

CONSULTATION PAPER

P010 - 2004
July 2004

Establishing a New Regulatory Framework for Trust Companies

MAS

Monetary Authority of Singapore

PREFACE

Trust companies in Singapore are currently regulated by the Accounting & Corporate Regulatory Authority (“ACRA”) under the current Trust Companies Act (“current TCA”). The Monetary Authority of Singapore (“MAS”) seeks comments on establishing a new regulatory framework for trust companies, including a new Trust Companies Act (“new TCA”). Under the new framework, MAS will regulate trust companies in Singapore. The new framework seeks to enhance the standards of the trust services industry in Singapore.

2 This consultation paper sets out the key policies that MAS is considering in establishing the new regulatory framework for trust companies. It also includes the draft legislation (Annex A).

3 MAS invites interested parties to forward their views and comments on the issues outlined in this consultation paper and on the draft legislation. Parties who do not wish to comment on all of the issues may confine their responses to the specific sections that are of interest. Written comments should be submitted to:

Market Conduct Policy Division
Market and Business Conduct Department
Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117
Email: trust@mas.gov.sg
Fax: (65) 6225-9766

MAS would like to request for all comments and feedback to be submitted by 18 August 2004.

4 Please note that all submissions received may be made public unless confidentiality is specifically requested for whole or part of the submission.

TABLE OF CONTENTS

PREFACE	I
CHAPTER 1: INTRODUCTION	1
CHAPTER 2: SCOPE OF REGULATION	2
SECTION 2.1. DEFINITION OF REGULATED ACTIVITY	2
SECTION 2.2. EXEMPTIONS FROM LICENSING	3
SECTION 2.3. EXCLUSIONS FROM THE NEW TCA	6
SECTION 2.4. REQUIREMENT TO INCORPORATE	7
CHAPTER 3: NEW REGULATORY FRAMEWORK	8
SECTION 3.1. CESSATION OF BUSINESS	8
SECTION 3.2. ANTI-MONEY LAUNDERING	9
SECTION 3.3. FINANCIAL REQUIREMENTS	9
SECTION 3.4. MANAGEMENT, DIRECTOR AND SHAREHOLDER REQUIREMENTS	11
SECTION 3.5. APPEALS	14
SECTION 3.6. INSPECTIONS AND RECORDS	14
SECTION 3.7. USE OF WORDS INDICATING TRUST BUSINESS	15
SECTION 3.8. CONFIDENTIALITY	16
DRAFT TRUST COMPANIES ACT	ANNEX A

CHAPTER 1: INTRODUCTION

1.1 Trust companies in Singapore are currently regulated by ACRA under the current TCA. MAS seeks comments on establishing a new regulatory framework for trust companies, including the enactment of a new TCA. Under the new framework, MAS will regulate trust companies in Singapore.

1.2 Trust companies are service providers that engage in the business of acting as trustee or administering trusts. They may also create trusts or arrange for another person to act as trustee. Trust business has grown steadily in Singapore over the past few years.

1.3 Under the current TCA, registration of trust companies is voluntary. Under the new framework, a key policy change is that licensing will be mandatory. There will be limited exemptions from licensing for lawyers and accountants, for private trust companies, for banks and merchant banks and for overseas persons visiting Singapore.

1.4 The new regulatory framework will increase legal clarity and guidance for trust companies in Singapore. Such a framework will ensure high standards of business conduct, professionalism and competence in the trust services industry. Some of the key areas include:

- requirements for MAS' approval to be sought for significant shareholders;
- requirements for directors and managers to be fit and proper;
- financial soundness requirements for trust companies;
- requirements for systems and processes to ensure proper business conduct and compliance with the regulatory framework;
- provisions that provide MAS with the powers to conduct supervision, including inspections and investigations, and submission of accounts; and
- anti-money laundering measures that will be applicable to both licensed trust companies and exempt persons and entities.

CHAPTER 2: SCOPE OF REGULATION

2.0.1 Under the current TCA and its voluntary registration regime, the regulated activity is defined by setting out a list of activities that a trust company may undertake. Any company that undertakes two or more of the activities on the list may seek registration, or may decide to remain unregistered. Entities that do not seek registration are not prohibited from engaging in the activities listed. Under the new TCA, licensing will be mandatory for entities undertaking prescribed trust business activities. It is important that the scope of the regulated activity be carefully defined to catch all relevant trust business activities in the new regime.

2.0.2 However, some entities, persons and activities may be unintentionally caught within the definition of regulated activity of the new TCA. For these entities, persons and activities, we propose exclusions and exemptions from licensing as set out in this chapter.

Section 2.1. Definition of Regulated Activity

The Four Limbs of Regulated Activity

2.1.1 **Acting as trustee** for an express trust¹ and **administering** an express trust are the primary activities of a trust company. In addition, trust companies or other persons often engage in **creating** express trusts or **arranging** for persons to act as trustees. We consider all four activities as key trust activities with potential for abuse if not properly regulated. Accordingly, we propose that the definition of regulated activity be drafted broadly to include all four of the above activities.

2.1 Do you agree with our proposal to draft the definition of regulated activity to cover any business of creating or administering an express trust or of acting as or arranging for a person to act as, a trustee of an express trust?

¹ An "express trust" is a trust created or declared in express terms, as opposed to trusts that are implied by law or by the demands of equity.

Section 2.2. Exemptions from Licensing

2.2.1 Some persons may engage in trust business as conventionally understood, but there is little or no regulatory benefit in requiring them to be licensed. For example, some lawyers and accountants engage in arranging for persons to act as trustees or creation of trusts as part of their practice. We propose that these persons will be exempt from licensing, but regulated under the new TCA. MAS proposes that they be subject to tailored regulation through various provisions, conditions and restrictions placed on them by MAS in writing, by statute, or by regulation. The extent of the provisions, conditions and restrictions on exempt entities will be designed to fit the needs of each exempt entity. This section sets out the entities that we propose to exempt from licensing and subject to tailored regulation. Unless otherwise noted, the exemptions from licensing operate automatically and do not require application or notification.

Those Who Merely Introduce Others to a Trust Company

2.2.2 Persons who merely introduce other persons to a trust company may fall within the scope of arranging for others to act as trustees. We see little scope of abuse from this activity since the substantive trust business activity will be undertaken by other parties. We propose to exempt mere introducers from licensing, whether the relevant trust company a person is introduced to is in Singapore or overseas.² Any trust business activity beyond mere introduction will require a licence.

2.2(a) Do you agree that an exemption from licensing should be given for merely introducing others to a trust company?

Lawyers and Accountants

2.2.3 Lawyers and accountants, as part of their professional practice, may engage in arranging for persons to act as trustees or in the creation of trusts. These activities, which are incidental to their practice, would fall within the definition of regulated activity under the new TCA. We propose to exempt them from licensing, as they have the appropriate skills necessary to execute these activities. The exemption will only apply to activities incidental to their primary professional practice. Acting as a trustee or providing trust

² This exemption will be placed in regulations rather than the draft TCA (Annex A).

administration services are not incidental to the practice of law or accounting and will require a licence.

2.2(b) Do you agree that lawyers and accountants should receive an exemption from licensing for activities incidental to their practice? Do you agree that creation of trusts and arranging for others to act as trustee are incidental to their primary professional practice, while acting as trustee or administering trusts are not incidental?

Private Trust Companies

2.2.4 Private trust companies are often created by high net worth families to manage assets. Under the new TCA, we propose defining a “private trust company” to be a company that (i) provides trust business services solely to connected persons³ and (ii) does not hold itself out to the public as carrying on trust business. Because private trust companies operate under these limitations, tailored regulation is appropriate, including an exemption from licensing.

2.2.5 However, we note that there is a risk of private trust companies engaging in undesirable activities such as money laundering or terrorist financing. We propose requiring them to notify MAS of the nature and scope of their activities and to adhere to anti-money laundering requirements. We propose that notification be given to MAS within one month after commencing the regulated activity.

2.2.6 We also propose requiring them to engage a licensed trust company to administer the trusts for which they act as trustee. An entity that does not fall within the definition of “private trust company” stated above or that does not engage a licensed trust company to administer the trusts for which it acts as trustee will require a licence.

2.2(c) Do you agree with the definition of “private trust company”? Do you agree with granting an exemption from licensing to private trust companies? Should private trust companies be required to give notice after commencement of regulated activities? Should private trust companies be required to engage a licensed trust company to administer the trusts for which they act as trustee?

³ Please see the draft TCA (Annex A), Section 2, for the definition of “connected person”.

Banks and Merchant Banks

2.2.7 In the context of wealth management, many private bankers engage in activities that would fall within the scope of the regulated activity, which are arranging for persons to act as trustees or creation of trusts. Private bankers have the expertise to engage in these activities. We propose that banks and merchant banks be exempted from separate licensing as a trust company if they only arrange for persons to act as trustees or create trusts. Acting as a trustee or administering trusts will require a licence as a trust company. A bank or merchant bank will be required to give notice to MAS within one month after commencing any regulated activities.

2.2(d) Do you agree with granting an exemption from licensing to banks and merchant banks for the activities of arranging for persons to act as trustees and creation of trusts? Should banks and merchant banks be required to give notice after commencement of regulated activities?

Fund Managers and Custodians

2.2.8 Fund managers often manage funds for express trusts. Custodians often serve as custodians for securities that are assets of express trusts. Fund managers and custodians could fall within the proposed definition of regulated activity of the new TCA for administering trusts. We consider that there is no need for them to get an additional licence under the new TCA because they are either licensed or exempted under the Securities and Futures Act ("SFA") for these activities. They are regulated under the SFA. However, if the fund manager or custodian wishes to engage in trust business activities that are beyond the normal scope of activities of a fund manager or custodian, it will either be required to seek a licence, or it will be subject to conditions and restrictions under the new TCA to regulate these trust business activities.

2.2(e) Do you agree that fund managers and custodians should receive an exemption from licensing for their normal scope of activities under the SFA?

Overseas Persons

2.2.9 Persons who are based overseas may visit Singapore to conduct trust business, meet with clients or bring clients to meet with Singapore trust companies. This is an important element of the international trust services industry and enables greater growth in the industry. We propose exempting these overseas persons from licensing.

2.2.10 However, if overseas persons are to engage in trust business in Singapore, they must be subject to requirements that prevent them from engaging in undesirable activities, such as money laundering. We propose limiting the scope of activity that may be engaged in by an overseas person to arranging for a person to act as trustee or the creation of a trust. Persons acting as a trustee or providing trust administration services will be required to be licensed. We further propose that the activities of overseas persons be carried out through a Singapore-licensed trust company, or a person or entity exempted under the new TCA, so that a person or entity in Singapore will be responsible for each overseas person.

2.2(f) Do you agree that overseas persons should receive an exemption from licensing? Do you agree that the exemption from licensing should be limited to arranging for a person to act as trustee or creation of a trust? Do you agree that these activities must be carried out through a Singapore-licensed trust company or a person exempted under the new TCA? If you do not agree, can you propose another way to preserve the ability of overseas persons to visit Singapore to conduct trust business while preventing such persons from carrying out undesirable activities?

Section 2.3. Exclusions from the New TCA

2.3.1 Some activities may technically fall within the scope of the definition of regulated activity under the new TCA, yet are not trust business as conventionally understood. These activities will be excluded from regulation under the new TCA.

2.3.2 Activities that fall within the scope of regulated activity under the new TCA, but that will be excluded from the definition are:

- acting as a bare trustee;
- acting as trustee-manager of a registered business trust;
- preparing or advising on wills; and
- acting as executors or administrators of the estates of deceased persons.

However, only these activities will be excluded. A person also engaging in other forms of trust business will be required to be licensed. For example, an entity may act as an executor of an estate. If the same entity were to also act as a trustee to a trust not related to the estate of a deceased person, it would be required to be licensed.

2.3 Do you agree with excluding activities that fall within the scope of regulated activity, but are not trust business as conventionally understood? Do you agree that the activities listed above should be excluded? Which other activities should also be excluded?

Section 2.4. Requirement to Incorporate

2.4.1 Although the definition of regulated activity set out in paragraph 2.1.1 above will cover any person, whether sole proprietor, partnership or company, that engages in trust business, we propose granting a licence only to a locally-incorporated company or a local branch of a foreign-incorporated company. Sole proprietorships and partnerships wishing to engage in trust business will need to incorporate to be licensed.

2.4.2 Sole proprietorships and most partnerships are not able to meet many of the standards set out in Chapter 3, such as financial soundness requirements and the requirement for two resident managers. Because all trust service providers should meet the same minimum standards, we propose that only companies be granted licences.

2.4 Do you agree that only locally-incorporated companies or branches of foreign-incorporated companies should be allowed to seek a trust business licence?

CHAPTER 3: NEW REGULATORY FRAMEWORK

3.0.1 The paragraphs below highlight the main policy issues under consideration in developing a new regulatory framework for trust companies. You may wish to review the draft new TCA (Annex A) in its entirety to comment on other statutory provisions not highlighted below.

Section 3.1. Cessation of Business

Powers for MAS to Petition the Court to Wind Up a Trust Company

3.1.1 MAS will need powers to counter undesirable activity by trust companies. We propose that MAS have the power to petition the Court to wind up a trust company, where MAS considers that the continued existence of the trust company will threaten the public interest.

3.1(a) Do you agree that MAS should have the power to petition the Court to wind up a licensed trust company?

Cessation of Trust Business or Surrendering Licence

3.1.2 As a trustee, a licensed trust company takes on a special responsibility for each trust. If it were to cease carrying on trust business or surrender its licence, each trust for which it acts as trustee would be left without a legally operating trustee. To prevent this, a licensed trust company wishing to cease trust business or surrender its licence should first either distribute the remaining assets in its trusts or find a new trustee for these trusts. In rare circumstances a licensed trust company may find itself unable to find a new trustee. In this case, the licensed trust company should be able to seek sanction from the Court to cease its trust business while still a trustee.

3.1(b) Do you agree that a licensed trust company must not cease trust business or surrender its licence, without sanction from the Court, if any trust for which it acts as trustee remains in whole or in part un-administered?

Section 3.2. Anti-Money Laundering

3.2.1 In its revised Forty Recommendations issued in June 2003, the Financial Action Task Force extended anti-money laundering measures to cover trust companies. We propose that anti-money laundering requirements apply to licensed trust companies and exempt entities and persons.

3.2.2 Some exempt entities are already subject to anti-money laundering requirements. Banks, merchant banks, fund managers and custodians are subject to anti-money laundering requirements under separate MAS-administered laws. Overseas persons will be subject to anti-money laundering requirements when operating in Singapore because they must conduct their activities through an entity either licensed or exempt under the new TCA.

3.2.3 The remaining exempt entities, which are private trust companies, lawyers and accountants, will be subject to the anti-money laundering requirements of the new TCA, unless they are otherwise subject to anti-money laundering requirements by another authority in Singapore and those requirements are broadly equivalent⁴ to those under the new TCA.⁵

3.2 Do you agree that anti-money laundering requirements should apply to licensed trust companies, as well as exempt entities and persons?

Section 3.3. Financial Requirements

Minimum Paid-Up Capital Requirement

3.3.1 Any licensed trust company should be of sound financial standing, with a minimum paid-up capital sufficient to ensure it is able to operate smoothly, as well as to cushion against unforeseen events. We consider that an adequate level for minimum capital is \$500,000, which MAS may adjust upwards if the complexity or size of the business merits such adjustments.

⁴ MAS will assess whether the requirements are broadly equivalent.

⁵ Only those lawyers and accountants that engage in trust business and are exempt as discussed in paragraph 2.2.3 above will need to abide by these anti-money laundering requirements. Because lawyers and accountants that do not engage in any trust business do not fall within the scope of the new TCA's regulated activity, they will not be subject to these anti-money laundering requirements.

This requirement is equivalent to the minimum capital requirement that the SFA imposes on fund managers.⁶

3.3.2 In the case of licensed trust companies that are branches of overseas companies, a minimum paid-up capital requirement is not applicable. In its place, we propose that MAS require the equivalent amount of assets to be maintained in Singapore by the branch. These assets should be investments of high quality, booked on the branch's books in Singapore, located in Singapore, and unencumbered. Investments of "high quality" include investments such as notes and coins, SGX-listed securities, debt securities, Singapore Government Securities and investments in Singapore property.

3.3(a) Do you agree with setting \$500,000 as the minimum paid-up capital requirement? Is the amount adequate? Do you agree that in the case of branches the requirement should be to maintain assets in Singapore?

Professional Indemnity Insurance Requirement

3.3.3 Professional indemnity insurance protects settlors and beneficiaries against negligence by the trust company when that negligence causes a loss to that person. We propose that a licensed trust company must have adequate professional indemnity insurance of an amount determined by MAS, typically in the range of 1% to 3% of assets under trusteeship. This is similar to the requirement the SFA imposes on similar capital markets services licensees. We may be prepared to accept substitutes for professional indemnity insurance if they grant equivalent protection to the settlors and beneficiaries. We propose that if the licensed trust company is a branch or subsidiary of a foreign-incorporated company, this requirement may be waived if

- the head office gives a letter of undertaking and MAS is satisfied with the financial strength of the head office; or
- the head office or parent extends its insurance coverage to the branch or subsidiary in the required amount.

3.3(b) Do you agree with requiring licensed trust companies to have professional indemnity insurance? Do you agree that a letter of

⁶ This requirement is for fund managers that do not manage a collective investment scheme.

undertaking of the head office or insurance of the head office or parent company may be sufficient?

Section 3.4. Management, Director and Shareholder Requirements

Requirements for Resident Managers

3.4.1 At least two persons should actively manage the affairs of a licensed trust company, each one individually reviewing all significant matters. This will ensure that significant errors in management are less likely to occur. We propose that a licensed trust company must be managed by at least two executive officers, called “resident managers”, who will be residents of Singapore. The residency requirement is to ensure that both persons are in Singapore managing the affairs of the licensed trust company.

3.4.2 We propose that the resident managers should meet minimum standards of education and experience to ensure that the business is managed properly and prudently. They should have a university degree or an equivalent and a minimum of experience relevant to the trust business. In addition, to keep their knowledge current, we propose that continuing professional development be required.

3.4(a) Do you agree with the requirement to have two resident managers? Do you agree that the resident managers should both be residents of Singapore? Do you agree that these persons should meet minimum standards of education and experience? Do you agree that a university degree is an appropriate minimum educational standard? Can you suggest what the experience standard should be in terms of number of years and in terms of what constitutes relevant experience? Do you agree with a requirement to continue professional development? Can you suggest the acceptable types of professional development for resident managers, and the annual minimum hours that should be required?

Directors and Resident Managers to be Fit and Proper

3.4.3 Directors and resident managers are the persons entrusted with the responsibility for the licensed trust company and should be fit and proper individuals. We propose that directors and resident managers of licensed trust companies must be approved by MAS on the basis of a “fit and proper” test.

The test will examine such issues as financial soundness, past business performance, and integrity.

3.4(b) Do you agree with requiring persons to seek MAS' approval on the basis of a "fit and proper" test to serve as directors or resident managers?

Power for MAS to Remove Officers

3.4.4 We propose that MAS should have the power to remove an officer of a licensed trust company (including a director, resident manager or other officer) if the officer has inter alia

- contravened the new TCA;
- failed to enforce compliance with the new TCA;
- failed to discharge the duties of office;
- entered into bankruptcy or similar financial arrangements; or
- been convicted of a crime involving fraud or dishonesty.

This list of triggering events is structured to include a person who, by violating any of these items, shows him or herself to be potentially unfit to continue in office.

3.4(c) Do you agree that MAS should have the power to cause an officer (including a director, resident manager or other officer) to resign from holding office in a licensed trust company? Do you agree with the list of triggering events?

Shareholder Approvals

3.4.5 In order to ensure that each licensed trust company is controlled by fit and proper shareholders, persons and entities wishing to become substantial shareholders will be required to seek MAS' prior approval.

3.4.6 We propose that there should be two thresholds at which approvals from MAS for the acquisition of substantial shareholdings in licensed trust companies should be required. The first threshold is where a person becomes a shareholder holding 20% or more of the shares in a licensed trust company. This is a level significant enough that the shareholder can be presumed to have some degree of control over the affairs of the company.

3.4.7 The second threshold is where a person becomes a shareholder holding 50% or more of the shares in a licensed trust company. At this threshold the person or entity holds enough shares to exercise majority control.

3.4.8 These two thresholds will also apply in the case of an “indirect controller”. A person or entity becomes an indirect controller when that person or entity has influence over the directors’ actions with respect to the licensed trust company, or that person or entity is otherwise in a position to control the policy of the licensed trust company. This includes parent companies of a company that holds 20% of the shares of a licensed trust company.

3.4.9 In the case of licensed trust companies that are branches of overseas companies, the requirement that a person or entity seek approval to acquire a 20% or greater or 50% or greater shareholding will be difficult to enforce. Furthermore, it will be onerous as the company whose shares are being acquired is not actually a Singapore entity. For such licensed trust companies, instead of a requirement that approval be sought, we propose that MAS be notified in cases where a person or entity crosses the 20% or 50% shareholding thresholds, directly or as an indirect controller.

3.4(d) Do you agree with requiring persons and entities to get MAS’ approval in order to become a 20% shareholder or 50% shareholder, either directly or indirectly? Do you agree that where the licensed trust company is a branch of a foreign company, notification should be required rather than approval?

Grants of Unsecured Credit

3.4.10 In order to prevent misuse of company funds and to promote good governance of trust companies, limitations should be placed on unsecured loans that can be given to directors, officers and employees. We propose that a licensed trust company shall not grant unsecured credit to its directors, other than a director who is an employee. For officers and employees, loans are often part of an overall compensation package, or may be given to cover relocation expenses, or for emergency expenses. Legitimate use of this should not be discouraged. We propose that unsecured credit up to the amount of one year’s emoluments should be allowed for officers and

employees. These requirements are similar to the requirements the SFA imposes on capital markets services licensees.

3.4(e) Do you agree that licensed trust companies should not be allowed to grant unsecured credit to non-employee directors? Do you agree that officers and employees should be limited to unsecured credit in the amount of one year's emoluments?

Section 3.5. Appeals

3.5.1 For certain decisions made by MAS, those aggrieved by MAS' decision should be able to have the decision reviewed. We propose to provide for appeals from decisions including

- refusal of MAS to grant a licence;
- the revocation or suspension of a licence;
- the revocation of an exemption;
- the refusal of MAS to approve a person as director or resident manager; or
- the direction by MAS to remove an officer from the trust company's employment.

Appeals will be to the Minister. The Minister will be assisted by an Advisory Committee, which will be an appointed group of experts. These appeals provisions are similar to those of the SFA.

3.5 Do you agree that appeals to the Minister, aided by an Advisory Committee, should be allowed for the above-listed decisions? Do you think appeals should be available for any other issues?

Section 3.6. Inspections and Records

Requirements for Keeping and Inspecting of Trust Books

3.6.1 We propose that the licensed trust company must keep separate books for each trust for which it acts as trustee. These books must be available for inspection and investigation by MAS or any person appointed by MAS to carry out its functions.

3.6(a) Do you agree that books should be kept for each trust for which a licensed trust company acts as trustee? Do you agree that MAS and persons appointed by MAS to carry out its functions should have the power to view such books during inspection or investigation? If you think this power is too broad, can you suggest ways limitations might be placed on MAS-appointed persons so that they can view the books?

Requirements for Information on Company Accounts and Trust Accounts

3.6.2 As part of the annual review of the accounts of a licensed trust company, MAS will review the accounts of both the licensed trust company and the trusts for which it acts as trustee. This information will give MAS an understanding of the trusts it serves and the overall health of the company's business. We propose that specified information from a licensed trust company on the accounts it holds as trustee will be submitted to MAS periodically. For reasons of confidentiality, information identifiable to individual trusts will not be required to be submitted. We will only require information covering all trusts in one aggregate statement to be submitted.

3.6(b) Do you agree with MAS requiring submission of financial information on a licensed trust company and the trusts for which it acts as trustee? What types of information (e.g., balance sheet data, profit and loss, etc.) do you think should be required on the trusts?

Section 3.7. Use of Words Indicating Trust Business

3.7.1 In some statutes and for some industries, the use of key words is restricted by law. This is to ensure that the public is not misled and that the integrity of the licensing regime is maintained. The word "trust" and its derivatives are so common that any attempt to prohibit or regulate such words in company names will cause hundreds of companies to come under scrutiny, and many to be required to change their names. Since the word "trust" and its derivatives are common to businesses that are not trust companies, it is less likely that a member of the public encountering this word in a company name will be misled to think that it is a licensed trust company. We propose not to restrict the use of the words "trust", "trustee" or similar words in a company's name.

3.7 Do you agree MAS should not restrict the use in a company's name of the words "trust", "trustee" or similar words?

Section 3.8. Confidentiality

3.8.1 In many jurisdictions it is common to protect the privacy of clients of financial institutions, including trust companies. In Singapore, some confidentiality duties already exist under common law. We propose to codify confidentiality duties in the new TCA. There will be appropriate gateways built into the confidentiality provisions⁷ to ensure, inter alia, that information may be released to further regulatory co-operation on supervisory and enforcement matters.

3.8 Do you agree with including confidentiality provisions in the new TCA?

⁷ Many of the gateways will be drafted into a schedule to the new TCA. Some gateways arise by operation of other laws, such as the Mutual Assistance in Criminal Matters Act.