

**DRAFT AMENDMENTS TO  
THE TRUST COMPANIES ACT (TCA)**

DISCLAIMER: This version of amendments is in draft form and subject to change. It is also subject to review by the Attorney-General's Chambers.

[...]

## PART II LICENSING OF TRUST COMPANIES

### Removal of officer of licensed trust company

14.—(1) Where the Authority is satisfied that an officer of a licensed trust company—

~~(a) has wilfully contravened or wilfully caused the licensed trust company to contravene this Act;~~

~~(b) has, without reasonable excuse, failed to enforce compliance with this Act;~~

~~(c) has failed to discharge the duties or functions of his office or employment;~~

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

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

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

~~(g) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly;~~

~~the Authority may, if it thinks it necessary in the interest of the public or of the protected parties of the licensed trust company, by notice in writing direct that licensed trust company to remove the officer from office or employment, and that licensed trust company shall comply with such notice notwithstanding the provisions of section 152 of the Companies Act (Cap. 50).~~

(1) Notwithstanding the provisions of any other written law, where the Authority is satisfied that an officer of a licensed trust company in Singapore, is not a fit and proper person to be an officer, the Authority may, by notice in writing to the licensed trust company, direct the licensed trust company to remove the officer from his office or employment within such period as may be specified by the Authority in the notice, and the licensed trust company must comply with the notice notwithstanding the provisions of section 152 of the Companies Act (Cap. 50) and the provisions of any other written law.

(1A) In assessing whether to direct a licensed trust company to remove an officer from his office or employment under subsection (1), the Authority may consider any matter which it considers relevant, including (but not limited to) whether –

- (a) he has wilfully contravened or wilfully caused the licensed trust company to contravene any provision of this Act;
- (b) he has, without reasonable excuse, failed to secure the compliance of the licensed trust company with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act;
- (c) he has failed to discharge any of the duties of his office or employment;
- (d) his removal is necessary in the interest of the public or the protected parties of the licensed trust company;
- (e) he is an undischarged bankrupt, whether in Singapore or elsewhere;
- (f) he has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
- (g) he has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation; or
- (h) he has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly.

(2) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, in determining whether an officer of a licensed trust company has failed to discharge the duties or functions of his office for the purposes of subsection (1A)(c), have regard to such criteria as may be prescribed or as may be specified in written directions.

(3) The Authority shall not direct a licensed trust company to remove an officer from office or employment under subsection (1) without giving that licensed trust company an opportunity to be heard, except in the following circumstances:

- (a) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;
- (b) the officer has been convicted, whether in Singapore or elsewhere, of an offence —

- (i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and
- (ii) punishable with imprisonment for a term of 3 months or more.

(4) Where the Authority directs a licensed trust company to remove an officer from office or employment under subsection (1), the Authority need not give that officer an opportunity to be heard.

(5) No criminal or civil liability shall be incurred by —

(a) a licensed trust company; or

(b) any person acting on behalf of the licensed trust company, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of its obligations under this section.

(6) Any licensed trust company which fails to comply with a notice issued by the Authority under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

[...]

## **PART IX APPEALS**

### **Appeals**

**50.—(1)** Any applicant or licensed trust company which is aggrieved by —

- (a) the refusal of the Authority to grant a trust business licence;
- (b) the revocation or suspension of a trust business licence by the Authority;
- (c) the refusal of the Authority to grant an approval to a licensed trust company to appoint a person as its director or resident manager; or
- (d) the direction of the Authority to a licensed trust company to remove an officer from office or employment,

may, within 30 days after it is notified of the decision of the Authority, appeal to the Minister whose decision shall be final.

(2) Notwithstanding the lodging of an appeal under subsection (1), the action against which the appeal was lodged shall continue to have effect pending the decision of the Minister.

(3) The Minister may, when deciding an appeal under subsection 50(1), make such modification as he considers necessary to the action taken by the Authority against which the appeal was lodged, and such modified action shall have effect from the date of the decision of the Minister.

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## PART X MISCELLANEOUS

### Duty not to furnish false information to Authority

62.—(1) Any person who furnishes the Authority with any information under this Act shall use due care to ensure that the information is not false or misleading ~~in any material particular~~.

(2) Subsection (1) shall apply only to a requirement in relation to which no other provision of this Act creates an offence in connection with the furnishing of information.

(3) Any person who —

(a) \_\_\_\_\_ signs any document lodged with the Authority; or

(b) \_\_\_\_\_ lodges with the Authority any document by electronic means using any identification or identifying code, password or other authentication method or procedure assigned to him by the Authority,

shall use due care to ensure that the document is not false or misleading ~~in any material particular~~.

(4) Any person other than an individual which fails to take reasonable care that any information furnished to the Authority under this Act is accurate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500.

(4A) Any person who furnishes any information which is false or misleading in a material particular to the Authority under this Act ~~contravenes subsection (1) or (3)~~ shall be guilty of an offence and shall be liable on conviction — ~~to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 2 years or to both.~~

(a) in the case of an individual —

(i) who committed the offence wilfully, to a fine not exceeding \$12,500 or to imprisonment for a term not exceeding 2 years or to both;

(ii) who did not commit the offence wilfully, to a fine not exceeding \$12,500; or

(b) in any other case, to a fine not exceeding \$25,000.

[...]

### **Service of documents, etc**

~~79.—(1) Any notice, order or document required or authorised by this Act or direction to be given to or served on any person may be given or served — by the Authority on a person 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.~~

~~(a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;~~

~~(b) by leaving it at his usual or last known place of residence or business in an envelope addressed to the person;~~

~~(c) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or~~

~~(d) in the case of a body corporate, unincorporated association or body of persons —~~

~~(i) by delivering it to the secretary or other like officer of the body corporate, unincorporated association or body of persons at its registered office or principal place of business; or~~

~~(ii) by sending it by registered post addressed to the body corporate, unincorporated association or body of persons at its registered office or principal place of business.~~

~~(2) In the case of a corporation, the last known address referred to in subsection (1) 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.~~

~~(2) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly given to or served on the person at the time when the notice, order or document, as the case may be, would in the ordinary course of post be delivered.~~

~~(3) When proving service of the notice, order or document referred to in subsection (2), it shall be sufficient to prove that the envelope containing the notice,~~

order or document, as the case may be, was properly addressed, stamped and posted by registered post.

### **Electronic service**

**79A.**—(1) The Authority may provide an electronic service for the service of any document that is required or authorised by this Act to be given to or served on any person.

(2) For the purposes of the electronic service, the Authority may assign to any person —

(a) an authentication code; and

(b) an account with the electronic service.

(3) Notwithstanding section 79, where any person has given his consent for any document to be given to or served on him through the electronic service, the Authority may give or serve the document on that person by transmitting an electronic record of the document to that person's account with the electronic service.

(4) Where a person has given his consent for a document to be given to or served on him through the electronic service, the document shall be deemed to have been given or served at the time when an electronic record of the document enters his account with the electronic service.

(5) Notwithstanding any other written law, in any proceedings under this Act —

(a) an electronic record of any document that was given or served through the electronic service; or

(b) any copy or print-out of that electronic record,

shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out —

(i) is certified by the Authority to contain all or any information given or served through the electronic service in accordance with this section;and

(ii) is duly authenticated in the manner specified in subsection (7) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

(6) For the avoidance of doubt —

(a) an electronic record of any document that was given or served through the electronic service; or

(b) any copy or print-out of that electronic record,

shall not be inadmissible in evidence merely because the document was given or served without the delivery of any equivalent document or counterpart in paper form.

(7) For the purposes of this section, a certificate —

(a) giving the particulars of —

(i) any person whose authentication code was used to give or serve the document; and

(ii) any person or device involved in the production or transmission of the electronic record of the document, or the copy or print-out thereof;

(b) identifying the nature of the electronic record or copy or print-out thereof; and

(c) purporting to be signed by the Authority or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

(8) Where the electronic record of any document, or a copy or print-out of that electronic record, is admissible under subsection (5), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

(9) The Authority may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing the procedure for the use of, and the procedure in circumstances where there is a breakdown or interruption of, the electronic service.

(10) In this section,—

“account with the electronic service”, in relation to any person, means a computer account within the electronic service which is assigned by the Authority to that person for the storage and retrieval of electronic records relating to that person;

“authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;

“document” includes notice and order;

“electronic record” has the same meaning as in section 2 of the Electronic Transactions Act (Cap. 88).

[...]

## Regulations

82.—(1) The Authority may make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Authority may make regulations for or with respect to —

- (a) applications for the grant of licences under this Act and matters incidental thereto;
- (b) the minimum financial and other requirements that an applicant must fulfil for it to be issued a licence under this Act;
- (c) the activities of, and standards to be maintained by, a licensed trust company, an exempt person or any person who is granted an exemption under section 80, including the manner, method and place of conducting trust business;
- (ca) the requirements applicable to a licensed trust company, an exempt person or any person who is granted an exemption under section 80, in relation to the provision of trust business and matters incidental thereto;
- (d) the particulars to be recorded in, or in respect of, books kept by a licensed trust company; and
- (e) the requirements and restrictions relating to the granting of any unsecured advance, unsecured loan or unsecured credit facility by a licensed trust company.

(3) Except as otherwise expressly provided in this Act, the regulations made under this Act —

- (a) may be of general or specific application;
- (b) may provide that a contravention of any specified provision thereof shall be an offence; and
- (c) may provide for penalties not exceeding a fine of \$25,000 or imprisonment for a term not exceeding 12 months or both for each offence.

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