

CONSULTATION PAPER

P009 - 2005
August 2005

**Draft Regulations,
Notices and Guidelines
Pursuant to Trust
Companies Act 2005**

MAS

Monetary Authority of Singapore

DRAFT REGULATIONS, NOTICES AND GUIDELINES PURSUANT TO TRUST COMPANIES ACT 2005

The Trust Companies Bill 2005 was passed in Parliament on 18 February 2005. MAS is presently issuing Regulations, Notices and Guidelines to augment or clarify the provisions of the Trust Companies Act 2005 (the "Act").

2 MAS invites interested parties to forward their views and comments on the draft Regulations, Notices and Guidelines. Parties who do not wish to comment on all of the issues may confine their responses to the specific sections that are of interest. Written comments should be submitted to:

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

MAS would like to request for all comments and feedback to be submitted by 26 September 2005.

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

Draft Regulations, Notices and Guidelines

4 The draft Trust Companies Regulations (“Main Regulations”) (at **Annex 1**) set out, among other things, provisions regarding the licensing of a trust company, the financial and book-keeping requirements licensed trust companies have to comply with as well as the duties and obligations of resident managers and directors of a licensed trust company.

5 The draft Trust Companies (Transitional and Savings Provisions) Regulations (“Transitional Regulations”) (at **Annex 2**) set out how those currently engaging in trust business will transit to the new regime. In particular, Regulation 8 of the Transitional Regulations provides for the return of the deposit of \$100,000 that has been placed with the Accountant-General under Section 7 of the current Trust Companies Act. Each deposit is typically placed in a time deposit. If the trust company applies to the Accountant-General for the return of the deposit before its time deposit expires, interest on the deposit may be forfeited and there may be an early withdrawal penalty.

6 The draft Trust Companies (Exemptions) Regulations (“Exemptions Regulations”) (at **Annex 3**) set out exemptions in addition to the exemptions already listed in the Act. These regulations also describe the relevant provisions of the Act and Regulations that will apply to exempt persons, as well as the qualifying factors for each exemption.¹

7 The draft Trust Companies (Appeals) Regulations (at **Annex 4**) set out the appeals process for an appellant who wishes to appeal a decision of MAS under the Act. These regulations include such matters as how the Appeals Advisory Committee is established,

¹ The exemptions for lawyers and accountants do not mention that they will be required to conduct due diligence for anti-money laundering and countering the financing of terrorism. However MAS will review the due diligence regimes to which they are subject to see if the regimes are substantially similar to the regime to be imposed on trust companies. If the regime does not rise to the standard of the regime that MAS will impose on licensed trust companies, then, in order to receive the exemption, the lawyer or accountant, as the case may be, will be required to abide by the standards for licensed trust companies in order to receive the exemption. This will be set out in the forthcoming Notice on Prevention of Money Laundering and Countering the Financing of Terrorism.

the duties of the secretariat, and the rights and responsibilities of the parties to the appeal.

8 The draft Notice on Effecting Arrangements Through Licensed Trust Companies or Exempt Persons Under Section 15(1)(a) or 15(1)(b) of the Act (at **Annex 5**) places due diligence obligations on licensed trust companies, banks and merchant banks, when they allow non-licensed persons to effect arrangements between them.

9 The draft Notice on Qualifying Assets and Reduction Percentages (at **Annex 6**) explains the details of how licensed trust companies that are branches of foreign companies must comply with the qualifying assets requirements under Regulations 11 and 12 of the Main Regulations.

10 The draft Guidelines on Licence Application and Payment of Fees (at **Annex 7**) set out the fee structure for licensing.

11 The draft Guidelines on Criteria for the Grant of a Trust Business Licence (at **Annex 8**) give a description of who must apply for a trust business licence, and set out some of the primary criteria that an applicant must meet.

12 The draft Guidelines on Standards of Conduct for Licensed Trust Companies (at **Annex 9**) describe the standards of conduct that the Authority expects each licensee to uphold. These Guidelines address issues such as due care, integrity, competence, and complaints handling.

13 The draft Guidelines on Scope of Regulation (at **Annex 10**) provide guidance on the activities that may be considered to be trust business as defined under the First Schedule of the Act. These Guidelines also address the question of what is “procedural and non-discretionary” trust business, relating to the exemption for banks and merchant banks.

14 Various draft forms called for by the draft Main Regulations and Exemptions Regulations are also attached as part of this

consultation (at **Annex 11**). These forms include, inter alia, application for licence, application to be a significant shareholder, insurance certification, an auditor's statement, and various forms for exempt persons. A draft letter of responsibility from parent corporations is also included.