 3, “Debt Securities.” [http://rulebook.sgx.com/en/display/display\\_main.html?rbid=3271&element\\_id=4949](http://rulebook.sgx.com/en/display/display_main.html?rbid=3271&element_id=4949)

Additional listing requirements for retail fixed-income securities are set out in the chapter on prospectus, offering memorandum, and introductory document of the SGX “Main Board Rules.”<sup>14</sup> Prospective issuers must fulfill the stated requirements before they are eligible to issue retail fixed income securities.

The SGX Rulebook likewise provides for the general requirements for debt securities listing. These include:<sup>15</sup>

1. **Paying Agent.** A foreign issuer is normally required to appoint a paying agent in Singapore or in the Central Depository (Pte.) while the debt securities are quoted on the exchange and upon the issue of debt securities in definitive form. The exchange may accept other arrangements to enable definitive certificate holders of the bearer debt securities in Singapore to be paid promptly.
2. **Appointment of Trustee and Trust Deed and Exempt Issue.** An issuer must appoint a suitable trustee to represent the holders of its debt securities listed on the exchange. However, a trustee is not required for a debt issue that is offered only to sophisticated investors or institutional investors and is traded in a minimum board lot size of SGD200,000 or its equivalent in foreign currencies following listing.<sup>16</sup>
3. **Content of Offering Memorandum or Introductory Document (Prospectus Exempt).** For debt securities issued by an entity whose equity securities are listed on SGX, or debt securities offered primarily to sophisticated investors or institutional investors, a prospectus is not required. Instead, an offering memorandum or introductory document containing the information that investors would customarily expect to see in such documents would suffice.
4. **Continuing Obligations.** In general, a debt issuer must immediately disclose to the exchange through SGXNet any information which may have a material effect on the price or value of its debt securities or on an investor’s decision whether to trade in such debt securities.<sup>17</sup>

## K. Summary of Listing Criteria of Foreign Debt Securities on the Singapore Exchange

### 1. Listing Criteria

One of the following listing criteria must be met for the listing of foreign debt securities:

<sup>14</sup> Footnote 13, chapter 6, “Prospectus, Offering Memorandum and Introductory Document.” [http://rulebook.sgx.com/en/display/display\\_main.html?rbid=3271&element\\_id=5034](http://rulebook.sgx.com/en/display/display_main.html?rbid=3271&element_id=5034)

<sup>15</sup> Singapore Exchange Securities Trading, *Singapore Exchange Rulebook*. [http://rulebook.sgx.com/en/display/display\\_viewall.html?rbid=3271&element\\_id=4953](http://rulebook.sgx.com/en/display/display_viewall.html?rbid=3271&element_id=4953)

<sup>16</sup> Refer to art. 308, part IV (Trustee and Trust Deed) of chapter 3 (Debt Securities) of the SGX “Main Board Rules” for detailed information on the suitability of the trustee and the provisions to be included in the trust deed.

<sup>17</sup> Refer to art. 316, part VI (Continuing Listing Obligations) of chapter 3 (Debt Securities) of the SGX “Main Board Rules” for more detailed information on continuing disclosures.



- (i) The issuer must be:
  - (a) a supranational body;
  - (b) a government, or a government agency whose obligations are guaranteed by a government;
  - (c) an entity whose equity securities are listed on the SGX;
  - (d) a corporation which meets the following requirements:
    - (d.1) Rules 210 (2), (3), (4), and (5) of the *SGX Listing Rules* for listing of equity securities; or
    - (d.2.1) a cumulative consolidated pre-tax profit of at least SGD50 million for the last 3 years, or a minimum pre-tax profit of SGD20 million for any one of those 3 years; and
    - (d.2.2) a consolidated net tangible assets of at least SGD50 million; or
  - (e) a corporation whose obligations under the issue of the bonds are guaranteed by any of the entities in (a), (b), (c) or (d) above;
- (ii) The issue of the bonds must be at least 80% subscribed by institutional investors and/or sophisticated investors; or
- (iii) The issue of the bonds must have a credit rating of investment grade and above.

## 2. Other Requirements

While the *SGX Rulebook* stipulates certain trust deed and report releasing requirements, these requirements will not be applicable to:

- (i) An issuer who has been declared a “prescribed corporation” for the purpose of section 239(4) of the SFA; or
- (ii) (a) an issue of bonds that is offered only to institutional investors and/or sophisticated investors; and
  - (b) bonds are traded in a minimum board lot size of SGD200,000 or its equivalent in foreign currencies following listing.

In connection with the listing of bonds on the exchange, the other principal requirement under the Listing Rules is that the issuer would be required to appoint a paying agent in Singapore upon the issue of the bonds in definitive form.

## 3. Content of Offering Document

- 3.1 Where the offering of the bonds is made primarily to institutional investors and/or sophisticated investors, there is a general disclosure requirement that the offering memorandum or introductory document must contain the information

that such investors would customarily expect to see in such documents. Apart from the above general requirement, there are no specific disclosure requirements, whether relating to the financial information of the issuer or otherwise, set out in the SGX Listing Rules for such an offering.

3.2 While “institutional investors” and “sophisticated investors” are not specifically defined in the SGX Listing Rules, a general understanding is that the exchange would generally construe “institutional investors” and “sophisticated investors” to mean:

- (i) persons as specified under section 274 and 275 of the SFA, in relation to investors in Singapore; and
- (ii) such equivalent terms in the relevant jurisdictions outside Singapore where the bonds are offered, in relation to investors outside Singapore.

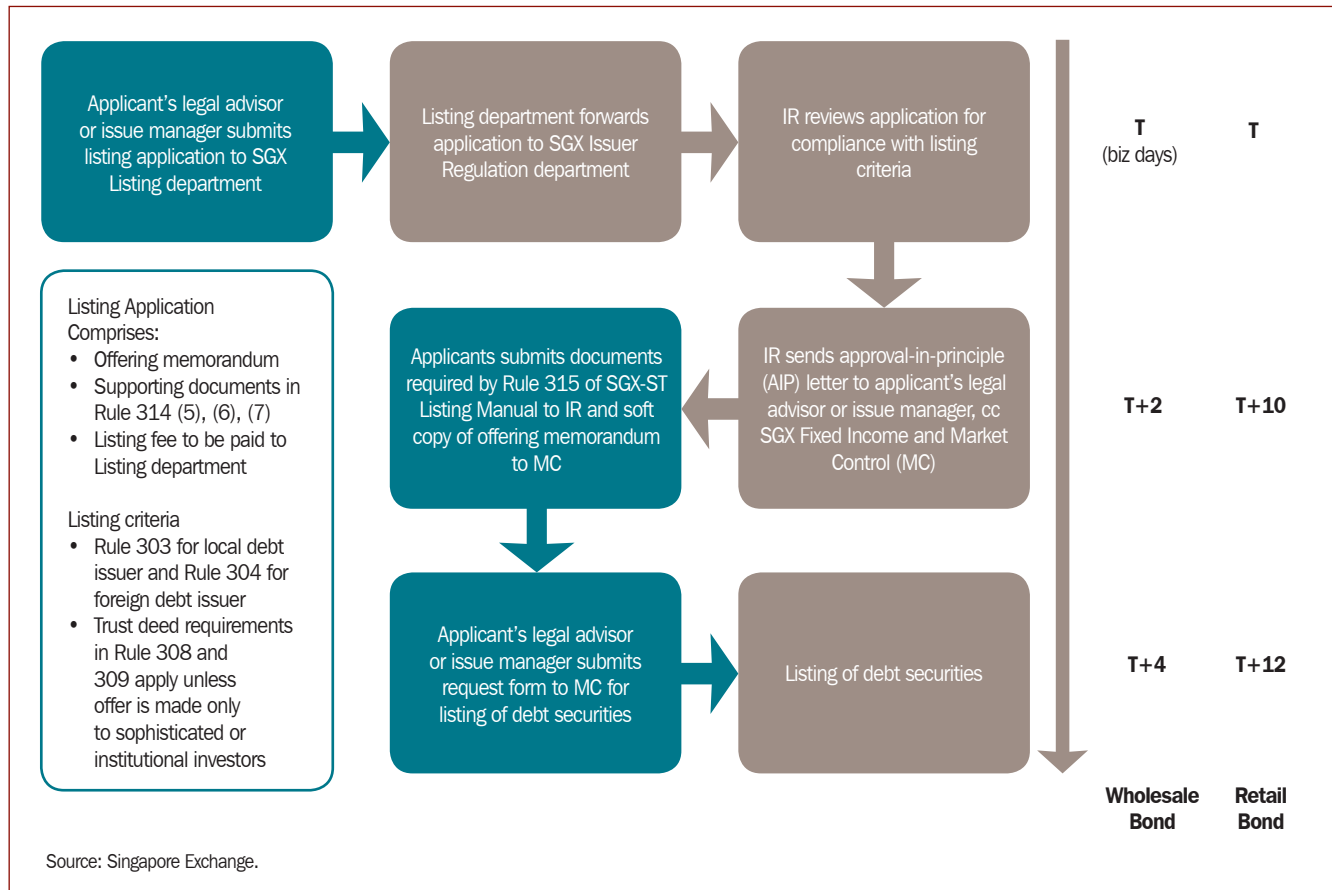
3.3 Section 274 of the SFA provides that the prospectus requirements of the SFA shall not apply to an offer of securities made to institutional investors.

3.4 Section 275 of the SFA provides that the prospectus requirements of the SFA shall not apply to an offer of bonds to a relevant person.

- (a) Section 275(1) provides that the prospectus requirements shall not apply to an offer of securities to a person who acquires the bonds as principal, if:
  - (i) the offer is on terms that the bonds may only be acquired at a consideration of not less than SGD200,000 (or its equivalent in foreign currencies) for each transaction, whether such amount is to be paid in cash or by exchange of securities or other assets;
  - (ii) the offer is not accompanied by an advertisement making an offer or calling attention to the offer;
  - (iii) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services; and
  - (iv) no prospectus in respect of the offer has been registered by MAS.

## L. General Listing Procedures

The general procedure for the listing of debt securities on SGX is illustrated in Figure 1.2 and followed by a more detailed description of the individual steps thereafter.

**Figure 1.2 General Listing Procedure**

1. A listing application, comprising the final form of the prospectus, offering memorandum, or introductory document prepared in compliance with Rules 312 to 313 and supporting documents set out in Rule 314, is to be submitted to the Listings Function of the SGX.
2. Upon satisfaction of the listing requirements set out in the application, the SGX will issue an eligibility-to-list letter for listing, with or without conditions.
3. More information on listing requirements can be obtained from the SGX Listing Rules, available online at [www.sgx.com](http://www.sgx.com).
4. The issuer will lodge the prospectus, offering memorandum, or introductory document with the MAS and other relevant authorities, if applicable, and will submit a copy to the SGX.
5. Should the prospectus, offering memorandum, or introductory document be materially different from that on which the eligibility-to-list letter was issued, the issuer must submit a written confirmation to the SGX to this effect.

6. The SGX will inform the issuer of any further information that is required to be disclosed prior to commencement of trading. The issuer may include this information in its prospectus, offering memorandum, or introductory document, or to make a pre-quotation disclosure through an announcement to the SGX. The pre-quotation disclosure must be made no later than the market day before commencement of trading.
7. The issuer's debt security will be listed and quoted on the SGX after the conditions expressed in the eligibility-to-list letter are satisfied.

## M. Reference for Singapore Government Securities Listing

SGX commenced the listing of SGS on 8 July 2012, initially selecting 19 SGS issues with maturities of at least 2 years and the farthest maturity on 1 September 2030.

There is no listing requirement for SGS since they are issued by the government.<sup>18</sup>

## N. Singapore Exchange Rulebook on Debt Securities

The SGX Rulebook details the "Main Board Rules" with its third chapter devoted to provisions on debt securities.<sup>19</sup> Please see Appendix 2 for Chapter 3 of the SGX Rulebook.

## O. Placement of Bonds in the Primary Market

Primary issuance can be in the form of a public offering or a private placement. Public offering is the selling of registered securities to the broad market, rather than to a select group of investors. Public bond offerings are usually listed on a stock exchange in relatively small denominations, and a prospectus is required to be lodged.

A private placement, on the other hand, is the selling of unregistered securities directly, where offer is made to not more than 50 investors within a 12-month period. Private bond placements are not listed on a stock exchange, do not require a prospectus, and consequently cost less than a public offering.

Medium-term note (MTN) programs and reverse enquiries are quite common in the Singapore debt market. MTNs can be offered continuously through agents or dealers on a best effort rather than on an underwritten basis, allowing issuers to meet investors' demand as it emerges.

There are three types of methods available for primary market placement:

- (i) public issue;

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<sup>18</sup> Singapore Exchange Securities Trading, *Singapore Exchange Rulebook*. [http://rulebook.sgx.com/en/display/display\\_viewall.html?rbid=3271&element\\_id=4953](http://rulebook.sgx.com/en/display/display_viewall.html?rbid=3271&element_id=4953)

<sup>19</sup> Footnote 14.

- (ii) private placement; and
- (iii) continuous placement.

Licensed securities dealers and exempt dealers (e.g., banks and merchant banks) are permitted to engage in primary market transactions as agents of the issuer. Every public offering of securities requires a prospectus for offering unless it qualifies for one of the legally defined exemptions. Whenever such exemption is applicable, an information memorandum or a statement of material facts is to be issued. All issue managers are required to comply with the requirements in the laws and regulations (e.g., *Banking Act*, *Securities and Futures Act*, and *Companies Act*, and their corresponding regulations).

The most common issuance method for bonds in the Singapore market is via auction. Singapore government securities are issued via auctions conducted by MAS. Underwriters for corporate bonds may conduct bookbuilding exercises for their issuers. Some of the salient auction information is provided in Table 1.3.

**Table 1.3 Auction Information**

	SGS Bills	SGS Bonds	Corporate Bonds
Auction Technique	Uniform Pricing (with competitive or noncompetitive bidding)	Uniform Pricing (with competitive or noncompetitive bidding)	Private placement or public offering with appointed financial institutions
Auction Frequency	Weekly for 3-month T-bills; twice a year for 1-year T-bills	Depends on issuance calendar	NA
Typical Issue Size	SGD2.3 billion–SGD4.0 billion	SGD2 billion–SGD3 billion for benchmark issues	

NA = not applicable  
Source: Monetary Authority of Singapore.

## P. Secondary Market Trading

SGS primary dealers also participate in the secondary bond market, including the trading of corporate bonds through their respective group entities with an SGX trading seat, as may be applicable.

Table 1.4 provides an overview of some of the more general trading and settlement parameters of the different secondary bond market segments.

**Table 1.4 Secondary Market Information**

Items	SGS Bills	SGS Bonds	Corporate Bonds
Trading	OTC / SGX	OTC / SGX	OTC
Settlement (via)	MEPS+ on DvP basis. CDP cuts off at 3:00 p.m.	MEPS+ on DvP basis. CDP cuts off at 3:00 p.m.	CDP
<b>Regular Trades</b>			
Trading Hours	9:00 a.m. to 4:30 p.m. (Monday to Friday)	9:00 a.m. to 4:30 p.m. (Monday to Friday)	Not fixed
Settlement Period	T+1 The market has T+0 transactions agreed upon quite commonly.	T+1 The market has T+0 transactions agreed upon quite commonly.	T+3

CDP = Central Depository Pte.; DVP = delivery versus payment; MEPS+ = Monetary Authority of Singapore (MAS) Electronic Payment System; OTC = over the counter; SGX = Singapore Exchange; T = time  
Source: Monetary Authority of Singapore

## Q. Methods of Issuing Bonds

### 1. Methods of Issuing Government Bonds

SGS are issued in the primary market through auction according to a pre-announced issuance calendar in the MAS website. Three-month T-bills are issued weekly, while 1-year T-bills and bonds are issued according to an annual issuance calendar. All applications for SGS allocations must be submitted through any of the approved SGS primary dealers. SGS primary dealers will then apply for the book-entry SGS on offer at primary auctions by way of the SGS electronic applications service (SGS eApps) available on the SGS website.

Details of the auction conduct for both Treasury bills and SGS bonds are described in Table 1.5 below.

**Table 1.5 Auction Conduct**

	T-bills	Bonds
<b>Auction Format</b>	Uniform pricing. Successful competitive and non-competitive bids will be allotted at a uniform yield, which is the highest accepted yield (also referred to as cut-off yield) of successful competitive bids submitted at the auction.	
<b>Bids</b>	In yield terms	
<b>Admission</b>	All entities or individuals; non-residents are admitted <sup>a</sup>	
<b>Central bank participation</b>	Yes, but only on a non-competitive basis; MAS' intended amount, if any, is pre-announced to the market prior to each auction	
<b>Competitive bids</b>		
Maximum number of bids	Unconstrained	
Maximum allotment <sup>b</sup>		
- Primary dealer	30% of issue on offer per applicant	
- Non-primary dealer	15% of issue on offer per applicant	
<b>Non-competitive bids</b>		
Status	Total non-competitive allotment is subject to a limit of 40% of issue on offer, with pro-rated allocation if application exceeds this limit	
Maximum allotment		
- Primary dealer	1% of issue on offer per applicant	
- Non-primary dealer	SGD2 million per application for bonds; SGD1 million per application for T-bills	
Auction Process	For both bonds and T-bills, non-competitive bids will be allotted first. The balance of the issue amount will be subsequently awarded to competitive tenders from the lowest to highest yields.	
<b>Auction results</b>		
<b>Lag between:</b>		
1. Announcement and auction	About 5 business days for bonds; About 3 business days for T-bills	
2. Bids and results	About 1 hour	
3. Results and settlement	About 3 business days	
Published information	Average and cut-off prices; percentage of applications at cut-off allotted, total amount of securities applied for and allotted.	
<b>Other information</b>		
Accounting	Book-entry	
Primary Dealers	13	
Underwriters	Yes; Each primary dealer is obligated to tender for an equal share of the issue on offer	
Post-auction subscription	No	
Frequency of auctions	Weekly for 3-month T-bills; twice a year for 1-year T-bills; Annually or semi-annually for bonds according to a published issuance calendar that is consistent and transparent	
Cut-off Time	All bids need to be submitted by noon on the auction day.	
When-issued trading	Yes	

<sup>a</sup> Individual investors will be required to custodise their SGS with the Central Depository (CDP).

<sup>b</sup> The maximum auction allocation limits of 30% and 15% of the issue on offer for each Primary Dealer and non-primary dealers, respectively, include the amounts of non-competitive bids. Source: Singapore Government Securities. [http://www.sgs.gov.sg/market\\_characteristics/mktchar\\_auctions.html](http://www.sgs.gov.sg/market_characteristics/mktchar_auctions.html)

## 2. Methods of Issuing Corporate Bonds

### a. Corporate Bonds

The Monetary Authority of Singapore (MAS) requires corporate issuers to file a prospectus and follow procedures outlined in the *Securities and Futures Act of 2001* (SFA). For corporate bonds that have been or will be offered through the securities exchange, SGX, a copy of the prospectus and a credit rating, if applicable, must be lodged and registered with MAS. Private placements, and the issue to specific groups of investors, are typical for corporate bonds in Singapore, and may qualify for exemptions from said prospectus requirements.

### b. Corporate Bonds Issued by Foreign Entities

There are no capital and exchange restrictions in Singapore. Non-residents are free to issue Singapore dollar-denominated securities, to buy and sell Singapore dollars, and to carry out hedging transactions. The sole restriction is that non-resident financial institutions are required to swap or convert their Singapore dollar proceeds into foreign currencies when they repatriate it out of Singapore. In such cases, MAS requires that the swap duration matches the tenor of the bond.

Prospectus requirements for issuing bonds in Singapore have been streamlined. Financial statements to be provided in the prospectus for listed debentures can be prepared in accordance with the Financial Reporting Standards (FRS), International Financial Reporting Standards (IFRS), or the US Generally Accepted Accounting Principles (US GAAP). For financial statements prepared using other accounting standards, these must be restated in accordance with one of the acceptable standards, and accompanied by an auditor's opinion that no material adjustments are required.

## R. Credit Rating Agencies and the Credit Rating of Bonds

Singapore does not have any homegrown credit rating agencies, but instead relies on international rating services. As a foreign debt securities listing requirement of SGX, any issue of debt securities must have a credit rating of investment grade and above. The same requirement applies for the listing of local debt securities, with the additional requirement that for the issuer qualifying under the listing requirements, any issue of debt securities must have a principal amount of at least SGD750,000.

Under the *Securities and Futures Regulations 2005* (SFR), specifically the provisions on “Offers of Investments” and “Shares and Debentures”, where the issuer or the bonds being offered have been given a credit rating by a credit rating agency, the following should be disclosed in the prospectus:

- (i) Name of the credit rating agency;
- (ii) The credit rating, including whether it is a short-term or long-term credit rating;
- (iii) Whether or not the relevant entity, its guarantor entity, or any of their related parties had paid any fee or benefit of any kind to the credit rating agency in consideration for the credit rating; and

(iv) The date on which the credit rating was given.

## S. Bond Related Systems for Investor Protection

### 1. Overview

There is no investor protection fund in Singapore. This is mainly due to the fact that there are no investment restrictions on securities listed on the SGX. However, CDP, which is the depository and clearing agent for transactions done on the SGX, maintains a compensation fund.

### 2. Introduction of the Electronic Disclosure System

To enhance price transparency and improve investor access to trading activity in Singapore government bonds and bills, MAS launched the E-Bond platform for SGS in July 2005. The platform, through the Bloomberg Professional Service, allows global investors easy access to real-time trading volume and price quotations by SGS primary dealers. It is a straight-through-processing (STP) electronic trading platform for SGS bonds and Treasury bills. It offers SGS primary dealers a multi-dealer requests-for-quote feature, as well as a quote-driven electronic order book for price providers to leave their bids and offers. By publishing pre-trade prices, the platform boosts investor confidence by promoting more efficient price discovery, and helps attract more issuers and investors to participate in the Singapore dollar bond market as well as improve resilience of the market in times of stress.

From 8 July 2011, individual investors were able to trade SGS bonds in the secondary market on the Singapore Exchange. Market makers, who are also SGS primary dealers, have committed to provide two-way prices for the SGS bonds traded on the Exchange. With the new offering by SGX, investors were able to access SGS bond prices on SGX's website or through their brokers, and trade SGS bonds through their brokers in a manner similar to the way stocks are traded. Trading of SGS and corporate bonds for the institutional market remains over-the-counter (OTC).

A total of 20 SGS bonds amounting to SGD82.3 billion are currently traded on the SGX, with maturities of 2 years or more. SGX's Central Depository (Pte.) Limited (CDP) acts as the custodian of SGS bonds traded on the exchange.

Singapore features a fiduciary concept for the principal protection of investors in fixed income securities. The role of a trustee follows the legal tradition under English law, and is performed by designated trustee companies.

The Securities and Futures Act 2001 stipulates the need for an issuer to appoint a trustee to represent the interests of the bondholders of a given bond issue; however, this requirement is subject to a number of exemptions.

The details of the trustee concept and the relevant exemptions are contained in the next Chapter U.



## T. Trustee System

An issuer must appoint a suitable trustee to represent the holders of its debt securities listed on the SGX. However, a trustee is not required for a debt issue that is offered only to sophisticated or institutional investors and traded in a minimum board lot size of SGD200,000, or its equivalent in foreign currencies following the listing.<sup>20</sup>

The duties of trustees are stipulated in Part XIII of the SFA as illustrated in Box 1-4.

### Box 1.4 Duties of Trustees

PART XIII: Securities and Futures Act (SFA)  
OFFERS OF INVESTMENTS  
Division 1 — Shares and Debentures  
SUBDIVISION (3) — DEBENTURES

#### Duties of trustees

266. —(1) (Deleted by Act 16/2003)

(2) Where, after due inquiry, the trustee for the holders of debentures at any time is of the opinion that the assets of the borrowing entity and of any of its guarantor entities which are or should be available whether by way of security or otherwise, are insufficient, or likely to become insufficient, to discharge the principal debt as and when it becomes due, the trustee may apply to the Authority for an order under this subsection.

[1/2005]

(3) The Authority, on such application —

(a) after giving the borrowing entity an opportunity of making representations in relation to that application, by order in writing served on the entity at its registered office in Singapore, may impose such restrictions on the activities of the borrowing entity, including restrictions on advertising for deposits or loans and on borrowing by the entity as the Authority thinks necessary for the protection of the interests of the holders of the debentures; or

(b) may, and if the borrowing entity so requires, shall direct the trustee to apply to the court for an order under subsection (5); and the trustee shall apply accordingly.

[1/2005]

(4) Where —

(a) after due inquiry, the trustee at any time is of the opinion that the assets of the borrowing entity and of any of its guarantor entities which are or should be available, whether by way of security or otherwise, are insufficient or likely to become insufficient, to discharge the principal debt as and when it becomes due; or

(b) the borrowing entity has contravened an order made by the Authority under subsection (2), the trustee may, and where the borrowing entity has requested the trustee to do so, shall apply to the court for an order under subsection (5).

[1/2005]

(5) Where an application is made to the court under subsection (3) or (4), the court may, after giving the borrowing entity an opportunity to be heard, by order, do all or any of the following things:

(a) direct the trustee to convene a meeting of the holders of the debentures for the purpose of placing before them such information relating to their interests and such proposals for the protection of their interests as the trustee considers necessary or appropriate, and of obtaining their directions in relation thereto and give such directions in relation to the conduct of the meeting as the court thinks fit;

(b) stay all or any actions or proceedings before any court by or against the borrowing entity;

(c) restrain the payment of any moneys by the borrowing entity to the holders of debentures of the borrowing entity or to any class of such holders;

(d) appoint a receiver of such of the property as constitutes the security, if any, for the debentures;

(e) give such further directions from time to time as may be necessary to protect the interests of the holders of the debentures, the members of the borrowing entity or any of its guarantor entities or the public,

but in making any such order the court shall have regard to the rights of all creditors of the borrowing entity.

[1/2005]

(6) The court may vary or rescind any order made under subsection (5) as the court thinks fit.

*continued on next page*

<sup>20</sup> Footnote 19.

Box 1.4 continuation

(7) A trustee in making any application to the Authority or to the court shall have regard to the nature and kind of the security given when the offer of the debentures was made, and if no security was given shall have regard to the position of the holders of the debentures as unsecured creditors of the borrowing entity.

[1/2005]

(8) A trustee may rely upon any certificate or report given or statement made by any advocate and solicitor, auditor or officer of the borrowing entity or guarantor entity if it has reasonable grounds for believing that such advocate and solicitor, auditor or officer was competent to give or make the certificate, report or statement.

[1/2005]

[Companies, s. 101]

**Powers of trustee to apply to court for directions, etc.**

267. —(1) A trustee for the holders of debentures may apply to the court —

- (a) for directions in relation to any matter arising in connection with the performance of the functions of the trustee; or
- (b) to determine any question in relation to the interests of the holders of debentures.

(2) The court may —

- (a) give such directions to the trustee as the court thinks fit; and
- (b) if satisfied that the determination of the question will be just and beneficial, accede wholly or partially to any such application on such terms and conditions as the court thinks fit or make such other order on the application as the court thinks just.

(3) The court may, on an application under this section, order a meeting of all or any of the holders of debentures to be called to consider any matters in which they are concerned and to advise the trustee on those matters and may give such ancillary or consequential directions as the court thinks fit.

(4) The meeting shall be held and conducted in such manner as the court directs, under the chairmanship of a person nominated by the trustee or such other person as the meeting appoints.

[Companies, s. 102]

Note: Emphases added by author.  
Source: Attorney-General's Chamber.

## U. Governing Laws on Bond Issuance

Several acts of parliament provide the legal framework for the Singapore securities market:

### 1. Companies Act (Cap 50)

All companies in Singapore are governed by the *Singapore Companies Act* (Cap 50 of the 1994 Revised Edition of the Singapore Statutes). The act provides for the formation (and ultimately termination) of companies; confers on companies some special features; and regulates the relationships between participants in companies and facilitates dealings between companies and outsiders. A summary of recent amendments to the act can be found in the website of Janus Corporate Solutions.<sup>21</sup>

### 2. Securities and Futures Act 2001 (Cap 289)

The SFA was first passed by parliament on 5 October 2001. Since then, it has been coming into force in parts. Part I (“Preliminary”), Part VIII (“Securities Industry Council and Take-over Offers”), Part IX (“Supervision and Investigation”), Part X (“Assistance to Foreign Regulatory Authorities”), and Part XV (“Miscellaneous,” except sections 314, 342[1] and [3]) came into effect on 1 January 2002. MAS announced on 23 May

<sup>21</sup> JanusCorporateSolutions.<http://www.guidemesingapore.com/incorporation/topics/singapore-companies-act-recent-amendments>

2002 that Part XIII of the SFA would come into force on 1 July 2002. This part deals with offers of shares, debentures, and collective investment schemes.

In tandem with the announcement of the date of enforcement of Part XIII of the SFA, MAS also issued new regulations to supplement it, the main regulations of which are:

- (i) The *Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2002* (Shares and Debentures Regulations); and
- (ii) The *Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2002* (Collective Investment Schemes Regulations).

These regulations also came into force on 1 July 2002.

### 3. *Monetary Authority of Singapore Act (Cap 186)*

The act was passed to establish a corporation to be known as the Monetary Authority of Singapore (MAS). It also provides for the transfer to the corporation of certain functions and assets of the government, and for matters incidental thereto and connected therewith.<sup>22</sup> The Act established MAS as the principal banker and fiscal agent of the Government of Singapore. In addition, it sets out MAS' regulatory function for the securities market.

### 4. *Local Treasury Bills Act (Cap 167)*

The *Local Treasury Bills Act*, designated as LBTA, was passed into law as *Ordinance 4* in 1923 (*Treasury Bills (Local) Ordinance 1923*). It was last revised in 2002 and came into effect on 31 December 2002.<sup>23</sup> Under the Act, Parliament will empower the Minister for Finance to borrow money on behalf of the government by issuing Treasury bills, up to a defined maximum amount. This amount is revisited every financial year. The actual issuance of Treasury bills is facilitated by MAS.

### 5. *Government Securities Act (Cap 121A)*

The *Government Securities Act*, designated as GSA, was promulgated on 6 March 1992 as *Act 1 of 1992*, and was last revised and came into effect on 31 December 2002.<sup>24</sup>

## V. Definition of Securities

“Securities” is defined under Chapter 29 of the SFA in sections 2(1), 196A, 214, and 239. Such definitions are provided in Table 1.6.

<sup>22</sup> Attorney-General's Chamber. [http://agcvldb4.agc.gov.sg/non\\_version/cgi-bin/cgi\\_retrieve.pl?actno=REVED-186&doctitle=MONETARY%20AUTHORITY%20OF%20SINGAPORE%20ACT%0A&date=latest&method=part](http://agcvldb4.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-186&doctitle=MONETARY%20AUTHORITY%20OF%20SINGAPORE%20ACT%0A&date=latest&method=part)

<sup>23</sup> Attorney-General's Chamber. [http://statutes.agc.gov.sg/non\\_version/cgi-bin/cgi\\_retrieve.pl?actno=REVED-167&doctitle=LOCAL%20TREASURY%20BILLS%20ACT%0A&date=latest&method=part&sl=1](http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-167&doctitle=LOCAL%20TREASURY%20BILLS%20ACT%0A&date=latest&method=part&sl=1)

<sup>24</sup> Attorney-General's Chamber. [http://agcvldb4.agc.gov.sg/non\\_version/cgi-bin/cgi\\_retrieve.pl?actno=Reved-121A&date=latest&method=part](http://agcvldb4.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=Reved-121A&date=latest&method=part)

**Table 1.6 Definitions of Securities under the Securities and Futures Act 2001**

Section	Definition
<b>Sec. 2(1)</b>	<p>2. (1) In this Act, unless the context otherwise requires —  “securities” means —</p> <ul style="list-style-type: none"> <li>(a) debentures or stocks issued or proposed to be issued by a government;</li> <li>(b) debentures, stocks or shares issued or proposed to be issued by a corporation or body unincorporated;</li> <li>(c) any right, option or derivative in respect of any such debentures, stocks or shares;</li> <li>(d) any right under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in — <ul style="list-style-type: none"> <li>(i) the value or price of any such debentures, stocks or shares;</li> <li>(ii) the value or price of any group of any such debentures, stocks or shares; or</li> <li>(iii) an index of any such debentures, stocks or shares;</li> </ul> </li> <li>(e) any unit in a collective investment scheme;</li> <li>(f) any unit in a business trust;</li> <li>(g) any derivative of a unit in a business trust; or</li> <li>(h) such other product or class of products as the Authority may prescribe,</li> </ul> <p>but does not include —</p> <ul style="list-style-type: none"> <li>(i) futures contracts which are traded on a futures market;</li> <li>(ii) bills of exchange;</li> <li>(iii) promissory notes;</li> <li>(iv) certificates of deposit issued by a bank or finance company whether situated in Singapore or elsewhere; or</li> <li>(v) such other product or class of products as the Authority may prescribe as not being securities</li> </ul>
<b>Sec. 196A</b>	<p>196A. In this Division —  “debenture” has the same meaning as in section 2 and, in relation to a business trust, means any debenture issued by the trustee of the business trust in its capacity as trustee of the business trust;  “securities” —</p> <ul style="list-style-type: none"> <li>(a) in relation to a corporation, for the purposes of sections 196 (a) (i) and</li> <li>(b) (i), 198, 202 and 203, means — <ul style="list-style-type: none"> <li>(i) debentures, stocks or shares issued or proposed to be issued by a corporation;</li> <li>(ii) any right, option or derivative in respect of any such debentures, stocks or shares;</li> <li>(iii) any right under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in — <ul style="list-style-type: none"> <li>(A) the value or price of any such debentures, stocks or shares;</li> <li>(B) the value or price of any group of any such debentures, stocks or shares; or</li> <li>(C) an index of any such debentures, stocks or shares; or</li> </ul> </li> <li>(iv) such other product or class of products as the Authority may prescribe,</li> </ul> <p>but does not include —</p> <ul style="list-style-type: none"> <li>(AA) futures contracts;</li> <li>(BB) bills of exchange;</li> </ul> </li></ul>
Sec. 214	<p>214. In this Division —  “debenture” has the same meaning as in section 2 and, in relation to a business trust, means a debenture issued by the trustee of the business trust in its capacity as trustee of the business trust;</p>
Sec. 239	<p>239. (1) In this Division —  “debenture” includes debenture stock, bonds, notes and any other debt securities issued by a corporation or any other entity, whether or not constituting a charge on the assets of the issuer but does not include —</p> <ul style="list-style-type: none"> <li>(a) a cheque, letter of credit, order for the payment of money or bill of exchange;</li> <li>(b) subject to the regulations made under this Act, a promissory note having a face value of not less than \$100,000 and having a maturity period of not more than 12 months; or</li> <li>(c) for the purposes of the application of this definition to a provision of this Act in respect of which any regulations made thereunder provide that the word “debenture” does not include a prescribed document or a document included in a prescribed class of documents, that document or a document included in that class of documents, as the case may be;</li> </ul> <p>“debenture issuance programme” means any scheme or arrangement by an entity for the issue of debentures or units of debentures where only part of the maximum amount or aggregate number of debentures or units of debentures under the programme is offered initially and a further tranche or tranches may be offered subsequently;[sic]</p>

Source: Attorney-General's Chamber. *Securities and Futures Act 2001*.

## 2. Amendment to the Definition of Securities

Changes to the regulatory and market landscape prompted MAS to incorporate a number of changes to the definition of securities in the Securities and Futures Act 2001. The relevant details are included in Box 1.5.

### Box 1.5 Provisions on the Amendment to the Definition of Securities

8 The definition of “securities” in the SFA will be amended to include units and derivatives of units in a business trust so that the provisions under the SFA relating to securities will also apply to business trusts, including provisions relating to market conduct.

With the amendment to the definition of “securities”, [sic] financial advice provided in relation to units and derivatives of units in a business trust will also be regulated under the Financial Advisers Act[1].

#### SECTION 13: AMENDING THE DEFINITION OF “SECURITIES” AND “FUTURES CONTRACT” IN THE SFA AND THE FAA

28 The definitions of securities (\*10) in the SFA and the FAA take the form of a list of products that are designated as securities, and also lists products that are explicitly excluded as securities. It is necessary to amend the SFA each time MAS decides to bring a new product within its regulatory ambit. This affects the time-to-market for new products.

(\*10) “Securities” is defined at section 2(1), section 196A, section 214 and section 239 of the SFA. The FAA definition of “securities” references section 2(1) of the SFA.

29 We propose to amend the definitions of “securities” to enable MAS to prescribe new products as “securities” in the SFA and the FAA.

30 We also propose to give MAS the ability to exclude products which might otherwise be caught under the “securities” or “futures contract”(\*11) definitions in the SFA and the FAA. This would allow MAS to remove from its regulatory ambit, those products which may not normally be characterised by market participants as financial instruments.

13.1 MAS seeks views on the proposal to amend the definitions of “securities” and “futures contract” in the SFA and the FAA to enable MAS to:

- a. prescribe new products as “securities”; and
- b. prescribe excluded products from the definitions of “securities” and “futures contract”. (\*11)

(\*11) “Futures contract” is defined at section 2(1) of the SFA and at section 2(1) of the FAA

Source: Singapore Law Academy.

## W. Related Legal and Regulatory Issues Behind the Market

Prior to 1973, there was no statutory regulation for the Stock Exchange of Singapore (SES, now SGX). In 1973, the *Securities Industry Act* was enacted. For the most part, the SES was self-regulating, but this changed dramatically in 1985.

In December 1985, the SES and the Kuala Lumpur Stock Exchange were closed for three days after the collapse of Pan-Electric Industries, which came to be known as the Pan-El crisis. The Pan-El crisis precipitated a thorough overhaul of the regulatory framework. The *Securities Industry Act 1973* was repealed and replaced by the *Securities Industry Act 1986*. From that point, there was a general tightening up of securities regulation up to the Asian financial crisis in 1997. Since then, there have been changes in the regulatory balance of the market, culminating in the enactment in 2001 of the *Securities and Futures Act (Chapter 289, 2002 Revised Edition)*, which came into force in various stages in 2002.<sup>25</sup>

<sup>25</sup> Singapore Academy of Law. [www.singaporelaw.sg](http://www.singaporelaw.sg)

## X. Self-Governing Rules Behind the Market

### 1. Self-Regulatory Organizations

#### a. Singapore Exchange

SGX serves as a frontline regulator for the markets and clearing houses that operate in Singapore. SGX works closely with relevant regulatory authorities, including MAS and the Commercial Affairs Department (CAD), to develop and enforce rules and regulations with a view of building an enduring marketplace.

Being a listed exchange and a frontline regulator, SGX is considered a self-regulatory organization (SRO). SGX bears commercial responsibilities in addition to its regulatory duties. While this dual role may present conflicts, SGX has established a framework to manage such conflicts. SGX undertakes various regulatory functions to promote a fair, orderly and transparent marketplace, as well as a safe and efficient clearing system. These functions are handled by the following regulatory departments:

- (i) Issuer Regulation
- (ii) Catalist Regulation
- (iii) Member Supervision
- (iv) Market Surveillance
- (v) Enforcement
- (vi) Risk Management
- (vii) Clearing Risk
- (viii) Regulatory Development and Policy

SGX maintains three boards, the SGX Main Board, Catalist (formerly SGX SESDAQ), and SGX Xtrinet.

The SGX Main Board is comprised of more than two-thirds of the publicly listed companies of under the SGX-ST. These companies are classified into 11 sectors namely, agriculture, multi-industry, manufacturing, mining and resources, transportation and logistics, and infrastructure and property, as well as various services sectors.

Meanwhile, SGX SESDAQ was established in 1987 to enable companies that did not meet the criteria for of the SGX Main Board listings to raise money from the public.

In 2008, this was replaced by Catalist, which is the first sponsor-supervised listing platform in Asia. SGX Xtrinet, on the other hand, was established in 2001 to quote exchange traded funds or SPDRs, which are listed funds, usually in the form of trusts, based on stock market indices.

The SGX also runs a market for trading in shares of foreign companies, called GlobalQuotes. Companies whose shares are traded on GlobalQuotes are merely quoted and not listed on the SGX. As such, they are not subject to SGX's listing rules. Singapore brokers make a market in such shares.

Table 1.7 gives a glimpse at some of the key monthly statistics published by the SGX.

**Table 1.7 Singapore Exchange Monthly Market Statistics, October 2011**

Items	Aug 2011	Sep 2011
Number of Trading Days (Securities)	21	22
Securities market Turnover Volume (million shares)	33,043	23,089
Securities market Turnover Value (SGD million)	41,421	29,860
Securities Daily Average (SGD million)	1,972	1,357
Total Number of Listed Securities (* Exclude GDRs, Hedge Funds, and Debt Securities.)	775	773
Singapore Companies	459	459
Overseas Companies (excluding China)	164	164
China Companies	152	150
Source: Singapore Exchange; Singapore Academy of Law.		

## Y. Bankruptcy Procedures

Singapore has a well-established, comprehensive corporate bankruptcy and insolvency statutory framework, which is largely set forth in the *Companies Act*. The corporate bankruptcy and insolvency laws primarily stem from English and Australian sources, and remain similar in many respects to the legislation of those jurisdictions.

The “Asia-Pacific Restructuring and Insolvency Guide 2006” explains the restructuring and insolvency frameworks of Asia-Pacific Countries.<sup>26</sup> The report on Singapore can be found in the fourth to 13th chapters of the Guide.

<sup>26</sup> Asian Development Bank. 2006. *The Asia-Pacific Restructuring and Insolvency Guide 2006*. Malaysia: Shearn Delamore & Co. and PricewaterhouseCoopers. <http://www.adb.org/Documents/Guidelines/restructuring-insolvency/restructuring-insolvency.pdf>.

## II. Primary and Secondary Markets Regulatory Framework

### A. Regulations and Rules on Issuing Debt Instruments

#### 1. Disclosure Requirements for the Issuance of Debentures

Under section 243 of the *Securities and Futures Act 2001* (SFA), a prospectus for an offer of securities shall contain all the information that investors and their professional advisers would reasonably require to make an informed assessment on matters relating to the offer and the issuer. The *Securities and Futures Regulations 2005* (SFR), specifically the provisions on “Offers of Investments” and “Shares and Debentures,” set the specific disclosure requirements for the different types of debentures, including asset-backed securities and structured notes. The SFR also prescribes the disclosure requirements for an offer of debentures under a debenture issuance programme (DIP). The prospectus for an offer of debentures must normally include terms of the debentures, use of proceeds, identity of directors, capitalization and indebtedness, audited financial statements, and interested person transactions. A listed company can make an offer of debentures using an Offer Information Statement (OIS), which is a more concise disclosure document, in place of a prospectus.

#### 2. Debenture Issuance Programme

Under the SFA, an issuer can make multiple offers of bonds using a DIP. The prospectus for an offer of debentures, which is part of a DIP, shall comprise a base prospectus applicable to every offer under the DIP and a pricing statement applicable to a particular offer. The registered base prospectus is valid for 2 years.

#### 3. Stop Order

The Monetary Authority of Singapore (MAS) may, under section 242 of the SFA, serve a stop order on a person making an offer of securities that does not have any further securities allotted, issued or sold. The MAS may do so if a prospectus has been registered and:

- (a) MAS is of the opinion that the prospectus contains a false or misleading statement;
- (b) there is an omission from the prospectus of any information that is required to be included in it;



- (c) MAS is of the opinion that the prospectus does not comply with the requirements of the SFA; or
- (d) MAS is of the opinion that it is in the public interest to do so.

MAS may also serve an interim stop order on the person making the offer. If the interim stop order is served during a hearing, or a hearing commenced while it is in force, the interim stop order will remain in force until MAS serves a stop order. Otherwise, if there is no hearing, the interim stop order will be in force for a period of 14 days, unless it is revoked by MAS.

## B. Secondary Market-Related Regulations and Rules on Buying Debt Instruments

### 1. Ongoing Disclosure Obligations

Section 268 of the SFA provides that where there is a trustee for the holders of any debentures of a borrowing entity, the directors, or equivalent persons of the borrowing entity, are required to lodge on a quarterly basis with the MAS and the trustee a report that sets out any matters adversely affecting the security or the interests of the holders of the debentures. Additionally, profit-and-loss accounts and balance sheets should be lodged with the MAS and the trustee on a semi-annual basis.

Section 203 of the SFA requires an entity with securities listed for quotation on a securities exchange to notify the securities exchange about any information on specified events or matters as they occur or arise in accordance with the rules of the securities exchange.

Also, part VI of chapter 7 of the *SGX Listing Rules* sets out continuing listing obligations in relation to debt securities. Listing Rule 745 states that a debt issuer must disclose to the exchange through the SGXNet any information which may have material effect on the price or value of its debt securities, or on an investor's decision whether to trade in such debt securities. Furthermore, Listing Rule 746 requires a debt issuer to provide the SGX with its published annual reports as soon as it is issued. Listing Rule 747 also requires a debt issuer to announce any redemption or cancellation of debt securities, the details of interest payments to be made, amendments to the trust deed, and any appointment of a replacement trustee.

### 2. Restrictions for Investors

There are no investment restrictions for investors in bonds.

### 3. Non-Resident Investor Participation

Nonresidents are allowed to transact Singapore dollar-denominated bonds, asset swaps, interest rate swaps and futures, and other financial products in Singapore. However, if the bond issuer is an unrated foreign entity, banks may only place or sell Singapore dollar-denominated bonds to sophisticated investors, as defined under the *Companies Act*.

Nonresidents can also freely remit funds in and out of Singapore.

MAS also provides a brief guide for nonresidents investing in Singapore government securities (SGS).<sup>27</sup>

## C. Financial Sector Incentive Tax Regimes

The Singapore market features tax incentives for bond investors and intermediaries.

### 1. Financial Sector Incentive for Intermediaries

For intermediaries, the Enhanced Tier Bond Market Award under the Financial Sector Incentive Scheme, locally known as FSI-BM, allows for:

- (i) Fees from arranging, underwriting, distributing and trading of bonds to be taxed at a concessionary tax rate of 5%; and
- (ii) Automatic qualifying debt securities (QDS) status for debt securities lead-managed by companies approved as FSI-BMs.

As of June 2010, 28 institutions qualified as FSI-BMs. A list of these institutions can be found on the MAS website.<sup>28</sup>

### 2. Approved Special Purpose Vehicle Scheme

To encourage securitization, the Tax Incentive Scheme for Approved Special Purpose Vehicle (ASPV) allows for:

- i) tax exemptions on income derived from asset securitization transactions;
- ii) tax exemptions on payment by the ASPV and on over-the-counter (OTC) financial derivatives in connection with securitization transactions to a nonresident who does not have a permanent establishment in Singapore;
- iii) concessions on stamp duties; and
- iv) Goods and Services Tax (GST) recovery.

Details of the scheme can be found in Table 2.1.

<sup>27</sup> Singapore Government Securities. [http://www.sgs.gov.sg/pub\\_guide/faqs/publ\\_faquinvestors.html#15](http://www.sgs.gov.sg/pub_guide/faqs/publ_faquinvestors.html#15).

<sup>28</sup> Monetary Authority of Singapore. [http://www.mas.gov.sg/fin\\_development/debt\\_market/List\\_of\\_FSI\\_BM\\_Companies.html](http://www.mas.gov.sg/fin_development/debt_market/List_of_FSI_BM_Companies.html)

**Table 2.1 Details of the Approved Special Purpose Vehicles**

Items	Details
Tax incentive	<ul style="list-style-type: none"> <li>• Tax exemption for income derived by an approved special purpose vehicles (ASPV) from asset securitisation transactions.</li> <li>• Withholding tax exemption for payments to nonresidents or non-Singapore permanent establishments for over-the counter (OTC) financial derivatives connected to a securitisation transaction. This exemption also applies for the entire duration of OTC financial derivatives contracts entered into during the qualifying period.</li> <li>• Stamp duty relief on the transfer of assets into the ASPV for approved transactions.</li> <li>• Recovery of goods and services tax (GST) on the ASPV's business expenses at a fixed rate of 76%.</li> </ul>
Qualifying transactions	<ul style="list-style-type: none"> <li>• Asset securitisation transactions undertaken by the ASPV must be approved by the MAS. These may involve the transfer of trade receivables, interest-bearing instruments, and rights to any other income quantifiable in advance or any other rights, assets or properties approved by the MAS, excluding immovable property in Singapore.</li> <li>• In the circular, the MAS announced that insurance-related risks may also be transferred to an ASPV, and the capital restriction may be relaxed for SPRVs (see details below).</li> </ul>
Qualifying conditions	<ul style="list-style-type: none"> <li>• The following conditions must be met throughout the incentive period:</li> <li>• The ASPV must be: <ul style="list-style-type: none"> <li>▪ a Singapore-incorporated company with no more than \$10,000 issued and paid-up capital. From 5 November 2007, this restriction may be relaxed for SPRVs registered under the Insurance Act, subject to approval;</li> <li>▪ a Singapore tax resident;</li> <li>▪ held in trust for charitable organisations or institutions where the trust is administered by a Singapore trust company; and</li> <li>▪ set up to conduct asset securitisation activities with no profit-making motive and no other non-incident trade or business may be carried out.</li> </ul> </li> <li>• Debt securities issued by ASPVs must meet certain conditions. One of these was that ASPVs were only allowed to issue qualifying debt securities (QDS). From 16 February 2008, this restriction has been removed although non-QDS tranches will be subject to normal tax rules.</li> </ul> <p>The MAS will also consider other factors including the extent to which related functions are carried out in Singapore.</p>
Administrative requirements	<ul style="list-style-type: none"> <li>• For income tax purposes, the ASPV must submit an annual declaration confirming that it has met the qualifying conditions, and an undertaking that related party transactions for OTC financial derivatives transactions were carried out at arm's length.</li> <li>• For GST purposes, a quarterly statement is required for GST claims even though the ASPV is not required to register for GST.</li> </ul>
<p>Source: Monetary Authority of Singapore. <a href="http://www.mas.gov.sg/licensing_guide/insurance/Insurance_Licences.html#sprv">http://www.mas.gov.sg/licensing_guide/insurance/Insurance_Licences.html#sprv</a>; <a href="http://www.mas.gov.sg/resource/news_room/announcements/2005/FDDCir09-2005%20Asset%20Securitisation%20Mkt.pdf">http://www.mas.gov.sg/resource/news_room/announcements/2005/FDDCir09-2005%20Asset%20Securitisation%20Mkt.pdf</a></p>	

### 3. Qualifying Infrastructure Projects Concession

From November 2006, bonds secured by qualifying infrastructure projects receive an additional concession. All interest income from qualifying project debt securities is fully exempted from tax.

### 4. Budget 2011: Sector-Specific Tax Changes for Businesses

As part of the implementation of the Budget 2011 measures, the Sector-Specific Tax Changes for Businesses were passed to strengthen Singapore's position as the leading financial center in Asia. Details of the tax changes are reflected in Table 2.2.

**Table 2.2 Details on the Tax Change Provisions**

Name of Tax Change	Current Treatment	New Treatment
Extension of Tax Incentive Schemes for Project Finance	<p>The package of tax incentive schemes for project finance include:</p> <p>a) Exemption of qualifying income from qualifying project debt securities (QPDS);</p> <p>b) Exemption of foreign-sourced interest income from offshore qualifying infrastructure projects or assets received by approved entities listed on the Singapore Exchange (SGX);</p> <p>c) Remission of stamp duty payable on the instrument of transfer relating to qualifying infrastructure projects or assets to qualifying entities listed or to be listed on the SGX;</p> <p>d) Concessionary tax rate of 5% on qualifying income derived by a financial sector incentive-project finance (FSI-PF) company from:</p> <p>(i) arranging, underwriting or distributing any QPDS;</p> <p>(ii) arranging or underwriting any qualifying project loan; and</p> <p>(iii) providing project finance advisory services relating to a qualifying infrastructure project; and</p> <p>e) Concessionary tax rate of 10% on qualifying income derived by an approved trustee manager or fund manager from managing qualifying SGX-listed business trusts or infrastructure funds in relation to qualifying offshore infrastructure projects or assets.</p> <p>The sunset clause for these incentive schemes is 31 December 2011.</p>	<p>With the exception of the FSI-PF, the existing package of tax incentive schemes for project finance will be extended until 31 March 2017.</p> <p>The FSI-PF scheme will expire on 31 December 2011. Financial institutions can enjoy similar tax benefits of the FSI-PF under the FSI-Credit Facilities Syndication and FSI-Bond Market tax-incentive schemes.</p> <p>MAS released further details on changes in the tax provision last April 2011.</p>

Source: Inland Revenue Authority of Singapore. <http://www.iras.gov.sg/irasHome/page04.aspx?id=11586>

## D. Taxation Framework and Tax Requirements

The Inland Revenue Authority of Singapore (IRAS) administers the tax system in Singapore. It acts as an agent of the Government and provides services in administering, assessing, collecting, and enforcing payment of taxes.

Foreign investors are subject to the following taxes in Singapore:

### 1. Withholding Tax

The one-tier corporate tax system was introduced by the Ministry of Finance through its 2002 budget. Taking effect on 1 January 2003, the one-tier system replaced the prevalent tax imputation system.

The IRAS had introduced a 5-year transition period during which all companies had to adopt the one-tier tax system. According to the IRAS, the following companies got transferred automatically to the one-tier tax system:

- (i) A resident company with no section 44 balances as of 31 December 2002, taking effect on 1 April 2003.
- (ii) All new companies incorporated on or after 1 January 2003.

#### a. Dividends

A full imputation system is, however, adopted whereby the tax payable by the company on its corporate profits is passed on as tax credits to its shareholders upon payment of dividends. Normally, under the tax imputation system there are no reclaims by foreign investors. However, investors with domestic income tax exposure may be eligible for rebates if their marginal tax rate is less than the corporate income tax rate of 18%. Under the one-tier corporate tax system, income tax payable on the normal chargeable income of a company is a final tax in Singapore. This means that shareholders will not be taxed on such dividend income. Only companies on the one-tier corporate tax system can issue one-tier exempt dividends.

### b. Interest

A withholding tax is imposed on interest paid to non-Singapore tax residents. The withholding tax rate is 15% (a final tax) for interest earned by non-Singapore tax residents not engaged in business in Singapore or having a permanent establishment in Singapore. This rate is further reduced by the Double Tax Agreements (DTAs) between Singapore and the resident country of foreign investors. In cases where relief is sought under the DTAs, a Form IR585 must be submitted to the IRAS. However, interest earned by such non-residents from deposits with an approved Singapore bank is free from withholding tax.

The government of Singapore has announced the extension of the period for tax incentives for the debt market for an additional 5 years until 31 December 2013 for QDS, issued by an approved bond intermediary, or any Singapore financial institution. This would include SGS issued during the period from 28 February 1998 to 31 December 2013.

## 2. Corporation Income Tax

Resident companies are taxed in Singapore on income accruing in and derived in Singapore. From assessment year 2008, the rate of corporation income tax is 18%.

## 3. Capital Gains Tax

There is no capital gain tax (CGT) for listed and traded equity shares and fixed-income securities in Singapore, although gains from certain transactions may be deemed as revenue in nature and subject to corporate income tax. Certain gains from the sale of shares in private real property companies may also be considered revenue gains.

## 4. Double Taxation

Singapore has double taxation treaties with 69 countries. Double taxation agreements in place can be found on the IRAS website.<sup>29</sup>

## 5. Goods and Services Tax

Effective 1 April 1999, a GST on domestic consumption was introduced. The tax is paid when money is spent on goods or services, including imports. It is a multi-stage tax, which is collected at every stage of the production and distribution chain. The current GST rate is 7%.

Also, transaction charges and custody fees are subject to GST. However, non-resident investors are exempt from GST.

## 6. Tax Reclaim

Tax reclaim services are not provided in the Singapore market as there is no withholding tax component for dividend payments. An 18% corporate tax on the company's gross profit will be automatically deducted from clients entitled dividends. For interest payment on corporate bonds or government bonds, there is a general 15% withholding tax applied on non-resident investors.

Clients can directly file for a tax reimbursement, depending on the DTA rates, from the IRAS. IRAS has already put in place an efficient tax reclaim process.

<sup>29</sup> Inland Revenue Authority of Singapore. <http://www.iras.gov.sg/irasHome/page.aspx?id=812>

There are no standard forms for the reclaims. As a usual market procedure, the client can write directly to IRAS, for instance at the end of the year, giving details of all the payments eligible for the reduced tax rate.

Custodian banks and other intermediaries may aid investors in the filing of tax reclaims, depending on legal and service level agreements between the parties.

### 7. Stamp Duty

A stamp duty is imposed on commercial and legal documents relating to shares and immovable property.

For the registration of shares held in the physical form, a stamp duty of SGD10 is applicable for registration with no change of beneficial ownership, and 0.2% of the share price multiplied by quantity and foreign exchange conversion, if applicable. This is then rounded up to the nearest hundred for registration with a change of beneficial ownership.

Transfer taxes in the form of government stamp duties are payable by registered stockholders at the rate of SGD0.20 per SGD100 of Singapore shares.<sup>30</sup>

### 8. Regulatory and Tax Information Summary

Table 2.3 summarizes some of the key tax treatments and regulatory considerations for easy reference.

**Table 2.3 Summary of Regulatory and Tax Information**

Items	SGS Bills	SGS Bonds	Corporate Bonds
Restrictions on Foreign Investment	None	None	None
Capital Gains Tax	None	None	None
Custodian			
Local Investors	MEPS+ Participating Banks	MEPS+ Participating Banks	Central Depository Pte. Ltd
Foreign Investors	MEPS+ Participating Banks	MEPS+ Participating Banks	Depository Agent
Interest Income and Withholding Tax			
All Retail Investors	None	None	None
Resident Institutional Investors	10%	10% (If SGS issued after 28 February 1998)	10% (If QDS)
Non-Resident Institutional Investors	None	None	None
Trading Income Tax			
Financial Institutions	10% (Primary Dealers are exempted)	10% (Primary Dealers are exempted)	18% (5% for FSI-BM companies)
FSI-BM = Financial Sector Incentive-Bond Market; MEPS+ = MAS Electronic Payment System Plus; QDS = qualifying debt securities; SGS = Singapore government securities Source: Monetary Authority of Singapore.			

<sup>30</sup> Deutsche Bank AG. 2009. *Direct Securities Service Market Guide–Singapore*.

# III. Trading of Bonds and Trading Market Infrastructure

## A. Exchange Trading and Over-the-Counter Trading

In January 2011, the Finance Ministry of Singapore announced that SGS bonds can be traded on SGX beginning June 2011. SGS were previously traded only among bond dealers or banks, and bank counter applied to retail investors only; not all SGS are tradable on SGX.

SGX plans to continue enhancing its infrastructure to facilitate bond listing and trading, as well as expanding its product range to include more SGS bonds. SGS bonds are traded over-the-counter between 9:00 a.m. and 4:30 p.m., with a break from 11:30 a.m. to 2:00 p.m. SGD's are traded in multiples of 10 units, equivalent to SGD1,000, of their face value.

The table below provides an overview on how various types of fixed income are traded:

**Table 3.1 Fixed Income Products on the Singapore Exchange**

	Fixed Income Products on SGX			Stocks
	SGS Bonds	Corporate Bonds	Preference Shares	
Board lot size	In multiples of 10 units	Typically in multiples of 1,000 units	In multiple of: <ul style="list-style-type: none"> <li>■ 10 units</li> <li>■ 100 units</li> <li>■ 1,000 units</li> </ul>	In multiples of 1,000 units
Pricing format	1 unit – S\$100 Face value of SGS Bond Trades on dirty price basis i.e., price quoted and traded includes accrued interest	1 unit – S\$1 Face value of SGS Bond Trades on dirty price basis i.e., price quoted and traded includes accrued interest	Typically 1 unit – S\$1 or S\$100 face value of preference share Trades on dirty price basis i.e., price quoted and traded includes accrued interest	Varied price range depending on valuation of Stock
Minimum denomination for trading	S\$100	Typically S\$1,000	Typically S\$1,000 or S\$10,000	Subject to board lot size
Illustration: For S\$1,000 face value of bonds	Price x Quantity 100.123 x 10 – S\$1001.23	Price x Quantity 1,001 x 1,000 – S\$1001	Price x Quantity 100.123 x 10–S\$1001.23 100.123 x 100–S\$10,012.3 1.001 x 1,000–S\$1,001	

Source: Singapore Exchange.

## B. Exchange Trading of Bonds

### 1. Trading Hours

Trading sessions are held from Mondays to Fridays between 9:00 a.m. and 5:00 p.m. In addition, there is a pre-open routine (8:30 a.m. to 9:00 a.m.) and pre-close routine (5:00 p.m. to 5:06 p.m.).

There is no trading on Singapore public holidays. When a holiday falls on a Sunday, the following Monday will be a public holiday.

Trading on the eves of Christmas, New Year, and the Chinese New Year will be from 9:00 a.m. to 12:30 p.m. The opening routine will be from 8:30 a.m. to 9:00 a.m. and the closing routine from 12:30 p.m. to 12:36 p.m.

The trading size is in units of SGD1,000.

SGX revised the minimum bid size for SGD debentures as shown in Table 3.2 below. The revised minimum bid sizes for listed debentures in foreign currencies are subsequently detailed in Table 3.3.

**Table 3.2 Minimum Bid Size for Debentures**

Price Range (SGD)	Previous		Current	
	Bid Size (SGD)	Forced Orders (Bids)	Bid Size (SGD)	Forced Orders (Bids)
All	0.001	+/- 30	0.01 or 0.001 as determined by SGX-ST	+/- 30

Notes: This excludes exchange-traded funds, bonds, debentures, loan stocks, and those securities traded in Hong Kong dollar and Japanese yen.  
SGX-ST = Singapore Exchange Securities Trading Ltd.  
Source: Singapore Exchange

**Table 3.3 Revised Hong Kong Dollar and Japanese Yen Minimum Bids Schedule**

Products	Revised Hong Kong Dollar Minimum Bids Schedule		
	Price Range (HK\$)	Bid Size (HK\$)	Forced Orders (Bids)
Securities denominated in Hong Kong dollar	Below 0.25	0.001	+/- 10
	0.25 – 0.495	0.005	
	0.50 – 9.99	0.01	
	10.00 – 19.98	0.02	
	20.00 – 99.95	0.05	
	100 – 199.90	0.10	
	200 – 499.80	0.20	
	500 and above	0.50	
Products	Revised Japanese Yen Minimum Bids Schedule		
	Price Range (¥)	Bid Size (¥)	Forced Orders (Bids)
Securities denominated in Japanese yen	Below 2,000	1	+/- 10
	2,000 – 2,995	5	
	3,000 – 29,990	10	
	30,000 – 49,950	50	
	50,000 – 99,900	100	
	100,000 and above	1,000	

Source: Singapore Exchange website. ([http://www.sgx.com/wps/portal/sgxweb/home/trading/securities/trading\\_settlement](http://www.sgx.com/wps/portal/sgxweb/home/trading/securities/trading_settlement), then open expansion menu 'Minimum Bid Sizes')



## 2. All-Day Trading

Singapore Exchange Securities Trading (SGX-ST) has introduced continuous all-day trading (CAT) for the securities market. This will allow users to trade on the SGX between 12:30 p.m. and 2:00 p.m. SGX trading hours will overlap with those of other Asian exchanges, allowing investors in pan-Asian securities to respond to the flow of news from their home markets and provide them greater convenience.

When trading between 12:30 p.m. and 2:00 p.m., investors should be aware that their trading representatives (TR), i.e., their dealers or remisiers, may be away from their desks and news screens. When TRs are away from their desk, member firms (brokerage firms) will apply their existing arrangements, as follows:

- (a) the use of central dealing desks, where the TRs may channel customers' orders to these central dealers, who are also licensed TRs, for order execution;
- (b) the appointment of a back-up TR to handle customers' orders when the primary TR is away from the office;
- (c) the use of mobile technology or hand-held equipment by the TRs to execute customers' orders while they are outside the member's office premises.

It must be noted that under CAT, demand and supply conditions in the market could be less favorable between 12:30 p.m. and 2:00 p.m. than the rest of the trading day. For instance, market volume may be lower as market participants may be unfamiliar with the new hours. This may affect the price and quantity of orders, which can be executed during this period. The level of service from TRs may also be affected. Relaying orders to the market may take a little longer than usual, and response to questions may be less timely. Investors are encouraged to discuss order execution and management with their TRs. Investors using the Internet trading platform, and who occasionally rely on TRs to amend or withdraw their orders, should also discuss order execution and management with their TRs.

With CAT, any resting, unmatched orders queuing in the trading system may be matched throughout the day including during the period between 12:30 p.m. and 2:00 p.m. as the market absorbs news, orders and developments. Investors are reminded to monitor the status of orders given to their TR and the developments of the market all day, including the period from 12:30 p.m. to 2:00 p.m. Investors can also expect to receive a one-off request from their TRs to confirm their awareness of how they will be serviced during the period between 12:30 p.m. to 2:00 p.m. Investors are encouraged to consider carefully how they will like to be serviced by their member and TRs, especially during the period between 12:30 p.m. to 2:00 p.m.

If investors do not wish to use any of the three arrangements during this period, there are other modes of trading available such as online trading through the Internet where you can enter orders directly into members' trading systems. If investors are uncertain about the options available to them or their preferred mode of trading, they may speak to their member and TR.

Trading hours have also been changed and are shown in Figure 3.1.

**Figure 3.1 Changes in the Singapore Exchange Trading Hours**

Current: Ready and Unit Share Market			New: Ready and Unit Share Market		
Preopen	8:30am	8:59am	Preopen	8:30am	8:59am
Noncancel	8:59am	9:00am	Noncancel	8:59am	9:00am
Open	9:00am	12:30pm	Open	9:00am	5:00pm
Adjust	12:30pm	1:59pm	Preclose	5:00pm	5:05pm
Noncancel	1:59pm	2:00pm	Noncancel	5:05pm	5:06pm
Open	2:00pm	5:00pm	Close	5:06pm	
Preclose	5:00pm	5:05pm			
Noncancel	5:05pm	5:06pm			
Close	5:06pm				

Current: Bond Market			New: Bond Market		
Open	9:00am	12:30pm	Open	9:00am	5:00pm
Lunch	12:30pm	1:59pm	Close	5:00pm	
Open	2:00pm	5:00pm			
Close	5:06pm				

Current: Buying-in Market			New: Buying-in Market		
Open	9:00am	12:30pm	Open	9:00am	5:00pm
Lunch	12:30pm	1:59pm	Close	5:00pm	
Open	2:00pm	5:00pm			
Close	5:06pm				

Source: Singapore Exchange.

Since the SGX introduced all-day trading on 1 August 2011, market prices and data can be generated continuously throughout the day, including the period from 12:30 p.m. to 2:00 p.m., and disseminated through existing data-feed channels, where investors normally obtain such information.<sup>31</sup>

### C. Primary Dealer System

SGS primary dealers (PDs) play a critical role in the growth and development of the bond market by carrying out the following functions:

- (i) Provide liquidity to the SGS market by quoting two-way prices under all market conditions;
- (ii) Underwrite issuance at SGS auctions;
- (iii) Provide market feedback to MAS; and
- (iv) Assist in the development of the SGS market.

In return, they are given the following privileges:

<sup>31</sup> Singapore Exchange Securities Trading. [http://www.sgx.com/wps/wcm/connect/sgx\\_en/home/trading/securities/trading\\_hours\\_and\\_calendar/SGX+Securities+Market+Trades+Non-Stop+All+Day+from+1+August+2011?presentationtemplate=design\\_new/PT\\_Print\\_Friendly](http://www.sgx.com/wps/wcm/connect/sgx_en/home/trading/securities/trading_hours_and_calendar/SGX+Securities+Market+Trades+Non-Stop+All+Day+from+1+August+2011?presentationtemplate=design_new/PT_Print_Friendly)

- i. Exclusive dealing with MAS in money market and foreign exchange operations;
- ii. Exclusive access to the MAS Enhanced Repo Facility to borrow SGS issues to facilitate market making;
- iii. Exclusive right to submit applications for SGS at auctions and reverse auctions;
- iv. Higher non competitive tender limit and overall allocation limit at SGS auctions;
- v. Tax exemption on trading income derived from SGS; and
- vi. Close consultation and dialogue with MAS on SGS auctions and market related issues.

Below is a list of the primary dealers for SGS (as of 31 March 2011):

- (i) Australia and New Zealand Banking Group Limited
- (ii) The Royal Bank of Scotland N.V.
- (iii) Bank of America, National Association
- (iv) Barclays Bank PLC
- (v) BNP Paribas
- (vi) Citibank NA
- (vii) Credit Suisse
- (viii) Deutsche Bank AG
- (ix) DBS Bank Ltd.
- (x) Hongkong and Shanghai Banking Corporation Ltd.
- (xi) Oversea Chinese Banking Corporation Ltd.
- (xii) Standard Chartered Bank
- (xiii) United Overseas Bank Ltd.

Other information related to primary dealer operations of SGS can be found on the SGS website.<sup>32</sup>

## D. Bond Repurchase Market

The repurchase (repo) market is relatively deep with a daily volume of about SGD2.0 billion in 2011. To facilitate trading and market-making by Primary Dealers, the MAS operates a repo facility that allows Primary Dealers to borrow SGS from MAS on an overnight basis when the SGS are not readily available from other sources.

### *SGS Sale and Repurchase Agreements (Repo)*

There are two main types of SGS repo, corresponding to the two main uses of repo transactions. These are the General Collateral (GC) repo and Specific repo.

A General Collateral repo is a collateralized loan, with the underlying SGS—not specified in advance of the transaction—used as the collateral for the cash received during the first leg of the repo transaction. A GC repo is typically used by market participants as a relatively cheaper means to finance their holdings of SGS, and by cash-rich institutions as a secured means of lending cash. Transactions between

<sup>32</sup> Singapore Government Securities. [http://www.sgs.gov.sg/resource/pub\\_guide/guides/A%20Guide%20to%20SGS%20PD%20Operations.pdf](http://www.sgs.gov.sg/resource/pub_guide/guides/A%20Guide%20to%20SGS%20PD%20Operations.pdf)

Primary Dealers typically use the standard “market lot” for SGS GC repo of USD25 million for tenors from overnight to 1 month.

In a Specific repo, one party of the transaction asks for a specific SGS and contracts with the other party holding the specific SGS to repo out the bond. A Specific Repo is typically used by market participants to cover a short position in SGS. In recent times, Primary Dealers have transacted these through the MAS repo facility. Through the eApps platform, Primary Dealers are also able to submit their closing prices and their MAS repo facility bids, streamlining the repo auction process.

### 1. Definition

In this section, “buyer” refers to the party who is buying securities under the first leg of a repo, and “seller” refers to the party who is selling the securities under the first leg of a repo.

### 2. Business Hours

- (i) The normal business hours for T+1 settlement is 9:00 a.m. to 4:30 p.m. from Mondays to Fridays; and
- (ii) The normal business hours for same day settlement are 9:00 a.m. to 3:30 p.m. from Mondays to Fridays.

### 3. Standard Market Lot Transaction Size

The standard market lot size for repo transactions is SGD25 million. Parties who wish to transact a repo for a different amount should specify the amount when requesting for, or providing, quotes.

### 4. Settlement

Settlement is usually on the basis of payment against delivery of the security transacted.

### 5. Repo Cost

Calculation of repo cost is on the basis of 365 days per year.

### 6. Purchase Price

Unless otherwise agreed between the buyer and the seller, the purchase price shall include the accrued interest. The prevailing market prices shall be used as a guide when determining the purchase price of the securities, which will be known as the dirty price.<sup>33</sup>

## E. Transparency in Bond Pricing

Bloomberg E-Bond, available to certain users of the BLOOMBERG PROFESSIONAL(R) service through the function EBND < GO >, is a global electronic trading system for bonds and treasury bills. Developed for the Singapore primary-dealer community on

<sup>33</sup> Singapore Government Securities. [http://www.sgs.gov.sg/pub\\_guide/market\\_practices/publ\\_mtkpractice.html#sgs1](http://www.sgs.gov.sg/pub_guide/market_practices/publ_mtkpractice.html#sgs1)

behalf of the Monetary Authority of Singapore (MAS) for Singapore Government Securities (SGS), Bloomberg E-Bond offers a unique multi-dealer request for quote (RFQ), as well as a quote-driven electronic order book for price providers to leave their bids and offers, along with straight-through-processing (STP) features and real-time market activity displays. SGSM < GO > is the real-time market activity monitor for SGS, and EB < GO > is the main menu for E-Bond functions.

Using Bloomberg E-Bond, Singapore primary dealers now benefit from a flexible, commission-free dealing, trade capture and reporting mechanism while seamlessly offering global investors and market oversight entities a real-time view of price quotations and market activity for SGS. The platform will play a key role in fostering price transparency and liquidity in financial markets in the region.

In July 2005, Bloomberg E-Bond became the interbank dealing platform in Singapore when the initial launch of Bloomberg E-Bond RFQ trading among Singapore primary dealers introduced real-time quote depth and trading information to domestic and foreign market participants. The next phase of Bloomberg E-Bond went live on 3 May 2006, involving the addition of a quote-driven electronic order book for price providers to leave their bids and offers. The incorporation of executable quotes further increased the quality of liquidity and transparency in the SGS market.

Bloomberg E-Bond provides price transparency and liquidity but does not perform matching, execution, clearing or settlement functions.

# IV. Description of the Securities Settlement System

## A. Dematerialization or Immobilization versus Physical Securities

Most bonds are immobilized. However, some physical bonds are not immobilized at the central securities depository (CSD). Bonds are held in both registered and bearer form.

## B. Clearing and Settlement System in Singapore

The Monetary Authority of Singapore's (MAS) role in the oversight of payment and settlement systems is to promote the safety and efficiency of these infrastructures. Thus, MAS is empowered under the *Payment System (Oversight) Act 2006* to supervise payment system operators such as the Automated Clearing House (ACH) and payment system participants.<sup>34</sup>

MAS oversees the Central Depository Pte. (CDP) and manages the clearing and settlement system for SGS. The CDP operates the clearing and settlement system for securities traded on the Singapore Exchange Securities Trading (SGX-ST) and corporate debt securities.

CDP, established in 1987, is a wholly owned subsidiary of the Singapore Exchange Securities Trading (SGX). It provides integrated clearing, settlement and depository facilities for the securities market, covering both equities and fixed-income instruments. It principally serves the Singapore market, but has links with other CSDs in the United States, Japan and China to support settlement of cross-border trades.

CDP holds the book-entry securities deposited with it as a bare trustee for the collective benefit of depositors. Securities are immobilised at CDP where ownership is transferred through book-entry. The physical certificates of immobilised instruments are safe kept with a CDP-nominated custodian bank.

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<sup>34</sup> Monetary Authority of Singapore. [http://www.mas.gov.sg/fin\\_development/fin\\_sec/payment\\_system/PaymentSettlement.html#EMEAP](http://www.mas.gov.sg/fin_development/fin_sec/payment_system/PaymentSettlement.html#EMEAP)

CDP processes the daily settlement of funds between settlement banks and CDP through the MAS Electronic Payment System (MEPS+) for all Singapore dollar settlements with effect from 25 February 2011. This is part of CDP's continued efforts to improve efficiency and reduce risk in the securities settlement process. Previously, settlement banks credit CDP's account with the United Overseas Bank Limited on due date. Following this change, settlement banks will credit CDP's account with MAS on due date. The corresponding changes to the settlement timings are highlighted in Table 4.1.

**Table 4.1 Main Changes to Settlement Timings**

Item	Full-Day Trading
Settlement run	12:00 p.m.–2:00 p.m.
CDP to issue online transmission of final settlement balances to clearing members	2:30 p.m.
Clearing members to pay debit final settlement balances to CDP	By 3:30 p.m.
CDP to pay credit final settlement balances to clearing members	By 4:30 p.m.

Source: Monetary Authority of Singapore.

Also, CDP has amended the terms and conditions for electronic and phone services, which took effect on 16 September 2011.<sup>35</sup>

Meanwhile, settlement procedures must be in accordance with the operating rules of MEPS+, a real-time gross settlement system designed for funds transfer in SGS transactions. The MEPS+ service agreement can be found in the MAS website.<sup>36</sup>

### C. The Monetary Authority of Singapore Electronic Payment System

The Monetary Authority of Singapore Electronic Payment System (MEPS+) is the Singapore dollar Real-Time Gross Settlement (RTGS) system for the Singapore market. The 'Plus' denotes the latest, more advanced version introduced in December 2006. The original MEPS had been in operation since 1998.

For the purposes of the bond market, MEPS+ is used to capture, process and settle SGS transactions among participants, using two sub-systems. MEPS+ SGS is the platform to transfer SGS between participant accounts while the corresponding cash transfers are effected via MEPS+ RTGS. A link between the securities and cash segments of each transaction enables the settlement of SGS trades on a delivery-versus-payment (DVP) basis.

<sup>35</sup> Singapore Exchange Securities Trading Limited. <http://www.sgx.com/wps/wcm/connect/bd1b408047fa3bdd93f4d311587dcf02/Electronic+and+Phone+Services+T%26C.pdf?MOD=AJPERES>

<sup>36</sup> Monetary Authority of Singapore. [http://www.mas.gov.sg/resource/legislation\\_guidelines/MEPS+plus/MEPS+plus%20Service%20Agreement%20and%20Rules\\_Apr2011.pdf](http://www.mas.gov.sg/resource/legislation_guidelines/MEPS+plus/MEPS+plus%20Service%20Agreement%20and%20Rules_Apr2011.pdf)

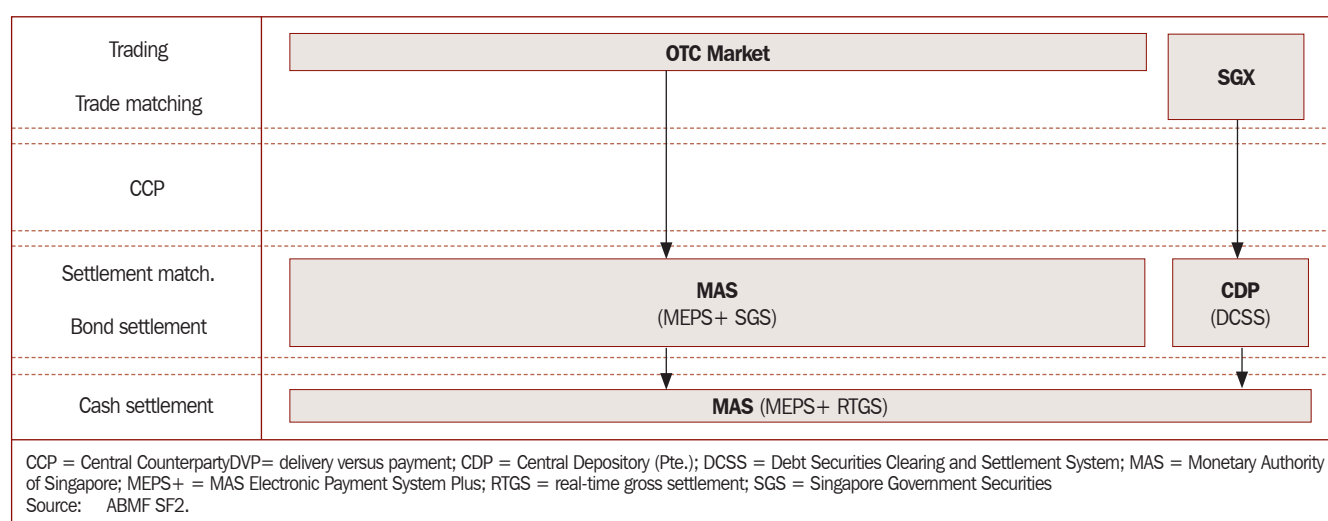
The specific functions and features of MEPS+ in relation to the settlement of SGS transactions are explained in greater detail in the following sections.

For more information, kindly also refer to the Committee on Payment and Settlement System’s (CPSS) publication.<sup>37</sup>

### D. Bond Market Infrastructure Diagram

Figure 4.1. shows the key elements of the bond market infrastructure in Singapore.

**Figure 4.1 Bond Market Infrastructure**



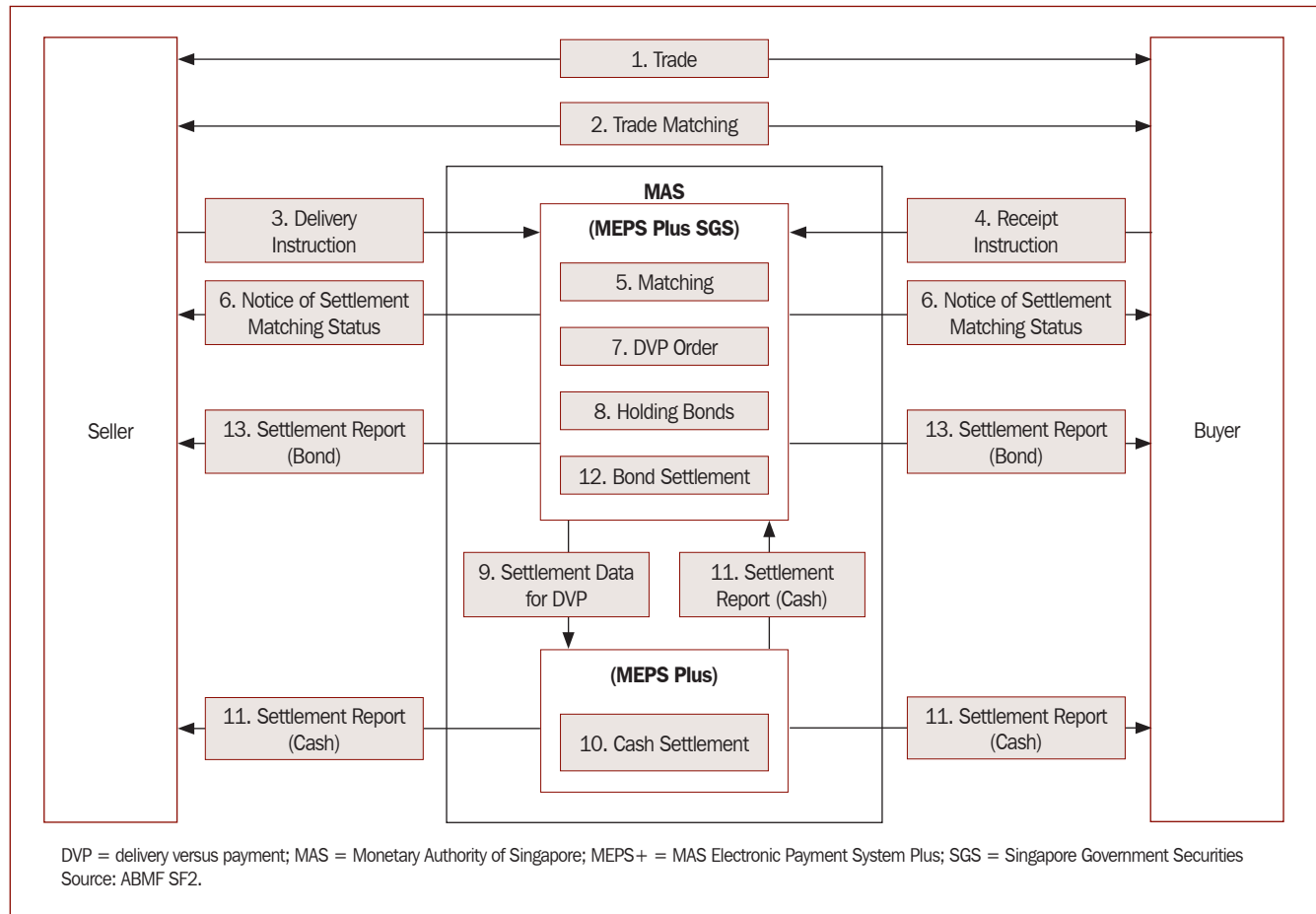
### E. Business Process Flowchart Level 2: Singapore Bond Market and Delivery versus Payment

The delivery-versus-payment settlement for Singapore Government Securities (SGS) is illustrated in Figure 4.2, using the business process flow of a typical domestic transaction. The individual steps are detailed after the flowchart and explained in context in section G.

<sup>37</sup> Committee on Payment and Settlement Systems (CPSS). 2011. "Payment, clearing and settlement systems in Singapore," *Payment, Clearing and Settlement Systems in the CPSS Countries*. Switzerland: Bank for International Settlements. [http://www.bis.org/publ/cpss97\\_sg.pdf](http://www.bis.org/publ/cpss97_sg.pdf)



Figure 4.2 Business Process Flowchart Level 2

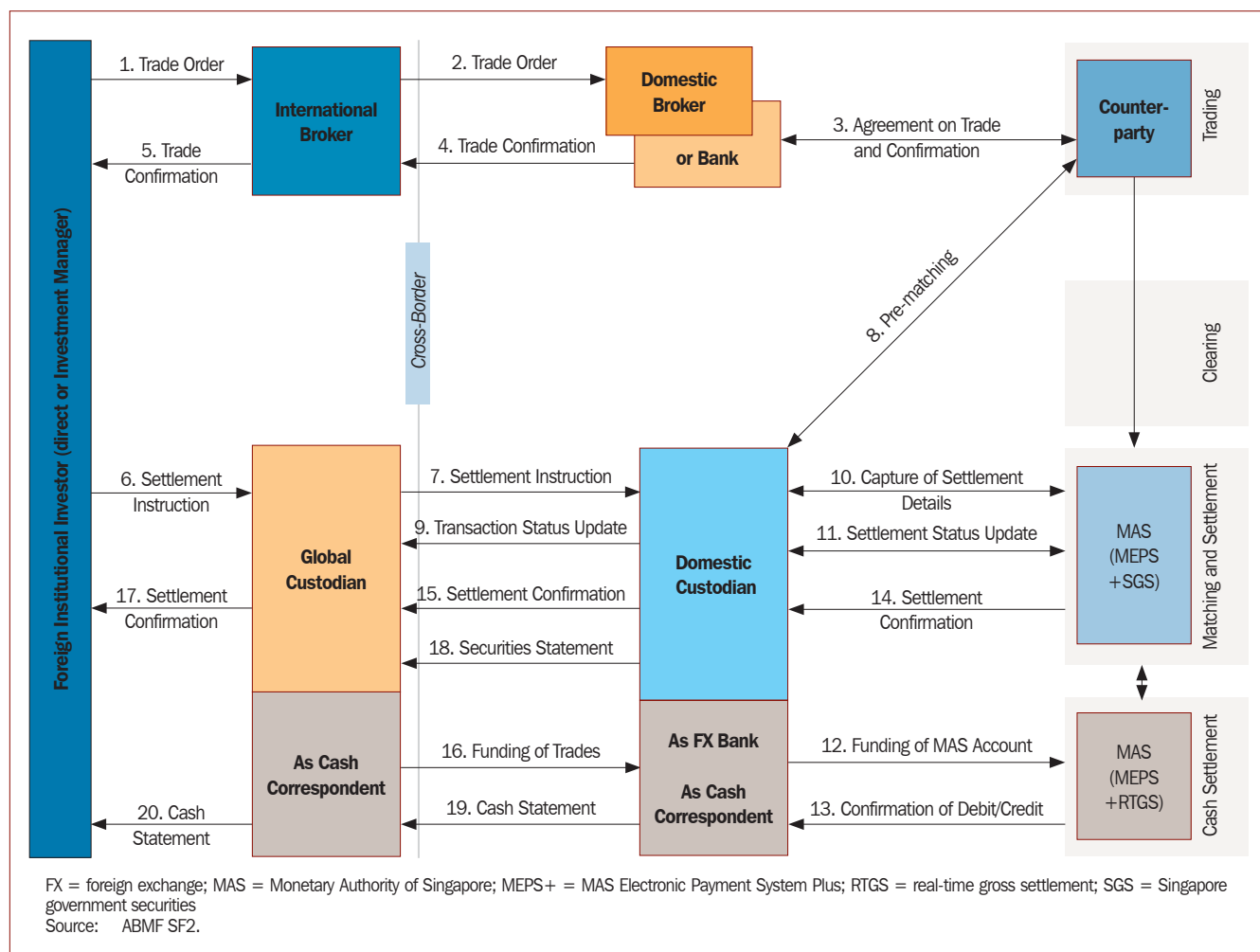


1. Singapore Government Securities (SGS) is done on an over-the-counter basis.
2. Trades are matched among seller and buyer.
3. The bond seller sends the agreed trade instruction to MEPS+ SGS.
4. The bond buyer sends the agreed trade instruction to MEPS+ SGS.
5. MEPS+ SGS performs bond matching.
6. MEPS+ SGS sends the notice of bond matching status to seller and buyer..
7. MEPS Plus Book-entry clearing system creates the DVP order.
8. When the seller's SGS account has sufficient SGS, the SGS are earmarked for transfer to the buyer.
9. Settlement data for DVP is sent to MEPS+ RTGS.
10. When the funds are available, the amount is debited from the buyer's RTGS account and credited to the seller's RTGS account.
11. MEPS+ RTGS simultaneously MEPS+ SGS to transfer the securities and reports the cash settlement status to both sides of the trade.
12. MEPS Plus Book-entry clearing system transfer the bonds to the buyer's account.
13. MEPS Plus Book-entry clearing system reports the settlement status to both seller and buyer.

## F. Over-the-Counter Bond Transaction Flow for Foreign Investors

When foreign institutional investors transact SGS, a number of additional process steps will need to be considered. Figure 4.3 illustrates a cross-border bond transaction flow, including funding and foreign exchange components. The individual steps are explained in greater detail after the flowchart.

**Figure 4.3 Over-the-Counter Bond Transaction Flow for Foreign Investors**



Below is the description of steps in the flowchart.

### (1) Trade Date

1. Foreign institutional investor places order with international broker
2. International broker places order with domestic broker
3. Domestic broker trades over-the-counter (OTC) with counterparty (through phone, Bloomberg)
4. Domestic broker sends trade confirmation to international broker
5. Foreign institutional investor receives trade confirmation

## (2) Settlement Date / T+1

6. Foreign institutional investor instructs global custodian on securities settlement details and funding details
7. Global custodian instructs domestic custodian on securities settlement details
8. Domestic custodian and counterparty pre-match settlement details through phone
9. Domestic custodian provides result of pre-matching to global custodian
10. Domestic custodian transmits settlement details to MAS (MEPS+)
11. Domestic custodian monitors settlement status updates (online)
12. Domestic custodian funds MAS account through MEPS+
13. Upon transfer of cash, debit or credit confirmation from MAS through MEPS+
14. Upon transfer of securities, settlement confirmation from MAS through MEPS+
15. Domestic custodian sends settlement confirmation to global custodian
16. Global custodian funds Singapore dollar account with domestic custodian, or foreign currency nostro (before end of day)
17. Global custodian sends settlement confirmation to foreign institutional investor
18. Domestic custodian sends securities statement to global custodian
19. Domestic custodian sends debit or credit confirmations as cash statement to global custodian
20. Global custodian sends cash statement to foreign institutional investor

## G. Settlement Schemes for Government Bonds, Corporate Bonds and Other Bonds

### 1. Singapore Government Securities

MAS acts as the agent for the Government of Singapore in issuing SGS that comprise

Treasury bills (T-bills) and government bonds. Maturities range from 3 months to 15 years with 3-month and 1-year benchmarks for T-bills, and 2-, 5-, 10-, 15-, 20- and 30-year benchmarks for bonds. Since May 2000, the Government's issuance program has aimed to build large and liquid benchmark bonds. This has been achieved through larger issuances of new SGS bonds and re-openings of existing issues, thereby enlarging the free float of SGS available for trading.

For SGS, settlement of successful auction bids takes place on the issue date, which is usually 2 business days following the auction date. Settlement is via MEPS+, which is a Real Time Gross Settlement System (RTGS), on a delivery versus payment (DVP) basis. For non-Primary Dealers without MEPS+ accounts, the book-entry, scripless SGS allotted to them will be held in custody on their behalf by the Primary Dealers with whom they have set up custody accounts.

Singapore dollar corporate bonds are usually custodised by the CDP. All securities are settled on a DVP basis, usually within T+3 days. Investors may also settle via Euroclear or Clearstream, both of which have links to the CDP.

# VI. Costs and Charging Methods

## A. Exchange Fees

The SGX provides a menu of exchange fees to be paid.<sup>38</sup>

### 1. Initial Listing Fee

In the issuance of bonds, notes, or other debt securities denominated in local or foreign currency, the following initial fees are payable upon submission of the listing application:

- (i) a fixed fee of SGD15,000; and
- (ii) a non-refundable processing fee of SGD10,000.

### 2. Additional Listing Fees

No additional listing fee is payable if the issuer issues additional debt securities of a series, which has an existing listing on the exchange.

### 3. Annual Dues

No annual fee is payable to the exchange.

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<sup>38</sup> Singapore Exchange Securities Trading Limited. [http://www.sgx.com/wps/portal/sgxweb/home/listings/listing\\_products#panelhead3](http://www.sgx.com/wps/portal/sgxweb/home/listings/listing_products#panelhead3)

**Table 5.1 Selected Costs and Charging Methods in the Singapore Bond Market**

Type	Details	Remarks
Singapore Government Securities (SGS) settled via MEPS+		
Message Fee	SGD1.45 per message (transaction instruction)	
Additional Time Block Charges (late settlement fee)	SGD0.25 for every transaction settled between 2.30pm and 4pm SGD1.05 for every transaction settled between 4pm and 5.30pm	
<b>Trades on Singapore Exchange, settled via CDP</b>		
Brokerage Fee (exchange market only)	Taking effect from 1 October 2000, brokerage rates are fully negotiable for all transactions on the Singapore Exchange Securities Trading Limited (SGX). Minimum brokerage fee is SGD40.	
Clearing Fee	0.04% on the value of the contract, subject to a maximum of SGD600.	
Buy-in Brokerage Fees	Buy-in brokerage is fixed at a rate of 0.75% subject to a minimum of brokerage of SGD10 per trade of 500 units or more and SGD3 per trade for less than 500 units. SGX access fees chargeable at 0.0075% of the value of the contract would also be levied together with 0.04% of clearing fees chargeable as well (maximum SGD600).  In addition, a processing fee of SGD30 will be levied for every buying-in contract or withdrawal of buying-in.  Taking effect from 25 September 2008 onwards, there is an additional penalty fee of 5% of the buy-in value subject to a minimum of SGD1,000.  With effect from trades settling on 30 November 2009, this penalty fee is only applicable if buy-in is unsuccessful on T+3.	
Goods and Services Tax (GST)	7% on brokerage and clearing fees is applicable to Singapore residents; non-residents are exempt from GST.	
Debt Securities Settlement Fee (in CDP/DCSS)	\$S2.00 per settlement per side	
<b>Registration fees</b>		
<b>Registration of Physical Certificates</b>		
<b>No Change of Beneficial Ownership (NCBO)</b>		
Scrip fees	SGD2.14 per certificate or transfer deed (whichever is greater)	
Cancellation Fee	SGD1.07 per certificate submitted	
Stamp Duty	SGD10.00 per transfer deed	
Conversion Charges	SGD20.70 per certificate (SGD10.70 CDP deposition fees + SGD10)	
<b>Change of Beneficial Ownership</b>		
Scrip Fees	SGD2.14 per certificate or transfer deed (whichever is greater)	
Cancellation Fee	SGD1.07 per certificate submitted	
Stamp Duty	SGD(0.2% x [Security] Price x Quantity) (Based on market value)	
Conversion Charges	SGD20.70 per certificate (SGD10.70 CDP deposition fees + SGD10)	
Note: NCBO = No Change in Beneficial Ownership Source: DBS Bank, 2011. <i>DBS Bank Securities Market Guide Singapore.</i>		

## VII. Market Size and Statistics

### A. Size of Local Currency Bond Market in Percentage of Gross Domestic Product (Local Sources)

**Table 6.1 Size of Local Currency Bond Market (% GDP)**

Date	Government (% GDP)	Corporate (% GDP)	Total (% GDP)	Government (\$ billions)	Corporate (\$ billions)	Total (\$ billions)
Dec-95	15.0	8.9	24.0	13.12	7.78	20.90
Dec-96	15.3	10.4	25.7	14.65	10.01	24.66
Dec-97	14.8	12.2	27.1	13.05	10.73	23.77
Dec-98	20.1	14.1	34.2	17.36	12.12	29.48
Dec-99	24.5	18.8	43.3	21.19	16.21	37.40
Dec-00	26.6	20.9	47.5	24.93	19.60	44.53
Dec-01	34.1	30.4	64.5	29.06	25.85	54.91
Dec-02	35.8	29.6	65.3	33.47	27.67	61.14
Dec-03	37.7	30.5	68.2	37.10	30.01	67.11
Dec-04	37.9	30.6	68.5	44.25	35.73	79.97
Dec-05	37.4	28.8	66.2	46.90	36.20	83.10
Dec-06	37.2	28.9	66.0	55.79	43.37	99.17
Mar-07	36.3	28.0	64.2	56.90	43.89	100.80
Jun-07	37.7	28.4	66.2	60.90	45.88	106.79
Sep-07	37.6	27.0	64.6	65.18	46.84	112.02
Dec-07	36.7	28.8	65.6	68.12	53.54	121.66
Mar-08	37.9	29.5	67.4	75.17	58.46	133.63
Jun-08	39.4	29.4	68.8	79.43	59.36	138.79
Sep-08	37.1	30.0	67.0	70.78	57.19	127.97
Dec-08	39.0	29.0	68.1	73.14	54.40	127.54
Mar-09	41.2	28.5	69.6	71.05	49.12	120.17
Jun-09	44.4	28.9	73.3	79.94	51.95	131.89
Sep-09	47.1	30.0	77.1	86.97	55.52	142.49
Dec-09	46.4	27.8	74.2	88.05	52.74	140.79
Mar-10	45.6	29.4	75.0	90.49	58.31	148.80
Jun-10	44.3	29.1	73.4	91.54	60.17	151.71
Sep-10	43.1	30.4	73.5	97.31	68.69	166.00
Dec-10	43.6	31.9	75.5	103.09	75.58	178.66
Mar-11	42.7	34.3	77.1	105.75	84.87	190.62

Source: AsianBondsOnline, [http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=LCY\\_in\\_GDP\\_Local](http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=LCY_in_GDP_Local)

## B. Issuance Volume of Local Currency Bond Market

**Table 6.2 Issuance Volume of Local Currency Bond Market (\$ billions)**

Date	Government	Corporate	Total
Mar-95	4.36	0.15	4.52
Jun-95	3.91	0.31	4.23
Sep-95	4.59	0.11	4.69
Dec-95	4.24	0.62	4.86
Mar-96	4.73	0.20	4.93
Jun-96	4.20	0.08	4.28
Sep-96	4.76	0.26	5.02
Dec-96	4.37	0.39	4.75
Mar-97	3.71	0.09	3.80
Jun-97	5.05	0.37	5.42
Sep-97	3.90	0.34	4.24
Dec-97	4.40	0.09	4.49
Mar-98	4.18	0.05	4.22
Jun-98	4.60	0.00	4.61
Sep-98	6.39	0.10	6.50
Dec-98	6.07	0.32	6.39
Mar-99	5.07	0.36	5.43
Jun-99	6.30	0.50	6.80
Sep-99	6.27	1.02	7.29
Dec-99	7.57	0.66	8.23
Mar-00	7.31	0.24	7.55
Jun-00	8.00	0.81	8.80
Sep-00	7.78	1.67	9.45
Dec-00	8.12	1.18	9.30
Mar-01	7.55	1.77	9.32
Jun-01	8.20	2.54	10.74
Sep-01	8.33	2.72	11.05
Dec-01	8.32	0.87	9.19
Mar-02	6.16	0.38	6.54
Jun-02	8.63	0.93	9.56
Sep-02	8.29	0.22	8.51
Dec-02	10.35	0.63	10.98
Mar-03	8.13	0.69	8.83
Jun-03	10.02	0.71	10.73
Sep-03	9.26	1.12	10.38
Dec-03	9.12	1.41	10.53
Mar-04	10.15	1.75	11.90
Jun-04	10.54	0.81	11.35
Sep-04	12.71	1.34	14.05
Dec-04	12.50	1.18	13.69
Mar-05	11.87	0.35	12.22
Jun-05	12.93	1.13	14.07
Sep-05	13.36	0.64	14.00
Dec-05	11.91	1.03	12.94

*continued on next page*

Table 6.2 continuation

Date	Government	Corporate	Total
Mar-06	12.32	1.11	13.43
Jun-06	14.85	0.80	15.64
Sep-06	14.99	1.76	16.74
Dec-06	15.09	1.41	16.50
Mar-07	18.20	0.72	18.92
Jun-07	21.50	2.34	23.84
Sep-07	18.99	0.70	19.69
Dec-07	22.43	1.41	23.84
Mar-08	23.55	2.49	26.04
Jun-08	29.93	1.14	31.07
Sep-08	23.90	5.83	29.72
Dec-08	23.42	0.15	23.58
Mar-09	26.00	0.79	26.79
Jun-09	31.78	1.69	33.47
Sep-09	33.20	2.01	35.21
Dec-09	38.72	1.62	40.34
Mar-10	32.09	3.68	35.78
Jun-10	38.45	2.52	40.96
Sep-10	42.31	4.33	46.64
Dec-10	42.93	4.38	47.31
Mar-11	44.11	2.97	47.08
Jun-11	48.43	2.93	51.37

Source: AsianBondsOnline, [http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Issuance\\_Volume\\_LCY](http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Issuance_Volume_LCY)

## C. Bond Trading Volume

Table 6.3 Trading Volume (\$ billions)

Year	Government Bonds	Corporate Bonds	Total
Mar-05	32.49	-	32.49
Jun-05	29.80	-	29.80
Sep-05	38.81	-	38.81
Dec-05	29.84	-	29.84
Mar-06	29.01	-	29.01
Jun-06	31.73	-	31.73
Sep-06	41.35	-	41.35
Dec-06	32.27	-	32.27
Mar-07	45.42	-	45.42
Jun-07	50.34	-	50.34
Sep-07	48.79	-	48.79
Dec-07	39.05	-	39.05
Mar-08	71.25	-	71.25
Jun-08	86.53	-	86.53
Sep-08	60.92	-	60.92

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Table 6.3 continuation

Year	Government Bonds	Corporate Bonds	Total
Dec-08	72.83	-	72.83
Mar-09	63.28	-	63.28
Jun-09	52.20	-	52.20
Sep-09	46.65	-	46.65
Dec-09	41.74	-	41.74
Mar-10	46.81	-	46.81
Jun-10	80.61	-	80.61
Sep-10	98.26	-	98.26
Dec-10	82.52	-	82.52
Mar-11	76.64	-	76.64
Jun-11	73.32	-	73.32

Source: AsianBondsOnline. [http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Trading\\_Volume](http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Trading_Volume)

## D. Breakdown of Local Currency Government Bond Market Issuance

Table 6.4 Government Issuance Breakdown (\$ billions)

Date	Central Bank	Other Government Entities	Central Government	Central Bank (% of Total)	Other Government Entities (% of Total)	Central Government (% of Total)
Mar-95	0	0	4.36	0	0	100
Jun-95	0	0	3.91	0	0	100
Sep-95	0	0	4.59	0	0	100
Dec-95	0	0	4.24	0	0	100
Mar-96	0	0	4.73	0	0	100
Jun-96	0	0	4.20	0	0	100
Sep-96	0	0	4.76	0	0	100
Dec-96	0	0	4.37	0	0	100
Mar-97	0	0	3.71	0	0	100
Jun-97	0	0	5.05	0	0	100
Sep-97	0	0	3.90	0	0	100
Dec-97	0	0	4.40	0	0	100
Mar-98	0	0	4.18	0	0	100
Jun-98	0	0	4.60	0	0	100
Sep-98	0	0	6.39	0	0	100
Dec-98	0	0	6.07	0	0	100
Mar-99	0	0	5.07	0	0	100
Jun-99	0	0	6.30	0	0	100
Sep-99	0	0	6.27	0	0	100
Dec-99	0	0	7.57	0	0	100
Mar-00	0	0	7.31	0	0	100
Jun-00	0	0	8.00	0	0	100
Sep-00	0	0	7.78	0	0	100

continued on next page

Table 6.4 continuation

Date	Central Bank	Other Government Entities	Central Government	Central Bank (% of Total)	Other Government Entities (% of Total)	Central Government (% of Total)
Dec-00	0	0	8.12	0	0	100
Mar-01	0	0	7.55	0	0	100
Jun-01	0	0	8.20	0	0	100
Sep-01	0	0	8.33	0	0	100
Dec-01	0	0	8.32	0	0	100
Mar-02	0	0	6.16	0	0	100
Jun-02	0	0	8.63	0	0	100
Sep-02	0	0	8.29	0	0	100
Dec-02	0	0	10.35	0	0	100
Mar-03	0	0	8.13	0	0	100
Jun-03	0	0	10.02	0	0	100
Sep-03	0	0	9.26	0	0	100
Dec-03	0	0	9.12	0	0	100
Mar-04	0	0	10.15	0	0	100
Jun-04	0	0	10.54	0	0	100
Sep-04	0	0	12.71	0	0	100
Dec-04	0	0	12.50	0	0	100
Mar-05	0	0	11.87	0	0	100
Jun-05	0	0	12.93	0	0	100
Sep-05	0	0	13.36	0	0	100
Dec-05	0	0	11.91	0	0	100
Mar-06	0	0	12.32	0	0	100
Jun-06	0	0	14.85	0	0	100
Sep-06	0	0	14.99	0	0	100
Dec-06	0	0	15.09	0	0	100
Mar-07	0	0	18.20	0	0	100
Jun-07	0	0	21.50	0	0	100
Sep-07	0	0	18.99	0	0	100
Dec-07	0	0	22.43	0	0	100
Mar-08	0	0	23.55	0	0	100
Jun-08	0	0	29.93	0	0	100
Sep-08	0	0	23.90	0	0	100
Dec-08	0	0	23.42	0	0	100
Mar-09	0	0	26.00	0	0	100
Jun-09	0	0	31.78	0	0	100
Sep-09	0	0	33.20	0	0	100
Dec-09	0	0	38.72	0	0	100
Mar-10	0	0	32.09	0	0	100
Jun-10	0	0	38.45	0	0	100
Sep-10	0	0	42.31	0	0	100
Dec-10	0	0	42.93	0	0	100
Mar-11	0	0	44.11	0	0	100
Jun-11	0	0	48.43	0	0	100

Source: AsianBondsOnline. [http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Issuance\\_Breakdown](http://www.asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Issuance_Breakdown)

## E. Size of Foreign Currency Bond Market

**Table 6.5 Foreign Currency Bonds to Gross Domestic Product Ratio (\$ billions)**

Date	as % of Gross Domestic Product	Foreign Currency Denominated Bonds (\$ billions)	Gross Domestic Product (\$ billions)
Dec-95	1.2	1.1	87.3
Dec-96	1.7	1.6	95.9
Dec-97	3.2	2.8	87.9
Dec-98	5.1	4.4	86.3
Dec-99	7.5	6.5	86.4
Dec-00	9.4	8.8	93.7
Dec-01	18.7	16.0	85.1
Dec-02	17.6	16.5	93.6
Dec-03	22.4	22.1	98.4
Mar-04	22.4	22.4	99.8
Jun-04	24.3	24.5	100.6
Sep-04	26.0	27.6	106.1
Dec-04	27.6	31.3	113.5
Mar-05	28.1	32.0	114.1
Jun-05	28.5	32.5	114.0
Sep-05	29.9	34.8	116.2
Dec-05	30.1	36.5	121.4
Mar-06	29.0	37.0	127.6
Jun-06	30.6	40.9	133.5
Sep-06	30.6	41.8	136.6
Dec-06	29.0	43.6	150.2
Mar-07	29.3	45.9	156.9
Jun-07	31.3	50.6	161.4
Sep-07	29.7	51.5	173.3
Dec-07	28.3	52.6	185.6
Mar-08	27.0	53.5	198.2
Jun-08	26.5	53.5	201.8
Sep-08	27.7	52.9	190.9
Dec-08	27.4	51.3	187.4
Mar-09	27.8	47.9	172.6
Jun-09	25.5	45.8	180.0
Sep-09	25.6	47.4	184.8
Dec-09	26.0	49.4	189.8
Mar-10	24.8	49.2	198.4
Jun-10	23.5	48.5	206.6
Sep-10	23.5	53.0	225.8
Dec-10	22.7	53.7	236.6
Mar-11	22.7	56.2	248.0
Jun-11	22.5	57.7	257.0

FCY = foreign currency; GDP = gross domestic product  
Source: Asian Bonds Online. [http://asianbondsonline.adb.org/singapore/data/bondmarket.php?code=FCY\\_in\\_GDP](http://asianbondsonline.adb.org/singapore/data/bondmarket.php?code=FCY_in_GDP)

## F. Size of Foreign Currency Bond Market (Local Sources)

**Table 6.6 Foreign Currency Bonds Outstanding (\$ billions)**

Date	Government	Banks and Financial Institutions	Other Corporates	Total FCY
Mar-04	0	7.13	10.20	17.33
Jun-04	0	7.74	10.18	17.92
Sep-04	0	8.85	10.19	19.04
Dec-04	0	9.71	10.31	20.02
Mar-05	0	9.36	10.18	19.55
Jun-05	0	9.34	9.84	19.18
Sep-05	0	11.00	10.07	21.07
Dec-05	0	11.34	10.69	22.03
Mar-06	0	11.29	10.69	21.98
Jun-06	0	12.12	11.46	23.58
Sep-06	0	12.24	11.10	23.34
Dec-06	0	12.25	11.18	23.43
Mar-07	0	11.95	11.28	23.23
Jun-07	0	13.51	11.46	24.97
Sep-07	0	13.33	11.97	25.30
Dec-07	0	13.24	12.39	25.63
Mar-08	0	13.55	11.94	25.50
Jun-08	0	13.68	11.90	25.57
Sep-08	0	13.72	11.72	25.44
Dec-08	0	13.78	11.01	24.79
Mar-09	0	13.65	10.56	24.22
Jun-09	0	13.61	10.72	24.33
Sep-09	0	12.88	11.67	24.55
Dec-09	0	15.85	12.55	28.40
Mar-10	0	15.95	12.08	28.03
Jun-10	0	16.18	12.76	28.94
Sep-10	0	19.62	11.96	31.59
Dec-10	0	20.61	11.88	32.49
Mar-11	0	21.12	13.51	34.63

Note: FCY = foreign currency  
Source: AsianBondsOnline. [http://asianbondsonline.adb.org/singapore/data/bondmarket.php?code=FCY\\_Bonds\\_Outstanding](http://asianbondsonline.adb.org/singapore/data/bondmarket.php?code=FCY_Bonds_Outstanding)

## G. Domestic Financing Profile

**Table 6.7 Domestic Financing Profile**

Date	Domestic Credit (% of Total)	Bonds (% of Total)	Equity (% of Total)	Domestic Credit (\$ billions)	Bonds (\$ billions)	Equity (\$ billions)	Total (\$ billions)
Dec-00	29.16	15.80	55.04	82.17	44.53	155.13	281.82
Dec-01	33.00	21.36	45.64	84.82	54.91	117.34	257.07
Dec-02	31.88	25.60	42.52	76.13	61.14	101.55	238.83
Dec-03	27.73	22.49	49.77	82.75	67.11	148.50	298.36
Dec-04	22.96	20.70	56.33	88.70	79.98	217.62	386.29
Dec-05	19.54	19.64	60.82	82.70	83.10	257.34	423.14
Dec-06	17.02	17.02	65.96	99.19	99.16	384.29	582.63
Mar-07	16.75	15.63	67.62	107.96	100.79	435.97	644.73
Jun-07	16.11	14.63	69.26	117.58	106.78	505.59	729.95
Sep-07	16.61	14.36	69.03	129.55	112.02	538.34	779.91
Dec-07	17.09	15.26	67.64	136.24	121.66	539.18	797.08
Mar-08	19.74	17.30	62.97	152.49	133.63	486.49	772.61
Jun-08	19.88	17.82	62.29	154.86	138.79	485.15	778.80
Sep-08	24.02	20.37	55.61	150.92	127.97	349.45	628.34
Dec-08	27.84	23.45	48.71	151.42	127.54	264.97	543.94
Mar-09	29.46	22.96	47.58	154.20	120.17	249.00	523.37
Jun-09	24.37	19.95	55.68	161.08	131.89	367.99	660.95
Sep-09	22.32	18.83	58.85	168.86	142.49	445.18	756.53
Dec-09	22.24	17.60	60.16	177.93	140.79	481.25	799.97
Mar-10	22.25	18.06	59.68	183.30	148.80	491.64	823.74
Jun-10	21.62	18.03	60.36	181.92	151.71	507.97	841.60
Sep-10	20.76	17.23	62.01	199.97	166.00	597.33	963.30
Dec-10	20.20	17.26	62.53	209.09	178.67	647.23	1034.98
Mar-11	21.19	17.87	60.94	226.05	190.62	650.05	1066.72

Source: AsianBondsOnline. [http://asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Domestic\\_Financing\\_profile](http://asianbondsonline.adb.org/singapore/data/bondmarket.php?code=Domestic_Financing_profile)

# VIII. Next Step ⇔ Future Direction

## A. Future Direction

### 1. Extension of the Benchmark Yield Curve

MAS took steps to increase liquidity and extend the SGS benchmark yield curve from 15 years to the current 20-year mark in 2007. In 2012, the yield curve will be further extended to 30 years. The new 30-year SGS benchmark will establish a liquid reference benchmark for corporate issuance that is more closely aligned with that of other developed markets, and, at the same time, address insurers' pent-up demand for longer maturity bonds.

### 2. Diversification of Investor Base

Individual investor access to SGS was improved in 2009 when the automated teller machine (ATM) networks of the local banks were enabled to allow access to primary auctions. Building on these efforts in the primary market, retail access to the secondary market was also improved as individuals were allowed to trade SGS on the Singapore Exchange from July 2011. This measure created a more diversified investor base and helped to unlock retail demand for fixed income instruments. Issuers including SIA, CapitaMall and F&N, took the opportunity to offer a portion of their recent bond issuances to the public.

### 3. Broadening the Issuer Base

In an effort to boost issuances by foreign entities, regulations were fine-tuned in 2009 to qualify high-grade securities issued by AAA-rated supranationals, sovereigns and sovereign-guaranteed companies as regulatory liquid assets. The list of issuers was subsequently extended in 2010 to include public sector entities that were AAA-rated and zero risk-weighted. Subsequently, several AAA-rated foreign issuers such as the African Development Bank, International Finance Corporation, KfW Bankengruppe, and World Bank, tapped the Singapore dollar bond market.

MAS also recognizes the need to deepen the foreign exchange swap market to encourage issuance by foreign entities in the Singapore dollar bond market. An illiquid swap market, particularly in the longer end, remains an obstacle to the competitive pricing of bonds as it creates uncertainty in the pricing process. Concerted efforts will be made in the year ahead to address the impediments in the swap market.

#### 4. Fostering the Growth of an Active Secondary Market

A deep and liquid secondary market is crucial for a functional debt capital market with transparent and reliable prices within a stable financial system. MAS is continuing to review measures aimed at strengthening the market-making mechanism and improving price transparency in the corporate bond market.

### B. Group of 30 Compliance

The so-called G-30 Recommendations were originally conceived as the Group of Thirty's Standards on Securities Settlement Systems in 1989, detailing in a first of its kind report nine recommendations for efficient and effective securities markets and covering legal, structural and settlement process areas. The recommendations were subsequently reviewed and updated in 2001, under leadership of the Bank for International Settlements (BIS), and through the efforts of a Joint Task Force of the Committee On Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organisation of Securities Commissions (IOSCO). Compliance with the G30 Recommendations in individual markets is often an integral part in securities industry participants' and intermediaries' due diligence process.

**Table 7.1 Group of 30 Compliance**

	Recommendation	Implemented
1	Eliminate paper and automate communication, data capture, and enrichment.	No.
2	Harmonize messaging standards and communication protocols.	Yes. We are currently using ISO15022 for our securities messaging.
3	Develop and implement reference data standards.	Yes. We use common data standards such as ISIN and SWIFT BICs.  This is only valid for MEPS+ of MAS; SGX/CDP uses a prop standard that is largely based on ISO but still requires specially formatted messages between participants and CSD.
4	Synchronize timing between different clearing and settlement systems and associated payment and foreign exchange systems.	No.
5	Automate and standardize institutional trade matching.	Yes.
6	Expand the use of central counterparties.	Yes. However, there are classes of financial instruments not yet cleared through a CCP.
7	Permit securities lending and borrowing to expedite settlement.	Yes. Currently, there are 173 securities in the lending pool with the central depository.
8	Automate and standardize asset servicing processes, including corporate actions, tax relief arrangements, and restrictions on foreign ownership.	Corporate actions: No Taxation: No Foreign ownership restrictions: No
9	Ensure the financial integrity of providers of clearing and settlement services.	Yes.
10	Reinforce the risk management practices of users of clearing and settlement service providers.	Yes.
11	Ensure final. Simultaneous transfer and availability of assets.	No.
12	Ensure effective business continuity and disaster recovery planning.	Yes.
13	Address the possibility of failure of a systematically important institution.	No.
14	Strengthen assessment of the enforceability of contracts.	Yes.
15	Advance legal certainty over rights to securities, cash, or collateral.	Yes.

*continued on next page*

Table 7.1 continuation

	Recommendation	Implemented
16	Recognize and support improved valuation methodologies and closeout netting arrangements.	No.
17	Ensure appointment of appropriately experienced and senior board members (of the boards of securities clearing and settlement infrastructure providers).	Yes.
18	Promote fair access to securities clearing and settlement networks.	Yes.
19	Ensure equitable and effective attention to stakeholder interests.	Yes.
20	Encourage consistent regulation and oversight of securities clearing and settlement service providers.	Yes.

BIC = Business Identification Code; CCP = Central Counterparty; CSD = Central Securities Depository; CDP = Central Depository Pte. Ltd.; ISIN = International Securities Identification Number; MAS = Monetary Authority of Singapore; MEPS+ = MAS Electronic Payment System; SWIFT = Society for Worldwide Interbank Financial Telecommunication; SGX = Singapore Exchange Securities Trading Limited  
Source: Group of Thirty (G-30). 2003. *Global Clearing and Settlement – A Plan of Action*. <http://www.partad.ru/wrld/word/g30app1.pdf>

### C. Group of Experts Final Report: Summary of Barriers Market Assessment (April 2010)

The GoE Report refers to the published results in 2010 of the Group of Experts (GoE) formed under Task Force 4 of the Asian Bond Market Initiative (ABMI). In the report, published under the leadership of the Asian Development Bank (ADB), a group of securities market experts from the private and public sector in ASEAN+3, as well as International Experts, assessed the ASEAN+3 securities markets on potential market barriers, the costs for cross-border bond transactions, and the feasibility for the establishment of a Regional Settlement Intermediary (RSI). The findings in the GoE Report lead to the creation of ABMF.

Table 7.2 Group of Experts Summary of Barriers Market Assessment – Singapore

Potential Barrier Area	Current Situation	Market Assessment Questionnaire Scores	Overall Barrier Assessment
Quotas	There are no quotas on foreign involvement in the local market.	OK	OK
Investor registration	There are no market entrance requirements for foreign investors. Nonresidents can invest in the SGD market without approval from the regulatory authorities.	OK	OK
FX controls - conversion	There are no exchange control restrictions on residents or non-residents. SGD is freely convertible.	OK	OK
FX controls - repatriation of funds	There is no restriction on the repatriation of funds.	OK	OK
Cash controls - credit balances	Non-residents may open accounts in SGD or in foreign currency. Credit balances are allowed. The rules have been progressively liberalised since 1998, and there are few remaining restrictions.	OK	OK
Cash controls - overdrafts	Overdrafts for non-resident accounts may be limited, but such restrictions do not apply to overdrafts due to securities settlement activity.	OK	OK
Taxes	Non-residents, including those with permanent establishment in Singapore, are exempt from withholding tax on QDS, provided that such securities were not purchased with funds resulting from a local business owned by the non-resident investor.	LOW	OK
Omnibus accounts	Omnibus accounts are allowed.	OK	OK
Settlement cycle	The settlement cycle for bonds is T+1 for government bonds (negotiable) and typically T+3 for corporate debt.	LOW	OK

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Table 7.2 continuation

Potential Barrier Area	Current Situation	Market Assessment Questionnaire Scores	Overall Barrier Assessment
Message formats	Communications between market participants and depository or clearing house are in SWIFT format, for settlement of government bonds, and for settlement of corporate bonds via the DCSS. There are plans to progress to a SWIFT format in Phase 2 of the domestic pre-settlement matching system. Most local market participants use SWIFT.	OK	OK
Securities numbering	ISIN codes are available for all local bonds, and are available for new issues at issue date. The CSD and most local market participants use ISIN.	OK	OK
Matching	There are trade matching and pre-settlement matching systems for bonds.	OK	OK
Dematerialisation	Most bonds are dematerialised. However, some physical bonds are not immobilised at the CSD.	LOW	LOW
Regulatory framework	The regulatory regime is regarded as stable and consistent and no adverse comments were received in this area.	-	OK

CSD = Central Securities Depository; DCSS = Debt Securities Clearing and Settlement System; ISIN = International Securities Identification Number; QDS = qualifying debt securities; SGD = Singapore dollar; SWIFT = Society for Worldwide Interbank Financial Telecommunication  
Source: Asian Development Bank. 2010. *Asian Bond Markets Initiative Group of Experts Final Report: Barriers to Cross-Border Investment and Settlement in the ASEAN+3 Bond Markets*. [https://wpqr1.adb.org/LotusQuickr/asean3goe/Main.nsf/h\\_58E34A1388F9070B48257729000C0A4E90F408746827C16248257729000C1334/\\$file/Part3.pdf](https://wpqr1.adb.org/LotusQuickr/asean3goe/Main.nsf/h_58E34A1388F9070B48257729000C0A4E90F408746827C16248257729000C1334/$file/Part3.pdf)

# Appendixes

## Appendix 1: PART XIII: Securities and Futures Act (SFA) 2001 (CHAPTER 289)

### Box A1.1 Securities and Futures Act (SFA) 2001 (CHAPTER 289)

Securities and Futures Act (SFA) 2001 (CHAPTER 289)

2006 REVISED EDITION

PART XIII

OFFERS OF INVESTMENTS

*Division 1—Shares and Debentures*

#### **Division 1—Shares and Debentures**

##### **SUBDIVISION (1)—Interpretation**

- 239 Preliminary provisions
- 239A Authority may disapply this Division to certain offers
- 239B Modification of provisions to certain offers

##### **SUBDIVISION (2)—PROSPECTUS REQUIREMENTS**

- 240 Requirement for prospectus and profile statement, where relevant
- 240A Debenture issuance programme**
- 241 Lodging supplementary document or replacement document
- 242 Stop order for prospectus and profile statement
- 243 Contents of prospectus
- 244
- 245 Retention of over-subscriptions and statement of asset-backing in debenture issues
- 246 Contents of profile statement
- 247 **Exemption** from requirements as to form or content of prospectus or profile statement
- 248 **Exemption** for certain governmental and international entities as regards signing of copy of prospectus or profile statement by all directors or equivalent persons
- 249 Expert's consent to issue of prospectus or profile statement containing statement by him
- 249A Consent of issue manager and underwriter to being named in prospectus or profile statement
- 250 Duration of validity of prospectus and profile statement
- 251 Restrictions on advertisements, etc.

*continued on next page*

*Box A1.1 continuation*

- 252 Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies
- 253 Criminal liability for false or misleading statements
- 254 Civil liability for false or misleading statements
- 255 Defences
- 256
- 257 Document containing offer of securities for sale deemed prospectus
- 258 Application and moneys to be held in trust in separate bank account until allotment
- 259 Allotment of securities where prospectus indicates application to list on securities exchange
- 260 Prohibition of allotment unless minimum subscription received

**SUBDIVISION (3)—DEBENTURES**

- 261 Preliminary provisions
- 262 Offer of asset-backed securities
- 263
- 264
- 265 Power of court in relation to certain irredeemable debentures
- 266 Duties of trustees**
- 267 Powers of trustee to apply to court for directions, etc.**
- 267A Right of Authority, securities exchange and holders of debentures to apply to court for order
- 268 Obligations of borrowing entity
- 269 Obligation of guarantor entity to furnish information
- 270 Loans and deposits to be immediately repayable on certain events
- 271 Liability of trustees for debenture holders

**SUBDIVISION (4)—EXEMPTIONS**

- 272 Issue or transfer of securities for no consideration
- 272A Small offers**
- 272B Private placement**
- 273 Offer made under certain circumstances**
- 274 Offer made to institutional investors**
- 275 Offer made to accredited investors and certain other persons**
- 276 Offer of securities acquired pursuant to section 274 or 275**
- 277 Offer made using offer information statement**
- 278 Offer in respect of international debentures**
- 279 Offer of debentures made by Government or international financial institutions
- 280 Making offer using automated teller machine or electronic means
- 281 Revocation of exemption
- 282 Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

**DIVISION 1A—BUSINESS TRUSTS****SUBDIVISION (1)—INTERPRETATION**

- 282A Preliminary provisions
- 282B Division not to apply to certain business trusts which are collective investment schemes
- 282BA Modification of provisions to certain offers

**SUBDIVISION (2)—PROSPECTUS REQUIREMENTS**

- 282C Requirement for prospectus and profile statement, where relevant
- 282D Lodging supplementary document or replacement document
- 282E Stop order for prospectus and profile statement
- 282F Contents of prospectus
- 282G Contents of profile statement
- 282H Exemption from requirements as to form or content of prospectus or profile statement
- 282I Expert's consent to issue of prospectus or profile statement containing statement by him
- 282J Consent of issue manager and underwriter to being named in prospectus or profile statement
- 282K Duration of validity of prospectus and profile statement
- 282L Restrictions on advertisements, etc.
- 282M Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies
- 282N Criminal liability for false or misleading statements
- 282O Civil liability for false or misleading statements
- 282P Defences

*continued on next page*

*Box A1.1 continuation*

- 282Q Document containing offer of units or derivatives of units for sale deemed prospectus
- 282R Application and moneys to be held in trust in separate bank account until allotment
- 282S Allotment of units or derivatives of units where prospectus indicates application to list on securities exchange
- 282T Prohibition of allotment unless minimum subscription received

**SUBDIVISION (3)—EXEMPTIONS**

- 282U Issue or transfer of units or derivatives of units for no consideration
- 282V Small offers
- 282W Private placement
- 282X Offer made under certain circumstances
- 282Y Offer made to institutional investors
- 282Z Offer made to accredited investors and certain other persons
- 282ZA Offer of securities acquired pursuant to section 282Y or 282Z
- 282ZAA Offer of units converted from debentures
- 282ZB Offer made using offer information statement
- 282ZC Making offer using automated teller machine or electronic means
- 282ZD Revocation of exemption
- 282ZE Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

**SUBDIVISION (4)—DEBENTURES**

- 282ZF Applicability of provisions relating to prospectus requirements

**DIVISION 2—COLLECTIVE INVESTMENT SCHEMES****SUBDIVISION (1)—INTERPRETATION**

- 283 Interpretation of this Division
- 283A Use of term “real estate investment trust”
- 284 Code on Collective Investment Schemes
- 284A Authority may disapply this Division to certain offers and invitations
- 284B Division not to apply to certain collective investment schemes which are business trusts
- 284C Modification of provisions to certain offers

**SUBDIVISION (2)—AUTHORISATION AND RECOGNITION**

- 285 Requirement for authorisation or recognition
- 286 Authorised schemes
- 287 Recognised schemes
- 288 Revocation, suspension or withdrawal of authorisation or recognition
- 289 Approval of trustees**
- 290 Inspection of approved trustees**
- 291 Duty of trustees to furnish Authority with such return and information as Authority requires**
- 292 Liability of trustees**
- 293 Authority may issue directions
- 294 Service
- 295 Winding up
- 295A Power to acquire units of participants of real estate investment trust in certain circumstances
- 295B Unclaimed money to be paid to Official Receiver
- 295C Remedies in cases of oppression or injustice

**SUBDIVISION (3)—PROSPECTUS REQUIREMENTS**

- 296 Requirement for prospectus and profile statement, where relevant
- 297 Stop order for prospectus and profile statement
- 298 Lodging supplementary document or replacement document
- 299 Duration of validity of prospectus and profile statement
- 300 Restrictions on advertisements, etc.
- 301 Issue of units where prospectus indicates application to list on securities exchange
- 302 Application of provisions relating to securities

**SUBDIVISION (4)—EXEMPTIONS**

- 302A Issue or transfer for no consideration
- 302B Small offers
- 302C Private placement
- 303 Offer or invitation made under certain circumstances

*continued on next page*

*Box A1.1 continuation*

- 304 Offer made to institutional investors
- 304A First sale of units acquired pursuant to section 304
- 305 Offer made to accredited investors and certain other persons
- 305A First sale of units acquired pursuant to section 305
- 305B Offer made using offer information statement
- 305C Making offer using automated teller machine or electronic means
- 306 Power of Authority to exempt
- 307 Revocation of exemption
- 308 Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act

**DIVISION 3—SECURITIES HAWKING**

- 309 Securities hawking prohibited

**Preliminary provisions**

**239.**—(1) In this Division—

“borrowing entity” means an entity that is or will be under a liability (whether or not such liability is present or future) to repay any money received by it in response to an invitation to subscribe for or purchase debentures of the entity;

“control”, in relation to an entity, means the capacity of a person to determine the outcome of decisions on the financial and operating policies of the entity, having regard to—

- (a) the influence which the person can, in practice, exert on the entity (as opposed to the rights which the person can exercise in the entity); and
  - (b) any practice or pattern of behaviour of the person affecting the financial or operating policies of the entity (even if such practice or pattern of behaviour involves a breach of an agreement or a breach of trust),
- but does not include any capacity of a person to influence decisions on the financial and operating policies of the entity if such influence is required by law or under any contract or order of court to be exercised for the benefit of other persons;

“debenture” includes debenture stock, bonds, notes and any other debt securities issued by a corporation or any other entity, whether or not constituting a charge on the assets of the issuer but does not include—

- (a) a cheque, letter of credit, order for the payment of money or bill of exchange;
- (b) subject to the regulations made under this Act, a promissory note having a face value of not less than \$100,000 and having a maturity period of not more than 12 months; or
- (c) for the purposes of the application of this definition to a provision of this Act in respect of which any regulations made thereunder provide that the word “debenture” does not include a prescribed document or a document included in a prescribed class of documents, that document or a document included in that class of documents, as the case may be;

“debenture issuance programme” means any scheme or arrangement by an entity for the issue of debentures or units of debentures where only part of the maximum amount or aggregate number of debentures or units of debentures under the programme is offered initially and a further tranche or tranches may be offered subsequently;

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

“guarantor entity”, in relation to a borrowing entity, means an entity that has guaranteed or has agreed to guarantee the repayment of any money received or to be received by the borrowing entity in response to an invitation to subscribe for or purchase debentures of the borrowing entity;

“immediate family”, in relation to an individual, means the individual’s spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister;

“issuer”, in relation to an offer of securities, means the entity that issued or will be issuing the securities being offered;

“limited liability partnership” means any limited liability partnership whether registered in Singapore under the Limited Liability Partnerships Act (Cap. 163A) or otherwise;

“minimum subscription”, in relation to any securities offered for subscription, means the amount stated in the prospectus relating to the offer as the minimum amount which must be raised by the issue of the securities so offered, failing which no securities will be allotted or issued;

“preliminary document” means a document which has been lodged with the Authority and is issued for the purpose of determining the appropriate issue or sale price of, and the number of, securities to be issued or sold and which contains the information required to be included in a prospectus under

*continued on next page*

*Box A1.1 continuation*

section 243, except for such information as may be prescribed by the Authority;

“profile statement” means a profile statement referred to in section 240 (4);

“promoter”, in relation to a prospectus issued by or in connection with an entity, means a promoter of the entity who was a party to the preparation of the prospectus or of any relevant portion thereof, but does not include any person by reason only of his acting in a professional capacity;

“prospectus” means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of securities, and includes any document deemed to be a prospectus under section 257, but does not include—

- (a) a profile statement; or
- (b) any material, advertisement or publication which is authorised by section 251 (other than subsection [5]);

“recognised securities exchange” means a corporation which has been declared by the Authority, by order published in the *Gazette*, to be a recognised securities exchange for the purposes of this Division;

“related party” means—

- (a) in relation to an entity—
  - (i) a director or an equivalent person of the entity;
  - (ii) the chief executive officer or equivalent person of the entity;
  - (iii) a person who controls the entity;
  - (iv) a related corporation;
  - (v) any other entity controlled by it;
  - (vi) any other entity controlled by the person referred to in sub-paragraph (iii); and
  - (vii) a related party of any individual referred to in sub-paragraph (i), (ii) or (iii); and

(b) in relation to an individual—

- (i) his immediate family;
- (ii) a trustee of any trust of which the individual or any member of the individual’s immediate family is—
  - (A) a beneficiary; or
  - (B) where the trust is a discretionary trust, a discretionary object, when the trustee acts in that capacity; and
- (iii) any corporation in which he and his immediate family (whether directly or indirectly) have interests in voting shares of an aggregate of not less than 30% of the total votes attached to all voting shares;

“replacement document” means a replacement prospectus or a replacement profile statement referred to in section 241 (1), as the case may be;

“securities” means—

- (a) shares or units of shares of a corporation;
- (b) debentures or units of debentures of an entity;
- (c) interests in a limited partnership or limited liability partnership formed in Singapore or elsewhere; or
- (d) such other product or class of products as the Authority may prescribe, but does not include such other product or class of products as the Authority may prescribe as not being securities;

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

“supplementary document” means a supplementary prospectus or a supplementary profile statement referred to in section 241 (1), as the case may be;

“underlying entity”, in relation to an offer of units of shares or debentures, means the entity the shares or debentures of which are the subject of the offer;

“unit”, in relation to a share or debenture, means any right or interest, whether legal or equitable, in the share or debenture, by whatever name called, and includes any option to acquire any such right or interest in the share or debenture.

[16/2003; 31/2004;1/2005]

(2) For the purposes of this Division, a statement shall be deemed to be included in a prospectus or profile statement if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

(3) For the purposes of this Division—

- (a) any invitation to a person to deposit money with or to lend money to an entity shall be deemed to be an offer of debentures of the entity; and
- (b) any document that is issued or intended or required to be issued by an entity acknowledging or evidencing or constituting an acknowledgment of the indebtedness of the entity in respect of any money that is or may be deposited with or lent to the entity in response to such an invitation shall be deemed to be a debenture.

*continued on next page*

*Box A1.1 continuation*

- [1/2005]
- (3A) Notwithstanding subsection (3)—
- (a) any invitation to a person by a prescribed entity to make a deposit with the prescribed entity is not an offer of debentures; and
- (b) the following documents issued or intended or required to be issued by a prescribed entity are not debentures:
- (i) any certificate of deposit;
- (ii) any other document acknowledging or evidencing or constituting an acknowledgment of the indebtedness of the prescribed entity in respect of any deposit that is or may be made with the prescribed entity.
- [1/2005]
- (4) In subsections (3A) and (5)—
- “deposit” has the same meaning as in section 4B (4) of the Banking Act (Cap. 19);
- “prescribed entity” means—
- (a) any bank licensed under the Banking Act; or
- (b) any entity or any entity of a class which has been declared by the Authority, by order published in the *Gazette*, to be a prescribed entity for the purposes of this subsection.
- [1/2005]
- (5) The Authority may, by notice in writing—
- (a) impose such conditions or restrictions on a prescribed entity as it thinks fit; and
- (b) at any time vary or revoke any condition or restriction so imposed,
- and the prescribed entity shall comply with every such condition or restriction imposed on it by the Authority that has not been revoked by the Authority.
- [1/2005]
- (5A) Any person who contravenes any condition or restriction imposed under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.
- [1/2005]
- (6) For the purposes of this Division, a person makes an offer of any securities if, and only if, as principal—
- (a) he makes (either personally or by an agent) an offer to any person in Singapore which upon acceptance would give rise to a contract for the issue or sale of those securities by him or another person with whom he has made arrangements for that issue or sale; or
- (b) he invites (either personally or by an agent) any person in Singapore to make an offer which upon acceptance would give rise to a contract for the issue or sale of those securities by him or another person with whom he has made arrangements for that issue or sale.
- [1/2005]
- (7) In subsection (6), “sale” includes any disposal for valuable consideration.
- [1/2005]
- (8) This Division applies only in relation to offers of securities made on or after the commencement of this Division.
- [1/2005]

*[Companies, s. 4]***Authority may disapply this Division to certain offers**

**239A.** Notwithstanding any provision to the contrary in this Division, where—

- (a) an offer of securities is one to which (but for this section) both this Division and Division 2 apply; and
- (b) the Authority has by order published in the *Gazette* declared that this Division shall not apply to that offer or a class of offers to which that offer belongs, then this Division shall not apply to that offer.
- [1/2005]

**Modification of provisions to certain offers**

**239B.** The Authority may, if it thinks it necessary in the interest of the public or a section of the public or for the protection of investors, by regulations modify or adapt the provisions of this Division in their application to such offer of securities as may be prescribed, and the provisions of this Division shall apply to such offer subject to such modifications or adaptations.

**Subdivision (2)—Prospectus requirements****Requirement for prospectus and profile statement, where relevant**

**240.**—(1) No person shall make an offer of securities unless the offer—

- (a) is made in or accompanied by a prospectus in respect of the offer—
- (i) that is prepared in accordance with section 243;
- (ii) a copy of which, being one that has been signed in accordance with subsection (4A), is lodged with the Authority; and
- (iii) that is registered by the Authority; and
- (b) complies with such requirements as may be prescribed by the Authority.
- [16/2003;1/2005]

(2) A person who lodges a preliminary document with the Authority shall be deemed to have lodged a prospectus with the Authority.

(3) A preliminary document referred to in subsection (2) must contain all information to be included in a prospectus other than such information as may be prescribed by the Authority.

*continued on next page*

*Box A1.1 continuation*

- (4) Notwithstanding subsection (1), an offer of securities may be made in or accompanied by an extract from, or an abridged version of, a prospectus (referred to in this section as a profile statement), instead of a prospectus, if—
- (a) a prospectus in respect of such offer is prepared in accordance with section 243, and the profile statement is prepared in accordance with section 246;
  - (b) a copy of the prospectus and a copy of the profile statement, each of which has been signed in accordance with subsection (4A), are lodged with the Authority, and the prospectus is lodged no later than the profile statement;
  - (c) the prospectus and profile statement are registered by the Authority;
  - (d) sufficient copies of the prospectus are made available for collection at the times and places specified in the profile statement; and
  - (e) the offer complies with such requirements as may be prescribed by the Authority.

[16/2003;1/2005]

(4A) The copy of a prospectus or profile statement lodged with the Authority shall be signed—

- (a) where the person making the offer is the issuer—
  - (i) in a case where the issuer is not the government of a State, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer; or
  - (ii) in a case where the issuer is the government of a State, by an official of that government who is authorised to sign the prospectus on its behalf;
- (b) where the person making the offer is an individual and is not the issuer—
  - (i) in a case where the issuer is not the government of a State—
    - (A) by that person; and
    - (B) if the issuer is controlled by that person, one or more of his related parties, or that person and one or more of his related parties, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer; or
  - (ii) in a case where the issuer is the government of a State, by that person;
- (c) where the person making the offer is an entity (not being the government of a State) and is not the issuer—
  - (i) in a case where the issuer is not the government of a State—
    - (A) by every director or equivalent person of that entity; and
    - (B) if the issuer is controlled by that entity, one or more of its related parties, or that entity and one or more of its related parties, by every director or equivalent person of the issuer, and every person who is named therein as a proposed director or an equivalent person of the issuer; or
  - (ii) in a case where the issuer is the government of a State, by every director or equivalent person of that entity; and
- (d) where the person making the offer is the government of a State and is not the issuer—
  - (i) in a case where the issuer is not the government of another State—
    - (A) by an official of the government of the State who is authorised to sign the prospectus on its behalf; and
    - (B) if the issuer is controlled by that government, one or more of its related parties, or that government and one or more of its related parties, by every director or every equivalent person of the issuer, and every person who is named therein as a proposed director or an equivalent person of the issuer; or
  - (ii) in a case where the issuer is the government of another State, by an official of the government of the first-mentioned State who is authorised to sign the prospectus on its behalf.

[1/2005]

(4B) A requirement under subsection (4A) for the copy of a prospectus or profile statement to be signed by a director or an equivalent person is satisfied if the copy is signed—

- (a) by that director or equivalent person; or
- (b) by a person who is authorised in writing by that director or equivalent person to sign on his behalf.

[1/2005]

(4C) A requirement under subsection (4A) for the copy of a prospectus or profile statement to be signed by a person named therein as a proposed director or an equivalent person is satisfied if the copy is signed—

- (a) by that proposed director or equivalent person; or
- (b) by a person who is authorised in writing by that proposed director or equivalent person to sign on his behalf.

[1/2005]

(5) No person shall make any offer of securities of an entity that has not been formed or does not exist.

[1/2005]

(6) *(Deleted by Act 1/2005)*

(7) Any person who contravenes subsection (1) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(8) The Authority may register a prospectus or a profile statement on any day within the period prescribed by the Authority from the date of lodgment thereof with the Authority, unless—

- (a) the Authority gives to the person making the offer a notice of an opportunity to be heard under subsection (15);
- (b) the Authority gives to the person making the offer a notice of an extension, in which case the Authority may, not later than 28 days from the date of lodgment of the prospectus or profile statement—
  - (i) register the prospectus or profile statement; or
  - (ii) give the person making the offer a notice of an opportunity to be heard under subsection (15);
- (c) the person making the offer applies in writing to extend the period during which the prospectus or profile statement may be registered, and the Authority grants an extension as it thinks fit, in which case the Authority may, at any time up to and including the date on which the extended period ends—

*continued on next page*



*Box A1.1 continuation*

- (i) register the prospectus or profile statement; or
- (ii) give the person making the offer a notice of an opportunity to be heard under subsection (15); or
- (d) the person making the offer gives a notice in writing to the Authority to withdraw the lodgment of the prospectus or profile statement, in which case the Authority shall not register the prospectus or profile statement.

[1/2005]

(8A) Where, after a notice of an opportunity to be heard has been given under subsection (8) (a), (b) (ii) or (c) (ii), the Authority decides not to refuse registration of the prospectus or profile statement, the Authority may proceed with the registration on such date as it considers appropriate, except that that date shall not be earlier than such day from the date of lodgment of the prospectus or profile statement with the Authority as the Authority may prescribe.

[1/2005]

(8B) For the purposes of subsections (8) and (8A), the Authority may prescribe the same period and day for all offers or different periods and days for different offers.

(9) Where a prospectus lodged with the Authority is a preliminary document, the Authority shall not register the prospectus unless a copy of the prospectus which has been signed in accordance with subsection (4A) and which contains the information required to be stipulated in the prospectus under section 243, including such information which could be omitted from the preliminary document by virtue of subsection (3), has been lodged with the Authority.

[1/2005]

(9A) A person making an offer of securities may lodge any amendment to a prospectus or profile statement in respect of that offer at any time before, but not after, the registration of the prospectus or profile statement by the Authority.

[1/2005]

(10) Subject to subsection (11)—

- (a) where any amendment to a prospectus is lodged, the prospectus and any profile statement which is lodged shall be deemed for the purposes of subsection (8) to have been lodged when such amendment was lodged; and
- (b) where any amendment to a profile statement is lodged, the profile statement shall be deemed for the purposes of subsection (8) to have been lodged when such amendment was lodged.

[16/2003;1/2005]

(11) Where an amendment to a prospectus or profile statement is lodged with the consent of the Authority, the prospectus or profile statement as amended shall be deemed, for the purposes of subsection (8), to have been lodged when the original prospectus or profile statement was lodged with the Authority.

[1/2005]

(11A) An amendment to a prospectus or profile statement that is lodged shall be treated as part of the original prospectus or profile statement.

[16/2003]

(12) The Authority may, for public information, publish—

- (a) a prospectus or profile statement lodged with the Authority under this section; and
- (b) where applicable, the translation thereof in the English language lodged with the Authority under section 318A (1), and, for the purposes of this subsection, the person making the offer shall provide the Authority with a copy of the prospectus or profile statement and, where applicable, the translation in such form or medium for publication as the Authority may require.

[16/2003;1/2005]

(13) The Authority shall refuse to register a prospectus if—

- (a) the Authority is of the opinion that the prospectus contains a false or misleading statement;
- (b) there is an omission from the prospectus of any information that is required to be included in it under section 243;
- (c) the copy of the prospectus that is lodged with the Authority is not signed in accordance with subsection (4A);
- (d) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act;
- (e) any written consent of an expert to the issue of the prospectus required under section 249, or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (ea) any written consent of an issue manager to the issue of the prospectus required under section 249A (1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (eb) any written consent of an underwriter to the issue of the prospectus required under section 249A (2), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or
- (f) the Authority is of the opinion that it is not in the public interest to do so.

[16/2003;1/2005]

(14) The Authority shall refuse to register a profile statement if—

- (a) the Authority is of the opinion that the profile statement contains a false or misleading statement;
- (b) there is an omission from the profile statement of information required by section 246 to be included in it or an inclusion in the profile statement of information prohibited by that section from being included in it;
- (c) the copy of the profile statement that is lodged with the Authority is not signed in accordance with subsection (4A);
- (ca) any written consent of an expert to the issue of the profile statement required under section 249, or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (cb) any written consent of an issue manager to the issue of the profile statement required under section 249A (1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (cc) any written consent of an underwriter to the issue of the profile statement required under section 249A (2), or a copy thereof which is verified as prescribed, is not lodged with the Authority;

*continued on next page*

*Box A1.1 continuation*

- (d) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act;  
 (e) the prospectus has not been registered by the Authority; or  
 (f) the Authority is of the opinion that it is not in the public interest to do so.

[16/2003;1/2005]

(15) The Authority shall not refuse to register a prospectus under subsection (13) or a profile statement under subsection (14) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to register the prospectus or profile statement on the basis of any of the following circumstances:

- (a) the person making the offer (being an entity), the issuer or, where applicable, the underlying entity is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;  
 (b) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;  
 (c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer or, where applicable, the underlying entity.

[1/2005]

(16) Any person making an offer may, within 30 days after he is notified that the Authority has refused to register a prospectus or profile statement to which his offer relates under subsection (13) or (14), appeal to the Minister, whose decision shall be final.

[1/2005]

(17) If—

- (a) a prospectus or profile statement is issued, circulated or distributed before it has been registered by the Authority; or  
 (b) an application to subscribe for or purchase securities is accepted, or securities are allotted, issued or sold, before a prospectus and, where applicable, profile statement in respect of the securities has been registered by the Authority,  
 the person making the offer and every person who is knowingly a party to—  
 (i) the issue, circulation or distribution of the prospectus or profile statement;  
 (ii) the acceptance of the application to subscribe for or purchase the securities; or  
 (iii) the allotment, issue or sale of the securities,

as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(18) This section is subject to section 240A.

[1/2005]

(19) For the purposes of subsections (13) (a) and (14) (a), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(20) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties not exceeding a fine of \$50,000.

[Companies, s. 43, s. 45A and s. 50; Aust. Corporations 2001, s. 721]

**Debenture issuance programme**

**240A.**—(1) A prospectus for every offer of debentures or units of debentures that is part of a debenture issuance programme shall comprise—

- (a) a base prospectus applicable to every offer under the debenture issuance programme; and  
 (b) a pricing statement applicable to that particular offer.

[1/2005]

(2) A profile statement for every offer of debentures or units of debentures that is part of a debenture issuance programme shall comprise—

- (a) an extract from, or an abridged version of, a base prospectus referred to in subsection (1) (a) (referred to in this section as a base profile statement); and  
 (b) a pricing statement applicable to that particular offer.

[1/2005]

(3) In respect of an offer referred to in subsection (1), the requirements of section 240 (1) (a) (ii) and (iii) are satisfied if a copy of the base prospectus and a copy of the pricing statement, each of which is signed in accordance with section 240 (4A), have been lodged with and registered by the Authority, either separately, whether on the same date or on different dates, or as a single document.

[1/2005]

(4) In respect of an offer referred to in subsection (2), the requirements of section 240 (4) (b) and (c) are satisfied if a copy of the base profile statement and a copy of the pricing statement, each of which is signed in accordance with section 240 (4A), have been lodged with and registered by the Authority, either separately, whether on the same date or on different dates, or as a single document.

[1/2005]

(5) For the avoidance of doubt, where the base prospectus or base profile statement in relation to a debenture issuance programme has been lodged with and registered by the Authority, it shall be treated as having been lodged with and registered by the Authority in respect of every offer under that programme.

[1/2005]

(6) For the purposes of the application of the provisions of this Subdivision to an offer referred to in subsection (1), a reference to a prospectus shall, unless the context otherwise requires or the Authority has prescribed otherwise, be read as a reference to both the base prospectus and the pricing statement.

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*Box A1.1 continuation*

(7) For the purposes of the application of the provisions of this Subdivision to an offer referred to in subsection (2), a reference to a profile statement shall, unless the context otherwise requires or the Authority has prescribed otherwise, be read as a reference to both the base profile statement and the pricing statement. [1/2005]

(8) The Authority may, by regulations, prescribe how the provisions of this Subdivision shall apply to an offer referred to in subsection (1) or (2). [1/2005]

(9) For the avoidance of doubt, a pricing statement may be registered by the Authority at any time after its lodgment with the Authority. [1/2005]

**Lodging supplementary document or replacement document**

**241.**—(1) If, after a prospectus or profile statement is registered but before the close of the offer of securities, the person making that offer becomes aware of—

- (a) a false or misleading statement in the prospectus or profile statement;
- (b) an omission from the prospectus of any information that should have been included in it under section 243, or an omission from the profile statement of any information that should have been included in it under section 246, as the case may be; or
- (c) a new circumstance that—
  - (i) has arisen since the prospectus or profile statement was lodged with the Authority; and
  - (ii) would have been required by—
    - (A) section 243 to be included in the prospectus; or
    - (B) section 246 to be included in the profile statement,

if it had arisen before the prospectus or the profile statement, as the case may be, was lodged, and that is materially adverse from the point of view of an investor, the person may lodge a supplementary or replacement prospectus, or a supplementary or replacement profile statement (referred to in this section as a supplementary or replacement document, as the case may be), with the Authority.

(1A) If, after a base prospectus or a base profile statement referred to in section 240A is registered but before the expiration of 24 months from the registration of the base prospectus by the Authority, the person making that offer intends to update any information or include any new information in the base prospectus or base profile statement, the person may lodge a supplementary or replacement document with the Authority, provided that no offer to which the base prospectus or base profile statement relates is subsisting at the time of the lodgment. [16/2003;1/2005]

(1B) Subsections (7) to (16) shall not apply to a supplementary or replacement document which is lodged under subsection (1A). [1/2005]

(1C) For the purposes of subsection (1A), an offer shall not be treated as subsisting if—
 

- (a) a pricing statement in respect of the offer of debentures or units of debentures has not been registered by the Authority under section 240A; or
- (b) a pricing statement in respect of the offer of debentures or units of debentures has been registered by the Authority under section 240A, and—
  - (i) the offer has closed with no application to subscribe for or purchase the debentures or units of debentures having been received or accepted; or
  - (ii) one or more applications to subscribe for or purchase the debentures or units of debentures have been received or accepted, and—
    - (A) in a case where the debentures or units of debentures are or will be listed for quotation on a securities exchange, trading in them has commenced; or
    - (B) in any other case, all of those debentures or units of debentures have been issued or sold.

 [1/2005]

(2) At the beginning of a supplementary document, there shall be—
 

- (a) a statement that it is a supplementary prospectus or a supplementary profile statement, as the case may be;
- (b) an identification of the prospectus or profile statement it supplements;
- (c) an identification of any previous supplementary document lodged with the Authority in relation to the offer; and
- (d) a statement that it is to be read together with the prospectus or profile statement it supplements and any previous supplementary document in relation to the offer.

 [1/2005]

(3) At the beginning of a replacement document, there shall be—
 

- (a) a statement that it is a replacement prospectus or a replacement profile statement, as the case may be; and
- (b) an identification of the prospectus or profile statement it replaces.

 (4) The supplementary document and the replacement document must be dated with the date on which they are lodged with the Authority.  
 (5) The person making the offer shall take reasonable steps—
 

- (a) to inform potential investors of the lodgment of any supplementary or replacement document under subsection (1) or (1A); and
- (b) to make available to them the supplementary document or replacement document.

 [1/2005]

(6) For the purposes of the application of this Division to events that occur after the lodgment of the supplementary document—
 

- (a) where the supplementary document is a supplementary prospectus, the prospectus in relation to the offer shall be taken to be the original prospectus together with the supplementary prospectus and any previous supplementary prospectus in relation to the offer; and
- (b) where the supplementary document is a supplementary profile statement, the profile statement in relation to the offer shall be taken to be the original profile statement together with the supplementary profile statement and any previous supplementary profile statement in relation to the offer.

 [16/2003;1/2005]

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*Box A1.1 continuation*

(6A) *(Deleted by Act 1/2005)*

(6B) For the purposes of the application of this Division to events that occur after the lodgment of the replacement document—

(a) where the replacement document is a replacement prospectus, the prospectus in relation to the offer shall be taken to be the replacement prospectus; and

(b) where the replacement document is a replacement profile statement, the profile statement in relation to the offer shall be taken to be the replacement profile statement.

[16/2003;1/2005]

(7) If a supplementary document or replacement document is lodged with the Authority, the offer shall be kept open for at least 14 days after the lodgment of the supplementary document or replacement document.

[1/2005]

(8) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to subscribe for securities, then—

(a) where the securities have not been issued to the applicants, the person making the offer—

(i) shall—

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall—

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys the applicants have paid on account of their applications for the securities; or

(b) where the securities have been issued to the applicants, the person making the offer—

(i) shall—

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; or

(iii) shall—

(A) treat the issue of the securities as void, in which case the issue shall be deemed void; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(9) Subsections (8) (b) and (11) have effect notwithstanding sections 76 and 76A, and Division 3A of Part IV, of the Companies Act (Cap. 50).

[42/2005]

(10) An applicant who wishes to exercise his option under subsection (8) (a) (i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days from the receipt of such notification, pay to the applicant all moneys paid by the applicant on account of his application for the securities.

[1/2005]

(11) An applicant who wishes to exercise his option under subsection (8) (b) (i) or (ii) to return securities issued to him shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to be evidence of title to those securities to that person, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by the applicant for the securities, and the issue of those securities shall be deemed to be void.

[1/2005]

(12) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to purchase securities, then—

(a) where the securities have not been transferred to the applicants, the person making the offer—

(i) shall—

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

*continued on next page*

*Box A1.1 continuation*

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall—

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys the applicants have paid on account of their applications for the securities; or

(b) where the securities have been transferred to the applicants, the person making the offer—

(i) shall—

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those securities which they do not wish to retain title in; or

(iii) shall treat the sale of the securities as void, in which case the sale shall be deemed void, and shall—

(A) if documents purporting to evidence title to the securities (referred to in this paragraph as the title documents) have been issued to the applicants—

(AA) within 7 days from the date of lodgment of the supplementary document or replacement document, inform the applicants to return the title documents to the person making the offer within 14 days from the date of lodgment of the supplementary document or replacement document; and

(AB) within 7 days from the date of receipt of the title documents or the date of lodgment of the supplementary document or replacement document, whichever is the later, pay to the applicants all moneys paid by them for the securities; or

(B) if no title documents have been issued to the applicants, within 7 days from the date of the lodgment of the supplementary document or replacement document, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(13) An applicant who wishes to exercise his option under subsection (12) (a) (i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days of the receipt of such notification, pay to the applicant all moneys paid by him on account of his application for the securities.

[1/2005]

(14) An applicant who wishes to exercise his option under subsection (12) (b) (i) or (ii) to return securities sold to him shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to evidence title to those securities to the person making the offer, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by him for the securities and the sale of the securities shall be deemed to be void.

[1/2005]

(15) Any person who contravenes subsection (8) or (12) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(16) Any person who contravenes any other provision of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(17) For the purposes of subsection (1) (a), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 50A ; Aust. Corporations 2001, s. 719]

**Stop order for prospectus and profile statement**

**242.**—(1) If a prospectus has been registered and—

(a) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(b) there is an omission from the prospectus of any information that is required to be included in it under section 243;

(c) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act; or

(d) the Authority is of the opinion that it is in the public interest to do so,

the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of securities to which the prospectus relates direct that no or no further securities be allotted, issued or sold.

[16/2003;1/2005]

(2) If a profile statement has been registered and—

*continued on next page*

*Box A1.1 continuation*

(a) the Authority is of the opinion that the profile statement contains a false or misleading statement;  
 (b) there is an omission from the profile statement of any information that is required to be included in it under section 246;  
 (c) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act; or  
 (d) the Authority is of the opinion that it is in the public interest to do so,  
 the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of securities to which the profile statement relates direct that no or no further securities be allotted, issued or sold.

[16/2003;1/2005]

(3) Notwithstanding subsections (1) and (2), the Authority shall not serve a stop order if any of the securities to which the prospectus or profile statement relates has been issued or sold, and listed for quotation on a securities exchange and trading in them has commenced.

[1/2005]

(4) The Authority shall not serve a stop order under subsection (1) or (2) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the stop order is served on the ground that it is in the public interest to do so on the basis of any of the following circumstances:

(a) the person making the offer (being an entity), the issuer or, where applicable, the underlying entity is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(aa) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(b) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer or, where applicable, the underlying entity.

[16/2003;1/2005]

(5) Where applications to subscribe for securities to which the prospectus or profile statement relates have been made prior to the stop order, then—

(a) where the securities have not been issued to the applicants—

(i) the applications shall be deemed to have been withdrawn and cancelled; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the securities; or

(b) where the securities have been issued to the applicants—

(i) the issue of the securities shall be deemed to be void; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(6) Subsection (5) (b) has effect notwithstanding sections 76 and 76A, and Division 3A of Part IV, of the Companies Act (Cap. 50).

[42/2005]

(7) Where applications to purchase securities to which the prospectus or profile statement relates have been made prior to the stop order, then—

(a) where the securities have not been transferred to the applicants—

(i) the applications shall be deemed to have been withdrawn and cancelled; and

(ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the securities; or

(b) where the securities have been transferred to the applicants, the sale shall be deemed to be void, and the person making the offer shall—

(i) if documents purporting to evidence title to the securities have been issued to the applicants—

(A) within 7 days from the date of the stop order, inform the applicants to return such documents to the person making the offer within 14 days from that date; and

(B) within 7 days from the date of the receipt of those documents or the date of the stop order, whichever is the later, pay to the applicants all moneys paid by them for the securities; or

(ii) if no such documents have been issued to the applicants, within 7 days from the date of the stop order, pay to the applicants all moneys paid by them for the securities.

[1/2005]

(8) If the Authority is of the opinion that any delay in serving a stop order pending the holding of a hearing required under subsection (4) is not in the interests of the public, the Authority may, without giving an opportunity to be heard, serve an interim stop order on the person making the offer directing that no or no further securities to which the prospectus or profile statement relates be allotted, issued or sold.

[1/2005]

(9) An interim stop order shall, unless revoked by the Authority, be in force—

(a) in a case where—

(i) it is served during a hearing under subsection (4); or

(ii) a hearing under subsection (4) is commenced while it is in force, until the Authority makes an order under subsection (1) or (2); and

(b) in any other case, for a period of 14 days from the day on which the interim stop order is served.

[16/2003]

(10) Subsections (5) and (7) shall not apply where only an interim stop order has been served.

(11) Any person who fails to comply with a stop order served under subsection (1) or (2) or an interim stop order served under subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(12) Any person who contravenes subsection (5) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000

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*Box A1.1 continuation*

and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(13) For the purposes of subsections (1) (a) and (2) (a), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Aust. Corporations 2001, s. 739]

**Contents of prospectus**

**243.**—(1) A prospectus for an offer of securities shall contain—

- (a) all the information that investors and their professional advisers would reasonably require to make an informed assessment of the matters specified in subsection (3); and
- (b) the matters prescribed by the Authority.

[1/2005]

(2) The prospectus shall, with respect to subsection (1) (a), contain such information—

- (a) only to the extent to which it is reasonable for investors and their professional advisers to expect to find in the prospectus; and
- (b) only to the extent that a person whose knowledge is relevant—

- (i) actually knows the information; or
- (ii) in the circumstances ought reasonably to have obtained the information by making enquiries.

(3) The matters referred to in subsection (1) (a) shall relate to—

- (a) the rights and liabilities attaching to the securities;
- (b) the assets and liabilities, profits and losses, financial position and performance, and prospects of the issuer;
- (c) if the underlying entity is controlled by—

- (i) the person making the offer;
- (ii) one or more of the related parties of the person making the offer; or
- (iii) the person making the offer and one or more of his related parties,

the assets and liabilities, profits and losses, financial position and performance, and prospects of that entity; and

(d) in the case of an offer of units of shares or debentures, where the person making the offer, or an entity which is controlled by—

- (i) the person making the offer;
- (ii) one or more of the related parties of the person making the offer; or
- (iii) the person making the offer and one or more of his related parties,

is or will be required to issue or deliver the relevant securities, or to meet financial or contractual obligations to the holders of those units, the capacity of that person or entity to issue or deliver the relevant securities, or the ability of that person or entity to meet those financial or contractual obligations.

[1/2005]

(4) In deciding what information shall be included under subsection (1) (a), regard shall be had to—

- (a) the nature of the securities and the nature of the entity concerned;
- (b) the matters that likely investors may reasonably be expected to know; and
- (c) the fact that certain matters may reasonably be expected to be known to the professional advisers of such investors.

[1/2005]

(5) For the purposes of subsection (2) (b), a person's knowledge is relevant only if he is one of the following persons:

- (a) the person making the offer;
- (b) if the person making the offer is an entity, a director or an equivalent person of the entity;
- (c) the issuer;
- (d) a director or an equivalent person, or a proposed director or an equivalent person, of the issuer;
- (da) a person named in the prospectus with his consent as an underwriter to the issue or sale;
- (e) a person named in the prospectus as a stockbroker to the issue or sale if he participates in any way in the preparation of the prospectus;
- (f) a person named in the prospectus with his consent as having made a statement—
- (i) that is included in the prospectus; or
- (ii) on which a statement made in the prospectus is based;
- (g) a person named in the prospectus with his consent as having performed a particular professional or advisory function.

[1/2005]

(6) A condition requiring or binding an applicant for securities to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

[1/2005]

(7) This section does not affect any liability that a person has under any other law.

[Companies, s. 45; Aust. Corporations 2001, s. 710]

**244.** (Repealed by Act 16/2003)

**Retention of over-subscriptions and statement of asset-backing in debenture issues**

**245.**—(1) An entity shall not accept or retain subscriptions to a debenture issue in excess of the amount of the issue as disclosed in the prospectus unless the entity has specified in the prospectus—

- (a) that it expressly reserves the right to accept or retain over- subscriptions; and

*continued on next page*

*Box A1.1 continuation*

(b) a limit expressed as a specific sum of money on the amount of over-subscriptions that may be accepted or retained, being an amount not more than 25% in excess of the amount of the issue as disclosed in the prospectus.

[1/2005]

(2) Subject to regulations made by the Authority for the purposes of this subsection, where an entity specifies in a prospectus relating to a debenture issue that it reserves the right to accept or retain over-subscriptions—

(a) the entity shall not make, authorise or permit any statement of or reference as to the asset-backing for the issue to be made or contained in any prospectus relating to the issue, other than a statement or reference to the total tangible assets and the total liabilities of the entity and of its guarantor entities; and

(b) the prospectus shall contain a statement or reference as to what the total assets and total liabilities of the entity would be if over-subscriptions to the limit specified in the prospectus were accepted or retained.

[1/2005]

(3) Every entity or other person that contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[Companies, s. 49]

**Contents of profile statement**

**246.**—(1) A profile statement for an offer of securities shall contain—

(a) the following particulars:

(i) identification of the person making the offer and, where the person making the offer is not the issuer, the issuer and, where applicable, the underlying entity;

(ii) identification of the persons signing the profile statement;

(iii) the nature of the securities;

(iv) the nature of the risks involved in investing in the securities;

(v) details of all amounts payable in respect of the securities (including any amount by way of fee, commission or charge);

(b) a statement that copies of the prospectus are available for collection at the times and places specified in the profile statement; and

(c) a statement that the persons referred to in section 240 (4A) who have signed the profile statement are satisfied that the profile statement contains a fair summary of the key information in the prospectus.

[1/2005]

(2) A profile statement shall not contain—

(a) any statement that is false or misleading in the form and context in which it is included;

(b) any material information that is not contained in the prospectus; and

(c) any material information that differs in any material particular from that set out in the prospectus.

[1/2005]

(3) For the purposes of subsection (2) (a), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 45A; Aust. Corporations 2001, s. 714]

**Exemption from requirements as to form or content of prospectus or profile statement**

**247.**—(1) The Authority may exempt any person or any prospectus or profile statement from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003]

(2) The Authority shall not grant an exemption under subsection (1) unless it is of the opinion that—

(a) the cost of complying with the requirement in respect of which exemption has been applied for outweighs the resulting protection to investors; or

(b) it would not be prejudicial to the public interest if the requirement in respect of which exemption has been applied for were dispensed with.

[16/2003]

(3) The Authority may exempt any class of persons, or any class or description of prospectuses or profile statements, from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003]

(4) *(Deleted by Act 16/2003)*

(5) Any person who contravenes any of the conditions or restrictions imposed under subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[Companies, s. 46]

**Exemption for certain governmental and international entities as regards signing of copy of prospectus or profile statement by all directors or equivalent persons**

**248.**—(1) This section shall apply only to entities that are both of a governmental and international character.

[1/2005]

(2) An entity to which this section applies may apply in writing to the Authority for an exemption from the requirements of section 240 (1) (a) (ii), (4) (b),

*continued on next page*



*Box A1.1 continuation*

(4A), (13) (c) and (14) (c) and the Authority may, if it considers those requirements unduly burdensome on the entity, exempt such entity from complying therewith.

[1/2005]

(3) The Authority may subject such exemption to a requirement that such minimum number of directors or equivalent persons who are resident in Singapore as the Authority may, in that case, decide must sign the copy of the prospectus or profile statement.

[1/2005]

(4) In the event that no director or equivalent person is resident in Singapore, the Authority may permit a duly authorised agent to sign the prospectus or profile statement so long as such authorisation is supported by a resolution of the board of the entity.

[1/2005]

(5) The Authority may, if satisfied that a particular entity cannot comply with any of the requirements in subsection (3) or (4), grant the exemption applied for.

[1/2005]

(6) Any prospectus or profile statement that complies with the terms of exemption granted by the Authority shall be deemed to be a prospectus or profile statement for the purposes of this Division and a copy of such prospectus or profile statement shall be registered by the Authority.

[Companies, s. 51]

**Expert's consent to issue of prospectus or profile statement containing statement by him**

**249.**—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement which includes a statement purporting to be made by, or based on a statement made by, an expert, the prospectus or profile statement shall not be issued unless—

(a) the expert has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and

(b) there appears in the prospectus or profile statement, as the case may be, a statement that the expert has given and has not withdrawn his consent.

[1/2005]

(1A) Every person making the offer shall cause a true copy of every written consent referred to in subsection (1) to be deposited, within 7 days after the registration of the prospectus or profile statement, at the registered office of the issuer in Singapore or, if the issuer has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(1B) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the securities to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (1A) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

(2) If any prospectus or profile statement is issued in contravention of subsection (1), the person making the offer and every person who is knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[16/2003;1/2005]

(3) The Authority may exempt any person or class of persons, or any prospectus or profile statement or class or description of prospectuses or profile statements, from this section, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003;1/2005]

(4) Any person who contravenes any of the conditions or restrictions imposed under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[16/2003]

[Companies, s. 54]

**Consent of issue manager and underwriter to being named in prospectus or profile statement**

**249A.**—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement in which a person is named as the issue manager to the offer, the prospectus or profile statement shall not be issued unless—

(a) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as issue manager to that offer; and

(b) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn his consent.

[1/2005]

(2) Where an offer of securities is made in or accompanied by a prospectus or profile statement in which a person is named as the underwriter (but not a sub-underwriter) to the offer, the prospectus or profile statement shall not be issued unless—

(a) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as underwriter to that offer; and

(b) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn such consent.

[1/2005]

(3) If any prospectus or profile statement is issued in contravention of subsection (1) or (2), the person making the offer and every person who is

*continued on next page*

*Box A1.1 continuation*

knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(4) Every person making the offer shall cause a true copy of every written consent referred to in subsections (1) and (2) to be deposited, within 7 days after the registration of the prospectus or profile statement, at the registered office of the issuer in Singapore or, if it has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(5) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the securities to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (4) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

**Duration of validity of prospectus and profile statement**

**250.**—(1) No person shall make an offer of securities, or allot, issue or sell any securities, on the basis of a prospectus or profile statement after the expiration of the period referred to in subsection (3).

[1/2005]

(2) In a case where an entity makes an offer of securities or where the securities being offered are those issued by an entity or a proposed entity, no officer or equivalent person or promoter of the entity or proposed entity shall authorise or permit—

- (a) the offer of those securities; or
- (b) the allotment, issue or sale of those securities,

on the basis of a prospectus or profile statement after the expiration of the period referred to in subsection (3).

[1/2005]

(3) The period under subsection (1) or (2) is—

- (a) in a case where the securities are debentures or units of debentures issued under a debenture issuance programme under section 240A, 24 months from the date of registration by the Authority of the base prospectus in relation to such offer, allotment, issue or sale; or
- (b) in any other case, 6 months from the date of registration by the Authority of the prospectus in relation to such offer, allotment, issue or sale.

[1/2005]

(4) If default is made in complying with subsection (1) or (2), the person and, in the case of an entity or a proposed entity, every officer or equivalent person or promoter of the entity or proposed entity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(5) An allotment, an issue or a sale of securities that is made in contravention of subsection (1) or (2) shall not, by reason only of that fact, be voidable or void.

[1/2005]

[Companies, s. 57 (8)-(10)]

**Restrictions on advertisements, etc.**

**251.**—(1) If a prospectus is required for an offer or intended offer of securities, a person shall not—

- (a) advertise the offer or intended offer; or
- (b) publish a statement that—
  - (i) directly or indirectly refers to the offer or intended offer; or
  - (ii) is reasonably likely to induce persons to subscribe for or purchase the securities, unless the advertisement or publication is authorised by this section.

[1/2005]

(2) In determining whether a statement—

- (a) indirectly refers to an offer or intended offer of securities; or
- (b) is reasonably likely to induce persons to subscribe for or purchase securities, regard shall be had to whether the statement—
  - (i) forms part of the normal advertising of an entity's products or services and is genuinely directed at maintaining its existing customers, or attracting new customers, for those products or services;
  - (ii) communicates information that materially deals with the affairs of the entity; and
  - (iii) is likely to encourage investment decisions being made on the basis of the statement rather than on the basis of information contained in a prospectus or profile statement.

[1/2005]

(3) Notwithstanding subsection (6), a person may, before a prospectus or profile statement is registered by the Authority, disseminate a preliminary document which has been lodged with the Authority to institutional investors, relevant persons as defined in section 275 (2) or persons to whom an offer referred to in section 275 (1A) is to be made without contravening subsection (1), if—

(a) the front page of the preliminary document contains—

(i) the following statement:

"This is a preliminary document and is subject to further amendments and completion in the prospectus to be registered by the Monetary Authority of

*continued on next page*

*Box A1.1 continuation*

Singapore.”;

- (ii) a statement that a person to whom a copy of the preliminary document has been issued shall not circulate it to any other person; and
- (iii) a statement in bold lettering that no offer or agreement shall be made on the basis of the preliminary document to purchase or subscribe for any securities to which the preliminary document relates;
- (b) the preliminary document does not contain or have attached to it any form of application that will facilitate the making by any person of an offer of the securities to which the preliminary document relates, or the acceptance of such an offer by any person; and
- (c) when the prospectus is registered by the Authority, the person takes reasonable steps to notify the persons to whom the preliminary document was issued that the registered prospectus is available for collection.

[1/2005]

(4) Notwithstanding subsection (6), a person does not contravene subsection (1) by presenting oral or written material, on matters contained in a preliminary document which has been lodged with the Authority, to institutional investors, relevant persons as defined in section 275 (2) or persons to whom an offer referred to in section 275 (1A) is to be made before a prospectus or profile statement is registered by the Authority.

[1/2005]

(5) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 240 without contravening subsection (1).

[1/2005]

(6) Before a prospectus or profile statement is registered, an advertisement or publication does not contravene subsection (1) if it contains only the following:

- (a) a statement that identifies the securities, the person making the offer, the issuer and, where applicable, the underlying entity;
- (b) a statement that a prospectus or profile statement for the offer will be made available when the offer is made;
- (c) a statement that anyone wishing to acquire the securities will need to make an application in the manner set out in the prospectus or profile statement; and
- (d) a statement of how to obtain, or arrange to receive, a copy of the prospectus or profile statement.

[1/2005]

(7) To satisfy subsection (6), the advertisement or publication shall include all of the statements referred to in paragraphs (a), (b) and (c) of that subsection, and may include the statement referred to in paragraph (d).

- (8) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if—
  - (a) it includes a statement that the prospectus or profile statement in respect of the offer of securities is available for collection at the times and places specified in the statement;
  - (b) it includes a statement that anyone wishing to acquire the securities will need to make an application in the manner set out in the prospectus or profile statement; and
  - (c) it does not contain any information that is not included in the prospectus or profile statement.

[1/2005]

(9) An advertisement or a publication does not contravene subsection (1) if it—

- (a) consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange made by any person;
- (b) consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the underlying entity or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;
- (c) consists solely of a report about the issuer or the underlying entity that is published by the person making the offer, the issuer or the underlying entity, which—
  - (i) does not contain information that materially affects the affairs of the issuer or underlying entity other than information previously made available in a prospectus that has been registered by the Authority, an annual report or a disclosure, notice or report referred to in paragraph (a) or (b); and
  - (ii) does not refer (directly or indirectly) to the offer or intended offer;
- (d) consists solely of a statement made by the person making the offer, the issuer or the underlying entity that a prospectus or profile statement in respect of the offer or intended offer has been lodged with the Authority;
- (e) is a news report, or a genuine comment, by a person other than any person referred to in paragraph (f) (i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio, television or any other means of broadcasting or communication, relating to—
  - (i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;
  - (ii) a disclosure, notice or report referred to in paragraph (a);
  - (iii) a notice, report, presentation, general meeting or proposed general meeting referred to in paragraph (b);
  - (iv) a report referred to in paragraph (c);
- (f) is a report about the securities which are the subject of the offer or intended offer, published by someone who is not—
  - (i) the person making the offer, the issuer or the underlying entity;
  - (ii) a director or an equivalent person of the person making the offer, the issuer or the underlying entity;
  - (iii) a person who has an interest in the success of the issue or sale of the securities; or
  - (iv) a person acting at the instigation of, or by arrangement with, any person referred to in sub-paragraph (i), (ii) or (iii);
- (g) is a report about the securities which are the subject of the offer or intended offer, published and delivered to any institutional investor not later than 14 days prior to the date of lodgment of the prospectus, provided that—
  - (i) the offer is also made or will also be made in one or more other countries;
  - (ii) the publication and delivery of such report in that other country or any one of those other countries do not infringe any law, code or other requirement of that country;

*continued on next page*

*Box A1.1 continuation*

(iii) the report and the manner of its publication and delivery in Singapore comply with such other requirements as may be prescribed by the Authority; and

(iv) the person issuing the report complies with such requirements as may be prescribed by the Authority; or

(h) is a publication made by the person making the offer, the issuer or the underlying entity solely to correct or provide clarification on any erroneous or inaccurate information or comment contained in—

(i) an earlier news report or a genuine comment referred to in paragraph (e); or

(ii) an earlier publication published in the ordinary course of business of publishing a newspaper, periodical or magazine, or of broadcasting by radio, television or any other means of broadcasting or communication, referred to in subsection (10), provided that the first-mentioned publication does not contain any material information that is not included in the prospectus.

[1/2005]

(10) A person does not contravene subsection (1) if—

(a) he publishes any advertisement or publication in the ordinary course of a business of—

(i) publishing a newspaper, periodical or magazine; or

(ii) broadcasting by radio, television, or any other means of broadcasting or communication; and

(b) he did not know and had no reason to suspect that its publication would constitute a contravention of subsection (1).

(11) Subsection (9) (e) and (f) shall not apply to an advertisement or statement if any person gives consideration or any other benefit for the publication of the advertisement or statement.

[1/2005]

(12) Any person who contravenes subsection (1) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(13) This section does not affect any liability that a person has under any other law.

(14) The Authority may exempt any person or class of persons from this section, subject to such conditions or restrictions as may be determined by the Authority.

(15) Any person who contravenes any of the conditions or restrictions imposed under subsection (14) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(16) For the purposes of this section, any reference to publishing a statement shall be construed as including a reference to making a statement, whether oral or written, which is reasonably likely to be published.

[1/2005]

(17) For the purposes of subsections (1) and (2), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(18) For the purposes of subsection (2) (ii), the reference to affairs of the entity shall—

(a) in the case where the entity is a corporation, be construed as including a reference to the matters referred to in section 2 (2); and

(b) in any other case, be construed as a reference to such matters as may be prescribed by the Authority.

[1/2005]

(19) For the purposes of subsection (9) (c) (i), the reference to affairs of the issuer or underlying entity shall—

(a) in the case where the issuer or underlying entity is a corporation, be construed as including a reference to the matters referred to in section 2 (2); and

(b) in any other case, be construed as a reference to such matters as may be prescribed by the Authority.

[1/2005]

[Companies, s. 48; Aust. Corporations 2001, s. 734]

**Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies**

**252.**—(1) A person referred to in section 254 (3) (other than paragraph (a)) shall notify in writing the person making the offer of securities, as soon as practicable, if he becomes aware at any time after the prospectus or profile statement is registered by the Authority but before the close of the offer that—

(a) a statement in the prospectus or the profile statement is false or misleading;

(b) there is an omission to state any information required to be included in the prospectus under section 243 or there is an omission to state any information required to be included in the profile statement under section 246, as the case may be; or

(c) a new circumstance—

(i) has arisen since the prospectus or the profile statement was lodged with the Authority; and

(ii) would have been required to be included in the prospectus under section 243, or required to be included in the profile statement under section 246, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority, and the failure to so notify would have been materially adverse from the point of view of an investor.

[16/2003;1/2005]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(3) For the purposes of subsection (1) (a), any reference to a statement shall include a reference to any information presented, regardless of whether

*continued on next page*

*Box A1.1 continuation*

such information is in text or otherwise.

[1/2005]

[Companies, s. 55A; Aust. Corporations 2001, s. 730]

**Criminal liability for false or misleading statements**

**253.**—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 280, where a prospectus or profile statement is prepared and issued in relation to the offer, and—

(a) a false or misleading statement is contained in—

- (i) the prospectus or the profile statement; or
- (ii) any application form for the securities;

(b) there is an omission to state any information required to be included in the prospectus under section 243 or there is an omission to state any information required to be included in the profile statement under section 246, as the case may be; or

(c) there is an omission to state a new circumstance that—

- (i) has arisen since the prospectus or the profile statement was lodged with the Authority; and
  - (ii) would have been required to be included in the prospectus under section 243, or required to be included in the profile statement under section 246, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,
- the persons referred to in subsection (4) shall be guilty of an offence even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission, and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[16/2003;1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person made the statement without having reasonable grounds for making the statement.

(3) A person shall not be taken to have contravened subsection (1) if the false or misleading statement, or the omission to state any information or new circumstance, is not materially adverse from the point of view of the investor.

(4) The persons guilty of the offence are—

(a) the person making the offer;

(b) where the person making the offer is an entity—

- (i) each director or equivalent person of the entity; and
- (ii) if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;

(c) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties—

(i) the issuer;

(ii) each director or equivalent person of the issuer; and

(iii) each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the issuer;

(d) an issue manager to the offer of the securities who is, and who has consented to be, named in the prospectus or profile statement, if—

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii) knowing that the statement in the prospectus or profile statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(e) an underwriter (but not a sub-underwriter) to the issue or sale of the securities who is, and who has consented to be, named in the prospectus or profile statement, if—

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii) knowing that the statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(f) a person named in the prospectus or the profile statement with his consent as having made—

(i) the statement that is false or misleading, if he intentionally or recklessly makes that statement; or

(ii) a statement on which the false or misleading statement is based, if he knows that the second-mentioned statement is false or misleading and fails to take immediate steps to withdraw his consent,

but only in respect of the inclusion of the false or misleading statement; and

(g) any other person who intentionally or recklessly makes the false or misleading statement, or omits to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance, as the case may be.

[1/2005]

(5) For the purposes of subsection (4) and this subsection—

(a) remedial action includes any of the following:

(i) preventing the statement from being included, or having the information or circumstance included, in the prospectus or profile statement, as the case may be;

(ii) procuring the lodgment of a supplementary or replacement prospectus under section 241; and

*continued on next page*

*Box A1.1 continuation*

(b) a person is reckless as to the matter referred to in subsection (4) (d) (iii) or (e) (iii) if, having been put upon inquiry that the statement to be, or which has been, included in the prospectus or profile statement is likely to be false or misleading, that the information or circumstance is likely to be required to be included in that document, or that there is likely to be an omission to state the information or circumstance in that document, he fails to—

- (i) make all inquiries as are reasonable in the circumstances to verify this; and
- (ii) take such remedial action as is appropriate in the circumstances without delay, if such action is warranted by the outcome of the inquiries.

[1/2005]

(6) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 56; Aust. Corporations 2001, s. 728]

**Civil liability for false or misleading statements**

**254.**—(1) Where an offer of securities is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 280, where a prospectus or profile statement is prepared and issued in relation to the offer, and—

(a) a false or misleading statement is contained in—

- (i) the prospectus or the profile statement; or
- (ii) any application form for the securities;

(b) there is an omission to state any information required to be included in the prospectus under section 243 or there is an omission to state any information required to be included in the profile statement under section 246, as the case may be; or

(c) there is an omission to state a new circumstance that—

- (i) has arisen since the prospectus or the profile statement was lodged with the Authority; and
- (ii) would have been required by section 243 to be included in the prospectus, or required to be included in the profile statement under section 246, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,

the persons referred to in subsection (3) shall be liable to compensate any person who suffers loss or damage as a result of the false or misleading statement in or omission from the prospectus or the profile statement, even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission.

[16/2003;1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person makes the statement without having reasonable grounds for making the statement.

(3) The persons liable are—

- (a) the person making the offer;
- (b) where the person making the offer is an entity—
  - (i) each director or equivalent person of the entity; and
  - (ii) if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;
- (c) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties—
  - (i) the issuer;
  - (ii) each director or equivalent person of the issuer; and
  - (iii) each person who is, and who has consented to be, named in the prospectus or the profile statement as a proposed director or an equivalent person of the issuer;
- (d) an issue manager to the offer of the securities who is, and who has consented to be, named in the prospectus or the profile statement;
- (da) an underwriter (but not a sub-underwriter) to the issue or sale of the securities who is, and who has consented to be, named in the prospectus or the profile statement;
- (e) a person named in the prospectus or the profile statement with his consent as having made a statement—
  - (i) that is included in the prospectus or the profile statement; or
  - (ii) on which a statement made in the prospectus or the profile statement is based, but only in respect of the inclusion of that statement; and
- (f) any other person who made the false or misleading statement or omitted to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance.

[1/2005]

(4) A person who acquires securities as a result of an offer that was made in or accompanied by a profile statement is taken to have acquired the securities in reliance on both the profile statement and the prospectus for the offer.

[1/2005]

(4A) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(5) No action under subsection (1) shall be commenced after the expiration of 6 years from the date on which the cause of action arose.

(6) This section does not affect any liability that a person has under any other law.

[Companies, s. 55; Aust. Corporations 2001, s. 728]

*continued on next page*

*Box A1.1 continuation***Defences**

**255.**—(1) A person referred to in section 253 (4) (a), (b) or (c) is not liable under section 253 (1), and a person referred to in section 254 (3) is not liable under section 254 (1), only because of a false or misleading statement in a prospectus or a profile statement if the person proves that he—  
 (a) made all inquiries (if any) that were reasonable in the circumstances; and  
 (b) after doing so, believed on reasonable grounds that the statement was not false or misleading.

[1/2005]

(2) A person referred to in section 253 (4) (a), (b) or (c) is not liable under section 253 (1), and a person referred to in section 254 (3) is not liable under section 254 (1), only because of an omission from a prospectus or a profile statement in relation to a particular matter if the person proves that he—

- (a) made all inquiries (if any) that were reasonable in the circumstances; and
- (b) after doing so, believed on reasonable grounds that there was no omission from the prospectus or profile statement in relation to that matter.

[1/2005]

(3) A person is not liable under section 253 (1) or 254 (1) only because of a false or misleading statement in, or an omission from, a prospectus or a profile statement if the person proves that he placed reasonable reliance on information given to him by—

- (a) if the person is an entity, someone other than—
  - (i) a director or an equivalent person; or
  - (ii) an employee or agent, of the entity; or
- (b) if the person is an individual, someone other than an employee or agent of the individual.

[1/2005]

(4) For the purposes of subsection (3), a person is not the agent of an entity or individual merely because he performs a particular professional or advisory function for the entity or individual.

[1/2005]

(5) A person who is named in a prospectus or a profile statement as—

- (a) a proposed director or an equivalent person of the issuer, or an issue manager or underwriter;
  - (b) having made a statement included in the prospectus or the profile statement; or
  - (c) having made a statement on the basis of which a statement is included in the prospectus or the profile statement,
- is not liable under section 253 (1) or 254 (1) only because of a false or misleading statement in, or an omission from, the prospectus or the profile statement if the person proves that he publicly withdrew his consent to being named in the prospectus or the profile statement in that way.

[1/2005]

(6) A person is not liable under section 253 (1) or 254 (1) only because of a new circumstance that has arisen since the prospectus or the profile statement was lodged with the Authority if the person proves that he was not aware of the matter.

(7) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 55B; Aust. Corporations 2001, s. 731, s. 732 and s. 733]

**256.** (Repealed by Act 1/2005)

**Document containing offer of securities for sale deemed prospectus**

**257.**—(1) Subsection (2) applies where—

- (a) an entity allots or agrees to allot to any person any securities of the entity with a view to all or any of them being subsequently offered for sale to another person; and
- (b) such offer (referred to in this section as a subsequent offer) does not qualify for an exemption under Subdivision (4) of this Division (other than section 280).

[1/2005]

(2) Any document by which the subsequent offer is made shall for all purposes be deemed to be a prospectus issued by the entity, and the entity shall for all purposes be deemed to be the person making the offer, and all written laws and rules of law as to the contents of prospectuses and to liability in respect of statements and non-disclosure in prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly as if—

- (a) an offer of securities has been made; and
- (b) persons accepting the subsequent offer in respect of any securities were subscribers therefor, but without prejudice to the liability, if any, of the persons making the subsequent offer, in respect of statements or non-disclosures in the document or otherwise.

[16/2003;1/2005]

(3) For the purposes of this Act, it shall, unless the contrary is proved, be sufficient evidence that an allotment of, or an agreement to allot, securities was made with a view to the securities being subsequently offered for sale if it is shown—

- (a) that an offer of the securities or of any of them for sale was made within 6 months after the allotment or agreement to allot; or
- (b) that at the date when the offer was made the whole consideration to be received by the entity in respect of the securities had not been so received.

[1/2005]

(4) The requirements of this Division as to prospectuses shall have effect as though the persons making the subsequent offer were persons named in the prospectus as directors or equivalent persons of the entity.

*continued on next page*

*Box A1.1 continuation*

(5) In addition to complying with the other requirements of this Division, the document making the subsequent offer shall state—

- (a) the net amount of the consideration received or to be received by the entity in respect of the securities being offered; and
- (b) the place and time at which a copy of the contract under which the securities have been or are to be allotted may be inspected.

[1/2005]

[Companies, s. 52]

[1/2005]

**Application and moneys to be held in trust in separate bank account until allotment**

**258.**—(1) All application and other moneys paid prior to allotment by any applicant on account of securities offered to him shall, until the allotment of the securities, be held by the person making the offer of the securities upon trust for the applicant in a separate bank account, being a bank account that is established and kept by the person solely for the purpose of depositing the application and other moneys that are paid by applicants for those securities.

[1/2005]

(2) There shall be no obligation or duty on any bank with which any such moneys have been deposited to enquire into or see to the proper application of those moneys, so long as the bank acts in good faith.

[1/2005]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[Companies, s. 58]

**Allotment of securities where prospectus indicates application to list on securities exchange**

**259.**—(1) Where a prospectus states or implies that application has been or will be made for permission for the securities offered thereby to be listed for quotation on any securities exchange, and—

- (a) the permission is not applied for in the form required by the securities exchange within 3 days from the date of the issue of the prospectus; or
- (b) the permission is not granted before the expiration of 6 weeks from the date of the issue of the prospectus or such longer period not exceeding 12 weeks from the date of the issue as is, within those 6 weeks, notified to the applicant by or on behalf of the securities exchange, then—

- (i) any allotment whenever made of securities made on an application in pursuance of the prospectus shall, subject to subsection (3), be void; and
- (ii) any person who continues to allot such securities after the period specified in paragraph (a) or (b), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) Where the permission has not been applied for, or has not been granted as mentioned under subsection (1), the person making the offer shall, subject to subsection (3), immediately repay without interest all moneys received from applicants in pursuance of the prospectus, and if any such moneys is not repaid within 14 days after the person making the offer so becomes liable to repay them, then—

- (a) he shall be liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days; and
- (b) where the person making the offer is an entity, in addition to the liability of the entity, the directors or equivalent persons of the entity shall be jointly and severally liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days.

[1/2005]

(3) Where in relation to any securities of an entity—

- (a) permission is not applied for as specified in subsection (1) (a); or
- (b) permission is not granted as specified in subsection (1) (b),

the Authority may, on the application of the entity made before any of the securities is purported to be allotted, exempt the allotment of the securities from the provisions of this section, and the Authority shall give notice of such exemption in the *Gazette*.

[1/2005]

(4) A director or an equivalent person shall not be liable under subsection (2) if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

[1/2005]

(5) Any condition requiring or binding any applicant for securities to waive compliance with any requirement of this section or purporting to do so shall be void.

[1/2005]

(6) Without limiting the application of any of its provisions, this section shall have effect—

- (a) in relation to any securities agreed to be taken by a person underwriting an offer thereof contained in a prospectus as if he had applied therefor in pursuance of the prospectus; and
- (b) in relation to a prospectus offering securities for sale as if a reference to sale were substituted for a reference to allotment.

[1/2005]

(7) All moneys received from applicants in pursuance of the prospectus shall be kept in a separate bank account so long as the person making the offer may become liable to repay it under subsection (2).

[16/2003;1/2005]

*continued on next page*



*Box A1.1 continuation*

(8) Any person who contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(9) Where the securities exchange has within the time specified in subsection (1) (b) granted permission subject to compliance with any requirements specified by the securities exchange, permission shall be deemed to have been granted by the securities exchange if the directors or equivalent persons have given to the securities exchange an undertaking in writing to comply with the requirements of the securities exchange.

[1/2005]

(10) If any such undertaking referred to in subsection (9) is not complied with, each director or equivalent person who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(11) A person shall not issue a prospectus inviting persons to subscribe for securities of an entity if it includes—

- (a) a false or misleading statement that permission has been granted for those securities to be listed for quotation on, dealt in or quoted on any securities exchange; or
- (b) any statement in any way referring to any such permission or to any application or intended application for any such permission, or to listing for quotation, dealing in or quoting the securities, on any securities exchange, or to any requirement of a securities exchange, unless—
  - (i) that statement is or is to the effect that permission has been granted, or that application has been or will be made to the securities exchange within 3 days from the date of the issue of the prospectus; or
  - (ii) that statement has been approved by the Authority for inclusion in the prospectus.

[1/2005]

(12) Any person who contravenes subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(13) Where a prospectus contains a statement to the effect that the memorandum and articles or other constituent document or documents of the issuer comply, or have been drawn so as to comply, with the requirements of any securities exchange, the prospectus shall, unless the contrary intention appears from the prospectus, be deemed for the purposes of this section to imply that application has been, or will be, made for permission for the securities to which the prospectus relates to be listed for quotation on the securities exchange.

[1/2005]

[Companies, s. 53]

**Prohibition of allotment unless minimum subscription received**

**260.**—(1) No allotment shall be made of any securities of a company unless—

- (a) the minimum subscription has been subscribed; and
- (b) the sum payable on application for the securities so subscribed has been received by the company, but if a cheque for the sum payable has been received by the company, the sum shall be deemed not to have been received by the company until the cheque is paid by the bank on which it is drawn.

[1/2005]

(2) The minimum subscription shall—

- (a) be calculated based on the price at which each share or debenture, or each unit of share or debenture, is or will be offered; and
- (b) be reckoned exclusively of any amount payable otherwise than in cash.

[1/2005]

(3) The amount payable on application on each share or debenture, or each unit of share or debenture, offered shall not be less than 5% of the price at which the share or debenture, or unit of share or debenture, is or will be offered.

[1/2005]

(4) If the conditions referred to in subsection (1) (a) and (b) have not been satisfied on the expiration of 4 months after the first issue of the prospectus, all moneys received from applicants for securities shall be immediately repaid to them without interest.

[1/2005]

(5) If any money referred to in subsection (4) is not repaid within 5 months after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of 10% per annum from the expiration of the period of 5 months; but a director shall not be so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(6) An allotment made by a company to an applicant in contravention of this section shall be voidable at the option of the applicant which option may be exercised by written notice served on the company—

- (a) within one month after the holding of the statutory meeting of the company and not later; or
- (b) in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment and not later,

and the allotment shall be so voidable notwithstanding that the company is in the course of being wound up.

(7) Every director of a company who knowingly contravenes or permits or authorises the contravention of any of the provisions of this section shall be guilty of an offence and shall be liable in addition to the penalty or punishment for the offence to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee has sustained or incurred thereby.

(8) No proceedings for the recovery of any compensation under subsection (7) shall be commenced after the expiration of 2 years from the date of the allotment.

*continued on next page*

*Box A1.1 continuation*

(9) Any condition requiring or binding any applicant for securities to waive compliance with any requirement of this section shall be void. [1/2005]

[Companies, s. 57]

## Subdivision (3)—Debentures

**Preliminary provisions**

**261.**—(1) Subject to subsection (1A), this Subdivision shall apply where an entity makes an offer of debentures. [1/2005]

(1A) Sections 268, 269 and 270 shall not apply if the borrowing entity is a prescribed entity. [1/2005]

(1B) In subsections (1A) and (1C), “prescribed entity” means—

- (a) any bank licensed under the Banking Act (Cap. 19); or
- (b) any entity or entity of a class which has been declared by the Authority, by order published in the Gazette, to be a prescribed entity for the purposes of this section.

[1/2005]

(1C) The Authority may, by notice in writing—

- (a) impose such conditions or restrictions on a prescribed entity as it thinks fit; and
  - (b) at any time vary or revoke any condition or restriction so imposed,
- and the prescribed entity shall comply with every such condition or restriction imposed on it by the Authority that has not been revoked by the Authority.

[1/2005]

(1D) Any person who contravenes any condition or restriction imposed under subsection (1C) (a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) *(Deleted by Act 1/2005)*

(3) In this Subdivision, a corporation is related to another corporation if it is deemed to be related to that other corporation by virtue of section 6 of the Companies Act (Cap. 50).

**Offer of asset-backed securities**

**262.**—(1) An offer of asset-backed securities shall be made only if they are issued by—

- (a) a special purpose vehicle other than a trust; or
- (b) the trustee of a trust that is a special purpose vehicle.

[1/2005]

(2) The Authority may exempt any person or class of persons from this section, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(3) In this section—

“asset-backed securities” means debentures or units of debentures issued pursuant to a securitisation transaction;

“securitisation transaction” means an arrangement that involves the sale, transfer or assignment of assets to a special purpose vehicle where—

(a) such sale, transfer or assignment is funded by the issue of debentures or units of debentures (whether by that special purpose vehicle or another special purpose vehicle); and

(b) payments in respect of such debentures or units of debentures are or will be principally derived, directly or indirectly, from the cash flows generated by the assets;

“special purpose vehicle” means an entity that is established solely in order to, or a trust that is established solely in order for its trustee to, do either or both of the following:

- (a) hold (whether as a legal or equitable owner) the assets from which payments to holders of any asset-backed securities are or will be primarily derived;
- (b) issue any asset-backed securities.

[1/2005]

**263.** *(Repealed by Act 16/2003)*

**264.** *(Repealed by Act 16/2003)*

**Power of court in relation to certain irredeemable debentures**

**265.**—(1) Notwithstanding anything in any debenture or trust deed, the security for any debentures which are irredeemable or redeemable only on the happening of a contingency shall, if the court so orders, be enforceable, immediately or at such other time as the court directs if, on the application of the trustee for the holders of the debentures or (where there is no trustee) on the application of any holder of the debentures, the court is satisfied that—

(a) at the time of the issue of the debentures the assets of the borrowing entity which constituted or were intended to constitute the security therefor were sufficient or likely to become sufficient to discharge the principal debt and any interest thereon;

(b) the security, if realised under the circumstances existing at the time of the application, would be likely to bring not more than 60% of the principal sum of moneys outstanding (regard being had to all prior charges and charges ranking *pari passu* if any); and

(c) the assets covered by the security, on a fair valuation on the basis of a going concern after allowing a reasonable amount for depreciation are worth less than the principal sum and the borrowing entity is not making sufficient profit to pay the interest due on the principal sum or (where no definite rate

*continued on next page*

*Box A1.1 continuation*

of interest is payable) interest thereon at such rate as the court considers would be a fair rate to expect from a similar investment.

[1/2005]

(2) Subsection (1) shall not affect any power to vary rights or accept any compromise or arrangement created by the terms of the debentures or the relevant trust deed or under a compromise or arrangement between the borrowing entity and creditors.

[1/2005]

[Companies, s. 100]

**Duties of trustees**

**266.**—(1) *(Deleted by Act 16/2003)*

(2) Where, after due inquiry, the trustee for the holders of debentures at any time is of the opinion that the assets of the borrowing entity and of any of its guarantor entities which are or should be available whether by way of security or otherwise, are insufficient, or likely to become insufficient, to discharge the principal debt as and when it becomes due, the trustee may apply to the Authority for an order under this subsection.

[1/2005]

(3) The Authority, on such application—

(a) after giving the borrowing entity an opportunity of making representations in relation to that application, by order in writing served on the entity at its registered office in Singapore, may impose such restrictions on the activities of the borrowing entity, including restrictions on advertising for deposits or loans and on borrowing by the entity as the Authority thinks necessary for the protection of the interests of the holders of the debentures; or  
(b) may, and if the borrowing entity so requires, shall direct the trustee to apply to the court for an order under subsection (5); and the trustee shall apply accordingly.

[1/2005]

(4) Where—

(a) after due inquiry, the trustee at any time is of the opinion that the assets of the borrowing entity and of any of its guarantor entities which are or should be available, whether by way of security or otherwise, are insufficient or likely to become insufficient, to discharge the principal debt as and when it becomes due; or

(b) the borrowing entity has contravened an order made by the Authority under subsection (2),  
the trustee may, and where the borrowing entity has requested the trustee to do so, shall apply to the court for an order under subsection (5).

[1/2005]

(5) Where an application is made to the court under subsection (3) or (4), the court may, after giving the borrowing entity an opportunity to be heard, by order, do all or any of the following things:

- (a) direct the trustee to convene a meeting of the holders of the debentures for the purpose of placing before them such information relating to their interests and such proposals for the protection of their interests as the trustee considers necessary or appropriate, and of obtaining their directions in relation thereto and give such directions in relation to the conduct of the meeting as the court thinks fit;
- (b) stay all or any actions or proceedings before any court by or against the borrowing entity;
- (c) restrain the payment of any moneys by the borrowing entity to the holders of debentures of the borrowing entity or to any class of such holders;
- (d) appoint a receiver of such of the property as constitutes the security, if any, for the debentures;
- (e) give such further directions from time to time as may be necessary to protect the interests of the holders of the debentures, the members of the borrowing entity or any of its guarantor entities or the public,  
but in making any such order the court shall have regard to the rights of all creditors of the borrowing entity.

[1/2005]

(6) The court may vary or rescind any order made under subsection (5) as the court thinks fit.

(7) A trustee in making any application to the Authority or to the court shall have regard to the nature and kind of the security given when the offer of the debentures was made, and if no security was given shall have regard to the position of the holders of the debentures as unsecured creditors of the borrowing entity.

[1/2005]

(8) A trustee may rely upon any certificate or report given or statement made by any advocate and solicitor, auditor or officer of the borrowing entity or guarantor entity if it has reasonable grounds for believing that such advocate and solicitor, auditor or officer was competent to give or make the certificate, report or statement.

[1/2005]

[Companies, s. 101]

**Powers of trustee to apply to court for directions, etc.**

**267.**—(1) A trustee for the holders of debentures may apply to the court—

- (a) for directions in relation to any matter arising in connection with the performance of the functions of the trustee; or
- (b) to determine any question in relation to the interests of the holders of debentures.

(2) The court may—

- (a) give such directions to the trustee as the court thinks fit; and
  - (b) if satisfied that the determination of the question will be just and beneficial, accede wholly or partially to any such application on such terms and conditions as the court thinks fit or make such other order on the application as the court thinks just.
- (3) The court may, on an application under this section, order a meeting of all or any of the holders of debentures to be called to consider any matters in which they are concerned and to advise the trustee on those matters and may give such ancillary or consequential directions as the court thinks fit.
- (4) The meeting shall be held and conducted in such manner as the court directs, under the chairmanship of a person nominated by the trustee or such

*continued on next page*

*Box A1.1 continuation*

other person as the meeting appoints.

[Companies, s. 102]

**Right of Authority, securities exchange and holders of debentures to apply to court for order**

**267A.** Without prejudice to any other right of action or remedy in any written law or rule of law, a holder of debentures, the Authority or a securities exchange (in a case where the debentures are quoted or listed for quotation on that securities exchange) may apply to the court for an order to compel the trustee for the holders of such debentures to perform his duties as set out in the trust deed relating to those debentures, and the court may either make the order on such terms as it considers appropriate, or dismiss the application.

[16/2003]

**Obligations of borrowing entity**

**268.**—(1) Where there is a trustee for the holders of any debentures of a borrowing entity, the directors or equivalent persons of the borrowing entity shall—

(a) at the end of a period not exceeding 3 months ending on a day (being a day after the date of the issue of the relevant prospectus) which the trustee is hereby required to notify the borrowing entity in writing; and

(b) at the end of each succeeding period thereafter, being a period of 3 months or such shorter time as the trustee may, in any special circumstances allow,

prepare a report that relates to that period and complies with the requirements of subsection (2) and within one month after the end of each such period lodge a copy of the report relating to that period with the Authority and with the trustee.

[1/2005]

(2) The report referred to in subsection (1) shall be signed by not less than 2 of the directors or equivalent persons on behalf of all of them and shall set out in detail any matters adversely affecting the security or the interests of the holders of the debentures and, without affecting the generality of subsection (1), shall state—

(a) whether or not the limitations on the amount that the entity may borrow have been exceeded;

(b) whether or not the borrowing entity and each of its guarantor entities have observed and performed all the covenants and provisions binding upon them respectively by or pursuant to the debentures or any trust deed;

(c) whether or not any event has happened which has caused or could cause the debentures or any provision of the relevant trust deed to become enforceable and, if so, particulars of that event;

(d) whether or not any circumstances affecting the borrowing entity, its subsidiaries or its guarantor entities or any of them have occurred which materially affect any security or charge included in or created by the debentures or any trust deed and, if so, particulars of those circumstances;

(e) whether or not there has been any substantial change in the nature of the business of the borrowing entity or any of its subsidiaries or any of its guarantor entities since the debentures were first issued which has not previously been reported upon as required by this section and, if so, particulars of that change; and

(f) where the borrowing entity has deposited money with or lent money to or assumed any liability of a corporation which is related to the borrowing entity, particulars of—

(i) the total amounts so deposited or lent and the extent of any liability so assumed during the period covered by the report; and

(ii) the total amounts owing to the borrowing entity in respect of money so deposited or lent and the extent of any liability so assumed as at the end of the period covered by the report,

distinguishing between deposits, loans and assumptions of liabilities which are secured and those which are unsecured, but not including any deposit with or loan to or any liability assumed on behalf of a corporation if that corporation has guaranteed the repayment of the debentures of the borrowing entity and has secured the guarantee by a charge over its assets in favour of the trustee for the holders of the debentures of the borrowing entity.

[1/2005]

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

(4) Where there is a trustee for the holders of any debentures issued by a borrowing entity, the borrowing entity and each of its guarantor entities which has guaranteed the repayment of the moneys raised by the issue of those debentures shall, whether or not any demand therefor has been made—

(a) in writing furnish the trustee, within 21 days after the creation of the charge, with the particulars of any charge created by the entity or the guarantor entity, as the case requires; and

(b) when the amount to be advanced on the security of the charge is indeterminate, in writing furnish the trustee, within 7 days after the advance, with particulars of the amount or amounts in fact advanced.

[1/2005]

(5) Where any such advance referred to in subsection (4) (b) is merged in a current account with bankers or trade creditors, it shall be sufficient for particulars of the net amount outstanding in respect of any such advance to be furnished every 3 months.

(6) The directors or equivalent persons of every borrowing entity and of every guarantor entity shall cause to be made out and lodged with the Authority and with the trustee for the holders of the debentures, if any—

(a) a profit and loss account for the first 6 months of every financial year of the entity and a balance-sheet as at the end of that period, not later than 3 months after the expiration of the period of 6 months; and

(b) a profit and loss account for every financial year of the entity and a balance-sheet as at the end of that period, not later than 5 months after the expiration of that financial year.

[1/2005]

(7) Any person who fails to comply with subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$15,000

*continued on next page*

*Box A1.1 continuation*

and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

(8) Section 201 (4) to (7) and (11) to (16) and section 207 (1), (2) and (7) of the Companies Act (Cap. 50), shall, with such adaptations as are necessary, be applicable to every profit and loss account and balance-sheet made out and lodged under subsection (6) as if that profit and loss account and balance-sheet were a profit and loss account and balance-sheet referred to in those sections.

(9) Where—

(a) the directors or equivalent persons of a borrowing entity do not lodge with the trustee for the holders of debentures a report as required by subsection (1); or

(b) the directors or equivalent persons of a borrowing entity or the directors of a guarantor entity do not lodge with the trustee the balance-sheets and profit and loss accounts as required by subsection (6) within the time prescribed, the trustee shall immediately lodge notice of that fact with the Authority.

[1/2005]

(10) Notwithstanding anything in subsection (8)—

(a) a profit and loss account and balance-sheet of a borrowing entity or its guarantor entity required to be made out and lodged in accordance with subsection (6)(a) need not be audited; and

(b) a profit and loss account and balance-sheet of a borrowing entity or its guarantor entity required to be made out and lodged in accordance with subsection (6)(b) need not be audited, or the audit thereof may be of a limited nature or extent, if the trustee for the holders of the debentures of the borrowing entity has, by notice in writing, consented to the audit being dispensed with or being of a limited nature or extent, as the case may be.

(11) Where the trustee has by notice in writing given his consent under subsection (10), the directors or equivalent persons of the borrowing entity, or the directors or equivalent persons of the guarantor entity, in respect of whose profit and loss account and balance-sheet the notice was given, shall lodge with the Authority a copy of the notice at the time when the profit and loss account and balance-sheet to which the notice relates are lodged with the Authority.

[1/2005]

(12) Notwithstanding anything in this section, a profit and loss account and balance-sheet of a borrowing entity or its guarantor entity required to be made out and lodged in accordance with subsection (6) may, unless the trustee for the holders of the debentures of the borrowing entity otherwise requires in writing, be based upon the value of the stock in trade of the borrowing entity or the guarantor entity, as the case may be, as reasonably estimated by the directors or equivalent persons of the borrowing entity or guarantor entity.

[1/2005]

(13) The estimation of the directors or equivalent persons referred to in subsection (12) shall be made on the basis of the values of such stock in trade as adopted for the purpose of the profit and loss account and balance-sheet of that entity laid before the entity at its last preceding annual general meeting and certified in writing by the directors or equivalent persons as such.

[1/2005]

[Companies, s. 103]

#### **Obligation of guarantor entity to furnish information**

**269.**—(1) For the purpose of the preparation of a report that, by this Subdivision, is required to be signed by or on behalf of the directors or equivalent persons, or persons approved by the Authority, of a borrowing entity or any of them, that borrowing entity may, by notice in writing, require any of its guarantor entities to furnish it with any information relating to that guarantor entity which is, by this Subdivision, required to be contained in that report.

[1/2005]

(2) The guarantor entity shall furnish the borrowing entity with the information required under subsection (1) before such date, being a date not earlier than 14 days after the notice is given, as may be specified in that behalf in the notice.

[1/2005]

(3) A guarantor entity which fails to comply with a requirement contained in a notice given under subsection (1) and every officer or equivalent person of that entity who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[Companies, s. 104]

#### **Loans and deposits to be immediately repayable on certain events**

**270.**—(1) Where there is, in any prospectus issued in connection with an offer of debentures, a statement as to any particular purpose or project for which the moneys received by the borrowing entity in response to the offer are to be applied, the borrowing entity shall, where there is a trustee for the holders of those debentures, from time to time make reports to the trustee as to the progress that has been made towards achieving such purpose or completing such project.

[16/2003;1/2005]

(2) Each such report shall be included in the report required to be furnished to the trustee for the holders of the debentures under section 268 (1).

(3) When it appears to the trustee for the holders of the debentures that such purpose or project has not been achieved or completed—

(a) within the time stated in the prospectus within which the purpose or project is to be achieved or completed; or

(b) where no such time was stated, within a reasonable time,

the trustee may and, if in his opinion it is necessary for the protection of the interests of the holders of the debentures, shall give notice in writing to the borrowing entity requiring it to repay the moneys so received by the borrowing entity and, within one month after such notice is given, lodge with the Authority a copy thereof.

*continued on next page*

*Box A1.1 continuation*

[1/2005]

(4) The trustee shall not give notice under subsection (3) if he is satisfied—

- (a) that the purpose or project has been substantially achieved or completed;
- (b) that the interests of the holders of debentures have not been materially prejudiced by the failure to achieve or complete the purpose or project within the time stated in the prospectus or within a reasonable time; or
- (c) that the failure to achieve the purpose or project was due to circumstances beyond the control of the borrowing entity that could not reasonably have been foreseen by the borrowing entity at the time that the prospectus was issued.

[1/2005]

(5) Upon receipt by the borrowing entity of a notice referred to in subsection (3), the borrowing entity shall be liable to repay, and on demand in writing by a person entitled thereto shall immediately repay to him any moneys owing to him as the result of a loan or deposit made in response to the offer unless—

- (a) before the moneys were accepted by the borrowing entity, the borrowing entity had given notice in writing to the persons from whom the moneys were received specifying the purpose or project for which the moneys would in fact be used and the moneys were accepted by the borrowing entity accordingly; or
- (b) the borrowing entity by notice in writing served on the holders of the debentures—
  - (i) had specified the purpose or project for which the moneys would in fact be applied by the borrowing entity; and
  - (ii) had offered to repay the moneys to the holders of the debentures, and that person had not within 14 days after the receipt of the notice, or such longer time as was specified in the notice, in writing demanded from the borrowing entity repayment of the money.

[1/2005]

(6) Where the borrowing entity has given a notice in writing as provided in subsection (5), specifying the purpose or project for which the moneys will in fact be applied by the borrowing entity, this section shall apply and have effect as if the purpose or project so specified in the notice was the particular purpose or project specified in the prospectus as the purpose or project for which the moneys were to be applied.

[1/2005]

[Companies, s. 105]

#### **Liability of trustees for debenture holders**

**271.**—(1) Subject to this section, any provision contained in a trust deed relating to or securing an issue of debentures, or in any contract with the holders of debentures secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from or indemnifying him against liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee.

(2) Subsection (1) shall not invalidate—

- (a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or
- (b) any provision enabling such a release to be given—
  - (i) on the agreement thereto of a majority of not less than three fourths in nominal value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and
  - (ii) either with respect to specific acts or omissions or on the dissolution of the trustee or on his ceasing to act.

(3) Subsection (1) shall not operate—

- (a) to invalidate any provision in force on 29th December 1967 so long as any trustee then entitled to the benefit of that provision remains a trustee of the deed in question; or
- (b) to deprive any trustee of any exemption or right to be indemnified in respect of anything done or omitted to be done by the trustee while any such provision was in force.

[Companies, s. 106]

Subdivision (4)—Exemptions

#### **Issue or transfer of securities for no consideration**

**272.**—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of shares or debentures of an entity if no consideration is or will be given for the issue or transfer of the shares or debentures.

[1/2005]

(2) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of units of shares or debentures of an entity if—

- (a) no consideration is or will be given for the issue or transfer of the units of shares or debentures; and
- (b) no consideration is or will be given for the underlying shares or debentures on the exercise or conversion of the units of shares or debentures.

[1/2005]

#### **Small offers**

**272A.**—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to personal offers of securities of an entity by a person if—

- (a) the total amount raised by the person from such offers within any period of 12 months does not exceed—
  - (i) \$5 million (or its equivalent in a foreign currency); or
  - (ii) such other amount as may be prescribed by the Authority in substitution for the amount specified in sub-paragraph (i);
- (b) in respect of each offer, the person making the offer gives the person to whom he makes the offer—
  - (i) the following statement in writing:

“This offer is made in reliance on the exemption under section 272A (1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore.”; and

- (ii) a notification in writing that the securities to which the offer (referred to in this sub-paragraph as the initial offer) relates shall not be subsequently sold

*continued on next page*

*Box A1.1 continuation*

to any person, unless the offer resulting in such subsequent sale is made—

- (A) in compliance with Subdivisions (2) and (3) of this Division;
- (B) in reliance on subsection (8) (c) or any other exemption under any provision of this Subdivision (other than this subsection); or
- (C) where at least 6 months have elapsed from the date the securities were acquired under the initial offer, in reliance on the exemption under this subsection;
- (c) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;
- (d) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—
  - (i) the holder of a capital markets services licence to deal in securities;
  - (ii) an exempt person in respect of dealing in securities; or
  - (iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(e) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered—

- (i) the prospectus has expired pursuant to section 250; or
- (ii) the person making the offer has before making the offer informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection.

(2) For the purposes of subsection (1) (b), where any notice, circular, material, publication or other document is issued in connection with the offer, the person making the offer is deemed to have given the statement and notification to the person to whom he makes the offer in accordance with that provision if such statement or notification is contained in the first page of that notice, circular, material, publication or document.

[1/2005]

(3) For the purposes of subsection (1), a personal offer of securities is one that—

- (a) may be accepted only by the person to whom it is made; and
- (b) is made to a person who is likely to be interested in that offer, having regard to—
  - (i) any previous contact before the date of the offer between the person making the offer and that person;
  - (ii) any previous professional or other connection established before that date between the person making the offer and that person; or
  - (iii) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to—
    - (A) the person making the offer;
    - (B) the holder of a capital markets services licence to deal in securities;
    - (C) an exempt person in respect of dealing in securities;
    - (D) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;
    - (E) an exempt financial adviser as defined in section 2 (1) of the Financial Advisers Act; or
    - (F) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services, that he is interested in offers of that kind.

[1/2005]

(4) In determining the amount raised by an offer, the following shall be included:

- (a) the amount payable for the securities at the time they are allotted, issued or sold;
- (b) if the securities are issued partly-paid, any amount payable at a future time if a call is made;
- (c) if the securities carry a right (by whatever name called) to be converted into other securities or to acquire other securities, any amount payable on the exercise of the right to convert them into, or to acquire, other securities.

[1/2005]

(5) In determining whether the amount raised by a person from offers within a period of 12 months exceeds the applicable amount specified in subsection (1) (a), each amount raised—

- (a) by that person from any offer of securities issued by the same entity; or
  - (b) by that person or another person from any offer of securities of an entity, units or derivatives of units in a business trust, or units in a collective investment scheme, which is a closely related offer,
- if any, within that period in reliance on the exemption under subsection (1), section 282V (1) or 302B (1) shall be included.

[1/2005]

(6) Whether an offer is a closely related offer under subsection (5) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(7) For the purpose of this section, an offer of securities made by a person acting as an agent of another person shall be treated as an offer made by that other person.

[1/2005]

(8) Where securities acquired through an offer made in reliance on the exemption under subsection (1) (referred to in this subsection as an initial offer) are subsequently sold by the person who acquired the securities to another person, Subdivisions (2) and (3) of this Division shall apply to the offer from the first-mentioned person to the second-mentioned person which resulted in that sale, unless—

- (a) such offer is made in reliance on an exemption under any provision of this Subdivision (other than this section);
- (b) such offer is made in reliance on an exemption under subsection (1) and at least 6 months have elapsed from the date the securities were acquired under the initial offer; or

*continued on next page*

*Box A1.1 continuation*

(c) such offer is one—

(i) that may be accepted only by the person to whom it is made;

(ii) that is made to a person who is likely to be interested in the offer having regard to—

(A) any previous contact before the date of the offer between the person making the initial offer and that person;

(B) any previous professional or other connection established before that date between the person making the initial offer and that person; or

(C) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to—

(CA) the person making the initial offer;

(CB) the holder of a capital markets services licence to deal in securities;

(CC) an exempt person in respect of dealing in securities;

(CD) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;

(CE) an exempt financial adviser as defined in section 2 (1) of the Financial Advisers Act; or

(CF) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services,

that he is interested in offers of that kind;

(iii) in respect of which the first-mentioned person has given the second-mentioned person—

(A) the following statement in writing:

“This offer is made in reliance on the exemption under section 272A (8) (c) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore.”; and

(B) a notification in writing that the securities being offered shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made—

(BA) in compliance with Subdivisions (2) and (3) of this Division;

(BB) in reliance on this subsection or any other exemption under any provision of this Subdivision (other than subsection (1)); or

(BC) where at least 6 months have elapsed from the date the securities were acquired under the initial offer, in reliance on the exemption under subsection (1);

(iv) that is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer; and

(v) in respect of which no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—

(A) the holder of a capital markets services licence to deal in securities;

(B) an exempt person in respect of dealing in securities; or

(C) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing.

[1/2005]

(9) Subsection (2) shall apply, with the necessary modifications, in relation to the statement and notification referred to in subsection (8) (c) (iii).

[1/2005]

(10) In subsections (1) (c) and (8) (c) (iv), “advertisement” means—

(a) a written or printed communication;

(b) a communication by radio, television or other medium of communication; or

(c) a communication by means of a recorded telephone message, that is published in connection with an offer of securities, but does not include—

(i) a document—

(A) purporting to describe the securities being offered, or the business and affairs of the person making the offer, the issuer or, where applicable, the underlying entity; and

(B) purporting to have been prepared for delivery to and review by persons to whom the offer is made so as to assist them in making an investment decision in respect of the securities being offered;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

(iii) a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the underlying entity or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting.

[1/2005]

(11) In subsection (10) (i) (A), the reference to the affairs of the person making the offer, the issuer or, where applicable, the underlying entity shall—

(a) in the case where the person making the offer, the issuer or the underlying entity is a corporation, be construed as including a reference to the matters referred to in section 2 (2); and

(b) in any other case, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

**Private placement**

**272B.**—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to offers of securities of an entity that are made by a person if—

(a) the offers are made to no more than 50 persons within any period of 12 months;

(b) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

*continued on next page*



*Box A1.1 continuation*

(c) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—

- (i) the holder of a capital markets services licence to deal in securities;
- (ii) an exempt person in respect of dealing in securities; or
- (iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(d) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered—

- (i) the prospectus has expired pursuant to section 250; or
- (ii) the person making the offer has before making the offer—
  - (A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and
  - (B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

(2) The Authority may prescribe such other number of persons in substitution for the number specified in subsection (1) (a).

[1/2005]

(3) In determining whether offers of securities by a person are made to no more than the applicable number of persons specified in subsection (1) (a) within a period of 12 months, each person to whom—

- (a) an offer of securities issued by the same entity is made by the first-mentioned person; or
  - (b) an offer of securities of an entity, units or derivatives of units in a business trust, or units in a collective investment scheme, is made by the first-mentioned person or another person where such offer is a closely related offer,
- if any, within that period in reliance on the exemption under this section, section 282W or 302C shall be included.

[1/2005]

(4) Whether an offer is a closely related offer under subsection (3) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(5) For the purposes of subsection (1)—

- (a) an offer of securities to an entity or to a trustee shall be treated as an offer to a single person, provided that the entity or trust is not formed primarily for the purpose of acquiring the securities which are the subject of the offer;
  - (b) an offer of securities to an entity or to a trustee shall be treated as an offer to the equity owners, partners or members of that entity, or to the beneficiaries of the trust, as the case may be, if the entity or trust is formed primarily for the purpose of acquiring the securities which are the subject of the offer;
  - (c) an offer of securities to 2 or more persons who will own the securities acquired as joint owners shall be treated as an offer to a single person;
  - (d) an offer of securities to a person acting on behalf of another person (whether as an agent or otherwise) shall be treated as an offer made to that other person;
  - (e) offers of securities made by a person as an agent of another person shall be treated as offers made by that other person;
  - (f) where an offer is made to a person with a view to another person acquiring an interest in those securities by virtue of section 4, only the second-mentioned person shall be counted for the purposes of determining whether offers of the securities are made to no more than the applicable number of persons specified in subsection (1) (a); and
  - (g) where—
    - (i) an offer of securities is made to a person in reliance on the exemption under subsection (1) with a view to those securities being subsequently offered for sale to another person; and
    - (ii) that subsequent offer—
      - (A) is not made in reliance on an exemption under any provision of this Subdivision; or
      - (B) is made in reliance on an exemption under subsection (1) or section 280,
- both persons shall be counted for the purposes of determining whether offers of the securities are made to no more than the applicable number of persons specified in subsection (1) (a).

[1/2005]

(6) In subsection (1) (b), “advertisement” has the same meaning as in section 272A (10).

[1/2005]

**Offer made under certain circumstances**

**273.**—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities if—

- (a) it is made in connection with a take-over offer which is in compliance with the Take-over Code;
- (b) it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in an unlisted corporation or some or all of the shares of a particular class in an unlisted corporation—
  - (i) to all members of the corporation or all members of the corporation holding shares of that class; or
  - (ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,

where such offer is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs of the country in which the corporation was incorporated;

(c) it is made in connection with a proposed compromise or arrangement between—

- (i) an unlisted corporation and its creditors or a class of them; or

*continued on next page*

*Box A1.1 continuation*

- (ii) an unlisted corporation and its members or a class of them, and such proposed compromise or arrangement and the execution thereof is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs, compromises and arrangements of the country in which the corporation was incorporated;
- (ca) it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in a corporation or some or all of the shares of a particular class in a corporation—
- (i) to all members of the corporation or all members of the corporation holding shares of that class; or
- (ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,
- and such offer complies with the Take-over Code as though the Take-over Code is applicable to it;
- (cb) it is made in connection with a proposed compromise or arrangement between—
- (i) a corporation and its creditors or a class of them; or
- (ii) a corporation and its members or a class of them, and such proposed compromise or arrangement and the execution thereof complies with the Take-over Code as though the Take-over Code is applicable to it;
- (cc) it is an offer to enter into an underwriting agreement relating to securities;
- (cd) it is an offer of securities of an entity—
- (i) being an entity which is formed or constituted in Singapore or otherwise, whose securities are not listed for quotation on a securities exchange; or
- (ii) being an entity which is not formed or constituted in Singapore, whose securities are listed for quotation on a securities exchange and such listing is not a primary listing, that is made to existing members or debenture holders of that entity (whether or not it is renounceable in favour of persons other than existing members or debenture holders);
- (ce) it is an offer of shares or debentures of an entity made to any existing member or debenture holder of the entity whose shares are listed for quotation on a securities exchange;
- (cf) it is an offer of debentures of an entity made to any existing debenture holder of the entity whose debentures are listed for quotation on a securities exchange;
- (cg) it is an offer of units of shares or debentures of an entity made to any existing member or debenture holder of the entity whose shares are listed for quotation on a securities exchange, where such units may only be exercised or converted by any existing member or debenture holder into shares or debentures, as the case may be, of the entity;
- (ch) it is an offer of units of debentures of an entity made to any existing debenture holder of the entity whose debentures are listed on a securities exchange, where such units may only be exercised or converted by any existing debenture holder into debentures of the entity;
- (ci) it is an offer of securities of a corporation made in the circumstances specified under section 306 of the Companies Act (Cap. 50);
- (d) it is an offer of shares or debentures (not being such excluded shares or excluded debentures as may be prescribed by the Authority) that have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange;
- (e) it is an offer of units of shares or debentures (not being such excluded units of shares or debentures as may be prescribed by the Authority) where—
- (i) the units of shares or debentures have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange; or
- (ii) an application has been or will be made for permission for the units of shares or debentures to be listed for quotation or quoted on a securities exchange and the shares or debentures have been previously issued and are listed for quotation on a securities exchange or a recognised securities exchange; or
- (f) it is made (whether or not in relation to securities that have been previously issued) by an entity to a qualifying person, where the securities are to be held by or for the benefit of the qualifying person and are the securities of the entity or any of its related parties.

[16/2003;1/2005]

(1A) An offer of securities does not come within subsection (1) (d) or (e) if—

- (a) the securities being offered are borrowed by the issuer from an existing shareholder, holder of a debenture, or holder of units of shares or debentures, solely for the purpose of facilitating the offer of securities by the issuer; and
- (b) such borrowing is made under an agreement or arrangement between the issuer and the shareholder or holder which promises the issue or allotment of securities by the issuer to the shareholder or holder at the same time or shortly after the offer.

[1/2005]

(2) An offer of securities comes within subsection (1) (f) only if no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—

- (a) the holder of a capital markets services licence to deal in securities;
- (b) an exempt person in respect of dealing in securities; or
- (c) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing.

[1/2005]

(3) *(Deleted by Act 1/2005)*

(4) For the purposes of subsection (1) (f), a person is a qualifying person in relation to an entity if he is a bona fide director or equivalent person, former director or equivalent person, consultant, adviser, employee or former employee of the entity or a related corporation of that entity (being a corporation), or if he is the spouse, widow, widower or a child, adopted child or step-child below the age of 18, of such director or equivalent person, former director or equivalent person, employee or former employee.

[1/2005]

(5) Where, on the application of any person interested, the Authority declares that circumstances exist whereby—

- (a) the cost of providing a prospectus for an offer of securities outweighs the resulting protection to investors; or

*continued on next page*

*Box A1.1 continuation*

(b) it would not be prejudicial to the public interest if a prospectus were dispensed with for an offer of securities, then Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to such an offer for a period of 6 months from the date of the declaration.

[1/2005]

(6) The Authority may, on making a declaration under subsection (5), impose such conditions or restrictions on the offer as it may determine.

[16/2003;1/2005]

(7) A declaration made under subsection (5) shall be final.

[16/2003]

(8) Any person who contravenes any of the conditions or restrictions specified in the declaration made under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[16/2003]

(9) In subsection (1) (b) and (c), "unlisted corporation" means a corporation—

(a) that is not a company; and

(b) the securities of which are not listed for quotation on any securities exchange.

[1/2005]

(10) In subsection (1) (ca) and (cb), "corporation" means a corporation that is not a company.

[1/2005]

[Companies, s. 106B]

**Offer made to institutional investors**

**274.** Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities, whether or not they have been previously issued, made to an institutional investor.

[1/2005]

[Companies, s. 106C]

**Offer made to accredited investors and certain other persons**

**275.**—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities, whether or not they have been previously issued, where the offer is made to a relevant person, if—

(a) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(b) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(c) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered—

(i) the prospectus has expired pursuant to section 250; or

(ii) the person making the offer has before making the offer—

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

(1A) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities to a person who acquires the securities as principal, whether or not the securities have been previously issued, if—

(a) the offer is on terms that the securities may only be acquired at a consideration of not less than \$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(b) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(c) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(d) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered—

(i) the prospectus has expired pursuant to section 250; or

(ii) the person making the offer has before making the offer—

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

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*Box A1.1 continuation*

(2) In this section—

“advertisement” means—

(a) a written or printed communication;

(b) a communication by radio, television or other medium of communication; or

(c) a communication by means of a recorded telephone message,

that is published in connection with an offer in respect of securities, but does not include—

(i) an information memorandum;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

(iii) a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the underlying entity or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;

“information memorandum” means a document—

(a) purporting to describe the securities being offered, or the business and affairs of the person making the offer, the issuer or, where applicable, the underlying entity; and

(b) purporting to have been prepared for delivery to and review by relevant persons and persons to whom an offer referred to in subsection (1A) is to be made so as to assist them in making an investment decision in respect of the securities being offered; “relevant person” means—

(a) an accredited investor;

(b) a corporation the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor;

(c) a trustee of a trust the sole purpose of which is to hold investments and each beneficiary of which is an individual who is an accredited investor;

(d) an officer or equivalent person of the person making the offer (such person being an entity) or a spouse, parent, brother, sister, son or daughter of that officer or equivalent person; or

(e) a spouse, parent, brother, sister, son or daughter of the person making the offer (such person being an individual).

[1/2005]

(2A) In the definition of “information memorandum” in subsection (2), the reference to the affairs of the person making the offer, the issuer or, where applicable, the underlying entity shall—

(a) in the case where the person making the offer, the issuer or the underlying entity is a corporation, be construed as including a reference to the matters referred to in section 2 (2); and

(b) in any other case, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

(3) Notwithstanding any requirement in section 99 or any regulation made thereunder that a person has to deal in securities for his own account with or through a person prescribed by the Authority so that he can qualify as an exempt person, a person who acquires securities under section 274 or this section for his own account shall be considered an exempt person even though he does not comply with that requirement.

[1/2005]

(4) The Authority may, by order published in the *Gazette*, specify an amount in substitution of any amount specified in subsection (1A) (a).

[1/2005]

[Companies, s. 106D]

**Offer of securities acquired pursuant to section 274 or 275**

**276.**—(1) Notwithstanding sections 272A, 272B, 273 (1) (d), (e) and (f), 277, 278 and 279 but subject to subsection (7), where securities initially acquired pursuant to an offer made in reliance on an **exemption** under section 274 or 275 are sold within the period of 6 months from the date of the initial acquisition to any person other than—

(a) an institutional investor;

(b) a relevant person as defined in section 275 (2); or

(c) any person pursuant to an offer referred to in section 275 (1A),

then Subdivisions (2) and (3) of this Division shall apply to the offer resulting in that sale.

[1/2005]

(1A) The reference to the sale of securities under subsection (1) shall, in a case where the securities initially acquired are debentures, or units of shares or debentures, with an attached right of conversion into shares or debentures, include a reference to the sale of the converted shares or debentures.

(2) Where securities initially acquired pursuant to an offer made in reliance on an exemption under section 274 or 275 are sold to—

(a) an institutional investor;

(b) a relevant person as defined in section 275 (2); or

(c) any person pursuant to an offer referred to in section 275 (1A),

Subdivisions (2) and (3) of this Division shall not apply to the offer resulting in that sale.

[1/2005]

(3) Subject to subsection (7), securities of a corporation (other than a corporation that is an accredited investor)—

(a) the sole business of which is to hold investments; and

(b) the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor,

shall not be transferred within 6 months after the corporation has acquired any securities pursuant to an offer made in reliance on an exemption under

*continued on next page*

*Box A1.1 continuation*

section 275 unless—

- (i) that transfer—
  - (A) is made only to institutional investors or relevant persons as defined in section 275 (2); or
  - (B) arises from an offer referred to in section 275 (1A);
- (ii) no consideration is or will be given for the transfer; or
- (iii) the transfer is by operation of law.

[1/2005]

(4) Subject to subsection (7), where—

- (a) the sole purpose of a trust (other than a trust the trustee of which is an accredited investor) is to hold investments; and
- (b) each beneficiary of the trust is an individual who is an accredited investor, the beneficiaries' rights and interest (howsoever described) in the trust shall not be transferred within 6 months after securities are acquired for the trust pursuant to an offer made in reliance on an exemption under section 275 unless—

- (i) that transfer—
  - (A) is made only to institutional investors or relevant persons as defined in section 275 (2); or
  - (B) arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than \$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;
- (ii) no consideration is or will be given for the transfer; or
- (iii) the transfer is by operation of law.

[1/2005]

(5) For the avoidance of doubt, the reference to beneficiaries in subsection (4) shall include a reference to unit holders of a business trust and participants of a collective investment scheme.

[1/2005]

(6) For the avoidance of doubt, where any securities are acquired pursuant to an offer made in reliance on an exemption under section 274 or 275, an offer to sell those securities may be made in reliance on an exemption under section 273 (1) (d) or (e) after 6 months have elapsed from the date of the first-mentioned offer.

[1/2005]

*[Companies, s. 106E]*

- (7) Subsections (1), (3) and (4) shall not apply where the securities of the corporation acquired are of the same class as other securities of the corporation—
  - (a) an offer of which has previously been made in or accompanied by a prospectus; and
  - (b) which are listed for quotation on a securities exchange.

**Offer made using offer information statement**

**277.**—(1) Subject to subsection (1A), Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of securities (not being such securities as may be prescribed by the Authority) issued by an entity whose shares are listed for quotation on a securities exchange, whether by means of a rights issue or otherwise, if—

- (a) in the case where the securities offered are units of shares or debentures, the shares or debentures are those of the entity that issued the units;
- (b) an offer information statement relating to the offer which complies with such form and content requirements as may be prescribed by the Authority is lodged with the Authority; and
- (c) the offer is made in or accompanied by the offer information statement referred to in paragraph (b).

[1/2005]

(1A) Subsection (1) shall apply to an offer of securities referred to therein only for a period of 6 months from the date of lodgment of the offer information statement relating to that offer.

[1/2005]

(2) The Authority may, on the application of any person interested, modify the prescribed form and content of the offer information statement in such manner as is appropriate, subject to such conditions or restrictions as may be determined by the Authority.

[16/2003]

(3) Sections 249, 249A, 253, 254 and 255 shall apply in relation to an offer information statement referred to in subsection (1) as they apply in relation to a prospectus.

[1/2005]

(4) For the purposes of subsection (3)—

- (a) a reference in section 249 or 249A to the registration of the prospectus shall be read as a reference to the lodgment of the offer information statement; and
- (b) a reference in section 253 or 254 to any information or new circumstance required to be included in a prospectus under section 243 shall be read as a reference to any information prescribed under subsection (1) (b).

[16/2003;1/2005]

(5) Where the written consent of an expert is required to be given under section 249 (as applied in relation to an offer information statement under subsection (3)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[16/2003;1/2005]

(6) Where the written consent of an issue manager or underwriter is required to be given under section 249A (as applied in relation to an offer information statement under subsection (3)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

*continued on next page*

*Box A1.1 continuation*

[1/2005]

[Companies, s. 106F]

**Offer in respect of international debentures**

**278.**—(1) Subdivisions (2) and (3) of this Division (other than section 257) shall not apply to an offer of debentures, or units of debentures, by a body incorporated in a country outside Singapore where the offer—

(a) is made by the holder of a capital markets services licence to deal in securities or an exempt person under section 99 (1) (a) or (b), to such institutional, professional or business investors as the Authority may, by order in the Gazette, specify, being persons or bodies that appear to the Authority to have sufficient expertise to understand any risk involved in buying or selling those debentures, or units of debentures (whether as principal or agent); and

(b) complies with the conditions specified in subsection (2).

[1/2005]

(2) The conditions referred to in subsection (1) (b) are that—

(a) the debentures, or units of debentures, are denominated in a currency, other than the Singapore dollar, and each debenture, or each unit of debenture, has a face value of at least US\$5,000 or its equivalent in another currency; and

(b) the shares of the issuing corporation are listed on a recognised securities exchange or the offer is guaranteed by a corporation whose shares are listed on a recognised securities exchange.

[1/2005]

(3) The Authority may by order in the Gazette add to, vary or amend the conditions specified in subsection (2).

[Companies, s. 106G]

**Offer of debentures made by Government or international financial institutions**

**279.** Subdivisions (2) and (3) of this Division shall not apply to an offer of debentures, or units of debentures, made by or guaranteed by—

(a) the Government; or

(b) an international financial institution in which Singapore holds membership of any class or description, whether or not it holds any share in the share capital of that institution.

[1/2005]

[Companies, s. 106H]

**Making offer using automated teller machine or electronic means**

**280.**—(1) Subject to subsection (3) and such requirements as may be prescribed by the Authority, a person making an offer of securities using—

(a) any automated teller machine; or

(b) such other electronic means as may be prescribed by the Authority, is exempted from the requirement under section 240 (1) (a) that the offer be made in or accompanied by a prospectus in respect of the offer or, where applicable, the requirement under section 240 (4) that the offer be made in or accompanied by a profile statement in respect of the offer.

[1/2005]

(2) For the avoidance of doubt, a prospectus which complies with all other requirements of section 240 (1) (a) or, where applicable, a profile statement which complies with all other requirements of section 240 (4) must still be prepared and issued in respect of any offer referred to in subsection (1).

[1/2005]

(3) Subsection (1) shall not apply unless the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer—

(a) how he can obtain, or arrange to receive, a copy of the prospectus or, where applicable, profile statement in respect of the offer; and

(b) that he should read the prospectus or, where applicable, profile statement before submitting his application, before enabling him to submit any application to subscribe for or purchase securities.

[1/2005]

**Revocation of exemption**

**281.**—(1) Where the Authority considers that a person is contravening, or is likely to contravene, or has contravened any condition or restriction imposed under section 273 (6), or that it is necessary in the public interest or for the protection of investors, it may revoke any exemption under this Subdivision, subject to such conditions as it thinks fit.

[16/2003]

(2) The Authority may revoke an exemption under subsection (1) without giving the person affected by the revocation an opportunity to be heard, but the person may, within 14 days of the revocation, apply to the Authority for the revocation to be reviewed by the Authority, and the revocation shall remain in effect unless it is withdrawn by the Authority.

(3) A revocation made under this section shall be final and conclusive and there shall be no appeal therefrom.

[Companies, s. 106J]

**Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act**

**282.** For the avoidance of doubt, it is hereby declared that in relation to any transaction carried out under an exempted offer under this Part, nothing in this Part shall limit or diminish any liability which any person may incur in respect of any relevant offence under Division 2 of Part XII of the Companies Act (Cap. 50) or Part XII of this Act or any penalty, award of compensation or punishment in respect of any such offence.

[1/2005]

[Companies, s. 106L]

*continued on next page*

*Box A1.1 continuation*

## Division 1A—Business Trusts

## Subdivision (1)—Interpretation

**Preliminary provisions**

**282A.**—(1) In this Division, unless the context otherwise requires—

“chief executive officer”, in relation to a corporation, means any person, by whatever name called, who is in the direct employment of, or acting for or by arrangement with, the corporation, and who is principally responsible for the management and conduct of the business of the corporation;

“control”, in relation to an entity, means the capacity of a person to determine the outcome of decisions on the financial and operating policies of the entity, having regard to—

(a) the influence which the person can, in practice, exert on the entity (as opposed to the rights which the person can exercise in the entity); and  
(b) any practice or pattern of behaviour of that person affecting the financial or operating policies of the entity (even if such practice or pattern of behaviour involves a breach of an agreement or a breach of trust), but does not include any capacity of a person to influence decisions on the financial and operating policies of the entity if such influence is required by law or under any contract or order of court to be exercised for the benefit of other persons; “expert” has the same meaning as in section 4 (1) of the Companies Act (Cap. 50);

“immediate family”, in relation to an individual, means the individual’s spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; “issuer”, in relation to an offer of units or derivatives of units in a business trust, means—

(a) in the case of units being offered, the trustee of the business trust in its capacity as the trustee that issued or will be issuing such units; or  
(b) in the case of derivatives of units being offered, the trustee of the business trust in its capacity as the trustee, or any other entity, that issued or will be issuing such derivatives of units;

“minimum subscription”, in relation to any units or derivatives of units in a business trust offered for subscription, means the amount stated in the prospectus relating to the offer, as the minimum amount which must be raised by the issue of the units or derivatives of units so offered failing which no units or derivatives of units will be allotted or issued;

“preliminary document” means a document which has been lodged with the Authority and is issued for the purpose of determining the appropriate issue or sale price of, and the number of, units or derivatives of units in a business trust or proposed business trust to be issued or sold and which contains the information required to be included in a prospectus under section 282F, except for such information as may be prescribed by the Authority;

“profile statement” means a profile statement referred to in section 282C (4);

“promoter”, in relation to a prospectus issued in connection with a business trust, means a promoter of the business trust who was a party to the preparation of the prospectus or of any relevant portion thereof, but does not include any person by reason only of his acting in a professional capacity;

“prospectus” means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of units or derivatives of units in a business trust or proposed business trust and includes any document deemed to be a prospectus under section 282Q, but does not include—

(a) a profile statement; or  
(b) any material, advertisement or publication which is authorised by section 282L (other than subsection (5) thereof);

“recognised securities exchange” means a corporation which has been declared by the Authority, by order published in the Gazette, to be a recognised securities exchange for the purposes of this Division;

“related party” means—

(a) in relation to an entity—  
(i) a director or equivalent person of the entity;  
(ii) the chief executive officer or equivalent person of the entity;  
(iii) a person who controls the entity;  
(iv) a related corporation;  
(v) any other entity controlled by it;  
(vi) any other entity controlled by the person referred to in sub-paragraph (iii); and  
(vii) a related party of any individual referred to in sub-paragraph (i), (ii) or (iii); and  
(b) in relation to an individual—

(i) his immediate family;  
(ii) a trustee of any trust of which the individual or any member of the individual’s immediate family is—

(A) a beneficiary; or  
(B) where the trust is a discretionary trust, a discretionary object,  
when the trustee acts in that capacity; and

(iii) any corporation in which he and his immediate family (whether directly or indirectly) have interests in voting shares of an aggregate of not less than 30% of the votes attached to all voting shares;

“replacement document” means a replacement prospectus or a replacement profile statement referred to in section 282D (1), as the case may be;

“supplementary document” means a supplementary prospectus or a supplementary profile statement referred to in section 282D (1), as the case may be;

“trustee-manager”—

(a) in relation to a registered business trust, has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A); and  
(b) in relation to a business trust for which an application for registration has been made under section 4 (1) of the Business Trusts Act, means the person proposed to be named as the trustee-manager in the application made under that section;

“trust deed” has the same meaning as “deed” in section 2 of the Business Trusts Act;

*continued on next page*

*Box A1.1 continuation*

“trust property” has the same meaning as in section 2 of the Business Trusts Act.

[1/2005]

(2) For the purposes of this Division, a statement shall be deemed to be included in a prospectus or profile statement if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

[1/2005]

(3) For the purposes of this Division, a person makes an offer of any units or derivatives of units in a business trust if, and only if, as principal—  
 (a) he makes (either personally or by an agent) an offer to any person in Singapore which upon acceptance would give rise to a contract for the issue or sale of those units or derivatives of units by him or another person with whom he has made arrangements for that issue or sale; or  
 (b) he invites (either personally or by an agent) any person in Singapore to make an offer which upon acceptance would give rise to a contract for the issue or sale of those units or derivatives of units by him or another person with whom he has made arrangements for that issue or sale.

[1/2005]

(4) In subsection (3), “sale” includes any disposal for valuable consideration.

[1/2005]

[SFA, s. 239]

**Division not to apply to certain business trusts which are collective investment schemes**

**282B.** This Division does not apply to an offer of units or derivatives of units in a business trust, where—

- (a) the business trust is also a collective investment scheme that has been authorised under section 286 or recognised under section 287; or
- (b) the business trust is also a collective investment scheme and the offer is made in reliance on an exemption under Subdivision (4) of Division 2.

[1/2005]

**Modification of provisions to certain offers**

**282BA.** The Authority may, if it thinks it necessary in the interest of the public or a section of the public or for the protection of investors, by regulations modify or adapt the provisions of this Division in their application to such offer of units or derivatives of units in a business trust as may be prescribed, and the provisions of this Division shall apply to such offer subject to such modifications or adaptations.

Subdivision (2)—Prospectus requirements

**Requirement for prospectus and profile statement, where relevant**

**282C.**—(1) No person shall make an offer of units or derivatives of units in a business trust unless—

- (a) the business trust is a registered business trust; and
- (b) the offer—
  - (i) is made in or accompanied by a prospectus in respect of the offer—
    - (A) that is prepared in accordance with section 282F;
    - (B) a copy of which, being one that has been signed in accordance with subsection (5), is lodged with the Authority; and
    - (C) that is registered by the Authority; and
  - (ii) complies with such requirements as may be prescribed by the Authority.

[1/2005]

(2) A person who lodges a preliminary document with the Authority shall be deemed to have lodged a prospectus with the Authority.

[1/2005]

(3) A preliminary document referred to in subsection (2) shall contain all information to be included in a prospectus other than such information as may be prescribed by the Authority.

[1/2005]

(4) Notwithstanding subsection (1), an offer of units or derivatives of units in a business trust may be made in or accompanied by an extract from, or an abridged version of, a prospectus (referred to in this section as a profile statement), instead of a prospectus, if—

- (a) a prospectus in respect of such offer is prepared in accordance with section 282F, and the profile statement is prepared in accordance with section 282G;
- (b) a copy of the prospectus and a copy of the profile statement, each of which has been signed in accordance with subsection (5), are lodged with the Authority, and the prospectus is lodged no later than the profile statement;
- (c) the prospectus and profile statement are registered by the Authority;
- (d) sufficient copies of the prospectus are made available for collection at the times and places specified in the profile statement; and
- (e) the offer complies with such requirements as may be prescribed by the Authority.

[1/2005]

(5) The copy of a prospectus or profile statement lodged with the Authority shall be signed—

- (a) where the person making the offer is the issuer, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer;
- (b) where the person making the offer is an individual and is not the issuer—
  - (i) by that person; and
  - (ii) if the issuer is controlled by that person, one or more of his related parties, or that person and one or more of his related parties, by every director or equivalent person of the issuer and every person who is named therein as a proposed director or an equivalent person of the issuer; and
- (c) where the person making the offer is an entity and is not the issuer—
  - (i) by every director or equivalent person of that entity; and
  - (ii) if the issuer is controlled by that entity, one or more of its related parties, or that entity and one or more of its related parties, by every director or

*continued on next page*



*Box A1.1 continuation*

equivalent person of the issuer, and every person who is named therein as a proposed director or an equivalent person of the issuer.

[1/2005]

(6) A requirement under subsection (5) for the copy of a prospectus or profile statement to be signed by a director or an equivalent person is satisfied if the copy is signed—

- (a) by that director or equivalent person; or
- (b) by a person who is authorised in writing by that director or equivalent person to sign on his behalf.

[1/2005]

(7) A requirement under subsection (5) for the copy of a prospectus or profile statement to be signed by a person named therein as a proposed director or an equivalent person is satisfied if the copy is signed—

- (a) by that proposed director or equivalent person; or
- (b) by a person who is authorised in writing by that proposed director or equivalent person to sign on his behalf.

[1/2005]

(8) No person shall make any offer of units or derivatives of units in a business trust that has not been formed or does not exist.

[1/2005]

(9) Any person who contravenes subsection (1) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(10) The Authority may register a prospectus or profile statement on any day within the period prescribed by the Authority from the date of lodgment thereof with the Authority, unless—

- (a) the Authority gives to the person making the offer a notice of an opportunity to be heard under subsection (20);
- (b) the Authority gives to the person making the offer notice of an extension, in which case the Authority may, not later than 28 days from the date of lodgment of the prospectus or profile statement—
  - (i) register the prospectus or profile statement; or
  - (ii) give the person making the offer a notice of an opportunity to be heard under subsection (20);
- (c) the person making the offer applies in writing to extend the period during which the prospectus or profile statement may be registered, and the Authority grants an extension as it thinks fit, in which case the Authority may, at any time up to and including the date on which the extended period ends—
  - (i) register the prospectus or profile statement; or
  - (ii) give the person making the offer a notice of an opportunity to be heard under subsection (20); or
- (d) the person making the offer gives a notice in writing to the Authority to withdraw the lodgment of the prospectus or profile statement, in which case the Authority shall not register the prospectus or profile statement.

[1/2005]

(11) Where, after a notice of an opportunity to be heard has been given under subsection (10) (a), (b) (ii) or (c) (ii), the Authority decides not to refuse registration of the prospectus or profile statement, the Authority may proceed with the registration on such date as it considers appropriate, except that that date shall not be earlier than such day from the date of lodgment of the prospectus or profile statement with the Authority as the Authority may prescribe.

[1/2005]

(11A) For the purposes of subsections (10) and (11), the Authority may prescribe the same period and day for all offers or different periods and days for different offers.

(12) Where a prospectus lodged with the Authority is a preliminary document, the Authority shall not register the prospectus unless a copy of the prospectus which has been signed in accordance with subsection (5) and which contains the information required to be stipulated in the prospectus under section 282F, including such information which could be omitted from the preliminary document by virtue of subsection (3), has been lodged with the Authority.

[1/2005]

(13) A person making an offer of units or derivatives of units in a business trust may lodge any amendment to a prospectus or profile statement in respect of that offer at any time before but not after the registration of the prospectus or profile statement by the Authority.

[1/2005]

(14) Subject to subsection (15)—

- (a) where any amendment to a prospectus is lodged, the prospectus and any profile statement which is lodged shall be deemed, for the purposes of subsection (10), to have been lodged when such amendment was lodged; and
- (b) where any amendment to a profile statement is lodged, the profile statement shall be deemed, for the purposes of subsection (10), to have been lodged when such amendment was lodged.

[1/2005]

(15) Where an amendment to a prospectus or profile statement is lodged with the consent of the Authority, the prospectus or profile statement as amended shall be deemed, for the purposes of subsection (10), to have been lodged when the original prospectus or profile statement was lodged with the Authority.

[1/2005]

(16) An amendment to a prospectus or profile statement that is lodged shall be treated as part of the original prospectus or profile statement.

[1/2005]

(17) The Authority may, for public information, publish—

*continued on next page*

*Box A1.1 continuation*

(a) a prospectus or profile statement lodged with the Authority under this section; and  
 (b) where applicable, the translation thereof in the English language lodged with the Authority under section 318A (1), and, for the purposes of this subsection, the person making the offer shall provide the Authority with a copy of the prospectus or profile statement and, where applicable, the translation, in such form or medium for publication as the Authority may require.

[1/2005]

(18) The Authority shall refuse to register a prospectus if—

- (a) the Authority is of the opinion that the prospectus contains a false or misleading statement;
- (b) there is an omission from the prospectus of any information that is required to be included in it under section 282F;
- (c) the copy of the prospectus that is lodged with the Authority is not signed in accordance with subsection (5);
- (d) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act;
- (e) any written consent of an expert to the issue of the prospectus required under section 282I, or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (f) any written consent of an issue manager to the issue of the prospectus required under section 282J (1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (g) any written consent of an underwriter to the issue of the prospectus required under section 282J (2), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or
- (h) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

(19) The Authority shall refuse to register a profile statement if—

- (a) the Authority is of the opinion that the profile statement contains a false or misleading statement;
- (b) there is an omission from the profile statement of information required under section 282G to be included in it or an inclusion in the profile statement of information prohibited by that section from being included in it;
- (c) the copy of the profile statement that is lodged with the Authority is not signed in accordance with subsection (5);
- (d) any written consent of an expert to the issue of the profile statement required under section 282I, or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (e) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act;
- (f) the prospectus has not been registered by the Authority;
- (g) any written consent of an issue manager to the issue of the profile statement required under section 282J (1), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (h) any written consent of an underwriter to the issue of the profile statement required under section 282J (2), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or
- (i) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

(20) The Authority shall not refuse to register a prospectus under subsection (18) or a profile statement under subsection (19) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to register the prospectus or profile statement on the basis of any of the following circumstances:

- (a) the person making the offer (being an entity), the issuer, the trustee-manager of the business trust or the business trust itself is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere; or
- (c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer or the trustee-manager of the business trust, or in relation to or in respect of the trust property of the business trust.

[1/2005]

(21) Any person making an offer may, within 30 days after he is notified that the Authority has refused to register a prospectus or profile statement to which his offer relates under subsection (18) or (19), appeal to the Minister whose decision shall be final.

[1/2005]

(22) If—

- (a) a prospectus or profile statement is issued, circulated or distributed before it has been registered by the Authority; or
  - (b) an application to subscribe for or purchase units or derivatives of units in a business trust is accepted, or units or derivatives of units in a business trust are allotted, issued or sold, before a prospectus and, where applicable, profile statement, where applicable, in respect of the units or derivatives of units has been registered by the Authority,
- the person making the offer and every person who is knowingly a party to—
- (i) the issue, circulation or distribution of the prospectus or profile statement;
  - (ii) the acceptance of the application to subscribe for or purchase the units or derivatives of units; or
  - (iii) the allotment, issue or sale of the units or derivatives of units,
- as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(23) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide for penalties not exceeding a fine of \$50,000.

*continued on next page*

*Box A1.1 continuation*

(24) For the purposes of subsections (18) (a) and (19) (a), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise. [1/2005]

[SFA, s. 240]

**Lodging supplementary document or replacement document**

**282D.**—(1) If, after a prospectus or profile statement is registered but before the close of the offer of units or derivatives of units in a business trust, the person making that offer becomes aware of—

- (a) a false or misleading statement in the prospectus or profile statement;
  - (b) an omission from the prospectus of any information that should have been included in it under section 282F, or an omission from the profile statement of any information that should have been included in it under section 282G, as the case may be; or
  - (c) a new circumstance that—
    - (i) has arisen since the prospectus or profile statement was lodged with the Authority; and
    - (ii) would have been required by—
      - (A) section 282F to be included in the prospectus; or
      - (B) section 282G to be included in the profile statement,
- if it had arisen before the prospectus or the profile statement, as the case may be, was lodged, and that is materially adverse from the point of view of an investor, the person may lodge a supplementary or replacement prospectus, or a supplementary or replacement profile statement (referred to in this section as a supplementary or replacement document, as the case may be), with the Authority. [1/2005]

(2) At the beginning of a supplementary document, there shall be—

- (a) a statement that it is a supplementary prospectus or a supplementary profile statement, as the case may be;
- (b) an identification of the prospectus or profile statement it supplements;
- (c) an identification of any previous supplementary document lodged with the Authority in relation to the offer; and
- (d) a statement that it is to be read together with the prospectus or profile statement it supplements and any previous supplementary document in relation to the offer. [1/2005]

(3) At the beginning of a replacement document, there shall be—

- (a) a statement that it is a replacement prospectus or a replacement profile statement, as the case may be; and
- (b) an identification of the prospectus or profile statement it replaces. [1/2005]

(4) The supplementary document and the replacement document must be dated with the date on which they are lodged with the Authority. [1/2005]

(5) The person making the offer shall take reasonable steps—

- (a) to inform potential investors of the lodgment of any supplementary or replacement document under subsection (1); and
- (b) to make available to them the supplementary document or replacement document. [1/2005]

(6) For the purposes of the application of this Division to events that occur after the lodgment of the supplementary document—

- (a) where the supplementary document is a supplementary prospectus, the prospectus in relation to the offer shall be taken to be the original prospectus together with the supplementary prospectus and any previous supplementary prospectus in relation to the offer; and
- (b) where the supplementary document is a supplementary profile statement, the profile statement in relation to the offer shall be taken to be the original profile statement together with the supplementary profile statement and any previous supplementary profile statement in relation to the offer. [1/2005]

(7) For the purposes of the application of this Division to events that occur after the lodgment of the replacement document—

- (a) where the replacement document is a replacement prospectus, the prospectus in relation to the offer shall be taken to be the replacement prospectus; and
- (b) where the replacement document is a replacement profile statement, the profile statement in relation to the offer shall be taken to be the replacement profile statement. [1/2005]

(8) If a supplementary document or replacement document is lodged with the Authority, the offer shall be kept open for at least 14 days after the lodgment of the supplementary document or replacement document. [1/2005]

(9) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to subscribe for units or derivatives of units in a business trust, then—

- (a) where the units or derivatives of units have not been issued to the applicants, the person making the offer—
  - (i) shall—
    - (A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

*continued on next page*

*Box A1.1 continuation*

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall—

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units in the business trust; or

(b) where the units or derivatives of units have been issued to the applicants, the person making the offer—

(i) shall—

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; or

(iii) shall—

(A) treat the issue of the units or derivatives of units in the business trust as void, in which case the issue shall be deemed void; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(10) An applicant who wishes to exercise his option under subsection (9) (a) (i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days from the receipt of such notification, pay to the applicant all moneys paid by him on account of his application for the units or derivatives of units in the business trust.

[1/2005]

(11) An applicant who wishes to exercise his option under subsection (9) (b) (i) or (ii) to return units or derivatives of units in the business trust issued to him shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to be evidence of title to those units or derivatives of units to that person, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by the applicant for the units or derivatives of units in the business trust, and the issue of those units or derivatives of units shall be deemed to be void.

[1/2005]

(12) Where, prior to the lodgment of the supplementary document or replacement document, applications have been made under the original prospectus or profile statement to purchase units or derivatives of units in a business trust, then—

(a) where the units or derivatives of units have not been transferred to the applicants, the person making the offer—

(i) shall—

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to withdraw their applications; or

(iii) shall—

(A) treat the applications as withdrawn and cancelled, in which case the applications shall be deemed to have been withdrawn and cancelled; and

(B) within 7 days from the date of lodgment of the supplementary document or replacement document, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units in the business trust; or

(b) where the units or derivatives of units have been transferred to the applicants, the person making the offer—

(i) shall—

(A) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing of how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; and

(B) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement

*continued on next page*

*Box A1.1 continuation*

document;

(ii) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be, and provide the applicants with an option to return, to the person making the offer, those units or derivatives of units in the business trust which they do not wish to retain title in; or

(iii) shall treat the sale of the units or derivatives of units in the business trust as void, in which case the sale shall be deemed void, and shall—

(A) if documents purporting to evidence title to the units or derivatives of units (referred to in this paragraph as the title documents) have been issued to the applicants—

(AA) within 7 days from the date of lodgment of the supplementary document or replacement document, inform the applicants to return the title documents to the person making the offer within 14 days from the date of lodgment of the supplementary document or replacement document; and

(AB) within 7 days from the date of the receipt of the title documents or the date of lodgment of the supplementary document or replacement document, whichever is the later, pay to the applicants all moneys paid by them for the units or derivatives of units; or

(B) if no title documents have been issued to the applicants, within 7 days from the date of the lodgment of the supplementary document or replacement document, pay to the applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(13) An applicant who wishes to exercise his option under subsection (12) (a) (i) or (ii) to withdraw his application shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this, whereupon that person shall, within 7 days of the receipt of such notification, pay to him all moneys paid by him on account of his application for the units or derivatives of units in the business trust.

[1/2005]

(14) An applicant who wishes to exercise his option under subsection (12) (b) (i) or (ii) to return units or derivatives of units in the business trust sold to him shall, within 14 days from the date of lodgment of the supplementary document or replacement document, notify the person making the offer of this and return all documents, if any, purporting to evidence title to those units or derivatives of units to the person making the offer, whereupon that person shall, within 7 days from the receipt of such notification and documents, if any, pay to the applicant all moneys paid by him for the units or derivatives of units and the sale of those units or derivatives of units shall be deemed to be void.

[1/2005]

(15) Any person who contravenes subsection (9) or (12) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(16) Any person who contravenes any other provision of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(17) For the purposes of subsection (1) (a), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 241]

### **Stop order for prospectus and profile statement**

**282E.**—(1) If a prospectus has been registered and—

(a) the Authority is of the opinion that the prospectus contains a false or misleading statement;

(b) there is an omission from the prospectus of any information that is required to be included in it under section 282F;

(c) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act; or

(d) the Authority is of the opinion that it is in the public interest to do so,

the Authority may, by an order in writing (referred to in this section as a stop order) served on the person making the offer of units or derivatives of units in a business trust to which the prospectus relates, direct that no or no further units or derivatives of units in the business trust be allotted, issued or sold.

[1/2005]

(2) If a profile statement has been registered and—

(a) the Authority is of the opinion that the profile statement contains a false or misleading statement;

(b) there is an omission from the profile statement of any information that is required to be included in it under section 282G;

(c) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act; or

(d) the Authority is of the opinion that it is in the public interest to do so,

the Authority may, by an order in writing (referred to in this section as a stop order) served on the person making the offer of the units or derivatives of units in a business trust to which the profile statement relates, direct that no or no further units or derivatives of units in the business trust be allotted, issued or sold.

[1/2005]

(3) Notwithstanding subsections (1) and (2), the Authority shall not serve a stop order if any of the units or derivatives of units in a business trust to which the prospectus or profile statement relates has been issued or sold, and listed for quotation on a securities exchange and trading in them has commenced.

[1/2005]

*continued on next page*

*Box A1.1 continuation*

(4) The Authority shall not serve a stop order under subsection (1) or (2) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the stop order is served on the ground that it is in the public interest to do so on the basis of any of the following circumstances:

- (a) the person making the offer (being an entity), the issuer, the trustee-manager of the business trust or the business trust itself is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the issuer, the trustee-manager of the business trust or, in relation to or in respect of the trust property of the business trust.

[1/2005]

(5) Where applications to subscribe for units or derivatives of units in a business trust to which the prospectus or profile statement relates have been made prior to the stop order, then—

- (a) where the units or derivatives of units have not been issued to the applicants—
  - (i) the applications shall be deemed to have been withdrawn and cancelled; and
  - (ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units; or
- (b) where the units or derivatives of units have been issued to the applicants—
  - (i) the issue of the units or derivatives of units shall be deemed to be void; and
  - (ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(6) Where applications to purchase units or derivatives of units in a business trust to which the prospectus or profile statement relates have been made prior to the stop order, then—

- (a) where the units or derivatives of units have not been transferred to the applicants—
  - (i) the applications shall be deemed to have been withdrawn and cancelled; and
  - (ii) the person making the offer shall, within 14 days from the date of the stop order, pay to the applicants all moneys the applicants have paid on account of their applications for the units or derivatives of units; or
- (b) where the units or derivatives of units have been transferred to the applicants, the sale shall be deemed to be void, and the person making the offer shall—
  - (i) if documents purporting to evidence title to the units or derivatives of units have been issued to the applicants—
    - (A) within 7 days from the date of the stop order, inform the applicants to return such documents to the person making the offer within 14 days from that date; and
    - (B) within 7 days from the date of the receipt of those documents or the date of the stop order, whichever is the later, pay to the applicants all moneys paid by them for the units or derivatives of units; or
  - (ii) if no such documents have been issued to the applicants, within 7 days from the date of the stop order, pay to the applicants all moneys paid by them for the units or derivatives of units.

[1/2005]

(7) If the Authority is of the opinion that any delay in serving a stop order pending the holding of a hearing required under subsection (4) is not in the interests of the public, the Authority may, without giving an opportunity to be heard, serve an interim stop order on the person making the offer directing that no or no further units or derivatives of units in a business trust to which the prospectus or profile statement relates be allotted, issued or sold.

[1/2005]

(8) An interim stop order shall, unless revoked by the Authority, be in force—

- (a) in a case where—
  - (i) it is served during a hearing under subsection (4); or
  - (ii) a hearing under subsection (4) is commenced while it is in force, until the Authority makes an order under subsection (1) or (2); and
- (b) in any other case, for a period of 14 days from the day on which the interim stop order is served.

[1/2005]

(9) Subsections (5) and (6) shall not apply where only an interim stop order has been served.

[1/2005]

(10) Any person who fails to comply with a stop order served under subsection (1) or (2) or an interim stop order served under subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(11) Any person who contravenes subsection (5) or (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(12) For the purposes of subsections (1) (a) and (2) (a), any reference to a statement shall include a reference to any information presented, regardless

*continued on next page*

*Box A1.1 continuation*

of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 242]

**Contents of prospectus**

**282F.**—(1) A prospectus for an offer of units or derivatives of units in a business trust shall contain—

- (a) all the information that investors and their professional advisers would reasonably require to make an informed assessment of the matters specified in subsection (3); and
- (b) the matters prescribed by the Authority.

[1/2005]

(2) The prospectus shall, with respect to subsection (1) (a), contain such information—

- (a) only to the extent to which it is reasonable for investors and their professional advisers to expect to find in the prospectus; and
- (b) only to the extent that a person whose knowledge is relevant—
  - (i) actually knows the information; or
  - (ii) in the circumstances ought reasonably to have obtained the information by making enquiries.

[1/2005]

(3) The matters referred to in subsection (1) (a) shall relate to—

- (a) the rights and liabilities attaching to the units or derivatives of units in the business trust;
- (b) where the person making the offer of units or derivatives of units in the business trust is the trustee-manager of the business trust or the trustee-manager of the business trust is controlled by—
  - (i) the person making the offer;
  - (ii) one or more of the related parties of the person making the offer; or
  - (iii) the person making the offer and one or more of his related parties,
 the assets and liabilities, profits and losses and financial position and performance of the business trust and of the trustee-manager, and the prospects of the business trust;
- (c) where derivatives of units in the business trust are issued by an entity other than the trustee-manager of the business trust and the person making the offer is that entity or that entity is controlled by—
  - (i) the person making the offer;
  - (ii) one or more of the related parties of the person making the offer; or
  - (iii) the person making the offer and one or more of his related parties,
 the assets and liabilities, profits and losses, financial position and performance, and prospects of that entity; and
- (d) in the case of an offer of derivatives of units in the business trust, where the person making the offer, or an entity which is controlled by—
  - (i) the person making the offer;
  - (ii) one or more of the related parties of the person making the offer; or
  - (iii) the person making the offer and one or more of his related parties,
 is or will be required to issue or deliver the relevant units or derivatives of units, or meet financial or contractual obligations to the holders of those derivatives of units, the capacity of that person or entity to issue or deliver the relevant units or derivatives of units in that business trust, or the ability of that person or entity to meet those financial or contractual obligations.

[1/2005]

(4) In deciding what information shall be included under subsection (1) (a), regard shall be had to—

- (a) the nature of the units or derivatives of units in the business trust and the nature of the business trust concerned;
- (b) the matters that likely investors may reasonably be expected to know; and
- (c) the fact that certain matters may reasonably be expected to be known to the professional advisers of such investors.

[1/2005]

(5) For the purposes of subsection (2) (b), a person's knowledge is relevant only if he is one of the following persons:

- (a) the person making the offer;
- (b) if the person making the offer is an entity, a director or equivalent person of the entity;
- (c) the issuer;
- (d) a director or equivalent person, or a proposed director or equivalent person, of the issuer;
- (e) a person named in the prospectus with his consent as an underwriter to the issue or sale;
- (f) a person named in the prospectus as a stockbroker to the issue or sale if he participates in any way in the preparation of the prospectus;
- (g) a person named in the prospectus with his consent as having made a statement—
  - (i) that is included in the prospectus; or
  - (ii) on which a statement made in the prospectus is based;
- (h) a person named in the prospectus with his consent as having performed a particular professional or advisory function.

[1/2005]

(6) A condition requiring or binding an applicant for units or derivatives of units in a business trust to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

[1/2005]

(7) This section does not affect any liability that a person has under any other law.

[1/2005]

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*Box A1.1 continuation*

(8) In subsection (3) (b), “assets and liabilities, profits and losses, financial position and performance, and prospects”, in relation to a business trust, means—

- (a) the assets and liabilities, profits and losses, financial position and performance of that business trust derived from the accounting records and other records kept by the trustee-manager of that business trust; and
- (b) the business and financial prospects anticipated with respect to the operations of the trustee-manager of the business trust in its capacity as trustee-manager of the business trust.

[1/2005]

[SFA, s. 243]

**Contents of profile statement**

**282G.**—(1) A profile statement for an offer of units or derivatives of units in a business trust shall contain—

- (a) the following particulars:
  - (i) identification of the business trust, the trustee-manager of the business trust, the person making the offer and the issuer;
  - (ii) identification of the persons signing the profile statement;
  - (iii) the nature of the units or derivatives of units;
  - (iv) the nature of the risks involved in investing in the units or derivatives of units; and
  - (v) details of all amounts payable in respect of the units or derivatives of units (including any amount by way of fee, commission or charge);
- (b) a statement that copies of the prospectus are available for collection at the times and places specified in the profile statement; and
- (c) a statement that the persons referred to in section 282C (5) who have signed the profile statement are satisfied that the profile statement contains a fair summary of the key information in the prospectus.

[1/2005]

(2) A profile statement shall not contain—

- (a) any statement that is false or misleading in the form and context in which it is included;
- (b) any material information that is not contained in the prospectus; and
- (c) any material information that differs in any material particular from that set out in the prospectus.

[1/2005]

(3) For the purposes of subsection (2) (a), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 246]

**Exemption from requirements as to form or content of prospectus or profile statement**

**282H.**—(1) The Authority may exempt any person or any prospectus or profile statement from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(2) The Authority shall not grant an exemption under subsection (1) unless it is of the opinion that—

- (a) the cost of complying with the requirement in respect of which exemption has been applied for outweighs the resulting protection to investors; or
- (b) it would not be prejudicial to the public interest if the requirement in respect of which the exemption has been applied for were dispensed with.

[1/2005]

(3) The Authority may exempt any class of persons or any class or description of prospectuses or profile statements, from any requirement of this Act relating to the form or content of a prospectus or profile statement, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(4) Any person who contravenes any of the conditions or restrictions imposed under subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SFA, s. 247]

**Expert's consent to issue of prospectus or profile statement containing statement by him**

**282I.**—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement which includes a statement purporting to be made by, or based on a statement made by, an expert, the prospectus or profile statement shall not be issued unless—

- (a) the expert has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
- (b) there appears in the prospectus or profile statement, as the case may be, a statement that the expert has given and has not withdrawn his consent.

[1/2005]

(2) Every person making the offer shall cause a true copy of every written consent referred to in subsection (1) to be deposited, within 7 days after the registration of the prospectus or profile statement, at the registered office of the issuer in Singapore or, if the issuer has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(3) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the units

*continued on next page*



*Box A1.1 continuation*

or derivatives of units in the business trust to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (2) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

(4) If any prospectus or profile statement is issued in contravention of subsection (1), the person making the offer and every person who is knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(5) The Authority may exempt any person or class of persons, or any prospectus or profile statement or class or description of prospectuses or profile statements, from this section, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(6) Any person who contravenes any of the conditions or restrictions imposed under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SFA, s. 249]

**Consent of issue manager and underwriter to being named in prospectus or profile statement**

**282J.**—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement in which a person is named as the issue manager to the offer, the prospectus or profile statement shall not be issued unless—

(a) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as issue manager to that offer; and

(b) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn his consent.

[1/2005]

(2) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement in which a person is named as the underwriter (but not a sub-underwriter) to the offer, the prospectus or profile statement shall not be issued unless—

(a) the person has given, and has not before the registration of the prospectus or profile statement, as the case may be, withdrawn his written consent to being named in the prospectus or profile statement as underwriter to that offer; and

(b) there appears in the prospectus or profile statement, as the case may be, a statement that the person has given and has not withdrawn such consent.

[1/2005]

(3) If any prospectus or profile statement is issued in contravention of subsection (1) or (2), the person making the offer and every person who is knowingly a party to the issue thereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(4) Every person making the offer shall cause a true copy of every written consent referred to in subsections (1) and (2) to be deposited, within 7 days after the registration of the prospectus or profile statement, at the registered office of the issuer in Singapore or, if it has no registered office in Singapore, at the address in Singapore specified in the prospectus for that purpose.

[1/2005]

(5) Every issuer shall keep, and make available for inspection by its members and creditors and persons who have subscribed for or purchased the units or derivatives of units in the business trust to which the prospectus or profile statement relates, without payment of any fee, a true copy of every written consent deposited in accordance with subsection (4) for a period of at least 6 months after the registration of the prospectus or profile statement.

[1/2005]

**Duration of validity of prospectus and profile statement**

**282K.**—(1) No person shall make an offer of units or derivatives of units in a business trust, or allot, issue or sell any units or derivatives of units in a business trust, on the basis of a prospectus or profile statement after the expiration of a period of 6 months from the date of registration by the Authority of the prospectus in relation to such offer, allotment, issue or sale.

[1/2005]

(2) In a case where an entity makes an offer of units or derivatives of units in a business trust or where the units or derivatives of units in a business trust being offered are those issued by an entity or a proposed entity, no officer or equivalent person or promoter of the entity or proposed entity shall authorise or permit—

(a) the offer of those units or derivatives of units; or

(b) the allotment, issue or sale of those units or derivatives of units,

on the basis of a prospectus or profile statement after the expiration of a period of 6 months from the date of registration by the Authority of the prospectus in relation to such offer, allotment, issue or sale.

[1/2005]

(3) If default is made in complying with subsection (1) or (2), the person and, in the case of an entity or proposed entity, every officer or equivalent person or promoter of the entity or proposed entity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

*continued on next page*

*Box A1.1 continuation*

(4) An allotment, an issue or a sale of units or derivatives of units in a business trust that is made in contravention of subsection (1) or (2) shall not, by reason only of that fact, be voidable or void.

[1/2005]

[SFA, s. 250]

**Restrictions on advertisements, etc.**

**282L.**—(1) If a prospectus is required for an offer or intended offer of units or derivatives of units in a business trust, a person shall not—

- (a) advertise the offer or intended offer; or
- (b) publish a statement that—
  - (i) directly or indirectly refers to the offer or intended offer; or
  - (ii) is reasonably likely to induce persons to subscribe for or purchase the units or derivatives of units, unless the advertisement or publication is authorised by this section.

[1/2005]

(2) In determining whether a statement—

- (a) indirectly refers to an offer or intended offer of units or derivatives of units in a business trust; or
- (b) is reasonably likely to induce persons to subscribe for or purchase units or derivatives of units in a business trust, regard shall be had to whether the statement—
  - (i) forms part of—
    - (A) the normal advertising by a trustee-manager of a business trust on behalf of the business trust in respect of the products or services offered by the trustee-manager on behalf of the business trust, and is genuinely directed at maintaining existing customers, or attracting new customers, for those products or services; or
    - (B) the normal advertising of an entity's products or services, and is genuinely directed at maintaining its existing customers, or attracting new customers, for those products or services;
  - (ii) communicates information that materially deals with the affairs of the business trust or the entity; and
  - (iii) is likely to encourage investment decisions being made on the basis of the statement rather than on the basis of information contained in a prospectus or profile statement.

[1/2005]

(3) Notwithstanding subsection (6), a person may, before a prospectus or profile statement is registered by the Authority, disseminate a preliminary document which has been lodged with the Authority to institutional investors, relevant persons as defined in section 282Z (3) or persons to whom an offer referred to in section 282Z (2) is to be made without contravening subsection (1), if—

- (a) the front page of the preliminary document contains—
  - (i) the following statement:
 

“This is a preliminary document and is subject to further amendments and completion in the prospectus to be registered by the Monetary Authority of Singapore.”;
  - (ii) a statement that a person to whom a copy of the preliminary document has been issued shall not circulate it to any other person; and
  - (iii) a statement in bold lettering that no offer or agreement shall be made on the basis of the preliminary document to purchase or subscribe for any units or derivatives of units in the business trust to which the preliminary document relates;
- (b) the preliminary document does not contain or have attached to it any form of application that will facilitate the making by any person of an offer of the units or derivatives of units in the business trust to which the preliminary document relates, or the acceptance of such an offer by any person; and
- (c) when the prospectus is registered by the Authority, the person takes reasonable steps to notify the persons to whom the preliminary document was issued that the registered prospectus is available for collection.

[1/2005]

(4) Notwithstanding subsection (6), a person does not contravene subsection (1) by presenting oral or written material, on matters contained in a preliminary document which has been lodged with the Authority, to institutional investors, relevant persons as defined in section 282Z (3) or persons to whom an offer referred to in section 282Z (2) is to be made before a prospectus or profile statement is registered by the Authority.

[1/2005]

(5) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 282C without contravening subsection (1).

[1/2005]

(6) Before a prospectus or profile statement is registered, an advertisement or a publication does not contravene subsection (1) if it contains only the following:

- (a) a statement that identifies the units or derivatives of units in the business trust, the person making the offer, the issuer, the business trust and the trustee-manager of the business trust;
- (b) a statement that a prospectus or profile statement for the offer will be made available when the offer is made;
- (c) a statement that anyone wishing to acquire the units or derivatives of units in the business trust will need to make an application in the manner set out in the prospectus or profile statement; and
- (d) a statement of how to obtain, or arrange to receive, a copy of the prospectus or profile statement.

[1/2005]

(7) To satisfy subsection (6), the advertisement or publication shall include all of the statements referred to in paragraphs (a), (b) and (c) of that subsection, and may include the statement referred to in paragraph (d).

[1/2005]

*continued on next page*

*Box A1.1 continuation*

(8) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if—

- (a) it includes a statement that the prospectus or profile statement in respect of the offer of units or derivatives of units in the business trust is available for collection at the times and places specified in the statement;
- (b) it includes a statement that anyone wishing to acquire the units or derivatives of units in the business trust will need to make an application in the manner set out in the prospectus or profile statement; and
- (c) it does not contain any information that is not included in the prospectus or profile statement.

[1/2005]

(9) An advertisement or a publication does not contravene subsection (1) if it—

- (a) consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange made by any person;
- (b) consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the trustee-manager of the business trust or any entity, a notice or report of a general meeting or proposed general meeting of the unit holders of the business trust, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;
- (c) consists solely of a report about the issuer or the business trust whose units or derivatives of units are the subject of the offer or intended offer that is published by the person making the offer, the issuer or the trustee-manager of the business trust, which—
  - (i) does not contain information that materially affects the affairs of the issuer or the business trust other than information previously made available in a prospectus that has been registered by the Authority, an annual report or a disclosure, notice or report referred to in paragraph (a) or (b); and
  - (ii) does not refer (directly or indirectly) to the offer or intended offer;
- (d) consists solely of a statement made by the person making the offer, the issuer or the trustee-manager of the business trust that a prospectus or profile statement in respect of the offer or intended offer has been lodged with the Authority;
- (e) is a news report, or a genuine comment, by a person other than any person referred to in paragraph (f) (i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio, television or any other means of broadcasting or communication, relating to—
  - (i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;
  - (ii) a disclosure, notice or report referred to in paragraph (a);
  - (iii) a notice, report, presentation, general meeting or proposed general meeting referred to in paragraph (b);
  - (iv) a report referred to in paragraph (c);
- (f) is a report about the units or derivatives of units in a business trust which are the subject of the offer or intended offer, published by someone who is not—
  - (i) the person making the offer, the issuer or the trustee-manager of the business trust;
  - (ii) a director or equivalent person of the person making the offer, the issuer or the trustee-manager of the business trust;
  - (iii) a person who has an interest in the success of the issue or sale of the units or derivatives of units in the business trust; or
  - (iv) a person acting at the instigation of, or by arrangement with, any person referred to in sub-paragraph (i), (ii) or (iii);
- (g) is a report about the units or derivatives of units in a business trust which are the subject of the offer or intended offer, published and delivered to any institutional investor not later than 14 days prior to the date of lodgment of the prospectus, provided that—
  - (i) the offer is also made or will also be made in one or more other countries;
  - (ii) the publication and delivery of such report in that other country or any one of those other countries do not infringe any law, code or other requirement of that country;
  - (iii) the report and the manner of its publication and delivery in Singapore comply with such other requirements as may be prescribed by the Authority; and
  - (iv) the person issuing the report complies with such requirements as may be prescribed by the Authority; or
- (h) is a publication made by the person making the offer, the issuer or the trustee-manager of the business trust solely to correct or provide clarification on any erroneous or inaccurate information or comment contained in—
  - (i) an earlier news report or a genuine comment referred to in paragraph (e); or
  - (ii) an earlier publication published in the ordinary course of business of publishing a newspaper, periodical or magazine, or of broadcasting by radio, television or any other means of broadcasting or communication, referred to in subsection (10),
 provided that the first-mentioned publication does not contain any material information that is not included in the prospectus.

[1/2005]

(10) A person does not contravene subsection (1) if—

- (a) he publishes any advertisement or publication in the ordinary course of a business of—
  - (i) publishing a newspaper, periodical or magazine; or
  - (ii) broadcasting by radio, television or any other means of broadcasting or communication; and
- (b) he did not know and had no reason to suspect that its publication would constitute a contravention of subsection (1).

[1/2005]

(11) Subsection (9) (e) and (f) shall not apply to an advertisement or a statement if any person gives consideration or any other benefit for the publication of the advertisement or statement.

[1/2005]

(12) Any person who contravenes subsection (1) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(13) This section does not affect any liability that a person has under any other law.

*continued on next page*

*Box A1.1 continuation*

(14) The Authority may exempt any person or class of persons from this section, subject to such conditions or restrictions as may be determined by the Authority. [1/2005]

(15) Any person who contravenes any of the conditions or restrictions imposed under subsection (14) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction. [1/2005]

(16) For the purposes of this section, any reference to publishing a statement shall be construed as including a reference to making a statement, whether oral or written, which is reasonably likely to be published. [1/2005]

(17) For the purposes of subsections (1) and (2), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise. [1/2005]

(18) For the purposes of subsection (2) (ii), the reference to affairs of the business trust or the entity shall—  
 (a) in the case of the business trust, be construed to refer to such matters as may be prescribed by the Authority;  
 (b) in the case where the entity is a corporation, be construed as including a reference to the matters referred to in section 2 (2); and  
 (c) in the case where the entity is not a corporation, be construed to refer to such matters as may be prescribed by the Authority. [1/2005]

(19) For the purposes of subsection (9) (c) (i), the reference to affairs of the issuer or the business trust shall—  
 (a) in the case where the issuer is a corporation, be construed as including a reference to the matters referred to in section 2 (2);  
 (b) in the case where the issuer is not a corporation, be construed to refer to such matters as may be prescribed by the Authority; and  
 (c) in the case of the business trust, be construed to refer to such matters as may be prescribed by the Authority. [1/2005]

[SFA, s. 251] [1/2005]

**Persons liable on prospectus or profile statement to inform person making offer about certain deficiencies**

**282M.**—(1) A person referred to in section 2820 (3) (other than paragraph (a)) shall notify in writing the person making the offer of units or derivatives of units in a business trust, as soon as practicable, if he becomes aware at any time after the prospectus or profile statement is registered by the Authority but before the close of the offer that—  
 (a) a statement in the prospectus or the profile statement is false or misleading;  
 (b) there is an omission to state any information required to be included in the prospectus under section 282F or there is an omission to state any information required to be included in the profile statement under section 282G, as the case may be; or  
 (c) a new circumstance—  
 (i) has arisen since the prospectus or the profile statement was lodged with the Authority; and  
 (ii) would have been required to be included in the prospectus under section 282F, or required to be included in the profile statement under section 282G, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority, and the failure to so notify would have been materially adverse from the point of view of an investor. [1/2005]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000. [1/2005]

(3) For the purposes of subsection (1) (a), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise. [1/2005]

[SFA, s. 252]

**Criminal liability for false or misleading statements**

**282N.**—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 282ZC, where a prospectus or profile statement is prepared and issued in relation to the offer, and—  
 (a) a false or misleading statement is contained in—  
 (i) the prospectus or the profile statement; or  
 (ii) any application form for the units or derivatives of units;  
 (b) there is an omission to state any information required to be included in the prospectus under section 282F or there is an omission to state any information required to be included in the profile statement under section 282G, as the case may be; or  
 (c) there is an omission to state a new circumstance that—  
 (i) has arisen since the prospectus or the profile statement was lodged with the Authority; and  
 (ii) would have been required to be included in the prospectus under section 282F, or required to be included in the profile statement under section 282G, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,  
 the persons referred to in subsection (4) shall be guilty of an offence even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission, and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not

*continued on next page*

*Box A1.1 continuation*

exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person made the statement without having reasonable grounds for making the statement.

[1/2005]

(3) A person shall not be taken to have contravened subsection (1) if the false or misleading statement, or the omission to state any information or new circumstance, is not materially adverse from the point of view of the investor.

[1/2005]

(4) The persons guilty of the offence are—

(a) the person making the offer;

(b) where the person making the offer is an entity—

(i) each director or equivalent person of the entity; and

(ii) if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;

(c) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties—

(i) the issuer;

(ii) each director or equivalent person of the issuer; and

(iii) each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the issuer;

(d) an issue manager to the offer of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or profile statement, if—

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii) knowing that the statement in the prospectus or profile statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(e) an underwriter (but not a sub-underwriter) to the issue or sale of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or profile statement, if—

(i) he intentionally or recklessly makes the false or misleading statement or omits to state the information or circumstance;

(ii) knowing that the statement is false or misleading or that the information or circumstance has been omitted, he fails to take such remedial action as is appropriate in the circumstances without delay; or

(iii) he is reckless as to whether the statement is false or misleading or whether the information or circumstance has been included;

(f) a person named in the prospectus or the profile statement with his consent as having made—

(i) the statement that is false or misleading, if he intentionally or recklessly makes that statement; or

(ii) a statement on which the false or misleading statement is based, if he knows that the second-mentioned statement is false or misleading and fails to take immediate steps to withdraw his consent, but only in respect of the inclusion of the false or misleading statement; and

(g) any other person who intentionally or recklessly makes the false or misleading statement, or omits to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance, as the case may be.

[1/2005]

(5) For the purposes of subsection (4) and this subsection—

(a) remedial action includes any of the following:

(i) preventing the statement from being included, or having the information or circumstance included, in the prospectus or profile statement, as the case may be;

(ii) procuring the lodgment of a supplementary or replacement prospectus under section 282D; and

(b) a person is reckless as to the matter referred to in subsection (4) (d) (iii) or (e) (iii) if, having been put upon inquiry that the statement to be, or which has been, included in the prospectus or profile statement is likely to be false or misleading, that the information or circumstance is likely to be required to be included in that document, or that there is likely to be an omission to state the information or circumstance in that document, he fails to—

(i) make all inquiries as are reasonable in the circumstances to verify this; and

(ii) take such remedial action as is appropriate in the circumstances without delay, if such action is warranted by the outcome of the inquiries.

[1/2005]

(6) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 253]

**Civil liability for false or misleading statements**

**2820.**—(1) Where an offer of units or derivatives of units in a business trust is made in or accompanied by a prospectus or profile statement, or, in the case of an offer referred to in section 282ZC, where a prospectus or profile statement is prepared and issued in relation to the offer, and—

(a) a false or misleading statement is contained in—

*continued on next page*

*Box A1.1 continuation*

- (i) the prospectus or the profile statement; or
  - (ii) any application form for the units or derivatives of units;
  - (b) there is an omission to state any information required to be included in the prospectus under section 282F or there is an omission to state any information required to be included in the profile statement under section 282G, as the case may be; or
  - (c) there is an omission to state a new circumstance that—
    - (i) has arisen since the prospectus or the profile statement was lodged with the Authority; and
    - (ii) would have been required to be included in the prospectus under section 282F, or required to be included in the profile statement under section 282G, as the case may be, if it had arisen before the prospectus or the profile statement was lodged with the Authority,
- the persons referred to in subsection (3) shall be liable to compensate any person who suffers loss or damage as a result of the false or misleading statement in or omission from the prospectus or the profile statement, even if such persons, unless otherwise specified, were not involved in the making of the false or misleading statement or the omission.

[1/2005]

(2) For the purposes of subsection (1), a false or misleading statement about a future matter (including the doing of, or the refusal to do, an act) is taken to have been made if a person makes the statement without having reasonable grounds for making the statement.

[1/2005]

(3) The persons liable are—

- (a) the person making the offer;
- (b) where the person making the offer is an entity—
  - (i) each director or equivalent person of the entity; and
  - (ii) if the entity is also the issuer, each person who is, and who has consented to be, named in the prospectus or profile statement as a proposed director or an equivalent person of the entity;
- (c) where the issuer is controlled by the person making the offer, one or more of the related parties of the person making the offer, or the person making the offer and one or more of his related parties—
  - (i) the issuer;
  - (ii) each director or equivalent person of the issuer; and
  - (iii) each person who is, and who has consented to be, named in the prospectus or the profile statement as a proposed director or an equivalent person of the issuer;
- (d) an issue manager to the offer of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or the profile statement;
- (e) an underwriter (but not a sub-underwriter) to the issue or sale of the units or derivatives of units in the business trust who is, and who has consented to be, named in the prospectus or the profile statement;
- (f) a person named in the prospectus or the profile statement with his consent as having made a statement—
  - (i) that is included in the prospectus or the profile statement; or
  - (ii) on which a statement made in the prospectus or the profile statement is based, but only in respect of the inclusion of that statement; and
- (g) any other person who made the false or misleading statement or omitted to state the information or circumstance, as the case may be, but only in respect of the inclusion of the statement or the omission to state the information or circumstance.

[1/2005]

(4) A person who acquires units or derivatives of units in a business trust as a result of an offer that was made in or accompanied by a profile statement is taken to have acquired the units or derivatives of units in reliance on both the profile statement and the prospectus for the offer.

[1/2005]

(5) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(6) No action under subsection (1) shall be commenced after the expiration of 6 years from the date on which the cause of action arose.

[1/2005]

(7) This section shall not affect any liability that a person has under any other law.

[1/2005]

[SFA, s. 254]

**Defences**

**282P**—(1) A person referred to in section 282N (4) (a), (b) or (c) is not liable under section 282N (1), and a person referred to in section 282O (3) is not liable under section 282O (1), only because of a false or misleading statement in a prospectus or a profile statement if the person proves that he—

- (a) made all inquiries (if any) that were reasonable in the circumstances; and
- (b) after doing so, believed on reasonable grounds that the statement was not false or misleading.

[1/2005]

(2) A person referred to in section 282N (4) (a), (b) or (c) is not liable under section 282N (1), and a person referred to in section 282O (3) is not liable under section 282O (1), only because of an omission from a prospectus or a profile statement in relation to a particular matter if the person proves that he—

- (a) made all inquiries (if any) that were reasonable in the circumstances; and
- (b) after doing so, believed on reasonable grounds that there was no omission from the prospectus or profile statement in relation to that matter.

[1/2005]

(3) A person is not liable under section 282N (1) or 282O (1) only because of a false or misleading statement in, or an omission from, a prospectus or a

*continued on next page*

*Box A1.1 continuation*

profile statement if the person proves that he placed reasonable reliance on information given to him by—

(a) if the person is an entity, someone other than—

(i) a director or equivalent person; or

(ii) an employee or agent, of the entity; or

(b) if the person is an individual, someone other than an employee or agent of the individual.

[1/2005]

(4) For the purposes of subsection (3), a person is not the agent of an entity or individual merely because he performs a particular professional or advisory function for the entity or individual.

[1/2005]

(5) A person who is named in a prospectus or a profile statement as—

(a) a proposed director or equivalent person of the issuer, or an issue manager or underwriter;

(b) having made a statement included in the prospectus or the profile statement; or

(c) having made a statement on the basis of which a statement is included in the prospectus or the profile statement, is not liable under section 282N (1) or 282O (1) only because of a false or misleading statement in, or an omission from, the prospectus or the profile statement if the person proves that he publicly withdrew his consent to being named in the prospectus or the profile statement in that way.

[1/2005]

(6) A person is not liable under section 282N (1) or 282O (1) only because of a new circumstance that has arisen since the prospectus or the profile statement was lodged with the Authority if the person proves that he was not aware of the matter.

[1/2005]

(7) For the purposes of this section, any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[SFA, s. 255]

**Document containing offer of units or derivatives of units for sale deemed prospectus**

**282Q.**—(1) Subsection (2) applies where—

(a) an entity allots or agrees to allot to any person any units or derivatives of units in a business trust with a view to all or any of them being subsequently offered for sale to another person; and

(b) such offer (referred to in this section as a subsequent offer) does not qualify for an exemption under Subdivision (3) of this Division (other than section 282ZC).

[1/2005]

(2) Any document by which the subsequent offer is made shall for all purposes be deemed to be a prospectus issued by the entity, and the entity shall for all purposes be deemed to be the person making the offer, and all written laws and rules of law as to the contents of prospectuses and to liability in respect of statements and non-disclosure in prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly as if—

(a) an offer of units or derivatives of units in the business trust has been made; and

(b) persons accepting the subsequent offer in respect of any units or derivatives of units in the business trust were subscribers therefor, but without prejudice to the liability, if any, of the persons making the subsequent offer, in respect of statements or non-disclosures in the document or otherwise.

[1/2005]

(3) For the purposes of this Act, it shall, unless the contrary is proved, be sufficient evidence that an allotment of, or an agreement to allot, units or derivatives of units in a business trust was made with a view to the units or derivatives of units being subsequently offered for sale if it is shown—

(a) that an offer of the units or derivatives of units or of any of them for sale was made within 6 months after the allotment or agreement to allot; or

(b) that at the date when the offer was made the whole consideration to be received by the entity in respect of the units or derivatives of units had not been so received.

[1/2005]

(4) The requirements of this Division as to prospectuses shall have effect as though the persons making the subsequent offer were persons named in the prospectus as directors or equivalent persons of the entity.

[1/2005]

(5) In addition to complying with the other requirements of this Division, the document making the subsequent offer shall state—

(a) the net amount of the consideration received or to be received by the entity in respect of the units or derivatives of units in the business trust being offered; and

(b) the place and time at which a copy of the contract under which the units or derivatives of units in the business trust have been or are to be allotted may be inspected.

[1/2005]

[SFA, s. 257]

**Application and moneys to be held in trust in separate bank account until allotment**

**282R.**—(1) All application and other moneys paid prior to allotment by any applicant on account of units or derivatives of units in a business trust offered to him shall, until the allotment of the units or derivatives of units in the business trust, be held by the person making the offer of the units or derivatives of units upon trust for the applicant in a separate bank account, being a bank account that is established and kept by the person solely for the purpose of depositing the application and other moneys that are paid by applicants for those units or derivatives of units.

[1/2005]

(2) There shall be no obligation or duty on any bank with which any such moneys have been deposited to enquire into or see to the proper application of

*continued on next page*

*Box A1.1 continuation*

those moneys, so long as the bank acts in good faith.

[1/2005]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

[SFA, s. 258]

**Allotment of units or derivatives of units where prospectus indicates application to list on securities exchange**

**282S.**—(1) Where a prospectus states or implies that application has been or will be made for permission for the units or derivatives of units in a business trust offered thereby to be listed for quotation on any securities exchange, and—

(a) the permission is not applied for in the form required by the securities exchange within 3 days from the date of the issue of the prospectus; or  
(b) the permission is not granted before the expiration of 6 weeks from the date of the issue of the prospectus or such longer period not exceeding 12 weeks from the date of the issue as is, within those 6 weeks, notified to the applicant by or on behalf of the securities exchange, then—

(i) any allotment whenever made of units or derivatives of units made on an application in pursuance of the prospectus shall, subject to subsection (3), be void; and

(ii) any person who continues to allot such units or derivatives of units after the period specified in paragraph (a) or (b), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) Where, the permission has not been applied for, or has not been granted as mentioned under subsection (1), the person making the offer shall, subject to subsection (3), immediately repay without interest all moneys received from applicants in pursuance of the prospectus, and if any such moneys is not repaid within 14 days after the person making the offer so becomes liable to repay them, then—

(a) he shall be liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days; and

(b) where the person making the offer is an entity, in addition to the liability of the entity, the directors or equivalent persons of the entity shall be jointly and severally liable to repay those moneys with interest at the rate of 10% per annum from the expiration of such 14 days.

[1/2005]

(3) Where in relation to any units or derivatives of units in a business trust—

(a) permission is not applied for as specified in subsection (1) (a); or

(b) permission is not granted as specified in subsection (1) (b),

the Authority may, on the application of the issuer made before any of the units or derivatives of units is purported to be allotted, exempt the allotment of the units or derivatives of units from the provisions of this section, and the Authority shall give notice of such exemption in the Gazette.

[1/2005]

(4) A director or equivalent person shall not be liable under subsection (2) if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

[1/2005]

(5) Any condition requiring or binding any applicant for units or derivatives of units in a business trust to waive compliance with any requirement of this section or purporting to do so shall be void.

[1/2005]

(6) Without limiting the application of any of its provisions, this section shall have effect—

(a) in relation to any units or derivatives of units in a business trust agreed to be taken by a person underwriting an offer thereof contained in a prospectus as if he had applied therefor in pursuance of the prospectus; and

(b) in relation to a prospectus offering units or derivatives of units in a business trust for sale as if a reference to sale were substituted for a reference to allotment.

[1/2005]

(7) All moneys received from applicants in pursuance of the prospectus shall be kept in a separate bank account so long as the person making the offer may become liable to repay it under subsection (2).

[1/2005]

(8) Any person who contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(9) Where the securities exchange has within the time specified in subsection (1) (b) granted permission subject to compliance with any requirements specified by the securities exchange, permission shall be deemed to have been granted by the securities exchange if the directors or equivalent persons of the issuer have given to the securities exchange an undertaking in writing to comply with the requirements of the securities exchange.

[1/2005]

(10) If any such undertaking referred to in subsection (9) is not complied with, each director or equivalent person who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

*continued on next page*



*Box A1.1 continuation*

(11) A person shall not issue a prospectus inviting persons to subscribe for units or derivatives of units in a business trust if it includes—

- (a) a false or misleading statement that permission has been granted for those units or derivatives of units to be listed for quotation on, dealt in or quoted on any securities exchange; or
- (b) any statement in any way referring to any such permission or to any application or intended application for any such permission, or to listing for quotation, dealing in or quoting the units or derivatives of units, on any securities exchange, or to any requirement of a securities exchange, unless—
  - (i) that statement is or is to the effect that permission has been granted, or that application has been or will be made to the securities exchange within 3 days from the date of the issue of the prospectus; or
  - (ii) that statement has been approved by the Authority for inclusion in the prospectus.

[1/2005]

(12) Any person who contravenes subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(13) Where a prospectus contains a statement to the effect that the trust deed of a business trust or the memorandum and articles or other constituent document or documents of the issuer comply, or have been drawn so as to comply, with the requirements of any securities exchange, the prospectus shall, unless the contrary intention appears from the prospectus, be deemed for the purposes of this section to imply that application has been, or will be, made for permission for the units or derivatives of units in the business trust to which the prospectus relates to be listed for quotation on the securities exchange.

[1/2005]

[SFA, s. 259]

**Prohibition of allotment unless minimum subscription received**

**282T.**—(1) No allotment shall be made of any units or derivatives of units in a business trust unless—

- (a) the minimum subscription has been subscribed; and
- (b) the sum payable on application for the units or derivatives of units so subscribed has been received by the trustee-manager of the business trust, but if a cheque for the sum payable has been received by the trustee-manager, the sum shall be deemed not to have been received by the trustee-manager until the cheque is paid by the bank on which it is drawn.

[1/2005]

(2) The minimum subscription shall—

- (a) be calculated based on the price at which each unit or derivative of a unit is offered or will be offered; and
- (b) be reckoned exclusively of any amount payable otherwise than in cash.

[1/2005]

(3) The amount payable on application for each unit or derivative of a unit offered shall not be less than 5% of the price at which the unit or derivative of a unit is or will be offered.

[1/2005]

(4) If the conditions referred to in subsection (1) (a) and (b) have not been satisfied on the expiration of 4 months after the first issue of the prospectus, all moneys received from applicants for units or derivatives of units in the business trust shall be immediately repaid to them without interest.

[1/2005]

(5) If any money referred to in subsection (4) is not repaid within 5 months after the issue of the prospectus, the directors of the trustee-manager of the business trust shall be jointly and severally liable to repay that money with interest at the rate of 10% per annum from the expiration of the period of 5 months; but a director shall not be so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

[1/2005]

(6) An allotment made by the trustee-manager of a business trust of any units or derivatives of units in the business trust to an applicant in contravention of this section shall be voidable at the option of the applicant, whose option may be exercised by written notice served on the trustee-manager of the business trust within one month after the date of the allotment and not later, and the allotment shall be so voidable notwithstanding that the business trust is in the course of being wound up.

[1/2005]

(7) The trustee-manager of a business trust which contravenes any of the provisions of this section, and every director of a trustee-manager who knowingly contravenes or permits or authorises the contravention of any of the provisions of this section, shall be guilty of an offence and shall be liable in addition to the penalty or punishment for the offence to pay into the trust property of the business trust and compensate the allottee respectively for any loss, damages or costs which the business trust (represented by any diminishment in value to the trust property of the business trust) or the allottee has sustained or incurred thereby.

[1/2005]

(8) No proceedings for the recovery of any compensation under subsection (7) shall be commenced after the expiration of 2 years from the date of the allotment.

[1/2005]

(9) Any condition requiring or binding any applicant for units or derivatives of units in a business trust to waive compliance with any requirement of this section shall be void.

[1/2005]

[SFA, s. 260]

*continued on next page*

*Box A1.1 continuation*

## Subdivision (3)—Exemptions

**Issue or transfer of units or derivatives of units for no consideration**

**282U.**—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units in a business trust if no consideration is or will be given for the issue or transfer of the units.

[1/2005]

(2) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of derivatives of units in a business trust if—

- (a) no consideration is or will be given for the issue or transfer of the derivatives of units; and
- (b) no consideration is or will be given for the units in the business trust on the exercise or conversion of the derivatives of units.

[1/2005]

**Small offers**

**282V.**—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to personal offers of units or derivatives of units in a business trust by a person if—

- (a) the total amount raised by the person from such offers within any period of 12 months does not exceed—
  - (i) \$5 million (or its equivalent in a foreign currency); or
  - (ii) such other amount as may be prescribed by the Authority in substitution for the amount specified in sub-paragraph (i);
- (b) in respect of each offer, the person making the offer—
  - (i) gives the person to whom he makes the offer—
    - (A) in the case where the business trust is not registered under the Business Trusts Act (Cap. 31A), the following statement in writing: “This offer is made in reliance on the exemption under section 282V (1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the business trust is not registered under the Business Trusts Act.”; and
    - (B) in the case where the business trust is registered under the Business Trusts Act, the following statement in writing: “This offer is made in reliance on the exemption under section 282V (1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore.”; and
  - (ii) gives the person to whom he makes the offer a notification in writing that the units or derivatives of units to which the offer (referred to in this sub-paragraph as the initial offer) relates shall not be subsequently sold to any person, unless the offer resulting in such subsequent sale is made—
    - (A) in compliance with Subdivision (2) of this Division;
    - (B) in reliance on subsection (8) (c) or any other exemption under any provision of this Subdivision (other than this subsection); or
    - (C) where at least 6 months have elapsed from the date the units or derivatives of units were acquired under the initial offer, in reliance on the exemption under this subsection;
- (c) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;
- (d) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—
  - (i) the holder of a capital markets services licence to deal in securities;
  - (ii) an exempt person in respect of dealing in securities; or
  - (iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(e) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered—

- (i) the prospectus has expired pursuant to section 282K; or
- (ii) the person making the offer has before making the offer informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection.

(2) For the purposes of subsection (1) (b), where any notice, circular, material, publication or other document is issued in connection with the offer, the person making the offer is deemed to have given the statement and notification to the person to whom he makes the offer in accordance with that provision if such statement or notification is contained in the first page of that notice, circular, material, publication or document.

[1/2005]

(3) For the purposes of subsection (1), a personal offer of units or derivatives of units in a business trust is one that—

- (a) may be accepted only by the person to whom it is made; and
- (b) is made to a person who is likely to be interested in that offer, having regard to—
  - (i) any previous contact before the date of the offer between the person making the offer and that person;
  - (ii) any previous professional or other connection established before that date between the person making the offer and that person; or
  - (iii) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to—
    - (A) the person making the offer;
    - (B) the holder of a capital markets services licence to deal in securities;
    - (C) an exempt person in respect of dealing in securities;
    - (D) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;
    - (E) an exempt financial adviser as defined in section 2 (1) of the Financial Advisers Act; or
    - (F) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services,

*continued on next page*

*Box A1.1 continuation*

that he is interested in offers of that kind.

[1/2005]

(4) In determining the amount raised by an offer, the following shall be included:

- (a) the amount payable for the units or derivatives of units in a business trust at the time they are allotted, issued or sold;
- (b) if the units or derivatives of units in a business trust are issued partly-paid, any amount payable at a future time if a call is made;
- (c) if the units or derivatives of units in a business trust carry a right (by whatever name called) to be converted into other units or derivatives of units in the business trust or to acquire other units or derivatives of units in the business trust, any amount payable on the exercise of the right to convert them into, or to acquire, other units or derivatives of units.

[1/2005]

(5) In determining whether the amount raised by a person from offers within a period of 12 months exceeds the applicable amount specified in subsection (1) (a), each amount raised—

- (a) by that person from any offer of units or derivatives of units in a business trust issued by the same entity; or
- (b) by that person or another person from any offer of securities which is a closely related offer, if any, within that period in reliance on the exemption under subsection (1), section 272A (1) or 302B (1) shall be included.

[1/2005]

(6) Whether an offer is a closely related offer under subsection (5) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(7) For the purpose of this section, an offer of units or derivatives of units in a business trust made by a person acting as an agent of another person shall be treated as an offer made by that other person.

[1/2005]

(8) Where units or derivatives of units in a business trust acquired through an offer made in reliance on the exemption under subsection (1) (referred to in this subsection as an initial offer) are subsequently sold by the person who acquired the units or derivatives of units to another person, Subdivision (2) of this Division shall apply to the offer from the first-mentioned person to the second-mentioned person which resulted in that sale, unless—

- (a) such offer is made in reliance on an exemption under any provision of this Subdivision (other than this section);
- (b) such offer is made in reliance on an exemption under subsection (1) and at least 6 months have elapsed from the date the units or derivatives of units were acquired under the initial offer; or
- (c) such offer is one—
  - (i) that may be accepted only by the person to whom it is made;
  - (ii) that is made to a person who is likely to be interested in the offer having regard to—
    - (A) any previous contact before the date of the offer between the person making the initial offer and that person;
    - (B) any previous professional or other connection established before that date between the person making the initial offer and that person; or
    - (C) any previous indication (whether through statements made or actions carried out) before that date by that person that indicate to—
      - (CA) the person making the initial offer;
      - (CB) the holder of a capital markets services licence to deal in securities;
      - (CC) an exempt person in respect of dealing in securities;
      - (CD) a person licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of financial advisory services concerning investment products;
      - (CE) an exempt financial adviser as defined in section 2 (1) of the Financial Advisers Act (Cap. 110); or
      - (CF) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or the provision of financial advisory services concerning investment products, or who is exempted therefrom in respect of such dealing or the provision of such services,
  - (iii) in respect of which the first-mentioned person has given the second-mentioned person—
    - (A) the following statement in writing—
      - (AA) in the case where the business trust is not registered under the Business Trusts Act (Cap. 31A)—
        - “This offer is made in reliance on the exemption under section 282V (8) (c) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the business trust is not registered under the Business Trusts Act.”; and
        - (AB) in the case where the business trust is registered under the Business Trusts Act—
          - “This offer is made in reliance on the exemption under section 282V (8) (c) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore.”; and
      - (B) a notification in writing that the units or derivatives of units being offered shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made—
        - (BA) in compliance with Subdivision (2) of this Division;
        - (BB) in reliance on this subsection or any other exemption under any provision of this Subdivision (other than subsection (1)); or
        - (BC) where at least 6 months have elapsed from the date the units or derivatives of units were acquired under the initial offer, in reliance on the exemption under subsection (1);
    - (iv) that is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer; and
    - (v) in respect of which no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—
      - (A) the holder of a capital markets services licence to deal in securities;
      - (B) an exempt person in respect of dealing in securities; or

*continued on next page*

*Box A1.1 continuation*

(C) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing.

[1/2005]

(9) Subsection (2) shall apply, with the necessary modifications, in relation to the statement and notification referred to in subsection (8) (c) (iii).

[1/2005]

(10) In subsections (1) (c) and (8) (c) (iv), “advertisement” means—

(a) a written or printed communication;

(b) a communication by radio, television or other medium of communication; or

(c) a communication by means of a recorded telephone message,

that is published in connection with an offer of units or derivatives of units in a business trust, but does not include—

(i) a document—

(A) purporting to describe the units or derivatives of units being offered, or the business and affairs of the person making the offer, the issuer, the trustee of the business trust or the business trust; and

(B) purporting to have been prepared for delivery to and review by persons to whom the offer is made so as to assist them in making an investment decision in respect of the units or derivatives of units being offered;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

(iii) a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the trustee of the business trust or any entity, a notice or report of a general meeting or proposed general meeting of the unit holders of the business trust, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting.

[1/2005]

(11) In subsection (10) (i) (A), the reference to the affairs of the person making the offer, the issuer, the trustee of the business trust or the business trust shall—

(a) in the case where the person making the offer, the issuer or the trustee of the business trust is a corporation, be construed as including a reference to the matters referred to in section 2 (2);

(b) in the case where the person making the offer, the issuer or the trustee of the business trust is not a corporation, be construed as referring to such matters as may be prescribed by the Authority; and

(c) in the case of the business trust, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

**Private placement**

**282W.**—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to offers of units or derivatives of units in a business trust that are made by a person if—

(a) the offers are made to no more than 50 persons within any period of 12 months;

(b) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(c) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—

(i) the holder of a capital markets services licence to deal in securities;

(ii) an exempt person in respect of dealing in securities; or

(iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(d) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered—

(i) the prospectus has expired pursuant to section 282K; or

(ii) the person making the offer has before making the offer—

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

(2) The Authority may prescribe such other number of persons in substitution for the number specified in subsection (1) (a).

[1/2005]

(3) In determining whether offers of units or derivatives of units in a business trust by a person are made to no more than the applicable number of persons specified in subsection (1) (a) within a period of 12 months, each person to whom—

(a) an offer of units or derivatives of units issued by the same entity is made by the first-mentioned person; or

(b) an offer of securities is made by the first-mentioned person or another person where such offer is a closely related offer, if any, within that period in reliance on the exemption under this section, section 272B or 302C shall be included.

[1/2005]

(4) Whether an offer is a closely related offer under subsection (3) shall be determined by considering such factors as the Authority may prescribe.

[1/2005]

(5) For the purposes of subsection (1)—

(a) an offer of units or derivatives of units in a business trust to an entity or to a trustee shall be treated as an offer to a single person, provided that the entity or trust is not formed primarily for the purpose of acquiring the units or derivatives of units which are the subject of the offer;

(b) an offer of units or derivatives of units in a business trust to an entity or to a trustee shall be treated as an offer to the equity owners, partners or

*continued on next page*

*Box A1.1 continuation*

members of that entity, or to the beneficiaries of the trust, as the case may be, if the entity or trust is formed primarily for the purpose of acquiring the units or derivatives of units which are the subject of the offer;

(c) an offer of units or derivatives of units in a business trust to 2 or more persons who will own the units or derivatives of units acquired as joint owners shall be treated as an offer to a single person;

(d) an offer of units or derivatives of units in a business trust to a person acting on behalf of another person (whether as an agent or otherwise) shall be treated as an offer made to that other person;

(e) offers of units or derivatives of units in a business trust made by a person as an agent of another person shall be treated as offers made by that other person;

(f) where an offer is made to a person with a view to another person acquiring an interest in those units or derivatives of units in a business trust by virtue of section 4, only the second-mentioned person shall be counted for the purposes of determining whether offers of the units or derivatives of units are made to no more than the applicable number of persons specified in subsection (1) (a); and

(g) where—

(i) an offer of units or derivatives of units in a business trust is made to a person in reliance on the exemption under subsection (1) with a view to those units or derivatives of units being subsequently offered for sale to another person; and

(ii) that subsequent offer—

(A) is not made in reliance on an exemption under any provision of this Subdivision; or

(B) is made in reliance on an exemption under subsection (1) or section 282ZC,

both persons shall be counted for the purposes of determining whether offers of the units or derivatives of units are made to no more than the applicable number of persons specified in subsection (1) (a).

[1/2005]

(6) In subsection (1) (b), “advertisement” has the same meaning as in section 282V (10).

[1/2005]

**Offer made under certain circumstances**

**282X.**—(1) Subdivision (2) of this Division (other than subsection (1) (a) of sections 282C and 282Q) shall not apply to an offer of units or derivatives of units in a business trust if—

(a) it is made in connection with a take-over offer which is in compliance with the Take-over Code;

(b) it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in a corporation or some or all of the shares of a particular class in a corporation—

(i) to all members of the corporation or all members of the corporation holding shares of that class; or

(ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,

and such offer complies with the Take-over Code as though the Take-over Code were applicable to it;

(c) it is made in connection with a proposed compromise or arrangement between—

(i) a corporation and its creditors or a class of them; or

(ii) a corporation and its members or a class of them,

and such proposed compromise or arrangement and the execution thereof complies with the Take-over Code as though the Take-over Code were applicable to it;

(d) it is an offer of units in a business trust (not being such excluded units in a business trust, or units in such excluded business trust, as may be prescribed by the Authority) that have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange;

(e) it is an offer of derivatives of units in a business trust (not being such excluded derivatives of units in a business trust, or derivatives of units in such excluded business trust, as may be prescribed by the Authority) where—

(i) the derivatives of units have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange; or

(ii) an application has been or will be made for permission for the derivatives of units to be listed for quotation or quoted on a securities exchange and the units have been previously issued and are listed for quotation on a securities exchange or a recognised securities exchange;

(f) it is an offer of units in a business trust made to any existing unit holder of the business trust or any holder of debentures of the trustee-manager issued in its capacity as trustee-manager of the business trust whose units are listed for quotation on a securities exchange; or

(g) it is an offer of derivatives of units in a business trust made to any existing unit holder of the business trust or any holder of debentures of the trustee-manager issued in its capacity as trustee-manager of the business trust whose units are listed for quotation on a securities exchange, where such derivatives of units may only be exercised or converted by any existing unit holder or holder of debentures into units of the business trust.

[1/2005]

(2) An offer of units or derivatives of units in a business trust does not come within subsection (1) (d) or (e) if—

(a) the units or derivatives of units being offered are borrowed by the issuer from an existing unit holder or holder of derivatives of units, solely for the purpose of facilitating the offer of units or derivatives of units by the issuer; and

(b) such borrowing is made under an agreement or arrangement between the issuer and the unit holder or holder which promises the issue or allotment of units or derivatives of units by the issuer to the unit holder or holder at the same time or shortly after the offer.

[1/2005]

(3) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust if—

(a) it is made in connection with an offer for the acquisition by or on behalf of a person of some or all of the shares in an unlisted corporation or some or all of the shares of a particular class in an unlisted corporation—

(i) to all members of the corporation or all members of the corporation holding shares of that class; or

*continued on next page*

*Box A1.1 continuation*

(ii) where the person already holds shares in the corporation, to all other members of the corporation or all other members of the corporation holding shares of that class,

where such offer is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs of the country in which the corporation was incorporated;

(b) it is made in connection with a proposed compromise or arrangement between—

(i) an unlisted corporation and its creditors or a class of them; or

(ii) an unlisted corporation and its members or a class of them,

and such proposed compromise or arrangement and the execution thereof is in compliance with the laws, codes and other requirements (whether or not having the force of law) relating to take-overs, compromises and arrangements of the country in which the corporation was incorporated;

(c) it is made (whether or not in relation to units or derivatives of units in a business trust that have been previously issued) by the trustee of the business trust to a qualifying person, where the units or derivatives of units are to be held by or for the benefit of the qualifying person and are the units or derivatives of units of the business trust or the securities of any of its related parties;

(d) it is an offer to enter into an underwriting agreement relating to units or derivatives of units in a business trust; or

(e) it is an offer of units or derivatives of units in a business trust—

(i) being a business trust which is registered in Singapore or otherwise, whose units or derivatives of units are not listed for quotation on a securities exchange; or

(ii) being a business trust which is not registered in Singapore, whose units or derivatives of units are listed for quotation on a securities exchange and such listing is not a primary listing,

that is made to existing unit holders of the business trust or holders of debentures of the trustee issued in its capacity as trustee of the business trust (whether or not it is renounceable in favour of persons other than existing unit holders or holders of debentures).

[1/2005]

(4) An offer of units or derivatives of units in a business trust comes within subsection (3) (c) only if no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—

(a) the holder of a capital markets services licence to deal in securities;

(b) an exempt person in respect of dealing in securities; or

(c) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealings.

[1/2005]

(5) For the purposes of subsection (3) (c), a person is a qualifying person in relation to a business trust if he is a bona fide director or equivalent person, former director or equivalent person, consultant, adviser, employee or former employee of the trustee of the business trust or a related corporation of that trustee (being a corporation), or if he is the spouse, widow, widower or a child, adopted child or step-child below the age of 18, of such director or equivalent person, former director or equivalent person, employee or former employee.

[1/2005]

(6) Where, on the application of any person interested, the Authority declares that circumstances exist whereby—

(a) the cost of providing a prospectus for an offer of units or derivatives of units in a business trust outweighs the resulting protection to investors; or

(b) it would not be prejudicial to the public interest if a prospectus were dispensed with for an offer of units or derivatives of units in a business trust, then Subdivision (2) of this Division (other than section 282Q) shall not apply to such offer for a period of 6 months from the date of the declaration.

[1/2005]

(7) The Authority may, on making a declaration under subsection (6), impose such conditions or restrictions on the offer as the Authority may determine.

[1/2005]

(8) A declaration made under subsection (6) shall be final.

[1/2005]

(9) Any person who contravenes any of the conditions or restrictions specified in the declaration made under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(10) In subsection (1) (b) and (c), “corporation” means a corporation that is not a company.

[1/2005]

(11) In subsection (3) (a) and (b), “unlisted corporation” means a corporation—

(a) that is not a company; and

(b) the shares or debentures, or units of shares or debentures of which are not listed for quotation on any securities exchange.

[1/2005]

[SFA, s. 273]

**Offer made to institutional investors**

**282Y.** Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust, whether or not they have been previously issued, made to an institutional investor.

[1/2005]

[SFA, s. 274]

*continued on next page*

*Box A1.1 continuation***Offer made to accredited investors and certain other persons**

**282Z.**—(1) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust, whether or not they have been previously issued, where the offer is made to a relevant person, if—

- (a) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;
- (b) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—
  - (i) the holder of a capital markets services licence to deal in securities;
  - (ii) an exempt person in respect of dealing in securities; or
  - (iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(c) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered—

- (i) the prospectus has expired pursuant to section 282K; or
- (ii) the person making the offer has before making the offer—
  - (A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and
  - (B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

(2) Subdivision (2) of this Division (other than section 282Q) shall not apply to an offer of units or derivatives of units in a business trust to a person who acquires the units or derivatives of units as principal, whether or not the units or derivatives of units have been previously issued, if—

- (a) the offer is on terms that the units or derivatives of units may only be acquired at a consideration of not less than \$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;
- (b) the offer is not accompanied by an advertisement making an offer or calling attention to the offer, or intended offer;
- (c) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by—
  - (i) the holder of a capital markets services licence to deal in securities;
  - (ii) an exempt person in respect of dealing in securities; or
  - (iii) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities, or who is exempted therefrom in respect of such dealing; and

[1/2005]

(d) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered—

- (i) the prospectus has expired pursuant to section 282K; or
- (ii) the person making the offer has before making the offer—
  - (A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and
  - (B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

(3) In this section—

“advertisement” means—

- (a) a written or printed communication;
  - (b) a communication by radio, television or other medium of communication; or
  - (c) a communication by means of a recorded telephone message,
- that is published in connection with an offer in respect of units or derivatives of units in a business trust, but does not include—
- (i) an information memorandum;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

(iii) a publication which consists solely of a notice or report of a general meeting or proposed general meeting of the person making the offer, the issuer, the trustee of the business trust or any entity, a notice or report of a general meeting or proposed general meeting of the unit holders of the business trust, or a presentation of oral or written material on matters so contained in the notice or report at the general meeting;

“information memorandum” means a document—

- (a) purporting to describe—
  - (i) the units or derivatives of units in the business trust being offered; or
  - (ii) the business and affairs of any one or more of the following—
    - (A) the issuer;
    - (B) the person making the offer;
    - (C) the business trust;
    - (D) the trustee of the business trust; and

(b) purporting to have been prepared for delivery to and review by relevant persons and persons to whom an offer referred to in subsection (2) is to be made so as to assist them in making an investment decision in respect of the units or derivatives of units in the business trust being offered;

“relevant person” means—

- (a) an accredited investor;
- (b) a corporation the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor;

*continued on next page*

*Box A1.1 continuation*

- (c) a trustee of a trust the sole purpose of which is to hold investments and each beneficiary of which is an individual who is an accredited investor;
- (d) an officer or equivalent person of the person making the offer (such person being an entity) or a spouse, parent, brother, sister, son or daughter of that officer or equivalent person; or
- (e) a spouse, parent, brother, sister, son or daughter of the person making the offer (such person being an individual).

[1/2005]

(4) In the definition of “information memorandum” in subsection (3), the reference to the affairs of the issuer, the person making the offer, the trustee of the business trust or the business trust shall—

- (a) in the case where the issuer, the person making the offer or the trustee of the business trust is a corporation, be construed as including a reference to the matters referred to in section 2 (2);
- (b) in the case where the issuer, the person making the offer or the trustee of the business trust is not a corporation, be construed to refer to such matters as may be prescribed by the Authority; and
- (c) in the case of a business trust, be construed as referring to such matters as may be prescribed by the Authority.

[1/2005]

(5) Notwithstanding any requirement in section 99 or any regulation made thereunder that a person has to deal in securities for his own account with or through a person prescribed by the Authority so that he can qualify as an exempt person, a person who acquires units or derivatives of units in a business trust under section 282Y or this section for his own account shall be considered an exempt person even though he does not comply with that requirement.

[1/2005]

(6) The Authority may, by order published in the *Gazette*, specify an amount in substitution of any amount specified in subsection (2) (a).

[1/2005]

[SFA, s. 275]

**Offer of securities acquired pursuant to section 282Y or 282Z**

**282ZA.**—(1) Notwithstanding sections 282V, 282W, 282X (1) (d) and (e) and (3) (c) and 282ZB but subject to subsection (7), where units or derivatives of units in a business trust initially acquired pursuant to an offer made in reliance on an exemption under section 282Y or 282Z are sold within the period of 6 months from the date of the initial acquisition to any person other than—

- (a) an institutional investor;
  - (b) a relevant person as defined in section 282Z (3); or
  - (c) any person pursuant to an offer referred to in section 282Z (2),
- then Subdivision (2) of this Division shall apply to the offer resulting in that sale.

[1/2005]

(1A) The reference to the sale of derivatives of units in a business trust under subsection (1) shall, in a case where the derivatives of units initially acquired are derivatives of units with an attached right of conversion into units in the business trust, include a reference to the sale of the converted units.

(2) Where units or derivatives of units in a business trust initially acquired pursuant to an offer made in reliance on an exemption under section 282Y or 282Z are sold to—

- (a) an institutional investor;
- (b) a relevant person as defined in section 282Z (3); or
- (c) any person pursuant to an offer referred to in section 282Z (2),

Subdivision (2) of this Division shall not apply to the offer resulting in that sale.

[1/2005]

(3) Subject to subsection (7), securities of a corporation (other than a corporation that is an accredited investor)—

- (a) the sole business of which is to hold investments; and
  - (b) the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor,
- shall not be transferred within 6 months after the corporation has acquired any units or derivatives of units in a business trust pursuant to an offer made in reliance on an exemption under section 282Z unless—
- (i) that transfer—
    - (A) is made only to institutional investors or relevant persons as defined in section 282Z (3); or
    - (B) arises from an offer referred to in section 282Z (2);
  - (ii) no consideration is or will be given for the transfer; or
  - ((iii)) the transfer is by operation of law.

[1/2005]

(4) Subject to subsection (7), where—

- (a) the sole purpose of a trust (other than a trust the trustee of which is an accredited investor) is to hold investments; and
  - (b) each beneficiary of the trust is an individual who is an accredited investor,
- the beneficiaries’ rights and interest (howsoever described) in the trust shall not be transferred within 6 months after units or derivatives of units in a business trust are acquired for the trust pursuant to an offer made in reliance on an exemption under section 282Z unless—

- (i) that transfer—
  - (A) is made only to institutional investors or relevant persons as defined in section 282Z (3); or
  - (B) arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than \$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

*continued on next page*



*Box A1.1 continuation*

- (ii) no consideration is or will be given for the transfer; or
- (iii) the transfer is by operation of law.

[1/2005]

(5) For the avoidance of doubt, the reference to beneficiaries in subsection (4) shall include a reference to unit holders of a business trust and participants of a collective investment scheme.

[1/2005]

(6) For the avoidance of doubt, where any units or derivatives of units in a business trust are acquired pursuant to an offer made in reliance on an exemption under section 282Y or 282Z, an offer to sell those units or derivatives of units may be made in reliance on an exemption under section 282X (1) (d) or (e) after 6 months have elapsed from the date of the first-mentioned offer.

[1/2005]

(7) Subsections (1), (3) and (4) shall not apply where the units or derivatives of units in the business trust acquired are of the same class as other units or derivatives of units in the business trust—

- (a) an offer of which has previously been made in or accompanied by a prospectus; and
- (b) which are listed for quotation on a securities exchange.

**Offer of units converted from debentures**

**282ZAA.**—(1) Notwithstanding sections 282V, 282W, 282X(1)(d) and (e) and (3)(c) and 282ZB, where—

(a) debentures with an attached right of conversion into units in a business trust are acquired pursuant to an offer made in reliance on an exemption under section 274 or 275; and

(b) the debentures are then converted into the units,

then Subdivision (2) shall apply to an offer resulting in a sale of any of the units if the sale takes place within 6 months from the date of acquisition of the debentures.

(2) Subsection (1) shall not apply to a sale of the units to—

- (a) an institutional investor;
- (b) a relevant person as defined in section 282Z(3); or
- (c) any person pursuant to an offer referred to in section 282Z(2).

(3) Subsection (1) shall not apply where the units in the business trust sold are of the same class as other units in the business trust—

- (a) an offer of which has previously been made in or accompanied by a prospectus; and
- (b) which are listed for quotation on a securities exchange.

**Offer made using offer information statement**

**282ZB.**—(1) Subject to subsection (2), Subdivision (2) of this Division (other than subsection (1) (a) of section 282C and section 282Q) shall not apply to an offer of units or derivatives of units in a business trust (not being such securities as may be prescribed by the Authority) issued by a trustee-manager acting in its capacity as trustee-manager of the business trust where units of the business trust which have been previously issued are listed for quotation on a securities exchange, whether by means of a rights issue or otherwise, if—

(a) in the case where derivatives of units in a business trust are being issued by the trustee-manager in its capacity as trustee-manager of the business trust, the units are those of that business trust;

(b) an offer information statement relating to the offer which complies with such form and content requirements as may be prescribed by the Authority is lodged with the Authority; and

(c) the offer is made in or accompanied by the offer information statement referred to in paragraph (b).

[1/2005]

(2) Subsection (1) shall apply to an offer of units or derivatives of units in a business trust referred to therein only for a period of 6 months from the date of lodgment of the offer information statement relating to that offer.

[1/2005]

(3) The Authority may, on the application of any person interested, modify the prescribed form and content of the offer information statement in such manner as is appropriate, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(4) Sections 282I, 282J, 282N, 282O and 282P shall apply in relation to an offer information statement referred to in subsection (1) as they apply in relation to a prospectus.

[1/2005]

(5) For the purposes of subsection (4)—

(a) a reference in section 282I or 282J to the registration of the prospectus shall be read as a reference to the lodgment of the offer information statement; and

(b) a reference in section 282N or 282O to any information or new circumstance required to be included in a prospectus under section 282F shall be read as a reference to any information prescribed under subsection (1) (b).

[1/2005]

(6) Where the written consent of an expert is required to be given under section 282I (as applied in relation to an offer information statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[1/2005]

(7) Where the written consent of an issue manager or underwriter is required to be given under section 282J (as applied in relation to that statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

*continued on next page*

*Box A1.1 continuation*

[1/2005]

**Making offer using automated teller machine or electronic means**

**282ZC.**—(1) Subject to subsection (3) and such requirements as may be prescribed by the Authority, a person making an offer of units or derivatives of units in a business trust using—

(a) any automated teller machine; or

(b) such other electronic means as may be prescribed by the Authority,

is exempted from the requirement under section 282C (1) (b) (i) that the offer be made in or accompanied by a prospectus in respect of the offer or, where applicable, the requirement under section 282C (4) that the offer be made in or accompanied by a profile statement in respect of the offer.

[1/2005]

(2) For the avoidance of doubt, a prospectus which complies with all other requirements of section 282C (1) (b) (i) or, where applicable, a profile statement which complies with all other requirements of section 282C (4) must still be prepared and issued in respect of any offer referred to in subsection (1).

[1/2005]

(3) Subsection (1) shall not apply unless the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer—

(a) how he can obtain, or arrange to receive, a copy of the prospectus or, where applicable, profile statement in respect of the offer; and

(b) that he should read the prospectus or, where applicable, profile statement before submitting his application,

before enabling him to submit any application to subscribe for or purchase units or derivatives of units in a business trust.

[1/2005]

**Revocation of exemption**

**282ZD.**—(1) Where the Authority considers that a person is contravening, or is likely to contravene, or has contravened any condition or restriction imposed under section 282X (7), or that it is necessary in the public interest or for the protection of investors, it may revoke any exemption under this Subdivision, subject to such conditions as it thinks fit.

[1/2005]

(2) The Authority may revoke an exemption under subsection (1) without giving the person affected by the revocation an opportunity to be heard, but the person may, within 14 days of the revocation, apply to the Authority for the revocation to be reviewed by the Authority, and the revocation shall remain in effect unless it is withdrawn by the Authority.

[1/2005]

(3) A revocation made under this section shall be final and conclusive and there shall be no appeal therefrom.

[1/2005]

[SFA, s. 281]

**Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act**

**282ZE.** For the avoidance of doubt, it is hereby declared that in relation to any transaction carried out under an exempted offer under this Part, nothing in this Part shall limit or diminish any liability which any person may incur in respect of any relevant offence under Division 2 of Part XII of the Companies Act (Cap. 50) or Part XII of this Act or any penalty, award of compensation or punishment in respect of any such offence.

[1/2005]

[SFA, s. 282]

Subdivision (4)—Debentures

**Applicability of provisions relating to prospectus requirements**

**282ZF.** Division 1 of this Part shall apply, subject to such modifications and adaptations as may be prescribed, to an offer to subscribe for or purchase debentures or units of debentures (within the meaning of section 239 (1)) issued by a trustee of a trust on behalf of the trust and have effect accordingly.

[1/2005]

Division 2—Collective Investment Schemes

Subdivision (1)—Interpretation

**Interpretation of this Division**

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

“control”, in relation to an entity, means the capacity of a person to determine the outcome of decisions on the financial and operating policies of the entity, having regard to—

(a) the influence which the person can, in practice, exert on the entity (as opposed to the rights which the person can exercise in the entity); and

(b) any practice or pattern of behaviour of the person affecting the financial or operating policies of the entity (even if such practice or pattern of behaviour involves a breach of an agreement or a breach of trust),

but does not include any capacity of a person to influence decisions on the financial and operating policies of the entity if such influence is required by law or under any contract or order of court to be exercised for the benefit of other persons;

“immediate family”, in relation to an individual, means the individual’s spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister;

“preliminary document” means a document which has been lodged with the Authority and is issued for the purpose of determining the appropriate issue or sale price of, and the number of, units in a collective investment scheme to be issued or sold and which contains the information required to be included in a prospectus as may be prescribed under section 296 (1) (a) (i), except for such information as may be prescribed by the Authority;

*continued on next page*

*Box A1.1 continuation*

“profile statement” means a profile statement referred to in section 296 (2);

“prospectus” means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of units in a collective investment scheme or proposed collective investment scheme, but does not include—

(a) a profile statement; or

(b) any material, advertisement or publication which is authorised by section 300 (other than subsection (3));

“recognised securities exchange” means a corporation which has been declared by the Authority, by order published in the *Gazette*, to be a recognised securities exchange for the purposes of this Division;

“related party” means—

(a) in relation to an entity—

(i) a director or an equivalent person of the entity;

(ii) the chief executive officer or an equivalent person of the entity;

(iii) a person who controls the entity;

(iv) a related corporation;

(v) any other entity controlled by it;

(vi) any other entity controlled by the person referred to in sub-paragraph (iii); and

(vii) a related party of any individual referred to in sub-paragraph (i), (ii) or (iii); and

(b) in relation to an individual—

(i) his immediate family;

(ii) a trustee of any trust of which the individual or any member of the individual's immediate family is—

(A) a beneficiary; or

(B) where the trust is a discretionary trust, a discretionary object, when the trustee acts in that capacity; and

(iii) any corporation in which he and his immediate family (whether directly or indirectly) have interests in voting shares of an aggregate of not less than 30% of the total votes attached to all voting shares;

“replacement document” means a replacement prospectus or a replacement profile statement referred to in section 298 (1), as the case may be;

“supplementary document” means a supplementary prospectus or a supplementary profile statement referred to in section 298 (1), as the case may be;

“unit trust” means a collective investment scheme under which the property is held on trust for the participants.

[16/2003; 1/2005]

(2) For the purposes of this Division, a statement shall be deemed to be included in a prospectus or profile statement if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

[1/2005]

(3) For the purposes of this Division, a person makes an offer of units in a collective investment scheme if, and only if, as principal—

(a) he makes (either personally or by an agent) an offer to any person in Singapore which upon acceptance would give rise to a contract for the issue or sale of those units by him or another person with whom he has made arrangements for that issue or sale; or

(b) he invites (either personally or by an agent) any person in Singapore to make an offer which upon acceptance would give rise to a contract for the issue or sale of those units by him or another person with whom he has made arrangements for that issue or sale.

[1/2005]

(4) In subsection (3), “sale” includes any disposal for valuable consideration.

[1/2005]

[Companies, s. 4]

**Use of term “real estate investment trust”**

**283A.**—(1) No person shall, when describing or referring to any arrangement the rights or interests of which are, will be or have been the subject of an offer or intended offer, use the term “real estate investment trust” or any of its derivatives in any language in the name or description or any representation of that arrangement, unless—

(a) the arrangement is authorised under section 286 or is one for which an application for authorisation has been made and has not been refused by the Authority under that section;

(b) the arrangement is recognised under section 287 or is one for which an application for recognition has been made and has not been refused by the Authority under that section; or

(c) the Authority has given its consent in writing to that person to use that term or derivative, or that person belongs to a class of persons declared by the Authority by order published in the *Gazette* as persons who may use such term or derivative.

[31/2004;1/2005]

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

[31/2004]

(3) For the avoidance of doubt, in subsection (1)—

(a) “offer” or “intended offer”, in relation to any rights or interests in an arrangement, includes an offer or intended offer in relation to any such rights or interests that have previously been issued; and

(b) “representation”, in relation to an arrangement, includes a representation of the arrangement in any bill head, letter paper, notice, advertisement,

*continued on next page*

*Box A1.1 continuation*

publication or writing, whether in electronic, print or other form.

[31/2004;1/2005]

**Code on Collective Investment Schemes**

**284.**—(1) For the more effective administration, supervision and control of collective investment schemes, the Authority shall, under section 321, issue a code, to be known as the Code on Collective Investment Schemes.

(2) The Authority may from time to time revise the Code on Collective Investment Schemes by deleting, amending or adding to the provisions thereof.

(3) The Code on Collective Investment Schemes shall be deemed not to be subsidiary legislation.

[HK CUTMF]

**Authority may disapply this Division to certain offers and invitations**

**284A.** Notwithstanding any provision to the contrary in this Division, where—

(a) an offer of units in a collective investment scheme is one to which (but for this section) both this Division and Division 1 apply; and

(b) the Authority has by order published in the Gazette declared that this Division shall not apply to that offer or a class of offers to which that offer belongs, then this Division does not apply to that offer.

[16/2003;1/2005]

**Division not to apply to certain collective investment schemes which are business trusts**

**284B.** This Division does not apply to an offer of units in a collective investment scheme, where—

(a) the collective investment scheme is also a registered business trust; or

(b) the collective investment scheme is also a business trust and the offer is made in reliance on an exemption under Subdivision (3) of Division 1A.

[1/2005]

**Modification of provisions to certain offers**

**284C.** The Authority may, if it thinks it necessary in the interest of the public or a section of the public or for the protection of investors, by regulations modify or adapt the provisions of this Division in their application to such offer of units in a collective investment scheme as may be prescribed, and the provisions of this Division shall apply to such offer subject to such modifications or adaptations.

Subdivision (2)—Authorisation and recognition

**Requirement for authorisation or recognition**

**285.**—(1) No person shall make an offer of units in a collective investment scheme if the collective investment scheme has not been authorised under section 286 or recognised under section 287.

[1/2005]

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

[UK FSMA 2000, s. 238]

**Authorised schemes**

**286.**—(1) The Authority may, upon an application made to it in such form and manner as may be prescribed and subject to subsection (2) and the conditions specified in subsection (3), authorise a collective investment scheme constituted in Singapore.

(2) The Authority may authorise, under subsection (1), a collective investment scheme which is constituted as a unit trust if and only if the Authority is satisfied that—

(a) there is a manager for the scheme which satisfies the requirements in subsection (3);

(b) there is a trustee for the scheme approved under section 289;

(c) there is a trust deed in respect of the scheme entered into by the manager and the trustee for the scheme that complies with prescribed requirements; and

(d) the scheme, the manager for the scheme and the trustee for the scheme comply with this Act and the Code on Collective Investment Schemes.

(3) It shall be a condition for the authorisation of a collective investment scheme under subsection (1) that—

(a) the manager of the scheme is—

(i) in the case of a collective investment scheme—

((A)) that is a trust;

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

((C)) all or any units of which are listed for quotation on a securities exchange, the holder of a capital markets services licence for real estate investment trust management; and

(ii) in all other cases, the holder of a capital markets services licence for fund management or a person exempted under section 99(1)(a), (b), (c) or (d) in respect of fund management; and

(b) the manager for the scheme is a fit and proper person, in the opinion of the Authority, and in considering if a person satisfies this requirement, the Authority may take into account any matter relating to—

(i) any person who is or will be employed by or associated with the manager;

(ii) any person exercising influence over the manager; or

(iii) any person exercising influence over a related corporation of the manager.

[16/2003]

*continued on next page*

*Box A1.1 continuation*

- (4) The Authority may authorise, under subsection (1), a collective investment scheme which is not constituted as a unit trust if and only if the Authority is satisfied that the scheme and the manager for the scheme comply with such requirements as may be prescribed.
- (5) Without prejudice to subsection (2), the Authority may refuse to authorise any collective investment scheme under subsection (1) where it appears to the Authority that it is not in the public interest to do so.
- (6) The Authority shall not refuse to authorise a collective investment scheme under subsection (1) without giving the person who made the application an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to authorise the collective investment scheme on the basis of any of the following circumstances:
- (a) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
  - (b) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;
  - (c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.
- [16/2003;1/2005]
- (7) The responsible person for a collective investment scheme may, within 30 days after he is notified that the Authority has refused to authorise that scheme under subsection (1), appeal to the Minister whose decision shall be final.
- [1/2005]
- (8) An application made under subsection (1) shall be accompanied by such information or record as the Authority may require.
- (9) The Authority may publish for public information, in such manner as it considers appropriate, particulars of any collective investment scheme authorised under subsection (1).
- (10) The responsible person for a collective investment scheme authorised under subsection (1) and the approved trustee for the scheme, to the extent applicable, shall ensure that the conditions and requirements set out in subsections (2), (3) and (4) as applicable to that scheme shall continue to be satisfied.
- (11) Notwithstanding subsection (10), a failure by any person to comply with the Code on Collective Investment Schemes shall not of itself render that person liable to criminal proceedings but such failure may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.
- (12) If any person fails to comply with the Code on Collective Investment Schemes, the Authority may, in addition to, or as an alternative to any action under section 288, take such other action as it deems fit.
- (13) The responsible person for a collective investment scheme which is authorised under subsection (1) shall furnish such information or record regarding the scheme as the Authority may, at any time, require for the proper administration of this Act.
- (14) Where the manager for a collective investment scheme which is constituted as a unit trust and authorised under subsection (1) fails to comply with this Act or the Code on Collective Investment Schemes, the Authority may direct the trustee for the scheme to remove that person and appoint a new manager for the scheme.
- (15) Any person who contravenes subsection (10) or (13) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.
- [UK FSMA 2000, s. 242, s. 243, s. 244, s. 245, s. 247 and s. 248; HK SF Bill, Clause 103]

**Recognised schemes**

- 287.**—(1) The Authority may, upon an application made to it in such form and manner as may be prescribed and subject to subsection (2) and the conditions specified in subsection (3), recognise a collective investment scheme constituted outside Singapore.
- (2) The Authority may recognise a collective investment scheme under subsection (1) if and only if the Authority is satisfied that—
- (a) the laws and practices of the jurisdictions under which the scheme is constituted and regulated affords to investors in Singapore protection at least equivalent to that provided to them by or under this Division in the case of comparable authorised schemes;
  - (b) *(Deleted by Act 1/2005)*
  - (c) there is a manager for the scheme which satisfies the requirements in subsection (3);
  - (d) there is a representative for the scheme for the functions set out in subsection (13) who is—
    - (i) an individual resident in Singapore; or
    - (ii) a company, or a foreign company registered under Division 2 of Part XI of the Companies Act (Cap. 50);
  - (e) the Authority has been furnished with information regarding—
    - (i) the name of the representative referred to in paragraph (d) and his address (where such representative is a corporation) or contact particulars (where such representative is an individual); and
    - (ii) such other information as the Authority may prescribe; and
  - (f) the scheme, the manager for the scheme and the trustee for the scheme, where applicable, comply with this Act and the Code on Collective Investment Schemes.
- [1/2005]
- (3) It shall be a condition for the recognition of a collective investment scheme under subsection (1) that the manager for the scheme is—
- (a) licensed or regulated in the jurisdiction of its principal place of business; and
  - (b) a fit and proper person, in the opinion of the Authority, and in considering if a person satisfies this requirement, the Authority may take into account any matter relating to—
    - (i) any person who is or will be employed by or associated with the manager;

*continued on next page*

*Box A1.1 continuation*

- (ii) any person exercising influence over the manager; or
- (iii) any person exercising influence over a related corporation of the manager.

[16/2003;1/2005]

(4) Without prejudice to subsection (2), the Authority may refuse to recognise any collective investment scheme under subsection (1) where it appears to the Authority that it is not in the public interest to do so.

(5) The Authority shall not refuse to recognise a collective investment scheme under subsection (1) without giving the person who made the application an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to recognise the collective investment scheme on the basis of any of the following circumstances:

- (a) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[16/2003;1/2005]

(6) The responsible person for a collective investment scheme may, within 30 days after he is notified that the Authority has refused to recognise that scheme under subsection (1), appeal to the Minister whose decision shall be final.

[1/2005]

(7) An application made under subsection (1) shall be accompanied by such information or record as the Authority may require.

(8) The Authority may publish for public information, in such manner as it considers appropriate, particulars of any collective investment scheme recognised under subsection (1).

(9) The responsible person for a collective investment scheme recognised under subsection (1) shall ensure that the conditions and requirements set out in subsections (2) and (3), as applicable to that scheme, shall continue to be satisfied.

(10) Notwithstanding subsection (9), a failure by any person to comply with the Code on Collective Investment Schemes shall not of itself render that person liable to criminal proceedings but may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

(11) If any person fails to comply with the Code on Collective Investment Schemes, the Authority may in addition to, or as an alternative to any action under section 288, take such other action as it deems fit.

(12) The responsible person for a collective investment scheme which is recognised under subsection (1) shall furnish such information or record regarding the scheme as the Authority may, at any time, require for the proper administration of this Act.

(13) The representative for a collective investment scheme which is recognised under subsection (1) shall carry out, or procure the carrying out of the following functions:

(a) facilitate—

- (i) the issuing and redeeming of units in the scheme;
- (ii) the publishing of sale and purchase prices of units in the scheme;
- (iii) the sending of reports of the scheme to participants;
- (iv) the furnishing of such books relating to the sale and redemption of units as the Authority may require; and
- (v) the inspection of the instruments constituting the scheme;

(b) either maintain for inspection in Singapore a subsidiary register of participants who subscribed for or purchased their units in Singapore, or maintain in Singapore any facility that enables the inspection or extraction of the equivalent information;

(c) within 14 days after any change in the particulars referred to in subsection (2) (e), give notice in writing of such change to the Authority;

(d) furnish such information or record regarding the scheme as the Authority may, at any time, require for the proper administration of this Act; and

(e) such other functions as the Authority may prescribe.

(13A) In carrying out or procuring the carrying out of the functions referred to in subsection (13), the representative shall ensure that—

(a) for the purposes of subsection (13) (a) (ii), the sale and purchase prices of units in the collective investment scheme are published in the language of the prospectus;

(b) for the purposes of subsection (13) (a) (iii), the reports of the scheme sent to participants are prepared in the language of the prospectus, except in relation to any participant who has consented to being sent a report in a language other than the language of the prospectus;

(c) for the purposes of subsection (13) (a) (v), if the instruments constituting the scheme are not in the language of the prospectus, an accurate translation of the instruments in the language of the prospectus is made available to a participant for inspection, unless the participant has consented to the making available to him for inspection of the instruments in a language other than the language of the prospectus; and

(d) for the purposes of subsection (13) (b), if the subsidiary register of participants or equivalent information is not in the language of the prospectus, an accurate translation of the register or equivalent information in the language of the prospectus is made available to a participant for inspection or extraction, unless the participant has consented to the making available to him for inspection or extraction of the register or equivalent information in a language other than the language of the prospectus.

[16/2003]

(13B) In subsection (13A), “language of the prospectus” means the language of the prospectus accompanying or making the offer of units in the collective investment scheme.

[16/2003;1/2005]

(13C) Section 318A (2) shall not apply to the instruments constituting the scheme referred to in subsection (13) (a) (v) or to the subsidiary register of participants or equivalent information referred to in subsection (13) (b).

[16/2003]

*continued on next page*

*Box A1.1 continuation*

(14) Any person who contravenes subsection (9), (12) or (13) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[UK FSMA 2000, s. 272, s. 273, s. 274, s. 275 and s. 276; ASIC Policy Statement 65 (modified)]

**Revocation, suspension or withdrawal of authorisation or recognition**

**288.**—(1) The Authority may revoke the authorisation of a collective investment scheme granted under section 286 or the recognition of a collective investment scheme granted under section 287 if—

- (a) the application for authorisation or recognition, or any related information or record submitted to the Authority whether at the same time as or subsequent to the application, was false or misleading in a material particular or omitted a material particular which, had it been known to the Authority at the time of submission, would have resulted in the Authority not granting the authorisation or recognition;
- (aa) the Authority is of the opinion that the continued authorisation or recognition of the scheme is or will be against the public interest;
- (b) the Authority is of the opinion that the continued authorisation or recognition of the scheme is or will be prejudicial to its participants or potential participants; or
- (c) in the case of—
  - (i) a scheme authorised under section 286, the responsible person for the scheme or the trustee for the scheme, where applicable, fails to comply with section 286(10) or (13); or
  - (ii) a scheme recognised under section 287, the responsible person for the scheme or the representative for the scheme, where applicable, fails to comply with section 287(9), (12) or (13).

[16/2003]

(2) Where the Authority revokes the authorisation or recognition of a collective investment scheme under subsection (1), the Authority may issue such directions as it deems fit to the responsible person for the scheme, including a direction that he—

- (a) refund all moneys contributed by the participants of the scheme; or
- (b) provide the participants with an option, on such terms as the Authority may approve, to obtain from him a refund of all moneys contributed by them or to redeem their units in accordance with the scheme.

(3) In determining whether to issue a direction under subsection (2), the Authority shall consider whether the responsible person for the collective investment scheme is able to liquidate the property of the scheme without material adverse financial effect to the participants, and for this purpose, the factors which the Authority may take into account include—

- (a) whether a significant amount of the moneys contributed by the participants has been invested;
- (b) the liquidity of the property of the scheme; and
- (c) the penalties, if any, payable for liquidating the property.

(4) A responsible person who contravenes any of the directions issued by the Authority to him under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(5) Notwithstanding subsection (1), the Authority may, if it considers it desirable to do so, instead of revoking the authorisation or recognition of a collective investment scheme, suspend the authorisation or recognition of that scheme for a specific period, and may at any time remove such suspension.

(6) Where the Authority revokes the authorisation or recognition of a collective investment scheme under subsection (1) or suspends the authorisation or recognition of a collective investment scheme under subsection (5), it shall notify the responsible person for the scheme.

(7) Subject to subsection (8), the Authority may, upon an application in writing made to it by the responsible person for a collective investment scheme, in such form and manner as may be prescribed, withdraw the authorisation or recognition of that scheme.

(8) The Authority may refuse to withdraw the authorisation or recognition of a collective investment scheme under subsection (7) where the Authority is of the opinion that—

- (a) there is any matter concerning the scheme which should be investigated before the authorisation or recognition is withdrawn; or
- (b) the withdrawal of the authorisation or recognition would not be in the public interest.

(8A) The Authority shall not—

- (a) revoke the authorisation or recognition of a collective investment scheme under subsection (1);
- (b) suspend the authorisation or recognition of a collective investment scheme under subsection (5); or
- (c) refuse the withdrawal of the authorisation or recognition of a collective investment scheme under subsection (8), without giving the responsible person of the scheme an opportunity to be heard, except that an opportunity to be heard need not be given if the revocation or suspension is on the ground that the continued authorisation or recognition of the scheme is against the public interest on the basis of any of the following circumstances:

- (i) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (ii) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (iii) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[16/2003;1/2005]

(8B) The responsible person for a collective investment scheme may, within 30 days after he is notified that the Authority—

- (a) has revoked the authorisation or recognition, as the case may be, of that scheme under subsection (1);
- (b) has suspended the authorisation or recognition, as the case may be, of that scheme under subsection (5); or

*continued on next page*

*Box A1.1 continuation*

(c) has refused to withdraw the authorisation or recognition, as the case may be, of that scheme under subsection (8), appeal to the Minister whose decision shall be final.

[1/2005]

(9) Where the Authority revokes an authorisation or recognition under subsection (1), suspends an authorisation or recognition under subsection (5) or withdraws an authorisation or recognition under subsection (7), it may—

- (a) impose such conditions on the revocation, suspension or withdrawal as it considers appropriate; and
- (b) publish notice of the revocation, suspension or withdrawal, and the reason therefor, in such manner as it considers appropriate.

[UK FSMA 2000, s. 254, s. 255 and s. 256; HK SF Bill, Clause 105]

**Approval of trustees**

**289.**—(1) The Authority may, upon an application made to it in such form and manner as may be prescribed, approve a public company to act as a trustee for collective investment schemes which are authorised under section 286 and constituted as unit trusts (referred to in this Subdivision as an approved trustee).

(2) The Authority shall not approve a public company to act as trustee under subsection (1) unless the company satisfies such financial requirements and other criteria as the Authority may prescribe.

(3) An approved trustee shall continue to satisfy the financial requirements and other criteria prescribed under subsection (2).

(4) Where the Authority is of the opinion that an approved trustee—

- (a) has failed to satisfy a financial requirement or other criterion prescribed under subsection (2);
- (b) has not carried out its duties with due care and diligence;
- (c) has acted in a manner which prejudices the participants of any authorised collective investment scheme; or
- (d) has failed to comply with this Act or the Code on Collective Investment Schemes,

the Authority may—

(i) revoke an approval granted under this section and may direct the manager for the collective investment scheme or schemes which such approved trustee was acting for, to appoint a new trustee for the scheme or schemes;

(ii) prohibit such approved trustee from acting as trustee for any new collective investment scheme; or

(iii) issue such direction as it deems fit.

(5) An approved trustee shall comply with any direction issued to it under subsection (4).

(6) For the avoidance of doubt, a direction issued under subsection (4) shall be deemed not to be subsidiary legislation.

(7) Any approved trustee who contravenes subsection (3) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[HK CUTMF Chapter 4]

**Inspection of approved trustees**

**290.**—(1) The Authority may, from time to time, inspect the books of an approved trustee.

(2) For the purpose of an inspection under this section, the approved trustee under inspection shall afford the Authority access to, and shall produce, its books and shall give such information and facilities as may be required to conduct the inspection.

(3) The Authority shall have the power to copy or take possession of the books of an approved trustee under inspection.

(4) An approved trustee which fails, without reasonable excuse, to produce any book or furnish any information or facilities in accordance with subsection (2), or otherwise obstructs the Authority in the exercise of its powers under this section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

[SIA, s. 12]

**Duty of trustees to furnish Authority with such return and information as Authority requires**

**291.** An approved trustee shall furnish such returns and provide such information relating to its business as the Authority may require.

[SIA, s. 67]

**Liability of trustees**

**292.**—(1) Subject to subsection (2), any provision in a trust deed required under section 286(2)(c) or in any contract with the participants of a collective investment scheme to which such a trust deed relates, shall be void in so far as it would have the effect of exempting a trustee under the trust deed from, or indemnifying a trustee against, liability for breach of trust where the trustee fails to exercise the degree of care and diligence required of a trustee.

(2) Subsection (1) shall not invalidate—

- (a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or
- (b) any provision enabling such a release to be given—
  - (i) on the agreement thereto of a majority of not less than three-fourths of the participants in a collective investment scheme voting in person or by proxy at a meeting summoned for the purpose; and
  - (ii) either with respect to specific acts or omissions or on the trustee ceasing to act.

[Companies, s. 120]

**Authority may issue directions**

*continued on next page*



*Box A1.1 continuation*

**293.**—(1) The Authority may, where it appears to the Authority to be necessary or expedient in the public interest to do so, issue directions by notice in writing either of a general or specific nature to—

- (a) where a collective investment scheme is constituted as a corporation, the corporation;
- (b) the manager, trustee, or representative for a collective investment scheme; or
- (c) any class of such persons referred to in paragraph (a) or (b).

(2) Any person to whom a notice is given under subsection (1) shall comply with such direction as may be contained in the notice.

(3) For the avoidance of doubt, a direction issued under subsection (1) shall be deemed not to be subsidiary legislation.

(4) Any person who contravenes any of the directions issued to him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[SIA, s. 21]

**Service**

**294.**—(1) Where a collective investment scheme—

(a) is authorised under section 286, any document relating to the scheme shall be sufficiently served if served on the responsible person for the scheme at his last known address; or

(b) is recognised under section 287, any document relating to the scheme shall be sufficiently served if served on the responsible person for the scheme or the representative for the scheme at his last known address.

(1A) For the avoidance of doubt, a reference in subsection (1) to service of any document relating to the scheme shall include the service of any process in relation to the scheme.

[1/2005]

(2) Any notice or direction to be given or served by the Authority on a corporation (where a collective investment scheme is constituted as a corporation), the manager for a collective investment scheme, the trustee for a collective investment scheme or the representative for a collective investment scheme shall for all purposes be regarded as duly given or served if it has been delivered or sent by post or facsimile transmission to such person at his last known address.

(3) In the case of a corporation, the last known address referred to in subsections (1) and (2) shall be—

(a) if it is a company incorporated in Singapore, the address of its registered office in Singapore; or

(b) if it is a foreign company, the address of its registered office in Singapore or the registered address of its agent or, if it does not maintain a place of business in Singapore, its registered office in the place of its incorporation.

[Companies, s. 376]

**Winding up**

**295.**—(1) Where a collective investment scheme is to be wound up, whether under this section or otherwise, the responsible person for the scheme shall give notice in writing of the proposed winding up to the Authority at least 7 days before the winding up.

(2) Where the Authority revokes or withdraws the authorisation of a collective investment scheme under section 288, the responsible person and, where applicable, the trustee shall take the necessary steps to wind up the scheme.

(3) Where—

(a) the responsible person for a collective investment scheme authorised under section 286 is in liquidation; or

(b) in the opinion of the trustee for a collective investment scheme authorised under section 286 which is constituted as a unit trust, the responsible person for the scheme has ceased to carry on business or has, to the prejudice of the participants of the scheme, failed to comply with any provision of the trust deed in respect of the scheme,

the trustee shall summon a meeting of the participants for the purpose of determining an appropriate course of action.

(4) A meeting under subsection (3) shall be summoned—

(a) by giving notice in writing of the proposed meeting at least 21 days before the proposed meeting to each participant at his last known address or, in the case of joint participants, to the participant whose name stands first in the records of the responsible person for the scheme; and

(b) by publishing, at least 21 days before the proposed meeting, an advertisement giving notice of the meeting in at least 4 local daily newspapers, one each published in the English, Malay, Chinese and Tamil languages.

(5) If at any such meeting a resolution is passed by a majority in number representing three-fourths in value of the participants present and voting either in person or by proxy at the meeting that the scheme to which the trust deed relates be wound up, the responsible person for the scheme and, where applicable, the trustee shall take the necessary steps to wind up the scheme.

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

(7) Any responsible person or, where applicable, trustee who contravenes subsection (2) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(8) Any trustee who contravenes subsection (3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

[Companies, s. 118]

**Power to acquire units of participants of real estate investment trust in certain circumstances**

**295A.**—(1) Where an arrangement or a contract involving the transfer of all of the units, or all of the units in any particular class, in a real estate investment trust (referred to in this section as the subject trust), to—

- (a) the trustee of another trust (including the trustee-manager of a business trust and the trustee of another real estate investment trust); or

*continued on next page*

*Box A1.1 continuation*

- (b) a corporation,  
referred to in this section as the transferee has, within 4 months after the making of the offer in that behalf by the transferee, been approved as to the units or as to each class of units whose transfer is involved by participants of the subject trust holding no less than 90% of the total number of those units or of the units of that class (other than units already held at the date of the offer by the transferee), the transferee may, at any time within 2 months after the offer has been so approved, give notice in the prescribed manner to any dissenting participant of the subject trust that it desires to acquire his units.
- (2) When a notice referred to in subsection (1) is given, the transferee shall, unless on an application made by a dissenting participant within one month from the date on which the notice was given or within 14 days of a statement being supplied to a dissenting participant under subsection (3) (whichever is the later) a court thinks fit to order otherwise, be entitled and bound to acquire those units—
- (a) on the terms which under the arrangement or contract the units of the approving participants are to be transferred to the transferee; or  
(b) if the offer contained 2 or more alternative sets of terms, on the terms which were specified in the offer as being applicable to dissenting participants.
- (3) Where a transferee has given notice to any dissenting participant of the subject trust that it desires to acquire his units, the dissenting participant shall be entitled to require the transferee by a demand in writing served on the transferee, within one month from the date on which the notice was given, to supply him with a statement in writing of the names and addresses of all other dissenting participants as shown in the register of participants of the subject trust; and the transferee shall not be entitled or bound to acquire the units of the dissenting participants until 14 days after the posting of the statement of such names and addresses to the dissenting participant.
- (4) Where, pursuant to any such arrangement or contract, units in the subject trust are transferred to the transferee or its nominee and those units together with any other units in the subject trust held by the transferee at the date of the transfer comprise or include 90% of the total number of the units in the subject trust or of any class of those units, then—
- (a) the transferee shall within one month from the date of the transfer (unless on a previous transfer pursuant to the arrangement or contract it has already complied with this requirement) give notice of that fact in the prescribed manner to the participants of the subject trust holding the remaining units in, or the remaining units of that class of units in, the subject trust who have not assented to the arrangement or contract; and  
(b) any such participant may within 3 months from receiving the notice require the transferee to acquire his units.
- (5) Where a participant has given notice under subsection (4)(b) with respect to any units, the transferee shall be entitled and bound to acquire those units—
- (a) on the terms on which under the arrangement or contract the units of the approving participants were transferred to it; or  
(b) on such other terms as are agreed or as the court on the application of either the transferee or the participant thinks fit to order.
- (6) Where a notice has been given by the transferee under subsection (1) and a court has not, on an application made by the dissenting participant, ordered to the contrary, the transferee shall—
- (a) after the expiration of one month after the date on which the notice has been given;  
(b) after 14 days after a statement has been supplied to a dissenting participant under subsection (3); or  
(c) if an application to the court by the dissenting participant is then pending, after that application has been disposed of,  
transmit a copy of the notice to the trustee of the subject trust together with an instrument of transfer executed on behalf of the participant by any person appointed by the transferee and on its own behalf by the transferee, and pay, allot or transfer to the trustee of the subject trust the amount or other consideration representing the price payable by the transferee for the units which by virtue of this section the transferee is entitled to acquire, and the trustee of the subject trust shall thereupon register the transferee as the holder of those units.
- (7) Any sums received by the trustee of the subject trust under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that trustee in trust for the several persons who had held the units in respect of which they were respectively received.
- (8) Where any consideration other than cash is held in trust by the trustee of the subject trust for any person under this section, the trustee may, after the expiration of 2 years from, and shall, before the expiration of 10 years from, the date on which such consideration was allotted or transferred to him, transfer such consideration to the Official Receiver.
- (9) The Official Receiver shall sell or dispose of any consideration so received in such manner as he thinks fit and shall deal with the proceeds of such sale or disposal in accordance with section 295B.
- (10) In determining the units in the subject trust already held by the transferee at the date of the offer under subsection (1) or the percentage of the total number of units in the subject trust or of any class of those units held by the transferee under subsection (4), units held or acquired—
- (a) by a nominee on behalf of the transferee;  
(b) where the transferee is a corporation, by its related corporation or by a nominee of the related corporation;  
(c) where the transferee is the trustee-manager of a business trust or the trustee of a real estate investment trust—  
(i) by a person who controls more than 50% of the voting power in the business trust or real estate investment trust, or by a nominee of that person;  
(ii) by the trustee-manager of the business trust on its own account, or by the manager for the real estate investment trust, or by a nominee of the trustee-manager or manager; or  
(iii) by a related corporation of the trustee-manager for the business trust or the manager for the real estate investment trust or by a nominee of that related corporation; or/P>  
(d) where the transferee is the trustee of a trust that is not a business trust or real estate investment trust, by a related corporation of the trustee (being a corporation) or by a nominee of that related corporation,  
shall be treated as held or acquired by the transferee.
- (11) For the avoidance of doubt, in this section—
- (a) a reference to a transferee (being the trustee of a trust) holding, acquiring or contracting to acquire units in another trust is a reference to his doing any of these as trustee of the first-mentioned trust; and  
(b) a reference to a transfer of units of a trust to a transferee (being the trustee of another trust) is a reference to such transfer of units to him as trustee

*continued on next page*

*Box A1.1 continuation*

of that other trust.

(12) The reference in subsection(1) to units already held by the transferee—

(a) includes a reference to units which the transferee has contracted to acquire; but

(b) excludes units which are the subject of a contract binding the holder thereof to accept the offer when it is made, being a contract entered into by the holder for no consideration and under seal or for no consideration other than a promise by the transferee to make the offer.

(13) Where, during the period within which an offer for the transfer of units to the transferee can be approved, the transferee acquires or contracts to acquire any of the units whose transfer is involved but otherwise than by virtue of the approval of the offer, then the transferee may be treated for the purposes of this section as having acquired or contracted to acquire those units by virtue of the approval of the offer if, and only if—

(a) the consideration for which the units are acquired or contracted to be acquired (referred to in this subsection as the acquisition consideration) does not at that time exceed the consideration specified in the terms of the offer; or

(b) those terms are subsequently revised so that when the revision is announced the acquisition consideration, at the time referred to in paragraph (a), no longer exceeds the consideration specified in those terms.

(14) In this section and sections 295B and 295C—

“dissenting participant” includes a participant who has not assented to the arrangement or contract and any participant who has failed or refused to transfer his units to the transferee in accordance with the arrangement or contract;

“Official Receiver” means the Official Assignee appointed under the Bankruptcy Act (Cap. 20) and includes his deputy and any person appointed as Assistant Official Assignee;

“real estate investment trust” means a collective investment scheme that is—

(a) authorised under section 286 or recognised under section 287; and

(b) a trust that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes and all or any of the units of which are listed for quotation on a securities exchange.

#### **Unclaimed money to be paid to Official Receiver**

**295B.**—(1) The Official Receiver who receives moneys arising from the proceeds of a sale or disposal under section 295A shall place the moneys to the credit of a separate account to be entitled the Compulsory Acquisition of Scheme Account.

(2) The interest arising from the investment of the moneys standing to the credit of the Compulsory Acquisition of Scheme Account shall be paid into the Consolidated Fund.

(3) If any person makes any demand for any money placed to the credit of the Compulsory Acquisition of Scheme Account, the Official Receiver, upon being satisfied that that person is entitled to the money, shall authorise payment thereof to be made to him out of that Account or, if it has been paid into the Consolidated Fund, may authorise payment of a like amount to be made to him out of moneys made available by Parliament for the purpose.

(4) Any person dissatisfied with the decision of the Official Receiver in respect of a claim made pursuant to subsection (3) may appeal to a court which may confirm, disallow or vary the decision.

(5) Where any unclaimed moneys paid to a person pursuant to subsection (3) are afterwards claimed by any other person, that other person shall not be entitled to any payment out of the Compulsory Acquisition of Scheme Account or out of the Consolidated Fund but such other person may have recourse against the first-mentioned person to whom the unclaimed moneys have been paid.

(6) Any unclaimed moneys paid to the credit of the Compulsory Acquisition of Scheme Account to the extent to which the unclaimed moneys have not been under this section paid out of that Account shall, upon the lapse of 7 years from the date of the payment of the moneys to the credit of that Account, be paid into the Consolidated Fund.

#### **Remedies in cases of oppression or injustice**

**295C.**—(1) Any participant of a real estate investment trust may apply to a court for an order under this section on the ground—

(a) that the affairs of the trust are being conducted by the manager or trustee for the trust, or the powers of the directors of the manager or directors of the trustee for the trust are being exercised, in a manner oppressive to one or more of the participants of the trust including himself or in disregard of his or their interests as participants of the trust; or

(b) that some act of the manager or trustee for the trust, carried out in its capacity as manager or trustee for the trust, as the case may be, has been done or is threatened or that some resolution of the participants of the trust or any class of them has been passed or is proposed which unfairly discriminates against or is otherwise prejudicial to one or more of the participants of the trust including himself.

(2) If on such application the court is of the opinion that either of the grounds referred to in subsection (1) is established, the court may, with a view to bringing to an end to or remedying the matters complained of, make such order as it thinks fit and, without prejudice to the generality of the foregoing, the order may—

(a) direct or prohibit any act or cancel or vary any transaction or resolution;

(b) regulate the conduct of the affairs of the manager or trustee for the trust in relation to the trust in future;

(c) authorise civil proceedings against the directors of the manager or directors of the trustee for the trust to be brought in the name of or on behalf of all the participants of the trust as a whole by such person or persons and on such terms as the court may direct;

(d) provide for the purchase of the units in the trust by other participants of the trust;

(e) provide that the trust be wound up; or

(f) provide that the costs and expenses of and incidental to the application for the order are to be raised and paid out of the property of the trust or to be borne and paid in such manner and by such persons as the court deems fit.

(3) Where an order under this section makes any alteration in or addition to the trust deed of any trust, then, notwithstanding anything in any other provision of this Act but subject to the provisions of the order, the manager or trustee of the trust concerned shall not have power, without the leave of the court, to make any further alteration in or addition to the trust deed that is inconsistent with the provisions of the order; but subject to the foregoing

*continued on next page*

*Box A1.1 continuation*

provisions of this subsection the alterations or additions made by the order shall have the same effect as if duly made by special resolution of the participants of the trust

(4) A copy of any order made under this section shall be lodged by the applicant with the Authority within 7 days after the making of the order.

(5) Any person who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

(6) This section shall apply to a person who is not a participant of a trust but to whom units in the trust have been transmitted by operation of law as it applies to the participants of a trust; and references to a participant or participants shall be construed accordingly.

Subdivision (3)—Prospectus requirements

**Requirement for prospectus and profile statement, where relevant**

**296.**—(1) No person shall make an offer of units in a collective investment scheme unless the offer—

(a) is made in or accompanied by a prospectus in respect of the offer—

(i) that is prepared in accordance with such requirements as may be prescribed by the Authority;

(ii) a copy of which, being one that has been signed in accordance with subsection (2A), is lodged with the Authority; and

(iii) that is registered by the Authority; and

(b) complies with such requirements as may be prescribed by the Authority.

[1/2005]

(1A) A person who lodges a preliminary document with the Authority shall be deemed to have lodged a prospectus with the Authority.

[1/2005]

(1B) A preliminary document referred to in subsection (1A) shall contain all information to be included in a prospectus other than such information as may be prescribed by the Authority.

[1/2005]

(2) Notwithstanding subsection (1), an offer of units in a collective investment scheme may be made in or accompanied by an extract from, or an abridged version of, a prospectus (referred to in this Subdivision as a profile statement), instead of a prospectus, if—

(a) a prospectus is prepared in accordance with such requirements as may be prescribed under subsection (1) (a) (i) and the profile statement is prepared in accordance with such requirements as may be prescribed;

(b) a copy of the prospectus and a copy of the profile statement, each of which has been signed in accordance with subsection (2A), are lodged with the Authority, and the prospectus is lodged no later than the profile statement;

(c) the prospectus and profile statement are registered by the Authority;

(d) sufficient copies of the prospectus are made available for collection at the times and places specified in the profile statement; and

(e) the offer complies with such other requirements as may be prescribed.

[1/2005]

(2A) The copy of a prospectus or profile statement lodged with the Authority shall be signed—

(a) where the person making the offer of units in a collective investment scheme is the responsible person for the scheme, by every director or equivalent person of the responsible person and every person who is named therein as a proposed director or an equivalent person of the responsible person; and

(b) where the person making the offer of units in a collective investment scheme is not the responsible person for the scheme—

(i) where the responsible person is controlled by—

(A) the person making the offer;

(B) one or more of the related parties of the person making the offer; or

(C) the person making the offer and one or more of his related parties,

by the persons referred to in paragraph (a) and the persons referred to in sub-paragraph (ii) (A) or (B), as the case may be; and

(ii) in any other case—

(A) where that person is an entity, by every director or equivalent person of that entity; or

(B) where that person is an individual, by the individual or a person authorised by him in writing.

[1/2005]

(2B) A requirement under subsection (2A) for the copy of a prospectus or profile statement to be signed by a director or an equivalent person is satisfied if the copy is signed—

(a) by that director or equivalent person; or

(b) by a person who is authorised in writing by that director or equivalent person to sign on his behalf.

[1/2005]

(2C) A requirement under subsection (2A) for the copy of a prospectus or profile statement to be signed by a person named therein as a proposed director or an equivalent person is satisfied if the copy is signed—

(a) by that proposed director or equivalent person; or

(b) by a person who is authorised in writing by that proposed director or equivalent person to sign on his behalf.

[1/2005]

(3) No person shall make an offer of units in a collective investment scheme if that scheme has not been formed or does not exist.

[1/2005]

(4) *(Deleted by Act 1/2005)*

(5) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

*continued on next page*

*Box A1.1 continuation*

(6) The Authority may register a prospectus or a profile statement on any day within the period prescribed by the Authority from the date of lodgment thereof with the Authority, unless—

- (a) the Authority gives to the person making the offer a notice of an opportunity to be heard under subsection (12);
- (b) the Authority gives a notice to the person making the offer of an extension, in which case, the Authority may, not later than 28 days from the date of lodgment of the prospectus or profile statement—
  - (i) register the prospectus or profile statement; or
  - (ii) give the person making the offer a notice of an opportunity to be heard under subsection (12);
- (c) the person making the offer applies in writing to extend the period during which the prospectus or profile statement may be registered, in which case the Authority may, at any time up to and including the date on which the extended period ends—
  - (i) register the prospectus or profile statement; or
  - (ii) give the person making the offer a notice of an opportunity to be heard under subsection (12); or
- (d) the person making the offer gives a notice in writing to the Authority to withdraw the lodgment of the prospectus or profile statement, in which case the Authority shall not register the prospectus or profile statement.

[1/2005]

(6A) Where, after a notice of an opportunity to be heard has been given under subsection (6)(a), (b)(ii) or (c)(ii), the Authority decides not to refuse registration of the prospectus or profile statement, the Authority may proceed with the registration on such date as it considers appropriate, except that that date shall not be earlier than such day from the date of lodgment of the prospectus or profile statement with the Authority as the Authority may prescribe.

[1/2005]

(6AA) For the purposes of subsections (6) and (6A), the Authority may prescribe the same period and day for all offers or different periods and days for different offers.

(6B) Where a prospectus lodged with the Authority is a preliminary document, the Authority shall not register the prospectus unless a copy of the prospectus which has been signed in accordance with subsection (2A) and which contains the information required to be included in a prospectus as prescribed under subsection (1) (a) (i), including such information which could be omitted from the preliminary document by virtue of subsection (1B), has been lodged with the Authority.

[1/2005]

(6C) A person making an offer of units in a collective investment scheme may lodge any amendment to a prospectus or profile statement in respect of that offer at any time before, but not after, the registration of the prospectus or profile statement by the Authority.

[1/2005]

(7) Subject to subsection (8)—

- (a) where any amendment to a prospectus is lodged, the prospectus and any profile statement which is lodged shall be deemed for the purposes of subsection (6) to have been lodged when such amendment was lodged; and
- (b) where any amendment to a profile statement is lodged, the profile statement shall be deemed for the purposes of subsection (6) to have been lodged when such amendment was lodged.

[16/2003;1/2005]

(8) Where an amendment to a prospectus or profile statement is lodged with the consent of the Authority, the prospectus or profile statement as amended shall be deemed, for the purposes of subsection (6), to have been lodged when the original prospectus or profile statement was lodged with the Authority.

[1/2005]

(8A) An amendment to a prospectus or profile statement that is lodged shall be treated as part of the original prospectus or profile statement.

[16/2003]

(9) The Authority may, for public information, publish—

- (a) a prospectus or profile statement lodged with the Authority under this section; and
- (b) where applicable, the translation thereof in the English language lodged with the Authority under section 318A (1), and for the purposes of this subsection, the person making the offer shall provide the Authority with a copy of the prospectus or profile statement and, where applicable, the translation in such form or medium for publication as the Authority may require.

[16/2003;1/2005]

(10) The Authority shall refuse to register a prospectus if—

- (a) the Authority is of the opinion that the prospectus contains a false or misleading statement;
- (b) there is an omission from the prospectus of any information that is required to be included, or an inclusion in the prospectus of any information that is prohibited, by virtue of requirements prescribed under subsection (1) (a);
- (c) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act;
- (d) the copy of the prospectus that is lodged with the Authority is not signed in accordance with subsection (2A);
- (e) any written consent of an expert to the issue of the prospectus required under section 249 (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (ea) any written consent of an issue manager to the issue of the prospectus required under section 249A (1) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (eb) any written consent of an underwriter to the issue of the prospectus required under section 249A (2) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority; or
- (f) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

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*Box A1.1 continuation*

(11) The Authority shall refuse to register a profile statement if—

- (a) the Authority is of the opinion that the profile statement contains a false or misleading statement;
- (b) there is an omission from the profile statement of any information that is required to be included, or an inclusion in the profile statement of any information that is prohibited, by virtue of requirements prescribed under subsection (2) (a);
- (c) the copy of the profile statement that is lodged with the Authority is not signed in accordance with subsection (2A);
- (ca) any written consent of an expert to the issue of the profile statement required under section 249 (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (cb) any written consent of an issue manager to the issue of the profile statement required under section 249A (1) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (cc) any written consent of an underwriter to the issue of the profile statement required under section 249A (2) (as applied to this Subdivision by virtue of section 302), or a copy thereof which is verified as prescribed, is not lodged with the Authority;
- (d) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act;
- (e) the prospectus has not been registered by the Authority; or
- (f) the Authority is of the opinion that it is not in the public interest to do so.

[1/2005]

(12) The Authority shall not refuse to register a prospectus under subsection (10) or a profile statement under subsection (11) without giving the person making the offer an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to register the prospectus or profile statement on the basis of any of the following circumstances:

- (a) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[1/2005]

(13) Any person making an offer may, within 30 days after he is notified that the Authority has refused to register a prospectus or profile statement to which his offer relates under subsection (10) or (11), appeal to the Minister whose decision shall be final.

[1/2005]

(14) If—

- (a) a prospectus or profile statement is issued, circulated or distributed before it has been registered by the Authority; or
  - (b) an application to subscribe for or purchase units in a collective investment scheme is accepted, or units in a collective investment scheme are issued or sold, before a prospectus and, where applicable, profile statement, in respect of the units has been registered by the Authority,
- the person making the offer and every person who is knowingly a party to—
- (i) the issue, circulation or distribution of the prospectus or profile statement;
  - (ii) the acceptance of the application to subscribe for or purchase the units; or
  - (iii) the issue or sale of the units,

as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(14A) For the purposes of subsections (10) (a) and (11) (a), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

(15) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide for penalties not exceeding a fine of \$50,000.

[Companies, s. 43; Aust. Corporations 2001, s. 721]

#### **Stop order for prospectus and profile statement**

**297.**—(1) If a prospectus has been registered and—

- (a) the Authority is of the opinion that the prospectus contains a false or misleading statement;
  - (b) there is an omission from the prospectus of any information that is required to be included, or an inclusion in the prospectus of any information that is prohibited, by virtue of requirements prescribed under section 296;
  - (c) the Authority is of the opinion that the prospectus does not comply with the requirements of this Act; or
  - (d) the Authority is of the opinion that it is in the public interest to do so,
- the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of units in a collective investment scheme to which the prospectus relates, direct that no or no further units in the scheme be issued or sold.

[16/2003;1/2005]

(2) If a profile statement has been registered and—

- (a) the Authority is of the opinion that the profile statement contains a false or misleading statement;
- (b) there is an omission from the profile statement of any information that is required to be included, or an inclusion in the profile statement of any information that is prohibited, by virtue of requirements prescribed under section 296;
- (c) the Authority is of the opinion that the profile statement does not comply with the requirements of this Act; or

*continued on next page*

*Box A1.1 continuation*

(d) the Authority is of the opinion that it is in the public interest to do so, the Authority may by an order in writing (referred to in this section as a stop order) served on the person making the offer of units in a collective investment scheme to which the profile statement relates, direct that no or no further units in the scheme be issued or sold.

[16/2003;1/2005]

(2A) Notwithstanding subsections (1) and (2), the Authority shall not serve a stop order if any of the units in a collective investment scheme to which the prospectus or profile statement relates has been issued or sold, and listed for quotation on a securities exchange and trading in them has commenced.

[1/2005]

(3) The Authority shall not serve a stop order under subsection (1) or (2) without giving the person making the offer of units in the collective investment scheme an opportunity to be heard, except that an opportunity to be heard need not be given if the stop order is served on the ground that it is in the public interest to do so on the basis of any of the following circumstances:

(a) the person making the offer (being an entity), the responsible person or the collective investment scheme itself, is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(b) the person making the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;

(c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person making the offer (being an entity), the responsible person or the collective investment scheme.

[16/2003;1/2005]

(4) Where applications for units in a collective investment scheme have been made prior to the service of a stop order, and—

(a) the contributions of the applicants to the scheme have not yet been invested in accordance with the scheme—

(i) where units in the scheme have not been issued to the applicants, the applications shall be deemed to have been withdrawn and cancelled; or

(ii) where units in the scheme have been issued to the applicants, the issue of the units shall be deemed to be void,

and the person making the offer of units in the scheme shall, within 7 days from the date of the stop order, pay to the applicants all moneys which the applicants have paid for the units, including contributions to the scheme and charges the applicants have paid to that person, its agent, or any person through whom the applicant has applied for the units; or

(b) the contributions of the applicants to the scheme have been invested in accordance with the scheme, the Authority may by notice in writing issue such directions to the person making the offer of units in the scheme as it deems fit, including a direction that the person provide the applicants with an option, on such terms as the Authority may approve, to obtain from that person a refund of all moneys contributed by the applicants or to redeem their units in accordance with the scheme.

[1/2005]

(5) In determining whether to issue a direction under subsection (4) to the person making the offer of units in the collective investment scheme to refund the contributions of the applicants, the Authority shall consider whether the responsible person for the scheme will be able to liquidate the property of the scheme without material adverse financial effect to the applicants, and for this purpose, the factors which the Authority may take into account include—

(a) whether a significant amount of the contributions of the participants has been invested;

(b) the liquidity of the property of the scheme; and

(c) the penalties, if any, payable for liquidating the property.

[1/2005]

(6) For the avoidance of doubt, a direction issued under subsection (4) shall be deemed not to be subsidiary legislation.

(7) If the Authority is of the opinion that any delay in serving a stop order pending the hearing required under subsection (3) is not in the interests of the public, the Authority may, without giving the person making the offer of units in the collective investment scheme an opportunity to be heard, serve an interim stop order on such person directing that no or no further units in a collective investment scheme to which the prospectus or profile statement relates be issued or sold.

[1/2005]

(8) An interim stop order shall, unless revoked, be in force—

(a) in a case where—

(i) it is served during a hearing under subsection (3); or

(ii) a hearing under subsection (3) is commenced while it is in force, until the Authority makes an order under subsection (1) or (2); or

(b) in any other case, for a period of 14 days from the day on which the interim stop order is served.

(9) Subsection (4) shall not apply where only an interim stop order has been served.

(10) Any person who fails to comply with a stop order served under subsection (1) or (2) or an interim stop order served under subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(11) Any person who contravenes subsection (4), or any direction issued to him under that subsection, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(12) For the purposes of subsections (1) (a) and (2) (a), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Aust. Corporations 2001, s. 739]

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*Box A1.1 continuation***Lodging supplementary document or replacement document**

**298.**—(1) If, after a prospectus or profile statement is registered but before the close of the offer of units in a collective investment scheme, or the expiration of 12 months from the date of registration of the prospectus by the Authority, whichever is earlier, the person making that offer becomes aware of—

- (a) a false or misleading statement in the prospectus or profile statement;
- (b) an omission from the prospectus or profile statement of any information that should have been included in it by requirements prescribed under section 296; or
- (c) a new circumstance that—
  - (i) has arisen since the prospectus or profile statement was lodged with the Authority; and
  - (ii) would have been required under this Act to be included in the prospectus or profile statement, if it had arisen before the prospectus or the profile statement, as the case may be, was lodged, and that is materially adverse from the point of view of an investor, the person may lodge a supplementary or replacement prospectus, or a supplementary or replacement profile statement (referred to in this section as a supplementary or replacement document, as the case may be), with the Authority.

[1/2005]

(2) If, after a prospectus or profile statement is registered but before the close of the offer of units in a collective investment scheme, or the expiration of 12 months from the registration of the prospectus by the Authority, whichever is earlier, the person making that offer wishes to update any information in a prospectus or profile statement and he declares in writing to the Authority that none of the situations set out in subsection (1) apply at that time, the person may lodge a supplementary or replacement document with the Authority.

[1/2005]

(3) At the beginning of a supplementary document, there shall be—

- (a) a statement that it is a supplementary prospectus or a supplementary profile statement, as the case may be;
- (b) an identification of the prospectus or profile statement it supplements;
- (c) an identification of any previous supplementary document lodged with the Authority in relation to the offer; and
- (d) a statement that it is to be read together with the prospectus or profile statement it supplements and any previous supplementary document in relation to the offer.

[1/2005]

(4) At the beginning of a replacement document, there shall be—

- (a) a statement that it is a replacement prospectus or a replacement profile statement, as the case may be; and
- (b) an identification of the prospectus or profile statement it replaces.

(5) The supplementary document and the replacement document must be dated with the date on which they are lodged with the Authority.

(6) The person making the offer of units in a collective investment scheme shall take reasonable steps—

- (a) to inform potential investors of the lodgment of any supplementary document or replacement document under subsection (1); and
- (b) to make available to them the supplementary document or replacement document.

[1/2005]

(7) For the purposes of the application of this Division to events that occur after the lodgment of a supplementary document—

- (a) where the supplementary document is a supplementary prospectus, the prospectus in relation to the offer shall be taken to be the original prospectus together with the supplementary prospectus and any previous supplementary prospectus in relation to the offer; and
- (b) where the supplementary document is a supplementary profile statement, the profile statement in relation to the offer shall be taken to be the original profile statement together with the supplementary profile statement and any previous supplementary profile statement in relation to the offer.

[1/2005]

(8) *(Deleted by Act 1/2005)*

(9) For the purposes of the application of this Division to events that occur after the lodgment of the replacement document—

- (a) where the replacement document is a replacement prospectus, the prospectus in relation to the offer shall be taken to be the replacement prospectus; and
- (b) where the replacement document is a replacement profile statement, the profile statement in relation to the offer shall be taken to be the replacement profile statement.

[1/2005]

(10) Where, prior to the lodgment of the supplementary document or replacement document under subsection (1), applications have been made under the original prospectus or profile statement for units in a collective investment scheme, the person making the offer of units in the scheme—

(a) shall—

- (i) within 2 days (excluding any Saturday, Sunday or public holiday) from the date of lodgment of the supplementary document or replacement document, give the applicants notice in writing on how to obtain, or arrange to receive, a copy of the supplementary document or replacement document, as the case may be; and
- (ii) take all reasonable steps to make available within a reasonable period the supplementary document or replacement document, as the case may be, to the applicants who have indicated that they wish to obtain, or who have arranged to receive, a copy of the supplementary document or replacement document; or
- (b) shall, within 7 days from the date of lodgment of the supplementary document or replacement document, give the applicants the supplementary document or replacement document, as the case may be.

[1/2005]

(11) Any person who contravenes subsection (3), (4), (5) or (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding

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*Box A1.1 continuation*

\$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

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

(13) For the purposes of subsection (1) (a), the reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 50A; Aust Corporations 2001, s. 719]

**Duration of validity of prospectus and profile statement**

**299.**—(1) No person shall make an offer of units in a collective investment scheme, or issue or sell any units in a collective investment scheme, on the basis of a prospectus or profile statement after the expiration of 12 months from the date of registration by the Authority of the prospectus in relation to such offer, issue or sale.

[1/2005]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(3) An issue or a sale of units in a collective investment scheme that is made in contravention of subsection (1) shall not, by reason only of that fact, be voidable or void.

[1/2005]

[Companies, s. 113A]

**Restrictions on advertisements, etc.**

**300.**—(1) If a prospectus is required for an offer, or intended offer of units in a collective investment scheme or proposed collective investment scheme, a person shall not—

- (a) advertise the offer or intended offer; or
- (b) publish a statement that—
  - (i) directly or indirectly refers to the offer or intended offer; or
  - (ii) is reasonably likely to induce people to subscribe for or purchase the units, unless the advertisement or publication is authorised by this section.

[16/2003;1/2005]

(2) In determining whether a statement—

- (a) indirectly refers to an offer or intended offer; or
- (b) is reasonably likely to induce people to subscribe for or purchase units in a collective investment scheme, regard shall be had to whether the statement—
  - (i) forms part of the normal advertising of an entity's products or services and is genuinely directed at maintaining its existing customers, or attracting new customers, for those products or services; and
  - (ii) is likely to encourage investment decisions to be made on the basis of the statement rather than on the basis of information contained in a prospectus or profile statement.

[1/2005]

(2A) Notwithstanding subsection (3A), a person may, before a prospectus or profile statement is registered by the Authority, disseminate a preliminary document which has been lodged with the Authority to institutional investors, relevant persons as defined in section 305 (5) and persons to whom an offer referred to in section 305 (2) is to be made without contravening subsection (1), if—

- (a) the front page of the preliminary document contains—
  - (i) the following statement:
 

“This is a preliminary document and is subject to further amendments and completion in the prospectus to be registered by the Monetary Authority of Singapore.”;
  - (ii) a statement that a person to whom a copy of the preliminary document has been issued shall not circulate it to any other person; and
  - (iii) a statement in bold lettering that no offer or agreement shall be made on the basis of the preliminary document to purchase or subscribe for any units in the collective investment scheme to which the preliminary document relates;
- (b) the preliminary document does not contain or have attached to it any form of application that will facilitate the making by any person of an offer of units in the collective investment scheme to which the preliminary document relates, or the acceptance of such an offer by any person; and
- (c) when the prospectus is registered by the Authority, the person takes reasonable steps to notify the persons to whom the preliminary document was issued that the registered prospectus is available for collection.

[1/2005]

(2B) Notwithstanding subsection (3A), a person does not contravene subsection (1) by presenting, before a prospectus or profile statement is registered by the Authority, oral or written material—

- (a) on matters contained in a preliminary document which has been lodged with the Authority, to institutional investors, relevant persons as defined in

*continued on next page*

*Box A1.1 continuation*

section 305 (5) or persons to whom an offer referred to in section 305 (2) is to be made; or  
 (b) on matters contained in the prospectus or profile statement which has been lodged with the Authority, for the sole purpose of equipping any of the following persons with knowledge of the collective investment scheme to market the scheme under the Financial Advisers Act (Cap. 110):

- (i) a person licensed under that Act in respect of marketing of collective investment schemes;
- (ii) an exempt financial adviser;
- (iii) a person who is a representative in respect of marketing of collective investment schemes under that Act;
- (iv) a representative of an exempt financial adviser.

[1/2005]

(2C) In subsection (2B), “exempt financial adviser” and “representative” have the same meanings as in section 2(1) of the Financial Advisers Act (Cap. 110).

(3) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 296 without contravening subsection (1).

[1/2005]

(3A) Before a prospectus or profile statement is registered, an advertisement or a publication does not contravene subsection (1) if it contains only the following:

- (a) a statement that identifies the person making the offer, the responsible person for the collective investment scheme and, where the collective investment scheme is not a corporation, the collective investment scheme;
- (b) a statement that a prospectus or profile statement for the offer will be made available when the offer is made;
- (c) a statement that anyone wishing to acquire the units in the collective investment scheme will need to make an application in the manner set out in the prospectus or profile statement;
- (d) a statement on how to obtain, or arrange to receive, a copy of the prospectus or profile statement; and
- (e) the investment focus of the collective investment scheme.

[1/2005]

(3B) To satisfy subsection (3A), the advertisement or publication shall include all of the statements referred to in paragraphs (a), (b) and (c) of that subsection, and may include the information referred to in paragraphs (d) and (e).

[1/2005]

(3C) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if it complies with such requirements as may be prescribed by the Authority.

[1/2005]

(4) An advertisement or publication does not contravene subsection (1) if it—

- (a) consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, made by any person, provided that the disclosure, notice or report complies with such requirements as may be prescribed by the Authority;
- (aa) consists solely of a notice or report of a meeting or proposed meeting of the participants of the collective investment scheme, or a general meeting or proposed general meeting of the person making the offer, the responsible person or any entity, provided that the notice or report complies with such requirements as may be prescribed by the Authority, or a presentation of oral or written material on matters so contained in the notice or report at the meeting or general meeting;
- (b) consists solely of a report about the collective investment scheme or proposed collective investment scheme that is issued pursuant to this Act and the Code on Collective Investment Schemes;
- (ba) consists solely of a statement made by the person making the offer or the responsible person that a prospectus or profile statement in respect of the offer or intended offer has been lodged with the Authority;
- (c) is a news report, or a genuine comment, by a person other than a person referred to in paragraph (d) (i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio or television, or any other means of broadcasting or communication, relating to—
  - (i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;
  - (ii) a disclosure, notice or report referred to in paragraph (a);
  - (iii) a notice, report, presentation, meeting, proposed meeting, general meeting or proposed general meeting referred to in paragraph (aa); or
  - (iv) a report referred to in paragraph (b);
- (d) is a report about the units in the collective investment scheme which are the subject of the offer or intended offer, published by someone who is not—
  - (i) the person making the offer, the responsible person for the scheme, its agent or distributor;
  - (ii) a director or an equivalent person of the person making the offer or the responsible person for the scheme;
  - (iii) a person who has an interest in the success of the issue or sale of the units; or
  - (iv) a person acting at the instigation of, or by arrangement with, any person referred to in sub-paragraph (i), (ii) or (iii);
- (e) is a report about the units in the collective investment scheme which are the subject of the offer or intended offer, published and delivered to any institutional investor not later than 14 days prior to the date of lodgment of the prospectus, provided that—
  - (i) the offer is also made or will also be made in one or more other countries;
  - (ii) the publication and delivery of such report in that other country or any one of those other countries do not infringe any law, code or other requirement of that country;
  - (iii) the report and the manner of its publication and delivery in Singapore comply with such other requirements as may be prescribed by the Authority; and
  - (iv) the person issuing the report complies with such requirements as may be prescribed by the Authority; or

*continued on next page*

*Box A1.1 continuation*

(f) is a publication made by the person making the offer or the responsible person for the scheme solely to correct or provide clarification on any erroneous or inaccurate information or comment contained in—

(i) an earlier news report or a genuine comment referred to in paragraph (c); or

(ii) an earlier publication published in the ordinary course of business of publishing a newspaper, periodical or magazine, or of broadcasting by radio, television or any other means of broadcasting or communication, referred to in subsection (5), provided that the first-mentioned publication does not contain any material information that is not included in the prospectus.

[1/2005]

(5) A person does not contravene subsection (1) if—

(a) he publishes an advertisement or publication in the ordinary course of a business of—

(i) publishing a newspaper, periodical or magazine; or

(ii) broadcasting by radio, television, or any other means of broadcasting or communication; and

(b) he did not know, and had no reason to suspect, that its publication would constitute a contravention of subsection (1).

(6) Subsection (4) (c) and (d) shall not apply to an advertisement or statement if any person gives consideration or any other benefit for the publication of the advertisement or statement.

(7) Any person who contravenes subsection (1) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(8) This section does not affect any liability that a person has under any other law.

(9) The Authority may exempt any person or class of persons from this section, subject to such conditions as may be determined by the Authority.

(10) Any person who contravenes any of the conditions under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(11) For the purposes of this section, any reference to publishing a statement shall be construed as including a reference to making a statement, whether oral or written, which is reasonably likely to be published.

[1/2005]

(12) For the purposes of subsections (1) and (2), any reference to a statement shall include a reference to any information presented, regardless of whether such information is in text or otherwise.

[1/2005]

[Companies, s. 48; Aust. FSR Bill 2001, Clause 1018A]

**Issue of units where prospectus indicates application to list on securities exchange**

**301.**—(1) Where a prospectus states or implies that application has been or will be made for permission for the units in a collective investment scheme offered thereby to be listed for quotation on any securities exchange, and—

(a) the permission is not applied for in the form required by the securities exchange within 3 days from the date of the issue of the prospectus; or

(b) the permission is not granted before the expiration of 6 weeks from the date of the issue of the prospectus or such longer period not exceeding 12 weeks from the date of the issue as is, within those 6 weeks, notified to the applicant by or on behalf of the securities exchange,

then—

(i) any issue whenever made of units made on an application in pursuance of the prospectus shall be void; and

(ii) any person who continues to issue such units after the period specified in paragraph (a) or (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

[1/2005]

(2) Where the permission has not been applied for, or has not been granted as mentioned under subsection (1), applications for units in the collective investment scheme have been made and—

(a) the contributions of the applicants to the scheme have not yet been invested in accordance with the scheme—

(i) in a case where units in the scheme have not been issued to the applicants, the responsible person for the scheme shall treat such applications as having been withdrawn; or

(ii) in a case where units in the scheme have been issued to the applicants, the issue of the units shall be deemed to be void, and the responsible person shall within 7 days after the period specified in subsection (1) (a) or (b), whichever is applicable, pay to the applicants all moneys which the applicants have paid for the units, including contributions to the scheme and charges the applicants have paid to the responsible person, its agent, or any person through whom the applicant has applied for the units; or

(b) the contributions of the applicants to the scheme have been invested in accordance with the scheme, the Authority may by notice in writing issue such directions to the responsible person for the scheme as it deems fit, including a direction that the responsible person provide the applicants with an option, on such terms as the Authority may approve, to obtain from the responsible person a refund of all moneys contributed by the applicants or to redeem their units in accordance with the scheme.

(3) In determining whether to issue a direction under subsection (2) (b) to the responsible person to refund the contributions of the applicants, the Authority shall consider whether the responsible person for the collective investment scheme will be able to liquidate the property of the scheme without material adverse financial effect to the applicants, and for this purpose, the factors which the Authority may take into account include—

*continued on next page*

*Box A1.1 continuation*

- (a) whether a significant amount of the contributions of the participants has been invested;
- (b) the liquidity of the property of the scheme; and
- (c) the penalties, if any, payable for liquidating the property.
- (4) Any responsible person who contravenes subsection (2) or any of the directions issued under that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.
- (5) Any responsible person to whom a notice is given under subsection (2) shall comply with such direction as may be contained in the notice.
- (6) For the avoidance of doubt, a direction issued under subsection (2) shall be deemed not to be subsidiary legislation.
- (7) All moneys received from applicants as payment for the units, including contributions to the scheme and charges which the applicants have paid to the responsible person, its agent, or any person through whom the applicant has applied for the units, shall be kept in a separate bank account so long as the responsible person for the collective investment scheme may become liable to repay it under subsection (2).

[16/2003]

(8) Any responsible person for a scheme which is not in compliance with subsection (7) and, where the scheme is a corporation, every officer thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(9) Where the securities exchange has, within the period specified in subsection (1) (b), granted permission subject to compliance with such requirements as may be specified by the securities exchange, permission shall be deemed to have been granted by the securities exchange if—

- (a) in a case where the responsible person for the scheme is a corporation, the directors of the corporation; or
- (b) in a case where the responsible person for the scheme is not a corporation, such persons as may be required by the securities exchange, have given to the securities exchange an undertaking in writing to comply with the requirements of the securities exchange.

(10) Any person who fails to comply with any undertaking given to a securities exchange under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(11) A person shall not issue a prospectus inviting persons to subscribe for or purchase units in a collective investment scheme if it includes—

- (a) a false or misleading statement that permission has been granted for those units to be listed for quotation on, dealt in or quoted on any securities exchange; or
- (b) any statement in any way referring to any such permission or to any application or intended application for any such permission, or to listing for quotation on, dealing in or quoting the units on any securities exchange, or to any requirements of a securities exchange, unless that statement is or is to the effect that permission has been granted or that application has been or will be made to the securities exchange within 3 days from the date of issue of the prospectus or the statement has been approved by the Authority for inclusion in the prospectus.

[16/2003;1/2005]

(12) Any person who contravenes subsection (11) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(13) Where a prospectus contains a statement to the effect that the constituent documents for the collective investment scheme comply, or have been drawn so as to comply, with the requirements of any securities exchange, the prospectus shall, unless the contrary intention appears from the prospectus, be deemed for the purposes of subsection (11) (b) to be a prospectus that includes a statement that application has been, or will be, made for permission for the units to which the prospectus relates, to be listed for quotation on the securities exchange.

[1/2005]

*[Companies, s. 53]***Application of provisions relating to securities**

**302.**—(1) Sections 247, 249, 249A, 252, 253, 254 and 255 shall, with the necessary modifications, apply in relation to an offer of units in a collective investment scheme as they apply in relation to an offer of securities in Division 1 of this Part.

[1/2005]

(2) For the purposes of subsection (1), references in those sections to securities and to a person subscribing for, purchasing or acquiring securities shall be read as references to units in a collective investment scheme and to a person subscribing for, purchasing or acquiring such units, respectively.

[1/2005]

(3) For the purposes of subsection (1), references in sections 253 and 254 to an offer referred to in section 280 shall be read as a reference to an offer referred to in section 305C.

[1/2005]

(4) For the purposes of subsection (1), references in sections 249, 249A, 253 and 254 to the issuer shall be read as a reference to the responsible person.

[1/2005]

*[Companies, s. 113 (1)]***Subdivision (4)—Exemptions****Issue or transfer for no consideration**

**302A.**—(1) Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme (other than an offer of an option to subscribe for or purchase such units) if no consideration is or will be given for the issue or transfer of the units.

*continued on next page*

*Box A1.1 continuation*

[1/2005]

(2) Subdivisions (2) and (3) of this Division shall not apply to an offer of an option to subscribe for or purchase units in a collective investment scheme if—

- (a) no consideration is or will be given for the issue or transfer of the option; and
- (b) no consideration is or will be given for the underlying units on the exercise of the option.

[1/2005]

#### **Small offers**

**302B.**—(1) Subdivisions (2) and (3) of this Division shall not apply to personal offers of units in a collective investment scheme by a person if—

(a) the total amount raised by the person from such offers within any period of 12 months does not exceed—

- (i) \$5 million (or its equivalent in a foreign currency); or
  - (ii) such other amount as may be prescribed by the Authority in substitution for the amount specified in sub-paragraph (i);
- (b) in respect of each offer, the person making the offer gives the person to whom he makes the offer—

(i) the following statement in writing:

“This offer is made in reliance on the exemption under section 302B (1) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the scheme is not authorised or recognised by the Authority.”; and

(ii) a notification in writing that the units to which the offer (referred to in this sub-paragraph as the initial offer) relates shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made—

- (A) in compliance with Subdivisions (2) and (3) of this Division;
- (B) in reliance on subsection (8) (c) or any other exemption under any provision of this Subdivision (other than this subsection); or
- (C) where at least 6 months have elapsed from the date the units were acquired under the initial offer, in reliance on the exemption under this subsection;

(c) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(d) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the following persons:

- (i) the holder of a capital markets services licence to deal in securities;
  - (ii) an exempt person in respect of dealing in securities;
  - (iii) a person licensed under the Financial Advisers Act (Cap. 110) in respect of marketing of collective investment schemes;
  - (iv) an exempt financial adviser as defined in section 2 (1) of the Financial Advisers Act; or
  - (v) a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities or marketing of collective investment schemes, or who is exempted therefrom in respect of such dealing or marketing;
- and

[1/2005]

(e) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered—

- (i) the prospectus has expired pursuant to section 299; or
- (ii) the person making the offer has before making the offer informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection.

(2) For the purposes of subsection (1) (b), where any notice, circular, material, publication or other document is issued in connection with the offer, the person making the offer is deemed to have given the statement and notification to the person to whom he makes the offer in accordance with that provision if such statement or notification is contained in the first page of that notice, circular, material, publication or document.

[1/2005]

(3) For the purposes of subsection (1), a personal offer of units in a collective investment scheme is one that—

- (a) may only be accepted by the person to whom it is made; and
- (b) is made to a person who is likely to be interested in that offer, having regard to—
  - (i) any previous contact before the date of the offer between the person making the offer and that person;
  - (ii) any previous professional or other connection established before that date between the person making the offer and that person; or
  - (iii) any previous indication (whether through statements made or actions carried out) before that date by that person to the person making the offer or any of the persons specified in subsection (1) (d) (i) to (v) that he is interested in offers of that kind.

[1/2005]

(4) In determining the amount raised by an offer of units in a collective investment scheme, the following shall be included:

- (a) the amount payable for the units at the time when they are issued or sold;
- (b) if the units are issued partly-paid, any amount payable at a future time if a call is made; and
- (c) if the units carry a right (by whatever name called) to be converted into other units or to acquire other units in a collective investment scheme, any amount payable on the exercise of the right to convert them into, or to acquire, other units in a collective investment scheme.

[1/2005]

(5) In determining whether the amount raised by a person from offers within a period of 12 months exceeds the applicable amount specified in subsection (1) (a), each amount raised—

- (a) by that person from any offer of units in the same collective investment scheme; or
  - (b) by that person or another person from any offer of securities which is a closely related offer,
- if any, within that period in reliance on the exemption under subsection (1), section 272A (1) or 282V (1) shall be included.

[1/2005]

(6) Whether an offer is a closely related offer under subsection (5) shall be determined by considering such factors as the Authority may prescribe.

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*Box A1.1 continuation*

[1/2005]

(7) For the purpose of this section, an offer of units in a collective investment scheme made by a person acting as an agent of another person shall be treated as an offer made by that other person.

[1/2005]

(8) Where units acquired through an offer made in reliance on the exemption under subsection (1) (referred to in this subsection as an initial offer) are subsequently sold by the person who acquired the units to another person, Subdivisions (2) and (3) of this Division shall apply to the offer from the first-mentioned person to the second-mentioned person which resulted in that sale, unless—

(a) such offer is made in reliance on an exemption under any provision of this Subdivision (other than this section);  
 (b) such offer is made in reliance on an exemption under subsection (1) and at least 6 months have elapsed from the date the units were acquired under the initial offer; or

(c) such offer is one—

(i) that may be accepted only by the person to whom it is made;

(ii) that is made to a person who is likely to be interested in the offer having regard to—

(A) any previous contact before the date of the offer between the person making the initial offer and that person;

(B) any previous professional or other connection established before that date between the person making the initial offer and that person; or

(C) any previous indication (whether through statements made or actions carried out) before that date by that person to the person making the initial offer or any of the persons specified in subsection (1) (d) (i) to (v) that he is interested in offers of that kind;

(iii) in respect of which the first-mentioned person has given the second-mentioned person—

(A) the following statement in writing:

“This offer is made in reliance on the exemption under section 302B (8) (c) of the Securities and Futures Act. It is not made in or accompanied by a prospectus that is registered by the Monetary Authority of Singapore and the scheme is not authorised or recognised by the Authority.”; and

(B) a notification in writing that the units being offered shall not be subsequently sold to any person unless the offer resulting in such subsequent sale is made—

(BA) in compliance with Subdivisions (2) and (3) of this Division;

(BB) in reliance on this subsection or any other exemption under any provision of this Subdivision (other than subsection (1)); or

(BC) where at least 6 months have elapsed from the date the units were acquired under the initial offer, in reliance on the exemption under subsection (1);

(iv) that is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer; and

(v) in respect of which no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the persons specified in subsection (1) (d) (i) to (v).

[1/2005]

(9) Subsection (2) shall apply, with the necessary modifications, in relation to the statement and notification referred to in subsection (8) (c) (iii).

[1/2005]

(10) In subsections (1) (c) and (8) (c) (iv), “advertisement” means—

(a) a written or printed communication;

(b) a communication by radio, television or other medium of communication; or

(c) a communication by means of a recorded telephone message,

that is published in connection with an offer of units in a collective investment scheme, but does not include—

(i) a document—

(A) purporting to describe the units in a collective investment scheme being offered; and

(B) purporting to have been prepared for delivery to and review by persons to whom the offer is made so as to assist them in making an investment decision in respect of the units being offered;

(ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or

(iii) a publication which consists solely of a notice or report of a meeting or proposed meeting of the participants of the collective investment scheme, or a general meeting or proposed general meeting of the person making the offer, the responsible person or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the meeting or general meeting.

[1/2005]

**Private placement**

**302C.**—(1) Subdivisions (2) and (3) of this Division shall not apply to offers of units in a collective investment scheme that are made by a person if—

(a) the offers are made to no more than 50 persons within any period of 12 months;

(b) none of the offers is accompanied by an advertisement making an offer or calling attention to the offer or intended offer;

(c) no selling or promotional expenses are paid or incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the persons specified in section 302B (1) (d) (i) to (v); and

[1/2005]

(d) no prospectus in respect of any of the offers has been registered by the Authority or, where a prospectus has been registered—

(i) the prospectus has expired pursuant to section 299; or

(ii) the person making the offer has before making the offer—

(A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and

(B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

*continued on next page*

*Box A1.1 continuation*

- (2) The Authority may prescribe such other number of persons in substitution for the number specified in subsection (1) (a). [1/2005]
- (3) In determining whether offers of units in a collective investment scheme by a person are made to no more than the applicable number of persons specified in subsection (1) (a) within a period of 12 months, each person to whom—
- (a) an offer of units in the same collective investment scheme is made by the first-mentioned person; or
  - (b) an offer of securities is made by the first-mentioned person or another person where such offer is a closely related offer, if any, within that period in reliance on the exemption under this section, section 272B or 282W shall be included. [1/2005]
- (4) Whether an offer is a closely related offer under subsection (3) shall be determined by considering such factors as the Authority may prescribe. [1/2005]
- (5) For the purposes of subsection (1)—
- (a) an offer of units in a collective investment scheme to an entity or to a trustee shall be treated as an offer to a single person, provided that the entity or trust is not formed primarily for the purpose of acquiring the units which are the subject of the offer;
  - (b) an offer of units in a collective investment scheme to an entity or to a trustee shall be treated as an offer to the equity owners, partners or members of that entity, or to the beneficiaries of the trust, as the case may be, if the entity or trust is formed primarily for the purpose of acquiring the units which are the subject of the offer;
  - (c) an offer of units in a collective investment scheme to 2 or more persons who will own the units acquired as joint owners shall be treated as an offer to a single person;
  - (d) an offer of units in a collective investment scheme to a person acting on behalf of another person (whether as an agent or otherwise) shall be treated as an offer made to that other person;
  - (e) offers of units in a collective investment scheme made by a person as an agent of another person shall be treated as offers made by that other person;
  - (f) where an offer of units in a collective investment scheme is made to a person with a view to another person acquiring an interest in those units by virtue of section 4, only the second-mentioned person shall be counted for the purposes of determining whether offers of the units are made to no more than the applicable number of persons specified in subsection (1) (a); and
  - (g) where—
    - (i) an offer of units in a collective investment scheme is made to a person in reliance on the exemption under subsection (1) with a view to those units being subsequently offered for sale to another person; and
    - (ii) that subsequent offer—
      - (A) is not made in reliance on an exemption under any provision of this Subdivision; or
      - (B) is made in reliance on an exemption under subsection (1) or section 305C,
- both persons shall be counted for the purposes of determining whether offers of the units are made to no more than the applicable number of persons specified in subsection (1) (a). [1/2005]
- (6) In subsection (1) (b), “advertisement” has the same meaning as in section 302B (10). [1/2005]

**Offer or invitation made under certain circumstances**

**303.**—(1) Subdivision (3) of this Division shall not apply to an offer of units in a collective investment scheme if it is made in relation to units in a collective investment scheme (not being such excluded units in a scheme as may be prescribed by the Authority) that have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange.

(2) Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme if it is an offer to enter into an underwriting agreement relating to units in a collective investment scheme. [1/2005]

[Companies, s. 106B (1) (b)]

**Offer made to institutional investors**

**304.** Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme, whether or not they have been previously issued, made to an institutional investor. [1/2005]

[Companies, s. 106C]

**First sale of units acquired pursuant to section 304**

**304A.**—(1) Notwithstanding sections 302B, 302C, 303 (1) and 305B but subject to subsection (2), where units in a collective investment scheme acquired pursuant to an offer made in reliance on the exemption under section 304 are first sold to any person other than an institutional investor, then Subdivisions (2) and (3) of this Division shall apply to the offer resulting in that sale. [1/2005]

(2) Subsection (1) shall not apply where the units in a collective investment scheme acquired are of the same class as, or can be converted into units of the same class as, other units in the scheme—

- (a) an offer of which has previously been made in or accompanied by a prospectus; and
- (b) which are listed for quotation on a securities exchange.

*continued on next page*

*Box A1.1 continuation***Offer made to accredited investors and certain other persons**

**305.**—(1) Except to such extent and with such modifications as may be prescribed by the Authority, Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme (referred to in this section as a restricted scheme), where the offer is made to a relevant person, if the conditions in subsection (3) are satisfied.

[1/2005]

(2) Except to such extent and with such modifications as may be prescribed by the Authority, Subdivisions (2) and (3) of this Division shall not apply to an offer of units in a collective investment scheme (also referred to in this section as a restricted scheme) to a person who acquires the units as principal if the offer is on terms that the units may only be acquired at a consideration of not less than \$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets, and if the conditions in subsection (3) are satisfied.

[1/2005]

(3) The conditions referred to in subsections (1) and (2) are—

- (a) the offer is not accompanied by an advertisement making an offer or calling attention to the offer or intended offer;
- (b) no selling or promotional expenses are paid or incurred in connection with the offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered by any of the persons specified in section 302B (1) (d) (i) to (v); and
- (c) no prospectus in respect of the offer has been registered by the Authority or, where a prospectus has been registered—
  - (i) the prospectus has expired pursuant to section 299; or
  - (ii) the person making the offer has before making the offer—
    - (A) informed the Authority by notice in writing of its intent to make the offer in reliance on the exemption under this subsection; and
    - (B) taken reasonable steps to inform in writing the person to whom the offer is made that the offer is made in reliance on the exemption under this subsection.

(4) Deleted by Act 2/2009, wef 29/07/2009.

(5) In this section—

“advertisement” means—

- (a) a written or printed communication;
  - (b) a communication by radio, television or other medium of communication; or
  - (c) a communication by means of a recorded telephone message,
- that is published in connection with an offer of units in a collective investment scheme, but does not include—

- (i) an information memorandum;
- (ii) a publication which consists solely of a disclosure, notice or report required under this Act, or any listing rules or other requirements of a securities exchange, futures exchange or overseas securities exchange, which is made by any person; or
- (iii) a publication which consists solely of a notice or report of a meeting or proposed meeting of the participants of the collective investment scheme, or a general meeting or proposed general meeting of the person making the offer, the responsible person or any entity, or a presentation of oral or written material on matters so contained in the notice or report at the meeting or general meeting;

“information memorandum” means a document—

- (a) purporting to describe the units in a collective investment scheme being offered; and
- (b) purporting to have been prepared for delivery to and review by relevant persons and persons to whom an offer referred to in subsection (2) is to be made so as to assist them in making an investment decision in respect of the units being offered;

“relevant person” means—

- (a) an accredited investor;
- (b) a corporation the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor;
- (c) a trustee of a trust the sole purpose of which is to hold investments and each beneficiary of which is an individual who is an accredited investor;
- (d) an officer or equivalent person of the person making the offer (such person being an entity) or a spouse, parent, brother, sister, son or daughter of that officer or equivalent person; or
- (e) a spouse, parent, brother, sister, son or daughter of the person making the offer (such person being an individual).

[1/2005]

(6) Notwithstanding any requirement under section 99 or any regulations made thereunder that a person has to deal in securities for his own account with or through a person prescribed by the Authority so that he can qualify as an exempt person, a person who acquires units in a collective investment scheme under section 304 or this section for his own account without complying with such requirement shall be considered an exempt person even though he does not comply with that requirement.

[1/2005]

(7) The Authority may, by order published in the *Gazette*, specify an amount in substitution of any amount specified in subsection (2).

[1/2005]

[Companies, s. 106D]

**First sale of units acquired pursuant to section 305**

**305A.**—(1) Notwithstanding sections 302B, 302C, 303 (1) and 305B but subject to subsection (5), where units in a collective investment scheme acquired pursuant to an offer made in reliance on an exemption under section 305 are first sold to any person other than—

- (a) an institutional investor;
- (b) a relevant person as defined in section 305 (5); or

*continued on next page*



*Box A1.1 continuation*

(c) any person pursuant to an offer referred to in section 305 (2), then Subdivisions (2) and (3) of this Division shall apply to the offer resulting in that sale.

[1/2005]

(2) Subject to subsection (5), securities of a corporation (other than a corporation that is an accredited investor)—

(a) the sole business of which is to hold investments; and

(b) the entire share capital of which is owned by one or more individuals each of whom is an accredited investor,

shall not be transferred within 6 months after the corporation has acquired any units in a collective investment scheme pursuant to an offer made in reliance on an exemption under section 305, unless—

(i) that transfer—

(A) is made only to institutional investors or relevant persons as defined in section 305 (5); or

(B) arises from an offer referred to in section 275 (1A);

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]

(3) Subject to subsection (5), where—

(a) the sole purpose of a trust (other than a trust the trustee of which is an accredited investor) is to hold investments; and

(b) each beneficiary of the trust is an individual who is an accredited investor,

the beneficiaries' rights and interest (howsoever described) in the trust shall not be transferred within 6 months after units in a collective investment scheme are acquired for the trust pursuant to an offer made in reliance on an exemption under section 305, unless—

(i) that transfer—

(A) is made only to institutional investors or relevant persons as defined in section 305 (5); or

(B) arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than \$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(ii) no consideration is or will be given for the transfer; or

(iii) the transfer is by operation of law.

[1/2005]

(4) For the avoidance of doubt, the reference to beneficiaries in subsection (3) shall include a reference to unit holders of a business trust and participants of a collective investment scheme.

[1/2005]

(5) Subsections (1), (2) and (3) shall not apply where the units in a collective investment scheme acquired are of the same class as other units in the scheme—

(a) an offer of which has previously been made in or accompanied by a prospectus; and

(b) which are listed for quotation on a securities exchange.

**Offer made using offer information statement**

**305B.**—(1) Subject to subsection (2), Subdivision (3) of this Division shall not apply to an offer of units in a collective investment scheme whose units are listed for quotation on a securities exchange, whether by means of a rights issue or otherwise, if—

(a) an offer information statement relating to the offer which complies with such form and content requirements as may be prescribed by the Authority is lodged with the Authority; and

(b) the offer is made in or accompanied by the offer information statement referred to in paragraph (a).

[1/2005]

(2) Subsection (1) shall apply to an offer of units referred therein only for a period of 6 months from the date of lodgment of the offer information statement relating to that offer.

[1/2005]

(3) The Authority may, on the application of any person interested, modify the prescribed form and content of the offer information statement in such manner as is appropriate, subject to such conditions or restrictions as may be determined by the Authority.

[1/2005]

(4) Sections 249, 249A, 253, 254 and 255 (as applied to this Division by virtue of section 302) and such requirements as may be prescribed by the Authority shall apply in relation to an offer information statement referred to in subsection (1) as they apply in relation to a prospectus.

[1/2005]

(5) For the purposes of subsection (4)—

(a) a reference in sections 249 and 249A to the registration of the prospectus shall be read as a reference to the lodgment of the offer information statement; and

(b) a reference in section 253 or 254 to any information or new circumstance required to be included in a prospectus shall be read as a reference to any information prescribed under subsection (1) (a).

[1/2005]

(6) Where the written consent of an expert is required to be given under section 249 (as applied in relation to an offer information statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

[1/2005]

(7) Where the written consent of an issue manager or underwriter is required to be given under section 249A (as applied in relation to an offer information statement under subsection (4)), that written consent shall be lodged with the Authority at the same time as the lodgment of the statement.

*continued on next page*

*Box A1.1 continuation*

[1/2005]

**Making offer using automated teller machine or electronic means**

**305C.**—(1) Subject to subsection (3) and such requirements as may be prescribed by the Authority, a person making an offer of units in a collective investment scheme using—

- (a) any automated teller machine; or
- (b) such other electronic means as may be prescribed by the Authority,

is exempted from the requirement under section 296 (1) (a) that the offer be made in or accompanied by a prospectus in respect of the offer or, where applicable, the requirement under section 296 (2) that the offer be made in or accompanied by a profile statement in respect of the offer.

[1/2005]

(2) For the avoidance of doubt, a prospectus which complies with all other requirements of section 296 (1) (a) or, where applicable, a profile statement which complies with all other requirements of section 296 (2) must still be prepared and issued in respect of any offer referred to in subsection (1).

[1/2005]

(3) Subsection (1) shall not apply unless the automated teller machine or prescribed electronic means indicates to a prospective subscriber or buyer—

- (a) how he can obtain, or arrange to receive, a copy of the prospectus or, where applicable, profile statement in respect of the offer; and
  - (b) that he should read the prospectus or, where applicable, profile statement before submitting his application,
- before enabling him to submit his application to subscribe for or purchase units.

[1/2005]

**Power of Authority to exempt**

**306.**—(1) The Authority may exempt any person or class of persons, subject to such conditions as the Authority may determine, from complying with all or any of the provisions of this Division or any regulations made thereunder in relation to an offer in respect of any unit or class of units.

[1/2005]

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

(3) This Division shall not apply in the case of the sale of any unit in a collective investment scheme by a personal representative, liquidator, receiver or trustee in bankruptcy in the ordinary course of the realisation of assets for the purposes of the sale.

*[Companies, s. 119]***Revocation of exemption**

**307.**—(1) Where the Authority considers that it is necessary in the interest of the public or for the protection of investors, it may revoke any exemption under this Subdivision (including an exemption granted under section 306 (1)), subject to such conditions as it thinks fit.

(2) The Authority may revoke an exemption under subsection (1) without giving the person affected by the revocation an opportunity to be heard, but the person may, within 14 days of the revocation, apply to the Authority for the revocation to be reviewed by the Authority, and the revocation shall remain in effect unless it is withdrawn by the Authority.

(3) A revocation under this section shall be final and conclusive and there shall be no appeal therefrom.

*[Companies, s. 119]***Transactions under exempted offers subject to Division 2 of Part XII of Companies Act and Part XII of this Act**

**308.** For the avoidance of doubt, it is hereby declared that in relation to any transaction carried out under an exempted offer under this Part, nothing in this Part shall limit or diminish any liability which any person may incur in respect of any relevant offence under Division 2 of Part XII of the Companies Act (Cap. 50) or Part XII of this Act or any penalty, award of compensation or punishment in respect of any such offence.

[1/2005]

*[Companies, s. 106L]*

## Division 3—Securities Hawking

**Securities hawking prohibited**

**309.**—(1) No person shall make an offer to any person of securities for subscription or purchase, or an invitation to any person to subscribe for or purchase securities, in the course of, or arising from, an unsolicited meeting with that other person.

(2) Subsection (1) shall not apply to any person who makes an offer or invitation in respect of securities that does not need a prospectus by virtue of section 274, 275, 304 or 305.

(3) The Authority may exempt—

- (a) any person or class of persons; or
- (b) any class or description of securities,

from compliance with subsection (1), subject to such conditions as may be determined by the Authority.

[16/2003]

(4) Every person who acts, incites, causes or procures any person to act in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent offence, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) Where any person is convicted of having made an offer or invitation in contravention of subsection (1), the court before which he is convicted may order that any contract made as a result of the offer or invitation shall be void and may give such consequential directions as it thinks proper for the repayment of any money or the retransfer of any securities.

*continued on next page*

*Box A1.1 continuation*

(6) An appeal against any order made under subsection (5) and any consequential directions shall lie to the High Court.

(7) In this section—

(a) “securities” has the same meaning as in section 2 and also includes the securities of a corporation, whether the corporation is in existence or is to be formed;

(b) a reference to an offer or invitation in respect of securities for subscription or purchase shall be construed as including an offer or invitation in respect of securities by way of barter or exchange.

[16/2003]

[Companies, s. 400; Aust. Corporations 2001, s. 736]

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Source: Government of Singapore. [http://statutes.agc.gov.sg/non\\_version/cgj-bin/cgj\\_retrieve.pl?actno=REVED-289](http://statutes.agc.gov.sg/non_version/cgj-bin/cgj_retrieve.pl?actno=REVED-289)

# Appendix 2: Singapore Exchange Rulebook

## Box A2.1 Singapore Exchange Rulebook

SGX Rulebooks > Mainboard Rules >

Contents:

### Chapter 3 Debt Securities

#### Part I Scope of Chapter

301

302

#### Part II Listing Requirements for Local Debt Securities

303

#### Part III Listing Requirements for Foreign Debt Securities

304

#### Part IV General Requirements for Debt Securities

305 Paying Agent

306 Release of Reports

307 Adjustments

308 Trustee and Trust Deed

309 Medium Term Note Programme

#### Part V Listing Procedures for Debt Securities

310 Time Schedule

Content of Prospectus, Offering Memorandum or Introductory Document

Documents to be Submitted with the Prospectus, Offering Memorandum or Introductory Document

Documents to be Submitted After Approval In-Principle

#### Part VI Continuing Listing Obligations

316

### Chapter 7 Continuing Obligations

#### Part VI Debt Securities — Continuing Listing Obligations

745

746

747

#### Part I Scope of Chapter

301

This Chapter applies to the listing of debt securities, such as bonds, notes and loan stocks, issued by domestic or foreign corporations, supranational bodies, governments, government agencies or any other entities, whether established in Singapore or elsewhere.

302

An issuer can seek listing of its debt securities in one of the following ways:—

*continued on next page*

*Box A2.1 continuation*

- (1) Placement or offer for sale or subscription of a new or existing issue of debt securities.
- (2) Introduction of an existing issue of debt securities. An introductory document must be issued in connection with the listing.

**Part II Listing Requirements for Local Debt Securities****303**

One of the following requirements must be met for the listing of an issue of local debt securities:—

- (1) For an issuer whose equity securities are listed on the Exchange, the issue of debt securities must have a principal amount of at least \$750,000.
- (2) For an issuer whose equity securities are not listed on the Exchange: —
  - (a) The issuer must meet the Exchange's requirements in Rule 210(2), (3), (4) and (5) for listing of equity securities, and the issue of debt securities must have a principal amount of at least \$750,000; or
  - (b) The issue of debt securities must have a principal amount of at least \$750,000 and at least 80% of the issue must be subscribed by sophisticated or institutional investors; or
  - (c) The issuer must be the Government or a Singapore government agency; or
  - (d) The issue of debt securities must have a credit rating of investment grade and above.
- (3) Where the requirements in Rule 303(1) or (2) are not met, the issuer's obligations under the issue of the debt securities must be:—
  - (a) guaranteed by an entity that is listed on the Exchange and the issue of debt securities must have a principal amount of at least \$750,000; or
  - (b) guaranteed by an entity which meets the requirement in Rule 210(2), (3), (4) and (5) and the issue of debt securities must have a principal amount of at least \$750,000; or
  - (c) guaranteed by the Government or a Singapore government agency.

**Part III Listing Requirements for Foreign Debt Securities****304**

One of the following requirements must be met for the listing of an issue of foreign debt securities:—

- (1) The issuer must be:—
  - (a) a supranational body; or
  - (b) a government, or a government agency whose obligations are guaranteed by a government; or
  - (c) an entity whose equity securities are listed on the Exchange; or
  - (d) a corporation which meets the following requirements:—
    - (i) Rule 210(2), (3), (4) and (5) for the listing of equity securities; or
    - (ii) A cumulative consolidated pre-tax profit of at least \$50 million for the last three years, or a minimum pre-tax profit of \$20 million for any one of the three years; and consolidated net tangible assets of at least \$50 million; or
  - (e) a corporation whose obligations under the issue of the debt securities are guaranteed by any of the entities in Rule 304(1)(a), (b), (c) or (d).
- (2) The issue of debt securities must be **at least 80% subscribed by sophisticated or institutional investors.**
- (3) The issue of debt securities must have a credit rating of investment grade and above.

*continued on next page*

*Box A2.1 continuation*

### **Paying Agent**

#### **305**

A foreign issuer is normally required to appoint a paying agent in Singapore while the debt securities are quoted on the Exchange and upon the issue of debt securities in definitive form. The Exchange may accept other arrangements to enable definitive certificate holders of the bearer debt securities in Singapore to be paid promptly.

### **Release of Reports**

#### **306**

If an issuer is subject to the trust deed requirements below, it must release the reports and/or financial results required in Rule 308(8)(c) and (d) via SGXNET within the period specified.

Amended on 29 September 2011.

### **Adjustments**

#### **307**

If debt securities are:—

- (1) redeemable by the issuer, either in whole or in part, by an issue of shares; or
- (2) convertible into shares, either in whole or in part, by the holder; or
- (3) issued in conjunction with separate options to subscribe for shares,

the terms of issue of the debt securities must provide for appropriate adjustments to the conversion rights in the event of any alteration to the capital of the issuer, and whether the holders of the debt securities and/or options have any participating rights in the event of a takeover offer for the issuer.

### **Trustee and Trust Deed**

#### **308**

- (1) An issuer **must appoint a suitable trustee** to represent the holders of its debt securities listed on the Exchange. A company which holds a trust business license under the Trust Companies Act satisfies this rule.
- (2) The trustee must have no interest in or relation to the issuer which may conflict with its role as trustee.
- (3) If the trustee ceases to perform its function, the issuer must appoint another suitable trustee.
- (4) The directors of the issuer must confirm that a suitable trustee has been appointed. The confirmation must be submitted to the Exchange prior to the issue of the debt securities.
- (5) A trust deed governing the issue of debt securities must be executed and contain the requirements in Rule 308.
- (6) Rule 308(1) to (7) does **not apply** to:—
  - (a) an issuer who has been declared a “prescribed corporation” for the purpose of Section 239(4) of the SFA.
  - (b) a debt issue that is offered only to **sophisticated or institutional investors and is traded in a minimum board lot size of SGD200,000 or its equivalent in foreign currencies** following listing.
- (7) The issuer must make all its financial and other records available for inspection by the trustee and its agent(s).
- (8) A trust deed required by Rule 308(5) must include the following provisions:—
  - (a) A limitation on the amount that the issuer or any guarantor company may borrow. For the purpose of this limitation:—

*continued on next page*

*Box A2.1 continuation*

(i) any advances made by the issuer or any guarantor company to their holding company, or to any of their subsidiaries or their holding company's subsidiaries; and

(ii) any investment by the issuer or any guarantor company in the shares of their subsidiaries or their holding company's subsidiaries,

must not be brought into account as an asset unless the company to or in which the advance or investment is made is a guarantor company and covenants with the trustee to limit itself to the same limitation of liabilities as the borrowing company.

(b) A covenant that on request in writing by the trustee, the issuer will cause any wholly-owned subsidiary (whether formed or acquired before or after the date of the Trust Deed) of the issuer to become a guarantor company. The covenant may be qualified, but must provide that the trustee is entitled:—

(i) in the case of secured debentures if the value of the security is or is believed by the trustee to have become less than the principal amount outstanding; or

(ii) in the case of debentures or unsecured notes if the ratio limiting the liabilities or borrowing for the purpose of the Trust Deed has been or is believed by the trustee to have been infringed or its maintenance is threatened,

to call upon the issuer to procure any one or more of its subsidiaries (whether formed or acquired before or after the date of the Trust Deed) to become a guarantor company.

(c) The directors of the issuer must prepare a report that relates to each quarter and lodge it with the trustee within one month of the end of the period. The report must be signed by 2 directors and state:

(i) whether or not any limitation of liabilities or borrowings as prescribed by the Trust Deed has been exceeded;

(ii) whether or not the issuer and the guarantor company have observed and performed all the covenants and obligations binding upon them respectively pursuant to the Trust Deed;

(iii) whether or not any event has happened which has caused or could cause the security created by the Trust Deed to become enforceable;

(iv) whether or not any material trading or capital loss has been sustained by the issuer or any guarantor company;

(v) whether or not any circumstances materially affecting the issuer or any guarantor company have occurred which adversely affect the debt securities;

(vi) whether any contingent liabilities have been incurred by the issuer or any guarantor company. If so, to state the amount incurred, and whether or not any contingent liability has matured or is likely to mature within the next twelve months, which will materially affect the ability of the issuer or any guarantor company to repay the debt securities;

(vii) whether or not there has been any change in any accounting method or method of valuation of assets or liabilities;

(viii) whether or not any circumstances have arisen which render adherence to the existing method of valuation of assets or liabilities misleading or inappropriate; and

(ix) any substantial change in the nature of the issuer's or any guarantor company's business since the issue of the debt securities.

(d) Within three months of the expiration of the full year and the half year, the issuer must provide the trustee the consolidated profit and loss account and balance sheet (which must be prepared in accordance with the approved accounting standards) of the issuer and of any guarantor company. The accounts relating to the full year must be audited.

(e) The directors shall notify the trustee immediately when they are aware that any condition of the Trust Deed cannot be fulfilled.

(f) A meeting of holders of debt securities must be called on a requisition in writing signed by holders of at least 10% of the nominal amount of the outstanding debt securities.

Amended on 29 September 2011.

### **Medium Term Note Programme**

#### **309**

The principal amount of each listed series of a Medium Term Note Programme must be at least SGD5 million.

Amended on 29 September 2011.

*continued on next page*

*Box A2.1 continuation*

## **Part V Listing Procedures for Debt Securities**

### **310**

An applicant may consult the Exchange to resolve specific issues prior to the submission of an application. Unless the Exchange prescribes otherwise, the following sets out the usual main steps in the listing process.

- (1) The applicant submits (to the Listings Function) one copy of the listing application. The listing application comprises **the prospectus, offering memorandum or introductory document** prepared in compliance with Rules 312 to 313 and, the supporting documents set out in Rule 314. The prospectus, offering memorandum or introductory document which forms part of the listing application must be in final form;
- (2) The Exchange considers whether the application satisfies the listing requirements and will decide whether to issue an eligibility-to-list letter for listing (with or without conditions). Listing will not be permitted until all conditions set out in the eligibility letter have been satisfied;
- (3) Where a prospectus, offering memorandum or introductory document is required to be issued, the applicant lodges the prospectus, offering memorandum or introductory document with the relevant authority (if applicable) and submits a copy to the Exchange. The lodged copy of the prospectus, offering memorandum or introductory document should not be materially different from the prospectus, offering memorandum or introductory document on which the eligibility-to-list letter was issued. The applicant must submit a written confirmation to the Exchange to this effect. If there are material differences, the Exchange may withdraw the eligibility-to-list letter;
- (4) The Exchange will inform the applicant of any further information that is required to be disclosed prior to commencement of trading. The applicant decides whether to include this information in its prospectus, offering memorandum or introductory document, or to make pre-quotation disclosure through an announcement to the Exchange. Pre-quotation disclosure must be made not later than the market day before commencement of trading of the debt securities; and
- (5) On satisfaction of the conditions expressed in the eligibility-to-list letter, the issuer's debt securities will be listed and quoted on the Exchange.

### **Time Schedule**

#### **311**

The Exchange will decide whether to issue an eligibility-to-list letter as soon as practicable after receipt of a complete application. If the applicant makes material amendments to the prospectus, offering memorandum or introductory document, the time may start to run from the date the material amendment is notified to the Exchange.

### **Content of Prospectus, Offering Memorandum or Introductory Document**

#### **312**

If a prospectus is required, a checklist showing compliance with Part II of Chapter 6 must be provided. If, under applicable law, an application is made to the relevant government authority for any waiver or modification of any prospectus requirement, a copy of such letter must be submitted together with the prospectus.

#### **313**

**If the debt securities are offered without a prospectus and primarily to sophisticated investors or institutional investors, the offering memorandum or introductory document must contain the information that such investors would customarily expect to see in such documents.**

### **Documents to be Submitted with the Prospectus, Offering Memorandum or Introductory Document**

#### **314**

Two copies of each of the documents set out below must be submitted together with the applicable listing fee. Where the debt securities are issued by an issuer whose equity securities are listed on the Exchange, or where the debt securities are offered primarily to sophisticated investors or institutional investors, the issuer need only submit the documents set out in Rule 314(5), (6), (7) and (8).

- (1) The Memorandum and Articles of Association or other constituent documents if any, incorporating all amendments to date.
- (2) Material contracts (other than those entered into in the ordinary course of business) entered into during the preceding 24 months or proposed to be entered into by the issuer and its subsidiaries with any director, controlling shareholder or their associates.

*continued on next page*



*Box A2.1 continuation*

- (3) Auditors' report to management on the internal control and accounting system of the issuer and its principal subsidiaries.
- (4) For an issuer which is engaged in property investment or development, valuation report(s) of each principal asset of the group that is revalued.
- (5) The mortgage indenture or equivalent instrument certified by the trustee.
- (6) The trust deed and a checklist showing compliance with the requirements in Rule 308(8).
- (7) Other documents, such as a deed poll, that may be applicable to the issue of debt securities.
- (8) A checklist showing compliance with the relevant requirements under Rules 303 to 309.  
Amended on 29 September 2011.

**Documents to be Submitted After Approval In-Principle****315**

After the issuer receives approval in-principle from the Exchange, the following documents must be submitted before the listing of the debt securities:—

- (1) The signed listing undertaking in the form set out in Appendix 2.3.1;
- (2) The signed issue documents, such as the subscription agreement, agent bank agreement and fiscal agency agreement and trust deed (as applicable);
- (3) The required number of copies of the prospectus, offering memorandum or introductory document;
- (4) A local debt issuer must also submit the following documents:—
  - (a) A copy of the “tombstone” advertisement, if one was published;
  - (b) A signed copy of the auditors' letter on the accounts in a form acceptable to the Exchange, where an accountants' report is prepared for the purpose of the issue; and
  - (c) A certified copy of any relevant resolution(s) of the shareholders and a copy of any letters of approval from the Government, if applicable;
- (5) In the case of a foreign debt issuer, the names and addresses of its representatives, with whom the Exchange may liaise in respect of future correspondence regarding the debt securities. The representatives must be easily contactable by the Exchange; and
- (6) Such other documents (if any) as stipulated in the approval in-principle letter.

**Part VI Continuing Listing Obligations****316**

A debt issuer is required to observe only the continuing listing obligations in **Part VI of Chapter 7**. It must also undertake to release information to the Exchange via SGXNET at the same time as such information is released to the home market and must comply with such other rules as may be applied by the Exchange from time to time (whether before or after listing).

—

**Chapter 7 Continuing Obligations****Part VI Debt Securities — Continuing Listing Obligations****745**

A debt issuer must immediately disclose to the Exchange via SGXNET any information which may have a material effect on the price or value of its debt securities or on an investor's decision whether to trade in such debt securities.

*continued on next page*

*Box A2.1 continuation*

**746**

A debt issuer must provide the Exchange with the required number of copies of its published annual report (in English) and all documents annexed thereto as soon as it is issued.

**747**

A debt issuer must announce: —

- (1) any redemption or cancellation of the debt securities;
- (2) the details of any interest payment(s) to be made (except for fixed rate notes listed solely on the Bonds Market).
- (3) any amendments to the Trust Deed; and
- (4) any appointment of a replacement trustee as required by Rule 308(3).

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Note: Emphases added by author.

Source: Attorney-General's Chamber; Singapore Exchange.