

CONSULTATION PAPER

P003 - 2005
January 2005

Consultation on Draft Deposit Insurance Bill

MAS

Monetary Authority of Singapore

PREFACE

The Monetary Authority of Singapore ("MAS") has concluded two public consultation exercises on a proposed deposit insurance scheme ("DI scheme") in Singapore. The first consultation exercise, on the establishment and key features of the DI scheme, was carried out in August 2002 while the second consultation exercise on implementation issues was carried out in April 2004. MAS has made appropriate revisions to our proposals arising from feedback received.¹ Annex A summarises the key recommendations for the DI scheme, taking into account public feedback.

2 With the completion of the public consultations, MAS has proceeded to work on drafting the legislation to put the DI scheme into effect. This consultation paper invites comments on the draft Deposit Insurance Bill ("draft Bill"), appended at Annex B. The draft Bill is a new piece of legislation which will establish the DI scheme in Singapore to provide an explicit but limited guarantee to depositors that they will be compensated up to a specified amount of their deposits should the bank they placed their deposits with fails. The draft Bill incorporates the major policy proposals found in Annex A.

3 Under the draft Bill, MAS is empowered to prescribe through Regulations, certain requirements on the more detailed aspects of the DI Scheme. These Regulations will set out details on (i) asset maintenance requirements for foreign banks and (ii) premium contributions payable by member institutions. In addition, separately, the DI agency may issue rules in relation to the operation of the DI scheme. The key areas to be addressed in the rules will include:

- (a) collection of premium contributions and late payment fees;
- (b) disclosure requirements in relation to whether financial products are insured deposits;
- (c) requirements for member institutions to keep records for the purpose of computing the amount of insured deposits;
- (d) procedures for depositor payout; and

¹ The consultation papers as well as MAS' response to feedback received can be found at http://www.mas.gov.sg/masmcm/bin/pt1ConsultationPapers_Archive.htm (Aug 2002) and http://www.mas.gov.sg/masmcm/bin/pt1Reports_and_Consultation_Papers.htm (April 2004).

- (e) collection of information on the insured deposits and insured depositors of member institutions for the purpose of computing the amount of compensation.

The draft Regulations and rules will be issued for consultation at a later date.

4 We invite comments from interested parties on the draft Bill, appended at Annex B. Electronic submission is encouraged. Please submit your written comments by 28 February 2005 to:

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Annex A

Key Features of the Singapore DI Scheme

(From Consultation Papers and MAS' Responses to Feedback Received)

Membership

1. The Singapore DI scheme will cover all full banks and finance companies and membership will be compulsory.

Coverage

2. The Singapore DI scheme will cover Singapore dollar deposits held by resident and non-resident individuals.
3. The DI scheme coverage will be S\$20,000, on a per depositor, per institution basis.
4. The DI scheme will only cover the personal deposits held by individuals in standard current, savings and fixed deposits accounts. Deposits of businesses (including sole proprietorships and partnerships) will not be insured. The following will be excluded:
 - structured deposits (as defined in MAS' Guidelines on Structured Deposits);
 - money and capital market instruments, including bonds and other securities issued by banks and negotiable certificates of deposits;
 - security deposits placed with the bank for specific purposes, e.g. payment of rent or safe deposit key;
 - multi-purpose stored value cards.
5. The following deposits will also not be covered:
 - deposits in overseas branches or affiliates of locally-incorporated banks;
 - deposits placed as collateral for credit facilities extended by the bank.
6. Deposits held by registered and exempt charities under the Singapore Charities Act will be insured.

7. Deposits held in joint accounts and trust accounts will be aggregated with deposits held in the personal accounts of the respective joint account holders and beneficiaries.
8. Deposits placed under CPFIS will be insured up to \$20,000, separately from the depositor's other personal deposits; deposits made under SRS will be aggregated with the individual's other deposits for computing the amount of deposits that are insured.

Deposit Insurance Fund

9. A credible ex-ante DI fund will be established through premium contributions from participating institutions.
10. Insured deposit priority claims against a bank will be instituted to strengthen the recovery of insured deposit payouts from the failed bank. This will provide effective depositor protection with a credible fund at low cost.
11. The Singapore DI fund will have an initial target fund size of 30 basis points of total insured deposits. The target fund size may be revised based on future developments.
12. The DI fund will be invested in safe and liquid assets such as Singapore Government Securities and Singapore-dollar deposits with MAS.
13. In the event that depositor payouts exceed the size of the DI fund, the DI agency may borrow to finance the shortfall.

Asset Maintenance

14. Foreign banks should maintain sufficient eligible assets located in Singapore to meet their insured deposit liabilities at all times.

Premium Assessment and Collection

15. The premium assessment base for the Singapore DI scheme will be total insured deposits.

16. The Singapore DI scheme will levy risk-based premiums on member banks based on their supervisory ratings and asset maintenance ratios (in the case of foreign banks).
17. The premium assessment for a particular year will be based on insured deposit figures as at 31 December of the preceding year.
18. For foreign banks, the level of asset maintenance used for premium assessment will be the average of asset maintenance levels over the last three months of the preceding year.
19. The contribution for each assessment year will be made in full in a single payment, due on 1 April of that year.
20. Insured deposit data will be filed by 15 January of the assessment year. The DI agency will send an invoice to the member institution, indicating the relevant premium rate and premium payable, one month before the payment due date.
21. Premiums will be deducted from member institutions' current accounts with MAS and credited into the DI agency's account maintained with MAS.
22. New member institutions with existing deposits will be charged premiums on a pro rata basis. Premiums will be payable 1 month from commencement of operation. Newly licensed institutions without existing deposits will be charged the pro rata minimum premium.
23. Member institutions will be charged premiums as a percentage of the amount of insured deposits they hold subject to a minimum premium of \$2,500 per year.

Deposit Insurance Agency

24. The Singapore DI scheme will be administered by a public agency.
25. A new public agency will be established to administer deposit insurance. The agency will be incorporated as a company limited by guarantee.
26. The principal functions of the Singapore DI agency will be premium collection, management of the DI fund, depositor payout and consumer education.

27. While MAS will decide when deposit payouts should be made, the DI agency will verify that MAS has adhered to established procedures in triggering payouts and the agency's concurrence will have to be obtained for changes to the funding rules.
28. The DI agency will be accountable to the Minister through the Minister's power to approve the appointment of its directors and chief executive, and to approve its budget. The DI agency will be required to submit its audited financial statements to the Minister.
29. The staffing of the DI agency will be kept lean and functions that could be more readily performed by MAS will be carried out by MAS to avoid duplication and minimise cost.

Depositor Payout

30. The pre-conditions that must be met for triggering depositor payout are:
 - the making of a court order to wind up a member institution; or
 - MAS' determination that a member institution is unable or likely to become unable to meet its liabilities.These are necessary but not sufficient conditions for depositor payout.
31. Deposit payout can be made through the transfer of insured deposits to an agent bank or by cheques issued by an agent bank to depositors on behalf of the DI agency.
32. Depositors need not file claims with the DI agency. The DI agency will compute the payout due to each depositor, based on the records maintained by the failed member institution.
33. The DI agency will be automatically subrogated to the rights of depositors for the amount of depositor payout.
34. Full netting will be adopted for determining the payout to depositors in line with Singapore insolvency law.

Annex B

DRAFT DEPOSIT INSURANCE BILL

DISCLAIMER: This version of the Bill is in draft form and subject to change.

Deposit Insurance Bill

Bill No. /2005.

Read the first time on 2005.

THE DEPOSIT INSURANCE ACT 2005

(No. of 2005)

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A BILL

i n t i t u l e d

An Act to establish a deposit insurance scheme in Singapore for the purpose of providing limited compensation to depositors under certain circumstances, and for matters connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Deposit Insurance Act 2005 and shall
5 come into operation on such date as the Minister may, by notification in
the *Gazette*, appoint.

Interpretation

2.—(1) In this Act, unless the context otherwise requires —

10 “Agency” or “deposit insurance agency” means the company
designated by the Minister under section 11 to be the deposit
insurance agency for the purposes of this Act;

“Authority” means the Monetary Authority of Singapore established
under the Monetary Authority of Singapore Act (Cap. 186);

15 “bank” has the same meaning as in section 2(1) of the Banking Act
(Cap. 19);

“bank in Singapore” has the same meaning as in section 2(1) of the
Banking Act;

20 “book” includes any record, register, document or other record of
information, and any account or accounting record, however
compiled, recorded or stored, whether in written or printed form or
on microfilm or in electronic form or otherwise;

“Chief Executive” means the Chief Executive of the Agency
appointed under section 17 and includes any person acting in that
capacity;

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

“corporation” has the same meaning as in section 4(1) of the
Companies Act;

30 “CPFIS” means the Central Provident Fund Investment Scheme
introduced by the Central Provident Fund Board under the Central
Provident Fund (Investment Schemes) Regulations;

“deposit” means a sum of money paid on terms —

(a) under which it will be repaid, with or without interest or a premium, or with any consideration in money or money's worth, either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it; and

(b) which are not referable to the provision of property or services or to the giving of security;

“deposit-taking business” has the same meaning as in section 4B of the Banking Act (Cap. 19);

“depositor” means any person who is entitled to repayment of a deposit, whether or not the deposit is made by him;

“failed Scheme member” means a Scheme member in respect of which the Authority has determined that compensation will be paid out of the Fund to insured depositors;

“finance company” has the same meaning as in section 2 of the Finance Companies Act (Cap. 108);

“full bank” means any bank holding a licence granted by the Authority under the Banking Act which permits the bank to carry on the full range of banking business;

“Fund” means the Deposit Insurance Fund established under section 8;

“insured deposit” has the meaning as specified in the Schedule;

“insured depositor” means any of the following depositors:

(a) an individual, except an individual who places a deposit in an account with a Scheme member in the name of a partnership or sole proprietorship;

(b) a charity as defined in section 2(1) of the Charities Act (Cap. 37), which is —

(i) registered under section 5 of that Act;

(ii) specified in the Schedule to that Act; or

(iii) excepted by regulations made under that Act;

(c) such other person or class of persons as may be prescribed;

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

“officer” has the same meaning as in section 2(1) of the Banking Act (Cap. 19);

5 “premium year”, in relation to the assessment and payment of premium contributions, means such period as may be specified by the Agency in the Rules as a premium year;

“quantification date” means —

- (a) the date on which a Scheme member is wound up; or
- 10 (b) where a Scheme member is not wound up, the date on which the notice of payment of compensation is published in the *Gazette* under section 26(4);

“Rules” means any rules issued by the Agency under section 18;

15 “Scheme” means the Deposit Insurance Scheme established under section 3;

“Scheme member” means a member of the Scheme;

“securities” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

20 “Supplementary Retirement Scheme” has the same meaning as in section 2(1) of the Income Tax Act (Cap. 134).

(2) For the purposes of the definition of “deposit”, money is paid on terms which are referable to the provision of property or services or to the giving of security if, and only if —

- 25 (a) it is paid by way of advance or part payment under a contract for the sale, hire or other provision of property or services, and is repayable only in the event that the property or services is or are not in fact sold, hired or otherwise provided;
- (b) it is paid by way of security for the performance of a contract or by way of security in respect of loss which may result from the non-performance of a contract; or
- 30 (c) without prejudice to paragraph (b), it is paid by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise.

PART II

DEPOSIT INSURANCE SCHEME

Establishment of Deposit Insurance Scheme

5 3. There shall be established a scheme to be called the Deposit Insurance Scheme for the benefit of insured depositors in respect of their insured deposits placed with members of the Scheme.

Membership of Scheme

10 4.—(1) Every full bank or finance company which is not exempted under section 5 shall be a member of the Scheme so long as it holds a valid licence under the Banking Act (Cap. 19) or Finance Companies Act (Cap. 108), as the case may be.

15 (2) A full bank or finance company, which holds a valid licence under the Banking Act or Finance Companies Act, as the case may be, immediately before the appointed day, shall be deemed to be a member of the Scheme from the appointed day.

(3) A full bank or finance company, which is granted a licence under the Banking Act or Finance Companies Act, as the case may be, after the appointed day, shall be a member of the Scheme from the date on which its licence is granted.

20 Exemption from membership

5.—(1) A full bank or finance company may apply in writing to the Authority to be exempted from the requirement under section 4(1) to be a member of the Scheme.

25 (2) The Authority may by notification published in the *Gazette* exempt a full bank or finance company referred to in subsection (1) (referred to in this section as an exempt member) from the requirement under section 4(1).

30 (3) The Authority may require an applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

(4) Without prejudice to the generality of subsection (2), the Authority shall, in determining whether to grant an exemption under subsection (2), have regard to —

- 5 (a) the scope of deposit-taking business conducted by the full bank or finance company, as the case may be, in Singapore; and
- (b) in the case of a full bank which is incorporated in a jurisdiction other than Singapore —
 - 10 (i) whether the deposits accepted by its Singapore office are insured by a deposit insurance scheme, or other scheme of a similar nature, established and maintained in the jurisdiction in which the full bank is incorporated (referred to in this section as the foreign scheme); and
 - 15 (ii) whether the scope and level of protection available to those deposits under the foreign scheme are not less than the scope and level of protection that would be available to the deposits under the Scheme if those deposits were insured by the Scheme.

20 (5) The Authority may, by notice in writing, impose on an exempt member such conditions or restrictions relating to the exemption as the Authority may think fit.

(6) The Authority may at any time —

- 25 (a) by notice in writing to an exempt member, add to, vary or revoke any existing condition or restriction imposed by the Authority under subsection (5); or
- (b) by notice in writing impose such conditions or restrictions as the Authority may think fit on a class of exempt members.

(7) An exempt member shall comply with all conditions or restrictions imposed on it under subsection (5) or (6), as the case may be.

30 (8) Any exempt member which contravenes subsection (7) 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 of \$10,000 for every day during which the offence continues after conviction.

Withdrawal of exemption

6.—(1) The Authority may withdraw an exemption granted to any full bank or finance company under section 5(2) if the Authority considers it necessary in the public interest.

5 (2) Before withdrawing any exemption granted to a full bank or finance company under section 5(2), the Authority shall —

(a) give the full bank or finance company, as the case may be, notice in writing of its intention to do so; and

10 (b) in the notice referred to in paragraph (a), call upon the full bank or finance company to show cause within such time as may be specified in the notice why the exemption should not be withdrawn.

(3) If the full bank or finance company referred to in subsection (1) —

15 (a) fails to show cause within the time specified in the notice or within such extended period of time as the Authority may allow; or

(b) fails to show sufficient cause,

20 the Authority shall give notice in writing to the bank or finance company, as the case may be, of the date on which the withdrawal of the exemption is to take effect.

Maintenance of assets in Singapore

7.—(1) The Authority may require a Scheme member, or a class of Scheme members, to maintain, in relation to its insured deposits, assets in Singapore for meeting its liabilities in respect of those insured deposits.

25 (2) For the purpose of this section, the Authority may make regulations for or with respect to —

(a) the circumstances under which, and the manner in which, the Authority may impose an asset maintenance requirement;

30 (b) the types of assets that are to be treated as assets maintained in Singapore and the minimum amount of each type of asset for the purpose of an asset maintenance requirement; and

(c) the method for the valuation of assets maintained in Singapore.

PART III

DEPOSIT INSURANCE FUND

Establishment of Deposit Insurance Fund

5 **8.**—(1) There shall be established a fund to be called the Deposit Insurance Fund which shall, subject to the directions of the Minister, be controlled and administered by the Agency designated by the Minister under section 11.

(2) The Fund shall consist of—

- 10 (a) all premium contributions and late payment fees paid by Scheme members;
- (b) all moneys borrowed by the Agency for the purpose of performing its functions under this Act;
- (c) all moneys recovered by the Agency from, or out of the assets of, failed Scheme members;
- 15 (d) any interest, dividend and other income derived from the investment of the moneys in the Fund; and
- (e) all other moneys lawfully paid into the Fund.

(3) The Fund shall be used for the objects and purposes of the Scheme set out in this Act.

20 (4) For the avoidance of doubt, the Fund shall not be a fund of the Agency or the Authority.

Expenditure of moneys of Fund

9.—(1) In carrying out the objects of this Act, there shall be paid out of the Fund as required and at such time as the Agency considers proper—

- 25 (a) all expenses incurred in or incidental to—
- (i) the establishment and maintenance of the Scheme;
- (ii) the management and administration of the Fund;
- (iii) the management and administration of the Agency and the performance of the duties and functions of the Agency
- 30 under this Act; and

(iv) the conduct of any investigations by the Agency for the purpose of determining the entitlement of insured depositors; and

(b) all other moneys payable out of the Fund in accordance with this Act.

(2) Notwithstanding subsection (1), the Authority may recover from the Agency out of the Fund, all expenses incurred in the establishment of the Agency.

Investment

10.—(1) The Agency may invest any moneys in the Fund which are not immediately required by the Agency for the performance of its functions under the Act in one or more of the following:

(a) any security issued by the Government;

(b) Singapore dollar deposits with the Authority;

(c) such other investments, with the objects of capital preservation and maintenance of liquidity, as may be approved by the Minister.

(2) The Agency may delegate all or any of its powers and functions under subsection (1) to any employee or agent as it may appoint.

(3) The Agency may pay to any person appointed under subsection (2) a reasonable fee for any service rendered in exercise of any power and function delegated to that person under that subsection.

PART IV

DEPOSIT INSURANCE AGENCY

Designation of company to be deposit insurance agency

11. The Minister may, by notification in the *Gazette*, designate a company incorporated in Singapore to be the deposit insurance agency for the purposes of this Act.

Functions of Agency

12.—(1) Subject to the provisions of this Act, the functions of the Agency shall be —

- (a) to administer the Scheme;
- (b) to administer and manage the Fund; and
- (c) to educate the public on the Scheme.

5 (2) Without prejudice to the generality of subsection (1), the functions of the Agency shall include the following:

- (a) collect premium contributions levied on Scheme members;
- (b) make payments of compensation in respect of insured deposits to insured depositors out of the Fund after the Agency has assessed the claims made against the Fund and determined the eligibility and entitlement of depositors;
- 10 (c) make interim payments of compensation to insured depositors of such amounts as the Agency considers appropriate; and
- (d) claim from the liquidator or provisional liquidator of a failed Scheme member, payment out of the assets of the failed Scheme member for reimbursement of the amount of compensation paid
- 15 to the insured depositors concerned out of the Fund, together with any interest accrued thereon.

Amendment to memorandum and articles of association of Agency

20 **13.**—(1) Notwithstanding any provision in the Companies Act (Cap. 50), the Agency shall not amend the memorandum and articles of association of the Agency without the prior approval of the Minister.

(2) Any amendment made to the memorandum and articles of association of the Agency without the approval of the Minister shall be void.

Appointment of board of directors

14.—(1) Notwithstanding any provision in the Companies Act and the memorandum and articles of association of the Agency, the board of directors of the Agency shall be appointed by the members of the Agency with the approval of the Minister.

30 (2) The board of directors shall consist of—

- (a) a Chairman; and
- (b) not less than 5 but not more than 9 other directors, as the Minister may from time to time determine.

(3) The board of directors so appointed shall —

(a) comprise directors who are not substantial shareholders, directors or employees of —

(i) any Scheme member; or

(ii) a related corporation of any Scheme member; and

(b) hold office for a term not exceeding 3 years and shall be eligible for reappointment.

(4) The Minister may, if he thinks fit, appoint one of the directors on the board to be the Deputy Chairman.

(5) In this section —

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

“substantial shareholder” has the same meaning as in section 81 of the Companies Act.

Board to be accountable to Minister

15. The board of directors shall be accountable to the Minister for its acts and decisions.

Salaries, fees and allowances payable to Chairman and directors

16. There shall be paid to the Chairman of the board of directors and directors of the Agency out of the Fund such salaries, fees and allowances as the Minister may, from time to time, determine.

Appointment of Chief Executive and employees, etc.

17.—(1) The board of directors shall, with the approval of the Minister, appoint a Chief Executive on such terms and conditions as the board may determine.

(2) The Chief Executive shall —

(a) be known by such designation as the board may determine;

(b) be responsible to the board for the proper administration and management of the functions and affairs of the Agency in accordance with the policies and directions established by the board; and

(c) not be removed from office without the consent of the Minister.

(3) The board may, with the concurrence of the Minister, appoint any other person to perform the duties of the Chief Executive whenever the Chief Executive is unable to perform his duties for any period because of absence from Singapore, illness or any other reason.

(4) The Agency may, from time to time, appoint and employ, on such terms and conditions as it may determine, such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

10 **Rules issued by Agency**

18.—(1) The Agency may issue, and in its discretion, publish by notification in the *Gazette* or in any other manner it considers appropriate, rules for any matter relating to any of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), such rules may provide for —

- (a) the manner and method of collection of premium contributions and late payment fees;
- (b) the manner of disclosure by Scheme members in relation to whether their financial products are insured deposits;
- 20 (c) the particulars to be recorded in, or in respect of, books kept by Scheme members for the purpose of computing the amount of insured deposits placed with the Scheme members;
- (d) the manner in which compensation is to be paid to insured depositors from the Fund; and
- 25 (e) the collection, from any Scheme member, by the Agency, of such information in relation to its insured deposits and insured depositors for the purpose of computing the amount of compensation which is to be paid to insured depositors.

(3) The Agency may, at any time, amend or revoke the whole or part of any rule issued under this section.

(4) Without limiting the operation of any other provision of this Act, the Rules shall bind the Agency and the Scheme members to the same extent as if the Rules had been contained in properly executed agreements on the

part of the Agency and each Scheme member, to observe and comply with all the Rules.

(5) For the avoidance of doubt, any Rules issued under this section shall be deemed not to be subsidiary legislation.

5 **Power of court to order observance of or compliance with Rules**

10 **19.**—(1) Where any person who is bound to observe or comply with the Rules fails to do so, the High Court may, on the application of the Agency, a Scheme member or a person aggrieved by the failure, and after giving the first-mentioned person an opportunity to be heard, make an order directing the first-mentioned person to observe or comply with those Rules.

(2) This section is in addition to, and not in derogation of, any other remedy available to an aggrieved person referred to in subsection (1).

PART V

15 PREMIUMS

Premium contributions payable by Scheme members

20.—(1) Every Scheme member shall pay a premium contribution in respect of its insured deposits for any premium year.

20 (2) Premium contributions shall, subject to the provisions of this Act, be payable in the amounts computed by the Authority under section 21.

Determination of premium rates and premium contributions

21.—(1) The Authority shall assess and determine the premium rates for the purposes of computing the premium contributions payable by Scheme members.

25 (2) The Authority shall, on the basis of the premium rates determined under subsection (1), compute the amount of premium contribution payable by a Scheme member for any premium year.

30 (3) For the purposes of assessing and determining the premium rates and computing the amount of premium contributions payable, the Authority may make regulations for or in respect of all or any of the following matters:

- (a) the establishment of a system of classifying Scheme members into different categories;
- (b) the criteria and procedure for determining the category in which a Scheme member is to be classified;
- 5 (c) the prescribing of the premium rate applicable to each category of Scheme members;
- (d) the manner in which the premium rate for each category of Scheme members is to be determined;
- 10 (e) the prescribing of a minimum premium contribution payable by Scheme members;
- (f) the manner in which the amount of premium contribution for each category of Scheme members is to be determined;
- 15 (g) the computation of premium contribution on a pro rata basis where a full bank or finance company becomes a Scheme member, or is no longer exempted from the requirement to be a Scheme member, at any time during a premium year;
- (h) the size of the Fund.

20 (4) Regulations made pursuant to or dealing with the matters referred to in subsection (3)(c) or (d) may provide for different premium rates for different categories of Scheme members.

25 (5) If the Authority wishes to amend or vary any regulations made pursuant to or dealing with the matters referred to in subsection (3)(c) or (d), the Authority shall first conduct a joint review with the Agency and such regulations shall not be amended or varied without the concurrence of the Agency.

Notice of payment of premium contributions

22.—(1) Where the Authority has computed the amount of premium contribution payable by a Scheme member for any premium year under section 21(2), the Authority shall notify the Agency accordingly.

30 (2) Upon receipt of the notification referred to in subsection (1), the Agency shall, within such time as may be specified in the Rules, give the Scheme member notice in writing of the amount of premium contribution that the Scheme member is required to pay under the Scheme for that premium year.

(3) The Agency may, with the approval of the Minister, remit or refund in whole or in part the premium contribution payable or paid by any Scheme member under this Act.

Additional premium contributions where Fund insufficient to pay compensation

23.—(1) Where the Fund is insufficient to pay any compensation due to insured depositors under this Act, the Authority may, with the concurrence of the Agency, determine —

(a) that Scheme members shall be required to pay additional premium contributions for any premium year; and

(b) the premium rate or rates for the purposes of computing the additional premium contributions.

(2) Where a determination is made under subsection (1),

(a) the Authority shall, as soon as practicable —

(i) publish a notice in the *Gazette* of the requirement to pay additional premium contributions and the premium rate or rates of the additional premium contributions referred to in subsection (1); and

(ii) compute the amount of additional premium contributions payable by Scheme members for that premium year and notify the Agency accordingly; and

(b) the Agency shall, upon receipt of the notification referred to in subsection (2)(a)(i), give notice in writing to every Scheme member of the amount of additional premium contribution that the Scheme member is required to pay for that premium year and the date by which the additional premium contribution shall be paid.

(3) Any Scheme member shall not, without the prior approval of the Minister, be required to pay additional premium contribution for any premium year exceeding 0.3% of the insured deposit base of the Scheme member.

(4) In this section, “insured deposit base” means the aggregate amount of insured deposits maintained with a Scheme member as at a date specified in the Rules to be used for computing the amount of premium contributions payable by Scheme members.

Disclosure of premium contributions

24.—(1) Subject to subsections (2) and (3), no Scheme member or officer of any Scheme member shall disclose to any person the amount of premium contribution that is paid by the Scheme member to the Agency for any premium year.

(2) Notwithstanding subsection (1), a Scheme member or an officer of a Scheme member may disclose to any of its directors, officers or professional advisers the amount of premium contribution paid where such disclosure is necessary for the performance of the duties of the director, officer or professional adviser, as the case may be.

(3) No person to whom the Scheme member or officer has disclosed information pursuant to subsection (2) shall disclose that information to any other person.

(4) 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 \$125,000 or to imprisonment for a term not exceeding 3 years or both.

Collection of premium contributions and late payment fees

25.—(1) Where a Scheme member is given notice in writing to pay a premium contribution under section 22(2) or an additional premium contribution under section 23(2) for any premium year, the Scheme member shall pay to the Agency —

(a) in the case of the premium contribution, on or before the date of payment specified in the Rules; and

(b) in the case of the additional premium contribution, on or before the date of payment specified in the notice,

the amount of premium contribution or additional premium contribution, as the case may be, that the Scheme member is required to pay for that premium year.

(2) Subject to subsection (3), if a Scheme member fails to pay the premium contribution or additional premium contribution or any part thereof in contravention of subsection (1), the Agency may impose on the Scheme member such late payment fee as the Agency may by Rules determine.

(3) The late payment fee referred to in subsection (2) shall not exceed the amount of premium contribution or additional premium contribution, as the case may be, owing by the Scheme member.

5 (4) The Scheme member shall pay to the Agency the amount of premium contribution owing by the Scheme member and the late payment fee within such period and in such manner as may be specified in the Rules.

10 (5) Without prejudice to any other remedy, any premium contribution, additional premium contribution or late payment fee payable under this Act may be recovered by the Agency by an action for a debt in any court of competent jurisdiction.

15 (6) Where the Agency has commenced any legal proceedings in a court in Singapore to recover a premium contribution, an additional premium contribution or a late payment fee from a Scheme member, the Agency shall be entitled to claim costs on a full indemnity basis from that Scheme member.

PART VI

COMPENSATION

Occurrence of events precipitating payment of compensation

20 **26.**—(1) Where, on or after the effective date —

(a) an order is made by a court in Singapore or elsewhere to wind up a Scheme member; or

25 (b) the Authority is of the opinion that a Scheme member is insolvent, unable or likely to become unable to meet its obligations, or about to suspend payments,

the Authority may determine that compensation shall be paid out of the Fund to the insured depositors of the Scheme member in accordance with this Act.

30 (2) Where the Authority determines that compensation shall be paid out of the Fund under subsection (1), the Authority shall immediately give notice in writing to the Agency of its determination.

(3) The notice in writing referred to in subsection (2) shall be in such form and contain such information as may be agreed between the Authority and the Agency.

5 (4) The Agency shall, immediately upon receiving the notice referred to in subsection (2), publish a notice in the *Gazette* stating that a payment of compensation shall be made out of the Fund.

(5) For the purposes of subsection (1), the Minister shall by notification in the *Gazette* appoint a date to be the effective date.

Entitlement to compensation

10 **27.**—(1) Subject to sections 28 and 29, where an insured depositor has one or more insured deposits (other than any moneys placed with a Scheme member under the CPFIS which are denominated in Singapore dollars) placed with a failed Scheme member, which —

- (a) the insured depositor holds in his own right;
- 15 (b) the insured depositor holds jointly with one or more other persons in a joint account; or
- (c) a depositor holds as trustee for the insured depositor,

20 the insured depositor shall be entitled to compensation from the Fund of the specified amount which shall not exceed \$20,000, regardless of the number or amount of insured deposits that the insured depositor has placed with the Scheme member.

25 (2) Where any insured deposit of an insured depositor placed with a failed Scheme member consists of moneys placed with a Scheme member under the CPFIS which are denominated in Singapore dollars, such moneys shall not be aggregated with his other insured deposits placed with that Scheme member for the purposes of determining the amount of compensation that the insured depositor is entitled to, and the insured depositor shall be entitled, in respect of moneys placed with a Scheme member under the CPFIS which are denominated in Singapore dollars, to
30 compensation from the Fund of an amount not exceeding \$20,000.

(3) For the purposes of this section —

- (a) “specified amount” means the amount by which the aggregate amount of insured deposits (other than any moneys placed with a Scheme member under the CPFIS which are denominated in
35 Singapore dollars) which the insured depositor has placed with

the failed Scheme member as at the quantification date exceeds the aggregate amount of liabilities of the insured depositor to that failed Scheme member in respect of which a right of set-off would have existed had a winding-up order been made in respect of the failed Scheme member as at the quantification date, after deducting any interest accrued on the liabilities calculated up to and including the quantification date; and

- (b) in determining the amount of liabilities of the insured depositor to the failed Scheme member, the same rules shall apply with regard to future and contingent liabilities as are in force for the time being under the law relating to bankruptcy in relation to the estates of persons adjudged bankrupt, as if the failed Scheme member were a person so adjudged.

Deposits in own right and joint accounts

28.—(1) Where an insured depositor holds an insured deposit in his own right, the insured depositor is entitled, in respect of the insured deposit as at the quantification date, to compensation from the Fund.

(2) Where there are 2 or more insured depositors in respect of any insured deposit, each of those insured depositors is entitled, in respect of his share in the insured deposit as at the quantification date, to compensation from the Fund.

(3) For the purposes of subsection (2), each of the insured depositors shall be deemed to have an equal share in the insured deposit unless there is an express provision to the contrary in the books of the failed Scheme member.

(4) For the avoidance of doubt—

(a) any insured deposit of a deceased person held in an estate account shall be treated as an insured deposit held by the deceased person in his own right; and

(b) subsection (3) does not affect any rights as between the insured depositors themselves.

Trust accounts

29.—(1) Where a depositor of an insured deposit with a failed Scheme member holds the deposit as a trustee under a trust and the identity of the beneficiary is disclosed in the records of the Scheme member, the

beneficiary who is an insured depositor, but not the depositor, shall be entitled, in respect of the deposit held under the trust as at the quantification date, to compensation from the Fund.

5 (2) Where a depositor of an insured deposit with a failed Scheme member holds the deposit as a trustee under different trusts and the identity of the beneficiary of each of those trusts is disclosed in the records of the Scheme member, the beneficiary of each of those trusts who is an insured depositor, but not the depositor, is entitled, in respect of the portion of the deposit held under the trust as at the quantification date,
10 to compensation from the Fund.

(3) For the purposes of subsections (1) and (2), where the beneficiaries of a trust consists of 2 or more insured depositors, each of those insured depositors is entitled, in respect of his share in the insured deposit as at the quantification date, to compensation from the Fund.

15 (4) For the purpose of subsection (3), each of the depositors shall be deemed to have an equal share in the insured deposit unless there is an express provision to the contrary in the books of the failed Scheme member.

Restrictions on entitlement to compensation

20 **30.** Where the Agency has paid an insured depositor the full amount of compensation payable to the insured depositor in respect of his insured deposits in accordance with this Act, no other person is entitled, in respect of the insured deposits, to compensation under this Part.

Computation and method of payment of compensation

25 **31.—**(1) The Agency shall compute the amount of compensation due to an insured depositor in respect of his insured deposits placed with a failed Scheme member in accordance with this Act.

(2) In determining the eligibility and entitlement of an insured depositor to compensation and computing the amount of compensation due to an insured depositor, the Agency is entitled to rely on the books of the failed
30 Scheme member and any other books which, in the opinion of the Agency, are relevant for such computation.

(3) The Agency shall pay the compensation in such form and manner as may be specified in the Rules.

Subrogation

5 **32.**—(1) On payment out of the Fund of any compensation under this Act to any insured depositor in respect of his insured deposit, the Agency shall be subrogated to the extent of such payment to all the rights and remedies of the insured depositor in respect of his insured deposit in priority over —

(a) the rights and remedies of the insured depositor in relation to that deposit; and

10 (b) the rights and remedies of any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of the insured depositor in relation to that deposit,

and may maintain an action in respect of those rights and remedies in the name of the insured depositor or in the name of the Agency.

15 (2) The insured depositor, or any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of the insured depositor referred to in subsection (1), shall not be entitled to be receive any amount from, or out of, the assets of the failed Scheme member until the Agency has been reimbursed in full the amount of compensation paid to the insured depositor.

20 **Recovery of payment**

33.—(1) If the amount of compensation paid to an insured depositor out of the Fund is subsequently found to be greater than the amount of compensation that the depositor is entitled to under this Act, the depositor shall repay the excess to the Agency in such manner and within such 25 period as specified by the Agency.

(2) Without prejudice to any other remedy, any excess payment payable by any depositor may be recovered by the Agency by an action for a debt in any court of competent jurisdiction.

30 (3) The Agency shall, on collecting any such excess payment from a depositor, pay it into the Fund.

PART VII

OFFENCES

Offences committed by bodies corporate

5 **34.**—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, the officer as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

10 (2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

False statements regarding membership and insured deposits

15 **35.**—(1) No person shall, knowingly or recklessly, make a false or misleading statement as to whether or not —

 (a) any person is a Scheme member; or

 (b) any deposit, or other financial product, is an insured deposit.

20 (2) Any person who contravenes subsection (1) shall, notwithstanding that a contract does not come into being, 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.

Offence by officer

25 **36.**—(1) Any officer of a full bank or finance company who fails to take all reasonable steps to secure —

 (a) compliance by the full bank or finance company, as the case may be, with any provision of this Act; or

30 (b) the accuracy and correctness of any statement submitted to the Authority, Agency or such other person as may be required under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

5 (2) In any proceedings against a person under subsection (1), it shall be a defence for the person to prove that he had reasonable grounds for believing that another person was charged with the duty of securing compliance with the requirements of this Act, or with the duty of ensuring that those statements were accurate and correct, as the case may be, and that that person was competent, and in a position, to discharge that duty.

10 (3) A person shall not be sentenced to imprisonment for any offence under subsection (1) unless, in the opinion of the court, he committed the offence wilfully.

Duty not to furnish false information to Authority or Agency

15 **37.**—(1) Any person who furnishes the Authority or Agency with any information under or for the purposes of any provision of this Act shall use due care to ensure that the information is not false or misleading in any material particular.

20 (2) Subsection (1) applies 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 contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both.

General penalty

25 **38.** Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$50,000.

Penalty for corporation

30 **39.**—(1) Subject to subsections (2) and (3), where a corporation or body corporate is convicted of an offence under this Act, the penalty that the court may impose is a fine not exceeding 2 times the maximum amount that the court could, but for this subsection, impose as a fine for that offence.

(2) Subsection (1) shall not apply to —

(a) an offence under section 5(8); and

(b) offences under the subsidiary legislation made under this Act where it is expressly provided in the subsidiary legislation that subsection (1) shall not apply to those offences.

5 (3) Where an individual is convicted of an offence under this Act by virtue of section 34, he shall be liable to the fine or imprisonment or both as prescribed for that offence and subsection (1) shall not apply.

Jurisdiction of District Court

10 **40.** Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Composition of offences

15 **41.**—(1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine that is prescribed for the offence.

20 (2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Minister may make regulations to prescribe the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Authority.

PART VIII

MISCELLANEOUS

Protection from personal liability

42. No suit or other legal proceedings shall lie against —

(a) the Agency;

(b) any director, officer, employee or agent of the Agency; or

30 (c) any person acting under the direction of the Agency,

for anything done (including any statement made) or omitted to be done in good faith in —

- (i) the exercise or purported exercise of any power under this Act;
- (ii) the performance or purported performance of any function or duty under this Act; or
- (iii) the execution or purported execution of this Act.

Preservation of confidentiality

43.—(1) No person who is or has been a member, a director, an officer, an employee or an agent of the Agency shall disclose any information relating to the affairs of the Agency or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions unless such disclosure is made —

- (a) with the permission of the person from whom the information was obtained or, where the information is the confidential information of a third person, with the permission of that third person;
- (b) for the purpose of the performance of his duties or the exercise of his functions under this Act;
- (c) in compliance with the requirement of any court or the provisions of any written law; or
- (d) for the purpose of assisting any public officer or officer of any other statutory board in the investigation or prosecution of any offence under any written law.

(2) No person who is or has been a member, director, an officer, an employee or an agent of the Agency shall, for his own personal benefit or for the personal benefit of any other person, make use of any information, whether directly or indirectly, which has been obtained by him in the performance of his duties or the exercise of his functions.

(3) For the purpose of this section, the reference to a person disclosing or making use of any information includes his permitting any other person to have any access to any record, document or other thing which is in his possession or under his control by virtue of his being or having been a member, a director, an officer, an employee or an agent of the Agency.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

General exemption

5 **44.**—(1) The Minister may by regulations, exempt any person or class of persons from all or any of the provisions of this Act, subject to such terms or conditions as may be prescribed.

(2) The Minister may, on application of any person, by notice in writing exempt the person from all or any of the provisions of this Act or the requirements in any written direction if the Minister considers it
10 appropriate to do so in the circumstances of the case.

(3) An exemption under subsection (2) —

(a) may be granted subject to such terms or conditions as the Minister may specify by notice in writing;

15 (b) need not be published in the *Gazette*; and

(c) may be withdrawn at any time by the Minister.

(4) Any person who contravenes any term or condition prescribed under subsection (1) or specified by the Minister under subsection (3)(a) shall be guilty of an offence.

20 Provision of information and production of books

45.—(1) The Authority may, by notice in writing, require a Scheme member to —

(a) provide such information; or

(b) produce any book,

25 at such time and in such manner as the Authority may reasonably require for the proper discharge of its functions.

(2) Any information received from a Scheme member under this section shall be treated as secret by the Authority.

(3) Nothing in subsection (1) shall preclude the Authority from
30 disclosing the information if —

(a) the information is already in the public domain;

- (b) the information is disclosed in such a manner that an individual Scheme member's identity cannot be ascertained;
- (c) the Scheme member consents to the disclosure; or
- (d) disclosure of the information on individual Scheme members is necessary in the Authority's performance of its functions or in the exercise of its powers.

(4) Any Scheme member which fails to or neglects to furnish any information, or produce any book required by the Authority under this section shall be guilty of an offence.

Service of documents, etc.

46.—(1) Any notice, order or document required or authorised by this Act to be served on any person may be served —

- (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, firm or body of persons —
 - (i) by delivering it to the secretary or other like officer of the body corporate, firm 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, firm or body of persons at its registered office or principal place of business.

(2) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly 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.

Copies or extracts of books to be admitted in evidence

47.—(1) Subject to this section, a copy of or an extract from a book mentioned in this Act that is proved to be a true copy of the book or of the relevant part of the book is admissible in evidence as if it were the original book or the relevant part of the original book.

(2) For the purposes of subsection (1), evidence that a copy of or an extract from a book is a true copy of the book or of a part of the book may be given by a person who has compared the copy or extract with the book or the relevant part of the book and may be given orally or by an affidavit sworn, or by a declaration made, before a person authorised to take affidavits or statutory declarations.

Application of Companies Act

48. Nothing in this Act, with the exception of sections 13, 14, 15, 17 and 42, shall affect the operation of the Companies Act (Cap. 50) in relation to its application to a company that is designated as the Agency under section 11.

Insurance Act not to apply

49. The provisions of the Insurance Act (Cap. 142) shall not apply to the Agency and the Scheme.

Amendment of Schedule

50.—(1) The Minister may, at any time, by order published in the *Gazette*, amend, add to or vary the Schedule.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations

51.—(1) The Minister may, from time to time, make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

(2) Except as otherwise expressly provided in this Act, regulations made under this Act may —

- (a) be of general or specific application; and
- (b) provide that a contravention thereof shall be punishable —
- (i) in the case of an individual, with a fine not exceeding \$12,500 or with imprisonment for a term not exceeding 12 months or with both and in the case of a continuing offence, with a further fine not exceeding \$1,250 for every day or part thereof during which the offence continues after conviction; or
- (ii) in the case of a company or body corporate, with a fine not exceeding \$25,000 and in the case of a continuing offence, with a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

Related amendments to the Monetary Authority of Singapore Act

52. Section 23(1) of the Monetary Authority of Singapore Act (Cap. 186) is amended —

- (a) by deleting the word “and” at the end of sub-paragraph (q); and
- (b) by inserting immediately after sub-paragraph (q), the following sub-paragraph:

“(qa) form or participate in the formation of any company or in any joint venture as a shareholder or partner or in any other capacity, with any firm, body corporate, society or institution for purposes that are necessary or expedient for the purpose of discharging its functions;”.

Related amendments to the Banking Act

53.—(1) Section 20 of the Banking Act (Cap. 19) is amended —

- (a) by deleting the word “or” at the end of subsection (1)(a)(vi); and
- (b) by inserting immediately after subsection (1)(a)(vii), the following sub-paragraph:

“(ix) has contravened any provision of the Deposit Insurance Act 2005 or any rules issued by the deposit

insurance agency under the Deposit Insurance Act 2005; or”.

(2) Section 61 of the Banking Act is amended —

- 5 (a) by deleting the words “deposit liabilities of the bank in Singapore” in subsections (1) and substituting the words “liabilities set out in section 62(1) of the Act”; and
- (b) by deleting the word “deposit” in the section heading and substituting the word “specified”.

(3) Section 62 of the Banking Act is amended —

- 10 (a) by deleting subsection (1) and substituting the following subsection:

“*(1)* Notwithstanding the provisions of any written law or rule of law relating to the winding up of companies, in the event of a winding up of a bank, the following liabilities of the bank shall, amongst themselves, rank in the following order of priority:

15

- (a) firstly, any premium contributions due and payable by the bank under the Deposit Insurance Act 2005;
- 20 (b) secondly, liabilities incurred by the bank in respect of insured deposits;
- (c) thirdly, deposit liabilities incurred by the bank with non-bank customers where the deposit liabilities are required by the Authority to be included in the computation of the reserve and liquidity requirements under sections 38 and 39 and liabilities incurred by the bank with non-bank customers where the liabilities are required by the Authority to be subject to reserve and liquidity requirements under section 77A, as the case may be, other than those specified in paragraph (b) above;
- 25
- 30 (d) fourthly, deposit liabilities incurred by the bank with other banks where the deposit liabilities are required by the Authority to be included in the computation of the reserve and liquidity requirements under sections 38 and 39;
- 35

(e) fifthly, deposit liabilities incurred by the bank with non-bank customers where the deposit liabilities are not required by the Authority to be included in the computation of the reserve and liquidity requirement under sections 38 and 39.”; and

5

(b) by inserting, immediately after subsection (4), the following subsection:

“(5) In this section, “insured deposit” has the same meaning as in section 2(1) of the Deposit Insurance Act 2005.”.

10

(3) The Third Schedule to the Banking Act is amended —

(a) by deleting item 9 of Part I and substituting the following item:

<i>“First column</i>	<i>Second column</i>	<i>Third column</i>
Purpose for which customer information may be disclosed	Persons to whom information may be disclosed	Conditions
9. Disclosure is in compliance with the provisions of this Act, the Deposit Insurance Act 2005 or any notice or directive issued by the Authority to banks.”;	The Authority or any person authorised or appointed by the Authority.	

(b) by inserting, immediately after item 9 of Part II, the following item:

15

<i>“First column</i>	<i>Second column</i>	<i>Third column</i>
Purpose for which customer information may be disclosed	Persons to whom information may be disclosed	Conditions
10. Disclosure is solely in connection with the payment of compensation to	(a) the deposit insurance agency; or (b) any person authorised or	(a) The disclosure by the deposit insurance agency to any

insured depositors under the Deposit Insurance Act 2005.

appointed by the deposit insurance agency to perform its functions under the Deposit Insurance Act 2005.

person referred to in paragraph (b) of the second column shall be subject to such conditions as may be specified in a notice issued by the Authority or otherwise imposed by the Authority.

- (b) The disclosure by any person referred to in paragraph (b) of the second column to any other person referred to in the same paragraph shall be subject to such conditions as may be specified in a notice issued by the Authority or otherwise imposed by the Authority.”; and

- (c) by inserting, immediately after the definition of “credit bureau” in Part III, the following definitions:

““deposit insurance agency” has the same meaning as in section 2(1) of the Deposit Insurance Act 2005;

“insured depositor” has the same meaning as in section 2(1) of the Deposit Insurance Act 2005;”.

5 **Related amendments to the Finance Companies Act**

54.—(1) Section 15 of the Finance Companies Act (Cap. 108) is amended —

(a) by deleting the word “and” at the end of subsection (1)(b)(v);

10 (b) by inserting, immediately after subsection (1)(b)(v), the following sub-paragraph:

“(vi) is contravening or has contravened any provision of the Deposit Insurance Act 2005 or any rules issued by the deposit insurance agency under the Deposit Insurance Act 2005; and”; and

15 (c) by inserting, immediately after section 44, the following sections:

“Priority of specified liabilities

20 **44A.**—(1) Where a finance company becomes unable to meet its obligation or becomes insolvent or suspends payment, the assets of the finance company shall be available to meet the liabilities of the finance company specified in section 44B.

25 (2) The liabilities specified in section 44B shall have priority over all unsecured liabilities of the finance company other than the preferential debts specified in section 328(1) of the Companies Act (Cap. 50).

Priority of specified liabilities inter se

30 **44B.**—(1) Notwithstanding the provisions of any written law or rule of law relating to the winding up of companies, in the event of a winding up of a finance company, the following liabilities of the finance company shall, amongst themselves, rank in the following order of priority:

(a) firstly, any premium contributions due and payable by the finance company under the Deposit Insurance Act 2005; and

(b) secondly, liabilities incurred by the finance company in respect of insured deposits.

(2) The liabilities in each class specified in subsection (1) shall —

(a) rank in the order specified but as between liabilities of the same class, such liabilities shall rank equally between themselves; and

(b) be paid in full unless the assets of the finance company are insufficient to meet them in which case they shall abate in equal proportions between themselves.”.

THE SCHEDULE

Sections 2 and 50

INSURED DEPOSIT

In this Act, “insured deposit” means —

(a) any of the following deposits in Singapore dollars, placed with a Scheme member in any of its branches in Singapore:

(i) a deposit in a savings account;

(ii) a deposit in a fixed deposit account;

(iii) a deposit in a current account;

(iv) a deposit under the Supplementary Retirement Scheme,

including any accrued interest for each of the deposits specified in paragraphs (i) to (iv); and

(b) any moneys placed with a Scheme member under the CPFIS which are denominated in Singapore dollars,

but does not include —

(i) any structured deposit as defined in the Financial Advisers Act (Cap. 110);

(ii) any deposit which is pledged, charged or secured as collateral to a Scheme member; and

- 5 (iii) in a case where there is a contractual set-off agreement between a Scheme member and a depositor, any deposit or part thereof placed with the Scheme member which is set aside in respect of any debt owing by the depositor to that Scheme member, and such deposit or part thereof which has been set aside cannot be withdrawn by the depositor unless and until the debt is fully paid up.

EXPLANATORY STATEMENT

This Bill seeks to establish a Deposit Insurance Scheme in Singapore for the purpose of providing limited compensation to depositors under certain circumstances by —

- (a) specifying that every full bank and finance company must be a member of the Deposit Insurance Scheme;
- (b) empowering the Minister to designate a company to be the deposit insurance agency; and
- (c) setting out what would be an insured deposit, who would be covered and the amount of compensation that would be available under the Deposit Insurance Scheme.

PART I

PRELIMINARY

Part I (clauses 1 to 2) deals with preliminary matters.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

PART II

DEPOSIT INSURANCE SCHEME

Part II (clauses 3 to 7) contains provisions relating to the establishment of the Deposit Insurance Scheme.

Clause 3 establishes the Deposit Insurance Scheme.

Clause 4 requires every full bank and finance company to be a member of the Scheme.

Clause 5 provides that a full bank or finance company may apply to the Authority for specific exemption from being a member of the Scheme. When granting the exemption, the Authority may impose such conditions or restrictions on the full bank or finance company as it thinks fit. A full bank or finance company which contravenes any condition or restriction imposed commits an offence.

Clause 6 provides that the Authority may withdraw any exemption granted to a full bank or finance company after granting the bank or finance company an opportunity to be heard.

Clause 7 empowers the Authority to require a Scheme member to maintain assets in Singapore for the purposes of meeting liabilities in respect of the insured deposits. The clause provides that the Authority may make regulations for this purpose.

PART III

DEPOSIT INSURANCE FUND

Part III (clauses 8 to 10) relates to the establishment of the Deposit Insurance Fund.

Clause 8 provides that the Deposit Insurance Fund shall, subject to the directions of the Minister, be controlled and administered by the company designated by the Minister under clause 11 to act as the deposit insurance agency.

Clause 9 relates to the expenditure of moneys of the Fund and stipulates the types of expenses that may be incurred and how moneys may be paid out in accordance with this Bill.

Clause 10 empowers the Agency to invest moneys of the Fund, sets out the instruments in which the Agency may invest the moneys of the Fund and provides that the Agency may delegate its function to invest the moneys to such employee or agent as it may appoint.

PART IV

DEPOSIT INSURANCE AGENCY

Part IV (clauses 11 to 19) contains provisions relating to the designation of a deposit insurance agency, the functions of the Agency and other general matters relating to the Agency.

Clause 11 empowers the Minister to designate a company incorporated in Singapore to be the deposit insurance agency for the purposes of this Bill.

Clause 12 sets out the functions of the Agency, which include administering the Scheme, administering and managing the Fund and educating the public on the Scheme.

Clause 13 provides that the memorandum and the articles of association of the Agency cannot be amended without the prior approval of the Minister and that any such amendment without the approval of the Minister would be void.

Clause 14 requires the appointment of the board of directors of the Agency to be approved by the Minister.

Clause 15 states that the board of directors of the Agency shall be accountable to the Minister for its acts and decisions.

Clause 16 provides that the payment of salaries, fees and allowances to the Chairman and the directors of the Agency shall be made out of the Fund.

Clause 17 empowers the board of directors of the Agency to appoint a Chief Executive with the approval of the Minister.

Clause 18 provides that the Agency may issue and publish rules for any matter relating to any of its functions under this Bill. The clause also provides that the Rules shall bind the Agency and the Scheme members to the same extent as if the Rules were executed agreements between the Agency and each Scheme member, to observe and comply with the Rules.

Clause 19 provides that the High Court may, on the application of the Agency, a Scheme member or a person aggrieved by the failure of any person who is bound to observe and comply with the Rules, order observance of or compliance with the Rules issued by the Agency.

PART V

PREMIUMS

Part V (clauses 20 to 25) relates to the determination of the premium rates and premium contributions, the collection from the Scheme member of the amount of premium contribution that the Scheme member is to pay and the imposition of additional premium contributions under certain circumstances.

Clause 20 requires every Scheme member to pay a premium contribution of an amount computed by the Authority, in respect of its insured deposits.

Clause 21 empowers the Authority to assess and determine the premium rates for the purposes of computing the premium contributions payable by Scheme members and to issue regulations for such purposes. The clause also provides that where the Authority wishes to amend or vary any regulations relating to premium rates, the Authority may only do so after a joint review with the Agency.

Clause 22 states that the Authority shall compute the amount of premium contribution payable by a Scheme member and notify the Agency accordingly. The Agency shall, in turn, notify the Scheme member of the amount of premium contribution that the Scheme member is required to pay for that premium year.

Clause 23 empowers the Authority, jointly with the Agency, to impose additional premium contributions for any premium year, on any Scheme member. However, the prior approval of the Minister must be obtained for additional premium contribution exceeding 0.3% of the insured deposit base of the Scheme member.

Clause 24 states that no Scheme member or any officer thereof shall disclose to any person the amount of premium contribution that is paid by the said Scheme member for any premium year. However, where disclosure is necessary for the performance of the duties of a director, officer or professional adviser of the Scheme member, the information may be disclosed to that person. Such director, officer or professional adviser cannot further disclose the information to any person. Any person who discloses information relating to the amount of premium contribution that is paid by a Scheme member in contravention of this clause, commits an offence.

Clause 25 relates to the collection of premium contributions and empowers the Agency to impose on Scheme members late payment fees. Further, the Agency may recover any unpaid premium contribution, additional premium contribution or late payment fee by an action for a debt in any court of competent jurisdiction.

PART VI

COMPENSATION

Part VI (clauses 26 to 33) relates to the amount of compensation that is to be paid to an insured depositor of a failed Scheme member.

Clause 26 stipulates the 2 events which can precipitate the payment of compensation out of the Fund to the insured depositors of the failed Scheme member in accordance with the Bill. It further provides that where the Authority has determined that compensation shall be paid, the Authority shall immediately give notice in writing to the Agency.

Clause 27 provides for the entitlement of an insured depositor to compensation from the Fund and the matters relating thereto.

Clause 28 deals with the entitlement of an insured depositor where he holds an insured deposit in his own right or in a joint account.

Clause 29 deals with the entitlement of an insured depositor who is the beneficiary of an insured deposit held in a trust account.

Clause 30 provides that where an insured depositor has been paid compensation in full for his insured deposits in accordance with this Bill, no other person is entitled to compensation in respect of the same deposits.

Clause 31 deals with the computation and the method of payment of compensation.

Clause 32 relates to the right of subrogation of the Agency.

Clause 33 states that an insured depositor shall repay any excess payment made in compensation to the Agency in such manner and within such period as specified by the Agency. The clause also allows the Agency to recover any excess payment from an insured depositor by way of an action for a debt in any court of competent jurisdiction.

PART VII

OFFENCES

Part VII (clauses 34 to 41) relates to offences under the Bill.

Clause 34 provides that where a body corporate is guilty of an offence under this Bill, its officers or members shall also be guilty of that offence under certain circumstances.

Clause 35 provides that it is an offence for any person to knowingly or recklessly make a false or misleading statement as to whether or not any person is a Scheme member, or any deposit or other financial product is an insured deposit.

Clause 36 makes it an offence for an officer of a full bank or finance company to fail to take all reasonable steps to ensure that the provisions of the Bill are complied with and that statements submitted under the Bill are accurate and correct.

Clause 37 imposes a duty on persons who furnish the Authority or the Agency with any information under the Bill to ensure that the information is not false or misleading, where no other provision of the Bill creates an offence in connection with the furnishing of information. Any person who contravenes the clause commits an offence.

Clause 38 prescribes the penalty for an offence under the Bill where no penalty is expressly provided.

Clause 39 empowers a court to impose, on a corporation or body corporate that has been convicted of an offence under the Bill, up to 2 times the maximum fine that may otherwise be imposed but for the clause. Certain offences are however, excluded from the application of the clause.

Clause 40 empowers a District Court to try any offence under the Bill notwithstanding the Criminal Procedure Code (Cap. 68), and to impose the full penalty or punishment in respect of such offence.

Clause 41 empowers the Authority to compound any offence under the Bill that is prescribed as a compoundable offence.

PART VIII

MISCELLANEOUS

Part VIII (clauses 42 to 54) contains miscellaneous provisions.

Clause 42 confers on the Agency, any director, officer, employee or agent of the Agency, or any person acting under the direction of the Agency, protection from personal liability for anything which is done or omitted to be done in good faith in the exercise or purported exercise of any power under the Bill, performance or purported performance of any function or duty under the Bill, or execution or purported execution of the Bill.

Clause 43 provides for the preservation of confidentiality by anyone who is or has been a member, director, officer, employee or agent of the Agency.

Clause 44 provides for a general power of exemption exercisable by the Minister.

Clause 45 provides that the Authority may require a Scheme member to provide information and to produce any books that the Authority may require for the proper discharge of its functions.

Clause 46 relates to the service of documents.

Clause 47 provides that a copy of or an extract from a book mentioned in the Bill that is proved to be a true copy of the book or of the relevant part of the book is admissible in evidence as if it were the original.

Clause 48 relates to the application of the Companies Act (Cap. 50) to the Agency.

Clause 49 excludes the Agency and the Scheme from the application of the Insurance Act (Cap. 142).

Clause 50 empowers the Minister to amend the Schedule by order published in the *Gazette*, and provides that the order is to be presented to Parliament after the publication.

Clause 51 empowers the Minister to make regulations for the carrying out of the purposes and the provisions of the Bill.

Clause 52 makes related amendments to the Monetary Authority of Singapore Act (Cap. 186).

Clause 53 makes related amendments to the Banking Act (Cap. 19).

Clause 54 makes related amendments to the Finance Companies Act (Cap. 108).

The Schedule sets out the meaning of insured deposit.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

TABLE OF DERIVATIONS

Deposit Insurance Bill 2005		Derivations			
Section Heading	Clause	Hong Kong Deposit Protection Scheme Ordinance	Securities and Futures Act (Cap. 289)	Monetary Authority of Singapore Act (Cap. 186)	Others
		Section			
PRELIMINARY	PART I				
Short title and commencement	1	—	—	—	—
Interpretation	2	—	—	—	—
DEPOSIT INSURANCE SCHEME	PART II				
Establishment of Deposit Insurance Scheme	3	—	—	—	—
Membership of Scheme	4	—	—	—	—
Exemption from membership	5	13 (modified)	14	—	—
Withdrawal of exemption	6	—	99(6)	—	Section 35ZN(5) of the Insurance Act (Cap. 142). Section 23(1) of the Financial Advisers Act (Cap. 110)
Maintenance of assets in Singapore	7	53(2)(a) – (d) (modified)	—	—	Section 38 of the Banking Act (Cap. 19) (modified)
DEPOSIT INSURANCE FUND	PART III				
Establishment of Deposit Insurance Fund	8	14 (modified)	—	30A	—
Expenditure of moneys of Fund	9	16 (modified)	—	30B	—

Deposit Insurance Bill 2005		Derivations			
Section Heading	Clause	Hong Kong Deposit Protection Scheme Ordinance	Securities and Futures Act (Cap. 289)	Monetary Authority of Singapore Act (Cap. 186)	Others
		Section			
Investment	10	—	—	30C(2) and (3)	—
DEPOSIT INSURANCE AGENCY	PART IV				
Designation of company to be deposit insurance agency	11	—	—	—	—
Functions of Agency	12	—	—	—	—
Amendment to memorandum and articles of association of Agency	13		—	—	—
Appointment of board of directors	14	—	—	8(2) (modified)	—
Board to be accountable to Minister	15	—	—	9(4)	—
Salaries, fees and allowances payable to Chairman and directors	16	—	—	—	Paragraph 11 of the First Schedule to the Accounting and Corporate Regulatory Authority Act 2004
Appointment of Chief Executive and employees, etc	17	—	—	—	Section 10 of the Accounting and Corporate Regulatory Authority Act 2004

Deposit Insurance Bill 2005		Derivations			
Section Heading	Clause	Hong Kong Deposit Protection Scheme Ordinance	Securities and Futures Act (Cap. 289)	Monetary Authority of Singapore Act (Cap. 186)	Others
		Section			
Rules issued by Agency	18	—	—	—	Section 41(4) of the Land Titles (Strata) Act (Cap. 158)
Power of court to order observance of or compliance with Rules	19	—	25 (modified)	—	—
PREMIUMS	PART V				
Premium contributions payable by Scheme members	20	—	—	—	—
Determination of premium rates and premium contributions	21	—	—	—	—
Notice of payment of premium contributions	22	—	—	—	—
Additional premium contribution where Fund insufficient to pay compensation	23	—	—	—	—
Disclosure of premium contributions	24	—	—	—	—
Collection of premium contributions and late payment fees	25		—	—	—
COMPENSATION	PART VI				
Occurrence of events precipitating payment of compensation	26	22 (modified)	—	—	—
Entitlement to compensation	27	27 (modified)	—	—	—
Deposits in own right and joint accounts	28	28 (modified)	—	—	—

Deposit Insurance Bill 2005		Derivations			
Section Heading	Clause	Hong Kong Deposit Protection Scheme Ordinance	Securities and Futures Act (Cap. 289)	Monetary Authority of Singapore Act (Cap. 186)	Others
		Section			
Trust accounts	29	30 (modified)	—	—	—
Restrictions on entitlement to compensation	30	31(4) (modified)	—	—	—
Computation and method of payment of compensation	31	—	—	—	—
Subrogation	32	38	—	—	—
Recovery of payment	33	37	—	—	—
OFFENCES	PART VII				
Offences committed by bodies corporate	34	—	331	—	—
False statements regarding membership and insured deposits	35	49	—	—	—
Offence by officer	36	—	—	—	Section 66 of the Banking Act (Cap. 19)
Duty not to furnish false information to Authority or Agency	37	—	329	—	—
General penalty	38	—	—	—	—
Penalty for corporation	39	—	333	—	—
Jurisdiction of District Court	40	—	327	—	—
Composition of offences	41	—	—	—	—
MISCELLANEOUS	PART VIII				
Protection from personal liability	42	—	—	22	Section 63 of the Accountants Act 2004 (modified)

Deposit Insurance Bill 2005		Derivations			
Section Heading	Clause	Hong Kong Deposit Protection Scheme Ordinance	Securities and Futures Act (Cap. 289)	Monetary Authority of Singapore Act (Cap. 186)	Others
		Section			
Preservation of confidentiality	43	—	—	—	Section 34 of the Accounting and Corporate Regulatory Authority Act 2004
General exemption	44	—	—		Section 100 of the Financial Advisers Act (Cap. 110)
Provision of information and production of books	45	—	—	—	Section 26 of the Banking Act (Cap. 19)
Service of documents, etc	46	—	—	—	Section 101 of the Financial Advisers Act
Copies or extracts of books to be admitted in evidence	47	—	—	—	Section 102 of the Financial Advisers Act
Application of Companies Act	48	—	—	—	Section 81M(1) of the Legal Profession Act (Cap. 161)
Insurance Act not to apply	49	—	—	—	—
Amendment of Schedule	50	—	340	—	—
Regulations	51	—	—	—	—
Related amendments to the Monetary Authority of Singapore Act	52	—	—	—	—
Related amendments to the Banking Act	53	—	—	—	—

Deposit Insurance Bill 2005		Derivations			
Section Heading	Clause	Hong Kong Deposit Protection Scheme Ordinance	Securities and Futures Act (Cap. 289)	Monetary Authority of Singapore Act (Cap. 186)	Others
		Section			
Related amendments to the Finance Companies Act	54	—	—	—	—
INSURED DEPOSIT	THE SCHEDULE	—	—	—	—



Monetary Authority of Singapore