



Monetary Authority of Singapore

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**TRUST COMPANIES ACT  
(CHAPTER 336)**

**FREQUENTLY ASKED QUESTIONS**

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**Disclaimer: The FAQs are meant to provide guidance to the industry on MAS' policy and administration of the TCA regime. They do not constitute legal advice. MAS expects industry participants to retain their independent legal counsel to advise them on how their business operations should be conducted in order to satisfy the legal/regulatory requirements and to advise them on all applicable laws of Singapore.**

## TRUST COMPANIES ACT (CAP. 336) (“TCA”)

### TRUST COMPANIES REGULATIONS 2005 (“TCR”)

#### FREQUENTLY ASKED QUESTIONS

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##### General Questions

##### **1** *What is the impetus to enacting the TCA?*

Dovetailing the robust growth experienced by the private banking and wealth management industries, the strong growth in the Singapore trust services industry has prompted the need to ensure high standards of probity, professionalism and business conduct by trust service providers to strengthen Singapore’s status as an international financial centre. The new TCA framework seeks to achieve this by ensuring, among other things, that only fit and proper persons are allowed to operate in the trust services industry and that trust service providers observe rigorous anti-money laundering requirements.

##### **2** *What types of trust business activities are regulated under the TCA?*

The TCA aims to regulate financial institutions that provide trust services for investment and wealth management purposes, such as succession planning. Trust business activities regulated under the TCA are as follows:

- (a) providing services with respect to the creation of an express trust;
- (b) acting as trustee in relation to an express trust;
- (c) arranging for any person to act as trustee in respect of an express trust; and
- (d) providing trust administration services in relation to an express trust.

Advisors on wills, executors and administrators of the estates of deceased persons, bare trustees, and managers and trustees of business trusts are excluded from the ambit of the TCA, as the trusts involved are not actively used for investment and wealth planning purposes.

### **3      *What is the difference between the TCA and the Trustees Act (Cap. 337)?***

The TCA is the legislative and regulatory framework for companies that are in the business of providing trust business services in Singapore, whether the trusts are established under Singapore law or other law. The framework sets out, among others, licensing requirements for persons conducting trust business in Singapore, fit and proper requirements for managers, directors and significant shareholders of trust companies, obligations with respect to the prevention of money laundering and countering the financing of terrorism and financial requirements for trust companies. The TCA is administered by MAS.

The Trustees Act (Cap. 337) is the trust law in Singapore that provides the basic legislative framework for trustees of trusts established under Singapore law. The Trustees Act provides, among others, safeguards to ensure that trustees adhere to certain minimum standards when they exercise their trustee powers, and defines a duty of care for trustees when carrying out specified duties or acts. The Trustees Act is administered by the Ministry of Law.

A trust company regulated by MAS under the TCA would also have to comply with the Trustees Act if it is acting as trustee of a trust established under Singapore law.

[Updated 2 January 2009]

### **4      *Who is exempt from holding a trust business licence?***

Persons exempt from holding a trust business licence include:

- (a) Banks and merchant banks regulated by MAS;
- (b) Holders of a capital markets services licence, or persons who are exempt from holding a capital markets services licence for providing fund management or custodial services for securities under the Securities and Futures Act (Cap. 289);
- (c) Lawyers and accountants;
- (d) Private trust companies;
- (e) Overseas persons;
- (f) Persons engaging in trust business in connection with the issuance of debentures;
- (g) Trustees of collective investment schemes approved under the Securities and Futures Act (Cap. 289); and
- (h) Persons carrying out introducing activities.

For a complete list of persons exempt under the TCA and the scope of exemption, please refer to section 15 of the TCA and regulation 4 of the Trust Companies (Exemption).

**5     *Are there any regulatory requirements on private trust companies?***

A private trust company is defined in the Trust Companies (Exemption) Regulations as 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 that trust or a charity; and
- (b) that does not solicit trust business from, or provide trust business services to the public.

where the term “connected person” is defined by regulation 2 and the Schedule to the Trust Companies (Exemption) Regulations.

Private trust companies are exempted under the TCA from holding a trust business licence. Nevertheless, private trust companies are still required, under regulation 4(2) of the Trust Companies (Exemption) Regulations, to engage a licensed trust company to carry out trust administration services for the purposes of conducting the necessary checks to comply with any written direction issued by MAS on the prevention of money laundering or countering the financing of terrorism. Please refer to MAS’ website for more details on MAS’ Regulatory and Supervisory Framework regarding anti-money laundering and countering the financing of terrorism.

[Updated 3 May 2013]

**6     *Are there any regulatory requirements on charitable trusts?***

Charitable trusts come under the regulatory ambit of the Trustees Act (Cap. 337), which is administered by the Ministry of Law.

[Updated 3 May 2013]

**7     *What would constitute “procedural and non-discretionary” trust administration services?***

Please refer to the Guidelines on Scope of Regulation [Guideline No: TCA-G04] for guidance on what constitutes “procedural and non-discretionary” trust administration services. Other than falling under the scope of trust creation and/or trust arrangement, form-filling could be considered as a procedural and non-discretionary trust administration service.

**8** *Under section 3 of the TCA, no person is allowed to carry on trust business in or from within Singapore unless that person is a licensed trust company. What does the term “carrying on business” mean?*

The term “carrying on business” is not defined in the TCA. Typically, MAS would regard any activity which is conducted with system, repetition and continuity as carrying on a business.

**9** *What is MAS’ approach to regulation and supervision of trust companies?*

MAS’ objective in its regulation and supervision of trust companies is to ensure safe, sound, and fair dealing financial intermediaries. MAS will supervise trust companies by conducting off-site reviews, on-site inspections and company visits. For on-site inspections, MAS could either conduct a full-scope inspection or a thematic inspection on the trust company. A full-scope inspection will cover a company's compliance with the entire trust companies legislation, while a thematic inspection will cover only a specific area.

#### Application and Licensing Process

**10** *What are the procedures for applying a trust business licence under the TCA and what are the admission criteria for the grant of the licence?*

For information on application procedures, please refer to the Licensing Guide and the Guidelines on Licence Application and Payment of Fees [Guideline No: TCA-G01].

In reviewing an application for a trust business licence, MAS will consider, inter alia, the following factors:

- (a) physical presence and management expertise of the applicant in Singapore;
- (b) financial soundness of the applicant and its parent company;
- (c) ability to meet the minimum financial requirements and professional indemnity insurance requirements prescribed under the TCR;
- (d) adequacy of internal compliance systems and processes of the applicant;  
and
- (e) competence and integrity of the applicant.

For more information on the criteria for the grant of a trust business licence, please refer to the Guidelines on Criteria for the Grant of a Trust Business Licence [Guideline No: TCA-G02].

**11 *What is the amount of application and licence fees under the TCA?***

The application fee payable to MAS in respect of an application for a trust business licence is \$1,000. The licence fee payable to MAS by a licensed trust company for a period of one year is \$4,000. For more details, please refer to the Guidelines on Licence Application and Payment of Fees [Guideline No: TCA-G01].

**12 *How long does MAS take to review an application and what are the procedures after approval is obtained?***

MAS will take approximately 6 months to process and approve an application. To expedite the review process, an applicant should satisfy itself that it fully meets the admission criteria, and has ensured that the application is complete, free of errors or inconsistencies, and is accompanied by the requisite supporting documents as stated in the application form.

MAS reserves the right to terminate the processing of an application where the applicant is unable to meet the admission criteria, when there are significant information gaps or inconsistencies, or when the applicant is unable to satisfactorily address MAS' queries in a timely manner. The applicant may re-submit a fresh application to MAS when it is ready to do so.

[Updated in March 2022]

**13 *How do potential acquirers apply to become a controller of a licensed trust company?***

Potential acquirers are required to seek MAS' approval before becoming a 20%, 50% or indirect controller<sup>1</sup> of a licensed trust company.

A person may be deemed to be a controller of a licensed trust company based on its ownership of shares or control of voting power in the licensed trust company, or its position to instruct the directors or determine the policy of the licensed trust company.

Applications for approval to become a controller of a licensed trust company must be submitted to MAS using TCA Form 3, which is accessible on the MAS website (at <https://www.mas.gov.sg>).

[Updated on 7 June 2019]

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<sup>1</sup> As defined under section 16(3) of the TCA.

## Licensing and Reporting Requirements

### **14 What continuing financial requirements would a licensed trust company be subject to?**

A licensed trust company incorporated in Singapore must at all times maintain a net asset value of not less than:

- (a) one-quarter of its relevant annual expenditure of the financial year immediately preceding the current financial year; or
- (b) three-quarters of the minimum paid-up capital of \$250,000, whichever is the higher amount.

A licensed trust company incorporated outside Singapore must at all times maintain qualifying assets in the branch in Singapore, of not less than:

- (a) one-quarter of its relevant annual expenditure of the financial year immediately preceding the current financial year; or
- (b) the minimum qualifying assets of \$250,000, whichever is the higher amount.

Please refer to regulation 12 of the TCR for more details.

### **15 Are licensed trust companies required to have in force a professional indemnity insurance policy?**

A licensed trust company must at all times maintain a professional indemnity insurance (“PII”) policy that:

- (a) covers all liabilities arising out of negligent discharge of the duties of the licensed trust company; and
- (b) is commensurate with the levels of risk of the licensed trust company’s business.

Please refer to regulation 14 of the TCR for more details.

MAS is likely to consider that the PII is adequate if:

- (a) the annual PII cover is at least -
  - (i) \$1 million; or
  - (ii) 2.5 times the turnover (previous year's turnover or, for new businesses, estimated turnover for the first year) of the trust business;whichever is the higher; and
- (b) the excess is -
  - (i) not more than \$10,000, where the annual PII cover is \$1 million; or
  - (ii) not more than 3% of the turnover of the trust business, in any other cases.

Please refer to paragraphs 13 – 15 of the Guidelines on Criteria for the Grant of a Trust Business Licence [Guideline No: TCA-G02] for more details.

The above Guidelines would also apply to a licensed trust company that is covered under a group PII policy. Where the excess under the group PII policy exceeds the maximum applicable excess in the Guidelines (“Excess Difference”), the responsible parent of the licensed trust company is required to provide a letter of undertaking to MAS that the parent will pay, on first demand made in writing by MAS, the Excess Difference, in event that the licensed trust company does not pay the Excess Difference.

In all cases, the licensed trust company is required to confirm that it is in compliance with regulation 14 of the TCR.

**16 *Under what circumstances will the licensed trust company’s licence lapse?***

Where MAS has not revoked a licence under section 10(2)(b) of the TCA, the licence will lapse where:

- (a) the licensed trust company has not commenced trust business within 6 months from the date of the grant of the licence; or
- (b) the licensed trust company -
  - (i) has ceased to carry on its trust business;
  - (ii) has not resumed any trust business for a continuous period of 14 days from the date of cessation of its trust business; and
  - (iii) has not notified MAS of such cessation of its trust business at any time during the period of 14 days from the date of the cessation.

Please refer to section 10 of the TCA and regulation 6 of the TCR for more details.



**17 What are the procedures for the cessation of business by a licensed trust company?**

A licensed trust company should ensure an orderly winding down of its business prior to cessation. This includes but is not limited to:

- (a) putting in place communication plans to ensure sufficient notice period has been given to its protected parties, business partners and other relevant stakeholders regarding its cessation; and
- (b) discharging all protected party obligations and ensuring that protected party assets and/or moneys have been accounted for and returned to protected parties before it ceases.

The licensed trust company is required to file a notice of cessation of business in Form 2 under regulation 7 of the TCR within 14 days from the date of cessation of its business. When submitting Form 2, the licensed trust company should also provide MAS with an auditor's certification that the licensed trust company has fully discharged all protected party obligations and ensured that protected party assets and/or monies have been accounted for and returned to protected parties before ceasing its business. Where the licensed trust company is not able to provide an auditor's certification, it should engage MAS before filing the cessation, and provide adequate reasons for its inability to secure an auditor's certification.

Upon the receipt of Form 2 and the auditor's certification, MAS will review the submissions to ensure that all protected party obligations have been properly discharged or provided for. Upon completion of MAS' review, the licensed trust company will be informed and removed from the Financial Institutions Directory on MAS' website. For the avoidance of doubt, even after the submission of Form 2 to notify MAS that the licensed trust company had ceased conducting trust business, the licensed trust company continues to hold a valid trust business licence, and will be required to comply with all relevant regulatory requirements, including being liable for all licence and MASNET fees<sup>2</sup>, until such time when the licensed trust company is notified and removed from the Financial Institutions Directory.

The licensed trust company's MASNET account will also be terminated within 7 days after the licensed trust company is removed from the Financial Institutions Directory. Please be reminded to retrieve all MASNET notices or invoices prior to the submission of Form 2.

[Updated on 7 June 2019]

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<sup>2</sup> Annual fees for corporate licences are charged, so long as the licence remains valid as at 1 January of the calendar year, and are non-refundable.

**18** *What are some of the reporting requirements for licensed trust companies?*

Please refer to the “Compliance Toolkit for Approvals, Notifications and other Regulatory Submissions to MAS for Licensed Trust Companies; Exempt Trust Companies; Exempt Persons Providing Trust Services; and Trustees of Approved Collective Investment Schemes” for the reporting requirements. For instance, licensed trust companies are required to lodge the following documents with MAS on an annual basis:

- (a) a true and fair profit and loss account and a balance sheet made up to the last day of its financial year, within 5 months after the end of the financial year; these documents must be lodged together with an auditor’s report in **Form 7**;
- (b) a statement in **Form 5**, showing the maintenance of the licensed trust company’s net asset value or qualifying assets, within 14 days from the grant of its licence and thereafter, within 5 months from the end of each of its financial year; and
- (c) a statement in **Form 6**, regarding information on the licensed trust company’s headcount, sources of revenue and assets under trusteeship in respect of each calendar year, within 60 days from the end of each calendar year.

Another reporting requirement is the notification to MAS by way of **Form 2** where there are changes to the particulars of licensed trust companies.

**19** *What are the reporting requirements for exempt persons under the TCA?*

Banks, merchant banks and lawyers conducting full trust business are required to notify MAS of their commencement of trust business, changes in particulars and cessation of trust business by way of **Forms 8, 9 and 10** respectively. In addition, lawyers conducting full trust business are required to lodge **Form 6**, within 60 days from the end of each calendar year.

Please refer to regulations 4(1)(b)(iv), 5(3) and 5(4) of the Trust Companies (Exemption) Regulations 2005, and the “Compliance Toolkit for Approvals, Notifications and other Regulatory Submissions to MAS for Licensed Trust Companies; Exempt Trust Companies; Exempt Persons Providing Trust Services; and Trustees of Approved Collective Investment Schemes” for more details.

**20 *Where a licensed trust company acts as trustee for restricted Singapore collective investment schemes (CIS), how should the company report information on such trust business activities?***

Licensed trust companies should report information relating to restricted Singapore CIS under Part 3 – Other Businesses of Form 6.

[Updated on 29 November 2019]

Outsourcing Arrangements

**21 *Are there any regulatory requirements for licensed trust companies that outsource its activities?***

Licensed trust companies must at all times comply with, inter alia, the confidentiality provisions under section 49 of the TCA. They should also refer to the Outsourcing Guidelines for guidance as far as possible.

**22 *Assessment of Service Providers – How should a licensed trust company assess the suitability of its service provider’s employees, or its sub-contractors?***

MAS recognises that there could be operational difficulties in assessing sub-contractors for the purpose of meeting the expectations in MAS’ Guidelines on Outsourcing. MAS does not expect licensed trust companies to directly assess all sub-contractors, as they may not necessarily have direct contractual nexus. Nonetheless, a licensed trust company is expected to satisfy itself that its main service providers have acceptable governance process when appointing and relying on sub-contractors, especially when the outsourcing arrangement between the licensed trust company and the main service provider is material. Some relevant factors to consider could be whether there is proper monitoring of service standards of sub-contractors, and the service providers’ track record of dealing with sub-contractors when service standards fall below the agreed thresholds. A licensed trust company should also satisfy itself that its service providers have suitable hiring and screening policies for its employees. This may require a higher degree of screening for employees in material outsourcing arrangements and/or in positions where they handle sensitive information. For example, if the compliance function is outsourced, it is in the licensed trust company’s interest to understand how the service provider performs checks on the credentials and relevant experience of its employees. The licensed trust company is not expected to subject its service provider’s employees to MAS’ Guidelines on Fit and Proper Criteria, nor directly conduct screening checks on its service providers’ employees.

[Updated on 24 November 2022]

**23 *Intra-group Outsourcing – Are the Outsourcing Guidelines applicable to intra group outsourcing?***

Yes. All financial institutions including licensed trust companies are expected to retain ownership and responsibility over their outsourced functions, regardless of whether the function has been outsourced to external service providers or intra-group entities. Licensed trust companies that are part of a group can leverage on group-wide risk control and governance functions, such as the group internal audit function, to assist in their assessment of the areas outsourced to the head office or related companies. For example, if compliance, risk management and/or other support functions are outsourced to the head office/parent company or its related entity, the licensed trust company can rely on the work of centralised internal auditors in the group that cover these functions. The licensed trust company is not expected to commission a separate audit on these outsourced functions.

[Updated on 24 November 2022]

***24 Submissions of Registers and Reports – Are licensed trust companies required to submit their outsourcing registers to MAS on a yearly basis? What about internal audit/external audit reports concerning the licensed trust company’s outsourced arrangements?***

Licensed trust companies are not required to submit their outsourcing registers to MAS on a yearly basis. MAS will give reasonable notice to licensed trust companies when MAS requires the registers for our supervisory purposes, and licensed trust companies are expected to promptly submit a copy of the register. As a matter of good practice, a licensed trust company should include all outsourcing arrangements in its outsourcing register. This includes intra-group arrangements and material sub-contractors.

Similarly, audit reports on outsourced arrangements are to be submitted upon MAS’ request.

[Updated on 24 November 2022]