

**DRAFT TRUST COMPANIES (EXEMPTION)
REGULATIONS 2005**

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No. S 000 –

TRUST COMPANIES ACT 2005
(ACT 11 OF 2005)

TRUST COMPANIES
(EXEMPTION) REGULATIONS 2005

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement
 2. Definitions
 3. Forms
 4. Exemption
 5. Requirements for exempt persons
- The Schedule

In exercise of the powers conferred by sections 15 and 82 of the Trust Companies Act 2005, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Trust Companies (Exemption) Regulations 2005 and shall come into operation on

Definitions

2. In these Regulations, unless the context otherwise requires —
 - “accounting corporation” means a company approved as an accounting corporation under the Accountants Act 2004 (Act 4 of 2004);
 - “advocate and solicitor” has the same meaning as in section 2 of the Legal Profession Act (Cap. 161);
 - “capital markets services licence” means a capital markets services licence granted under section 86 of the Securities and Futures Act (Cap. 289);
 - “charity”, in relation to private trust company, means any trust, foundation, company or other body established solely for the purpose recognised as charitable by the governing law of the trust in respect of which the private trust company provides trust business services;

“connected person” —

- (a) in relation to an individual, means —
 - (i) the persons listed in the Schedule; or
 - (ii) a firm or a corporation in which the individual or any of the persons listed in the Schedule has, in aggregate, control of not less than 20% of the voting power in the firm or corporation, whether such control is exercised individually or jointly;
- (b) in relation to a firm, means another firm in which the first-mentioned firm has control of not less than 20% of the voting power in that other firm; and
- (c) in relation to a corporation, means —
 - (i) an employee or a former employee of the corporation;
 - (ii) a director or former director of the corporation; or
 - (iii) another corporation in which the first-mentioned corporation or any of the persons mentioned in sub-paragraph (i) or (ii) has, in aggregate, control of not less than 20% of the voting power in that other corporation,

and a reference in these Regulations to a person connected to another person shall be construed accordingly;

“debenture” has the same meaning as in section 2 of the Securities and Futures Act (Cap. 289);

“introducing activities” means —

- (a) introducing any client to any person in relation to the provision of any trust business services provided by the person; or
- (b) recording the particulars of any client and forwarding such particulars to any person providing trust business services with the client’s consent;

“overseas person” means a person —

- (a) who is not resident, established or incorporated in Singapore; and
- (b) who has no place of business in Singapore in or from which that person carries on trust business;

“private trust company” means a corporation —

- (a) the purpose of which is solely to provide trust business services in respect of a specific trust or of specific trusts where —
 - (i) each settlor of such a trust is a connected person in relation to any other settlor of any other trust to which the corporation provides trust business services; and
 - (ii) each beneficiary of such a trust is a connected person in relation to the settlor of the same trust, except that the beneficiary of the residual estate of the settlor may be a charity; and
- (b) that does not solicit trust business from, or provide trust business services to, the public;

“public accountant” has the same meaning as in the Accountants Act 2004 (Act 4 of 2004).

Forms

3.—(1) The forms to be used for the purposes of these Regulations are those set out at <http://www.mas.gov.sg> (under “Trust Companies”), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number in that website.

(2) Where any provision of these Regulations provides for the lodgment of any document with the Authority, that document shall be lodged with the Authority in the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the forms or by the Authority.

(4) The Authority may refuse to accept any form that is not completed in accordance with this regulation.

(5) Where strict compliance with any form is not possible, the Authority may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the Authority thinks fit.

(6) Where the period of time within which a document required under these Regulations to be lodged with the Authority is not specified, the document shall be lodged within 14 days after the occurrence of the event to which the document relates.

Exemption

4.—(1) For the purposes of section 15(1)(d) of the Act, the following persons shall be exempt from the requirement to hold a trust business licence in respect of the carrying on of trust business:

- (a) any private trust company;
- (b) any advocate and solicitor, or any law corporation, Formal Law Alliance or Joint Law Venture which is approved or registered under the Legal Profession Act (Cap. 161), in respect of —
 - (i) the provision of services in relation to the creation of an express trust;
 - (ii) the arrangement for any other person to act as a trustee in respect of an express trust;
 - (iii) the provision of trust administration services which are procedural and non-discretionary or which relate to the drafting of legal documentation and the giving of professional legal advice in connection therewith; or
 - (iv) the carrying out of any other trust business not falling within the description in sub-paragraphs (i) to (iii) if the following conditions are complied with:
 - (A) the total amount of financial assets, excluding real property, settled by any client in one or more trusts in connection with the trust business does not exceed \$2 million;
 - (B) the total number of clients for each advocate and solicitor does not exceed 30 and the client of an advocate and solicitor is not also the client of another advocate and solicitor in that same partnership, law corporation, Formal Law Alliance or Joint Law Venture, as the case may be; and
 - (C) within 3 months from the date of commencement of these Regulations or one month from the date of commencement of its trust business, whichever is the later, the partnership, law corporation, Formal Law Alliance or Joint Law Venture, as the case may be, notifies the Authority in Form 9 that it is carrying on such trust business;

- (c) any public accountant who is registered under the Accountants Act 2004, or any accounting corporation which is approved under that Act, in respect of —
- (i) the provision of services in relation to the creation of an express trust;
 - (ii) the arrangement for any other person to act as a trustee in respect of an express trust; or
 - (iii) the provision of trust administration services which are procedural and non-discretionary or which relate to the drafting of accounting documentation and the giving of professional accountancy advice in connection therewith;
- (d) any overseas person, in respect of —
- (i) the provision of services in relation to the creation of an express trust; or
 - (ii) the arrangement for any other person to act as a trustee in respect of an express trust,
- where the carrying on of such activity is effected under an arrangement between the overseas person and—
- (A) a licensed trust company; or
 - (B) a person who is an exempt person under section 15(1)(a) or (b) of the Act;
- (e) any person, in respect of —
- (i) the provision of services in relation to the creation of an express trust; or
 - (ii) the arrangement for any other person to act as a trustee in respect of an express trust,
- where the carrying on of such activity is effected under an arrangement between the person and a licensed trust company;
- (f) any person engaging in trust business if that trust business is in relation to a trust that is created or proposed to be created in connection with the issuance of debentures; and
- (g) any trustee of any collective investment scheme that is approved under the Securities and Futures Act (Cap. 289) in respect of the provision of any trust business in connection with any collective investment scheme authorised under that Act; and
- (h) any person carrying out introducing activities.

(2) A private trust company shall engage a licensed trust company to carry out trust administration services for the purposes of conducting the necessary checks required under paragraphs ____ of the MAS Notice [] on Prevention of Money Laundering.

Requirements for exempt persons

5.—(1) Sections 40 to 46, 61 and 62 of the Act and regulation 16 of the Trust Companies Regulations 2005 (G.N. No.) shall, with the necessary modifications, apply to the exempt persons referred to in section 15 of the Act and in regulation 4.

(2) Where any of the requirements under sections 40 to 46, 61 or 62 of the Act or regulation 16 of the Trust Companies Regulations 2005 (G.N. No.) is inconsistent with any requirement under the Accountants Act 2004 (Act 4 of 2004), the Banking Act (Cap. 19), the Monetary Authority of Singapore Act (Cap. 186), the Legal Profession Act (Cap. 161) or the Securities and Futures Act (Cap. 289), the requirement under the Accountants Act 2004, the Banking Act, the Monetary Authority of Singapore Act, the Legal Profession Act or the Securities and Futures Act, as the case may be, shall prevail.

(3) A person who is exempt under section 15(1)(a) and 15(1)(b) of the Act shall —

- (a) within 3 months from the date of commencement of the Act or one month from the date of commencement of its trust business, whichever is the later, notify the Authority in Form 9 that it is providing trust business service;
- (b) whenever there is any change in its relevant particulars, lodge with the Authority a notice in Form 10 to inform the Authority of the change not later than 14 days after the date of the change; and
- (c) upon the cessation of any trust business in respect of which that person has been so exempt, lodge with the Authority a notice in Form 11 to inform the Authority of the cessation not later than 14 days after the cessation has taken place.

(4) A person who is exempt under regulation 4(1)(b)(iv) shall —

- (a) lodge with the Authority a statement in Form 7, in respect of each calendar year or such other period as the Authority may allow, within one month after the end of each calendar year;

- (b) whenever there is any change in his relevant particulars, lodge with the Authority a notice in Form 10 to inform the Authority of the change not later than 14 days after the date of the change; and
- (c) upon the cessation of any trust business in respect of which that person has been so exempt, lodge with the Authority a notice in Form 11 to inform the Authority of the cessation not later than 14 days after the cessation has taken place.

THE SCHEDULE

Regulation 2

CONNECTED PERSONS

1. The following persons constitute connected persons to an individual for the purposes of these Regulations:
 - (a) spouse;
 - (b) children, both present and future, including step-children, and their spouses;
 - (c) parents, including step-parents;
 - (d) grandparents;
 - (e) grandchildren, both present and future, including step-grandchildren, and their spouses;
 - (f) parents-in-law, including step-parents-in-law;
 - (g) brother, step-brother, sister, step-sister and their spouses;
 - (h) spouse's grandparents;
 - (i) spouse's brother, step-brother, sister, step-sister and their spouses and children;
 - (j) parent's brother, step-brother, sister, step-sister and their spouses;
 - (k) children of the brother, step-brother, sister or step-sister of the individual's parents, both present and future, including step-children, and their spouses;
 - (l) children of the individual's brother, step-brother, sister or step-sister, both present and future, including step-children, and their spouses.
2. For any of the relationships listed in paragraph 1 that may be established by blood, that same relation may also be established by adoption.

Made this day of 2005.

HENG SWEE KEAT
Managing Director,
Monetary Authority of
Singapore.

[; AG/LEG/SL/336/2005/1 Vol. 1]

e-mail/fb/TC (Exe) Reg-2 (DL zip 1)(fb-19.8.05)