



THE STATUTES OF THE REPUBLIC OF SINGAPORE

**PAYMENT AND SETTLEMENT SYSTEMS (FINALITY AND
NETTING) ACT**

(CHAPTER 231)

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Payment and Settlement Systems (Finality and Netting) Act

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Designation of system
4. Revocation of designation
- 4A. Prohibition against holding out as operator or settlement institution of designated system
5. Application of this Act

PART II

TRANSACTIONS EFFECTED THROUGH DESIGNATED SYSTEM

6. Modifications of law of insolvency
7. Transactions under Rules of designated system are final and irrevocable
8. Proceedings of designated system shall take precedence over law of insolvency
9. Disclaimer of property, restriction on dispositions of property, etc.
10. Adjustment of prior transactions
11. Net sum payable on completion of action taken under default arrangements
12. Transfer orders entered into designated system after insolvency

PART III

NETTING

13. Netting

PART IV

MISCELLANEOUS

Section

14. Law of insolvency in other jurisdictions
15. Preservation of rights, etc.
- 15A. Provision of information to Authority
- 15B. Obligation to notify Authority of certain events
16. Obligation to notify operator of designated system of insolvency
17. Composition of offences
- 17A. Offences by corporations
- 17B. Offences by unincorporated associations or partnerships
- 17C. Protection from liability
18. Jurisdiction of District Court
19. Appointment of assistants
- 19A. Power of Authority to approve Rules of designated system
20. Power to make regulations
- 20A. Power to issue written directions
- 20B. Exemption
21. Settlement system deemed to be designated system under this Act
22. [*Repealed*]
23. [*Repealed*]

An Act to make provision for the protection of payment and settlement systems from disruptions that may lead to risks to the financial system and for purposes connected therewith.

[9th December 2002]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Payment and Settlement Systems (Finality and Netting) Act.

Interpretation

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

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

[Deleted by Act 4 of 2018 wef 06/06/2018]

“book-entry securities” means any securities that —

(a) are issued —

(i) by the Government, or a statutory board, under any written law; or

(ii) by a corporation; and

(b) are transferable by a book-entry, on a register or otherwise;

[Act 4 of 2018 wef 06/06/2018]

“business day”, in relation to a designated system —

(a) in any case where the Rules of the designated system specify what constitutes a business day for that case, has the same meaning as in those Rules; or

(b) in any other case, means any day other than a Saturday, Sunday or public holiday;

[Act 4 of 2018 wef 06/06/2018]

“collateral holder”, in relation to a designated system, means any person who has possession, control or ownership of any collateral security of the designated system under an arrangement with the operator of the designated system relating to that collateral security;

[Act 4 of 2018 wef 06/06/2018]

“collateral security”, in relation to a designated system, means any property held by or deposited with a collateral holder for the purpose of securing any liability arising directly in connection with ensuring —

- (a) the clearing or settlement of payment obligations by the designated system; or
- (b) the clearing, settlement or transfer of book-entry securities by the designated system;

[Act 4 of 2018 wef 06/06/2018]

“default arrangements” means the arrangements made by the operator of a designated system to limit systemic and other types of risks that arise when a participant is or is likely to become unable to meet its obligations in respect of a transfer order, examples of which include any of the following arrangements:

- (a) any arrangements for netting;
- (b) any arrangements for the closing out of open positions;
- (c) any arrangements relating to collateral security;

[Act 4 of 2018 wef 06/06/2018]

“defaulter” means a person in respect of whom action has been taken by a designated system under its default arrangements;

“designated system” means a system that is designated by the Authority under section 3 to be a designated system for the purposes of this Act;

“disposition of property” includes a payment made into or out of an account of a participant;

“netting” means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant either issues to, or receives from, one or more other participants with the result that only a net claim can be demanded or a net obligation be owed;

“operator”, in relation to a designated system, means the person specified in the order referred to in section 3(1) as the operator of the designated system;

“participant” means a party to an arrangement that establishes a system;

“relevant office holder” means —

- (a) the Official Assignee exercising his powers under the Bankruptcy Act (Cap. 20);
- (b) a person acting in relation to a company as its liquidator, receiver, receiver and manager, judicial manager or an equivalent officer; or
- (c) a person acting in relation to an individual as his trustee in bankruptcy or interim receiver of his property or an equivalent officer;

“Rules”, in relation to a designated system, means any rules, regulations, by-laws or other similar body of written statements, by whatever name called, and whether or not contained in the constituent documents of the designated system, that govern the activities and conduct of —

- (a) the designated system; and
- (b) any other persons in relation to the designated system;

[Act 4 of 2018 wef 06/06/2018]

“settlement institution”, in relation to a designated system, means any body corporate that —

- (a) provides accounts for the participants of the designated system, or facilitates the settlement of transfer orders between the participants in the designated system; and
- (b) is specified in an order under section 3(1) to be the settlement institution of the designated system;

[Act 4 of 2018 wef 06/06/2018]

“system” means a system established for —

- (a) the clearing or settlement of payment obligations; or
- (b) the clearing, settlement or transfer of book-entry securities;

[Act 4 of 2018 wef 06/06/2018]

“transfer order” means —

- (a) an instruction by a participant, which may be carried out in or through one or more designated systems —
 - (i) to place at the disposal of a recipient an amount of money by means of a book-entry on the accounts of a settlement institution for a designated system; or
 - (ii) that, when settled, results in the assumption or discharge of a payment obligation as defined by the Rules of a designated system; or
- (b) an instruction by a participant to transfer book-entry securities.

[Act 4 of 2018 wef 06/06/2018]

(2) A reference in this Act to the law of insolvency shall be construed as a reference to —

- (a) the Bankruptcy Act (Cap. 20);
- (b) Parts VIIIA, IX and X of the Companies Act (Cap. 50); and
- (c) any other written law or rule of law whether of Singapore or a place outside Singapore which is concerned with or in any way related to the bankruptcy, winding up or insolvency of a person.

Designation of system

3.—(1) The Authority may, by order in the *Gazette*, designate a system to be a designated system for the purposes of this Act, if the Authority is satisfied that a disruption in the operations of the system may —

- (a) trigger, cause or transmit disruption to other participants;
- (b) trigger or cause systemic disruption to the financial system of Singapore; or
- (c) affect public confidence in the payment systems of Singapore or in the financial system of Singapore.

- (2) Any order made under subsection (1) —
- (a) must specify the operator and settlement institution of the designated system; and
 - (b) has effect until the order is revoked by the Authority.

[Act 4 of 2018 wef 06/06/2018]

Revocation of designation

4.—(1) The Authority may, by order published in the *Gazette*, revoke the designation of a designated system if —

- (a) the Authority is satisfied that —
 - (i) the designated system has ceased to operate as a system;
 - (ii) the operator of the designated system has knowingly furnished information or documents to the Authority in connection with the designation of the system which is or are false or misleading in any material particular;
 - (iii) the operator or settlement institution of the designated system is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
 - (iv) the operator or settlement institution of the designated system has entered into a compromise or scheme of arrangement with its creditors, whether in Singapore or elsewhere; or
- [Act 4 of 2018 wef 06/06/2018]
- (v) a receiver, receiver and manager, judicial manager or an equivalent officer has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the operator or settlement institution of the designated system;
- [Act 4 of 2018 wef 06/06/2018]
- (vi) [*Deleted by Act 4 of 2018 wef 06/06/2018*]

(aa) the Authority is no longer satisfied that a disruption in the operations of the system may have any effect mentioned in section 3(1)(a), (b) or (c); or

[Act 4 of 2018 wef 06/06/2018]

(b) the Authority considers that it is in the public interest to revoke the designation.

(2) Subject to subsection (3), the Authority shall not revoke a designation without giving the operator of the designated system an opportunity to be heard.

(3) The Authority may revoke a designation on any of the grounds described in subsection (1)(a)(iii), (iv) or (v) without giving the operator of the designated system an opportunity to be heard.

(4) A revocation of a designation shall not operate so as to avoid or affect any transaction cleared or settled in the designated system prior to the revocation or preclude the application, in accordance with section 5(1), of this Act to any such transaction.

[Act 4 of 2018 wef 06/06/2018]

Prohibition against holding out as operator or settlement institution of designated system

4A.—(1) A person must not hold out that the person is an operator or a settlement institution of a designated system, unless —

(a) the person is an operator or a settlement institution (as the case may be) of a system; and

(b) the Authority has designated the system to be a designated system under section 3.

(2) 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 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

[Act 4 of 2018 wef 06/06/2018]

Application of this Act

5.—(1) This Act shall apply to all transactions cleared or settled in a designated system, subject to such restrictions as the Authority may by order published in the *Gazette* prescribe.

[Act 4 of 2018 wef 06/06/2018]

(2) Despite subsection (1), the Authority is exempt from complying with any requirement imposed on a participant, an operator, a settlement institution or a collateral holder of a designated system by section 15A, 15B, 16, 19A or 20A, when the Authority acts in the capacity of a participant, an operator, a settlement institution or a collateral holder of a designated system.

[Act 4 of 2018 wef 06/06/2018]

PART II

TRANSACTIONS EFFECTED THROUGH DESIGNATED SYSTEM

Modifications of law of insolvency

6.—(1) The general law of insolvency shall have effect in relation to —

- (a) transfer orders effected through a designated system; and
- (b) action taken under the Rules of a designated system with respect to such orders,

[Act 4 of 2018 wef 06/06/2018]

subject to the provisions of this Part.

(2) This Part shall apply in relation to bankruptcy, judicial management and winding up proceedings only in respect of a participant.

(3) Notwithstanding that rights or liabilities arising from transfer orders are or may be dealt with in bankruptcy, judicial management or winding up proceedings, this Part shall not apply to such proceedings if they are in respect of any person who is not a participant.

Transactions under Rules of designated system are final and irrevocable

7.—(1) This section shall apply where the Rules of a designated system provide that —

(a) the transfer of funds into and out of an account of a participant;

(b) the netting or settlement of any payment obligation; or
[Act 4 of 2018 wef 06/06/2018]

(c) the settlement and transfer of book-entry securities,
[Act 4 of 2018 wef 06/06/2018]

is final and irrevocable.

[Act 4 of 2018 wef 06/06/2018]

(2) Notwithstanding anything to the contrary in any written law or rule of law, any transfer, netting or settlement referred to in subsection (1) shall not be reversed, repaid or set aside and no order shall be made by any court for the rectification or stay of such transfer, netting or settlement.

[Act 4 of 2018 wef 06/06/2018]

[Act 4 of 2018 wef 06/06/2018]

Proceedings of designated system shall take precedence over law of insolvency

8.—(1) None of the following shall be regarded as to any extent invalid on the ground of inconsistency with the law for distribution of the assets of a person on bankruptcy or winding up, or on the appointment of a receiver, receiver and manager or an equivalent officer over any of the assets of a person:

(a) a transfer order;

(b) any disposition of property in pursuance of such an order;
or

[Act 4 of 2018 wef 06/06/2018]

(c) any action taken under the Rules of a designated system.
[Act 4 of 2018 wef 06/06/2018]

(d) *[Deleted by Act 4 of 2018 wef 06/06/2018]*

(2) The powers of a relevant office holder and the powers of a court under the law of insolvency shall not be exercised in such a way as to prevent or interfere with —

(a) the netting or settlement of a transfer order in accordance with the Rules of a designated system; or

[Act 4 of 2018 wef 06/06/2018]

(b) any other action taken under the Rules of a designated system.

[Act 4 of 2018 wef 06/06/2018]

(3) A debt or other liability arising out of a transfer order which is the subject of action taken under default arrangements may not be proved in a bankruptcy or winding up until the completion of the action taken under default arrangements.

(4) A debt or other liability which by virtue of subsection (3) may not be proved shall not be taken into account for the purposes of any set-off until the completion of the action taken under default arrangements.

Disclaimer of property, restriction on dispositions of property, etc.

9. Without prejudice to the generality of section 8 —

(a) section 110 of the Bankruptcy Act (Cap. 20) and section 332 of the Companies Act (Cap. 50) shall not apply to a transfer order;

[Act 4 of 2018 wef 06/06/2018]

(b) section 77 of the Bankruptcy Act and section 259 of the Companies Act shall not apply to a transfer order or any disposition of property in pursuance of such an order; and

[Act 4 of 2018 wef 06/06/2018]

(c) a court must not make an order under section 211D of the Companies Act in relation to any disposition of property pursuant to a transfer order.

[Act 4 of 2018 wef 06/06/2018]

Adjustment of prior transactions

10. Without prejudice to the generality of section 8, no order shall be made by a court under —

- (a) section 98 or 99 of the Bankruptcy Act;
- (aa) section 211E of the Companies Act (Cap. 50);
[Act 4 of 2018 wef 06/06/2018]
- (b) section 227T of the Companies Act read with section 98 or 99 of the Bankruptcy Act;
- (c) section 329 of the Companies Act read with section 98 or 99 of the Bankruptcy Act, or section 331 of the Companies Act; or
- (d) section 73B of the Conveyancing and Law of Property Act (Cap. 61),

in relation to a transfer order or any disposition of property in pursuance of such an order.

Net sum payable on completion of action taken under default arrangements

11.—(1) This section shall apply with respect to any net sum owed by or to a defaulter on the completion of the action taken under default arrangements.

(2) Notwithstanding section 87 or 88 of the Bankruptcy Act and section 327 of the Companies Act, where a court has made an order for bankruptcy or winding up of a participant or a resolution for the voluntary winding up of a participant has been passed, the net sum referred to in subsection (1) shall be —

- (a) provable in the bankruptcy or winding up or, as the case may be, payable to the relevant office holder; and
- (b) taken into account, where appropriate, under section 88 of the Bankruptcy Act or section 327 of the Companies Act.

Transfer orders entered into designated system after insolvency

12. This Part shall not apply in relation to any transfer order given by a participant which is entered into a designated system after the expiry of one business day after —

- (a) a court made an order for bankruptcy, judicial management or winding up in respect of the participant; or
- (b) a resolution for the voluntary winding up of the participant was passed.

[Act 4 of 2018 wef 06/06/2018]

PART III
NETTING

Netting

13. Notwithstanding any provision of the law of insolvency, if a court has made an order for bankruptcy or winding up of a participant of a designated system or a resolution for the voluntary winding up of such participant has been passed —

- (a) the operator of the designated system may effect the netting of all obligations owed to or by the participant incurred up to and including one business day after the court made the order for bankruptcy or winding up of the participant or the resolution for the voluntary winding up of the participant was passed;

[Act 4 of 2018 wef 06/06/2018]

- (b) the obligations that are netted shall be disregarded in the bankruptcy or winding up proceedings;
- (c) any net obligation owed to or by the participant that has not been discharged —
 - (i) is payable to the participant and may be recovered for the benefit of the creditors; or
 - (ii) is provable in the bankruptcy or winding up, as the case may be; and

- (d) the netting made by the operator of the designated system and any payment made by the participant pursuant thereto shall not be voidable in the bankruptcy or winding up proceedings.

PART IV

MISCELLANEOUS

Law of insolvency in other jurisdictions

14. Notwithstanding any written law or rule of law, a court shall not recognise or give effect to —

- (a) an order of a court exercising jurisdiction under the law of insolvency in a place outside Singapore; or
- (b) an act of a person appointed in a place outside Singapore to perform a function under the law of insolvency there,

in so far as the making of the order or doing of the act would be prohibited under this Act for a court in Singapore or a relevant office holder.

Preservation of rights, etc.

15.—(1) Except to the extent that it expressly provides, this Act shall not operate to limit, restrict or otherwise affect —

- (a) any right, title, interest, privilege, obligation or liability of a person resulting from the underlying transaction in respect of a transfer order which has been entered into a designated system; or
- (b) any investigation, legal proceeding or remedy in respect of any such right, title, interest, privilege, obligation or liability.

(2) Nothing in subsection (1) shall be construed to require —

- (a) the unwinding of any netting done by the operator of a designated system, whether pursuant to its default arrangements or otherwise;

- (b) the revocation of any transfer order given by a participant which is entered into a designated system; or
- (c) the reversal of a payment or settlement made under the Rules of a designated system.

[Act 4 of 2018 wef 06/06/2018]

Provision of information to Authority

15A.—(1) If the Authority is of the opinion that it requires any information or statement for the proper discharge of its functions under this Act, the Authority may by notice in writing, require any of the following persons (each called in this section a relevant person) to furnish to the Authority that information or statement within such time and in such manner as the Authority may specify:

- (a) any participant;
- (b) any operator of a designated system, or any person acting on behalf of that operator;
- (c) any settlement institution of a designated system.

(2) Any relevant person to whom the Authority issues a notice under subsection (1) must comply with the notice.

(3) Any relevant person who without reasonable excuse contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part of a day during which the offence continues after conviction.

(4) Any relevant person who in purported compliance with a notice under subsection (1) furnishes to the Authority any information or statement that is false or misleading in a material particular, and that the relevant person knows is false or misleading in a material particular, or is reckless as to whether it is so, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000.

(5) Where a relevant person is guilty of an offence under subsection (3) or (4), any individual who is charged with the duty of securing the relevant person's compliance with the applicable

subsection, and is in a position to discharge that duty, shall also be guilty of an offence and shall be liable on conviction —

- (a) if the individual committed the offence wilfully, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) if the individual did not commit the offence wilfully, to a fine not exceeding \$125,000.

(6) Any relevant person who fails to take reasonable care to ensure the accuracy of any information or statement furnished to the Authority in purported compliance with a notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$15,000.

[Act 4 of 2018 wef 06/06/2018]

Obligation to notify Authority of certain events

15B.—(1) Subject to subsection (2), a person (being a participant, an operator, a settlement institution or a collateral holder of a designated system) must notify the Authority of the occurrence of any event mentioned in the following paragraphs, as soon as practicable after the occurrence of that event:

- (a) the person becomes, or is likely to become, insolvent or unable to meet the person's obligations (whether financial, statutory, contractual or otherwise);
- (b) any other event in relation to the person, being an event that is prescribed by regulations made under section 20 or specified in written directions issued under section 20A.

(2) The person need not notify the Authority under subsection (1) of the occurrence of an event mentioned in subsection (1)(a), if the person has already notified the Authority, under any other written law administered by the Authority, of the occurrence of that event.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000.

[Act 4 of 2018 wef 06/06/2018]

Obligation to notify operator of designated system of insolvency

16.—(1) A participant shall notify the operator of a designated system as soon as practicable after the occurrence of any of the following events:

- (a) the making of an order for bankruptcy, judicial management or winding up of the participant;
- (b) the passing of a resolution for the voluntary winding up of the participant.

(2) Any participant who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(3) A participant does not contravene subsection (1) if —

- (a) he took reasonable steps to comply with that subsection; or
- (b) the operator of the designated system was already aware of the relevant event referred to in subsection (1)(a) or (b) by the time the participant was required to notify the operator under that subsection.

Composition of offences

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

[9/2003]

[Act 4 of 2018 wef 06/06/2018]

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

[9/2003]

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

[9/2003]

(4) All sums collected under this section must be paid into the Consolidated Fund.

[16A

[9/2003]

[Act 4 of 2018 wef 06/06/2018]

Offences by corporations

17A.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and

(b) the officer, employee or agent had that state of mind,

is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

(i) an officer of the corporation; or

(ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

- (a) any person purporting to act in any such capacity; and
- (b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

[Act 4 of 2018 wef 06/06/2018]

Offences by unincorporated associations or partnerships

17B.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

- (a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his actual or apparent authority; and
- (b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

- (a) who is —
 - (i) an officer of the unincorporated association or a member of its governing body;
 - (ii) a partner in the partnership; or
 - (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership in relation to the commission of the offence; and
- (b) who —
 - (i) consented or connived, or conspired with others, to effect the commission of the offence;
 - (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or
 - (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all

reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

- (a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and
- (b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and

- (b) the person's reasons for the intention, opinion, belief or purpose.

[Act 4 of 2018 wef 06/06/2018]

Protection from liability

17C.—(1) No liability shall be incurred by a relevant person for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the execution or purported execution of any function, duty or power of that relevant person under this Act or under the Rules of a designated system.

(2) In this section —

“officer”, in relation to an operator, a settlement institution or a collateral holder of a designated system, means any director, partner, chief executive, manager, secretary or other similar officer of that operator, settlement institution or collateral holder;

“relevant person” means —

- (a) an operator, a settlement institution or a collateral holder of a designated system; or
- (b) any officer or employee of an operator, a settlement institution or a collateral holder of a designated system.

[Act 4 of 2018 wef 06/06/2018]

Jurisdiction of District Court

18. 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.

[16B
[9/2003]

Appointment of assistants

19.—(1) Subject to subsection (2), the Authority may appoint any of its officers to exercise any of its powers or perform any of its functions

or duties under this Act, either generally or in any particular case, except —

- (a) the power of appointment conferred by this subsection; and
- (b) the power to make subsidiary legislation.

(2) The Authority may, by notification in the *Gazette*, appoint one or more of its officers to exercise —

- (a) the power under section 20B(2) to grant an exemption to a particular person; or
- (b) the power under section 20B(3) to revoke an exemption granted under section 20B(2), or to add to, vary or revoke any condition of such an exemption.

(3) Any officer appointed by the Authority under subsection (1) or (2) is deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

[Act 4 of 2018 wef 06/06/2018]

Power of Authority to approve Rules of designated system

19A.—(1) An operator, a settlement institution or a collateral holder of a designated system must, before implementing or amending any Rules of the designated system, obtain the written approval of the Authority to do so.

(2) An application for approval under subsection (1) —

- (a) must be made in such form and manner as the Authority may specify in a written direction issued under section 20A(1); and
- (b) must be accompanied by a written legal opinion that —
 - (i) is given by a legal practitioner who is any of the following individuals, and whom the Authority is satisfied is qualified to give that opinion:
 - (A) an advocate and solicitor;
 - (B) a foreign lawyer as defined in section 2(1) of the Legal Profession Act (Cap. 161);

(C) a legal counsel as defined in section 3(7)(a) of the Evidence Act (Cap. 97); and

(ii) certifies that the proposed implementation or amendment of the Rules of the designated system will satisfy the criteria mentioned in subsection (3)(a).

(3) The Authority may, when determining whether to grant its written approval under subsection (1), have regard to —

(a) such criteria as may be prescribed in regulations made under section 20 or specified in written directions issued under section 20A; and

(b) any other matter that the Authority considers relevant.

(4) The Authority must not refuse any application for approval under subsection (1) without giving the applicant an opportunity to be heard.

(5) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part of a day during which the offence continues after conviction.

(6) Where any Rules of a designated system are implemented before the date of commencement of section 21 of the Payment and Settlement Systems (Finality and Netting) (Amendment) Act 2018 by any operator, settlement institution or collateral holder of the designated system, those Rules are deemed by this subsection to be implemented with the written approval of the Authority under subsection (1).

[Act 4 of 2018 wef 06/06/2018]

Power to make regulations

20.—(1) The Authority may make such regulations as may be necessary or expedient for carrying out the purposes and provisions of this Act and for prescribing anything that may be required or authorised to be prescribed by this Act.

(2) Without prejudice to the generality of subsection (1), the Authority may make regulations for the purpose of ensuring the integrity of, and the fair and orderly conduct of, designated systems.

[Act 4 of 2018 wef 06/06/2018]

(3) Regulations made under this section may provide —

- (a) that a contravention of any provision of those regulations shall be an offence; and
- (b) for a penalty not exceeding a fine of \$150,000 for each offence.

[Act 4 of 2018 wef 06/06/2018]

Power to issue written directions

20A.—(1) The Authority may, for any of the following reasons, issue written directions, either of a general nature or of a specific nature, to any person or class of persons specified in subsection (2):

- (a) the Authority thinks it is necessary or expedient for ensuring the integrity and proper management of a designated system;
- (b) the Authority thinks it is necessary or expedient for the effective administration of this Act;
- (c) the Authority thinks it is otherwise in the interests of the public or a section of the public.

(2) If the Authority issues any written direction under subsection (1) to any of the following persons or classes of persons, that person or class of persons must comply with that direction:

- (a) any participant or class of participants of a designated system;
- (b) any operator or class of operators of a designated system;
- (c) any settlement institution or class of settlement institutions of a designated system;
- (d) any collateral holder or class of collateral holders of a designated system.

(3) Without prejudice to the generality of subsection (1), a written direction issued under that subsection may relate to any of the following matters:

- (a) the appropriate actions to be taken by any person specified in subsection (2), or by any person belonging to a class of persons specified in subsection (2), in relation to that person's business;
- (b) the Rules of a designated system;
- (c) the conditions that will apply if any function of an operator or a settlement institution of a designated system is outsourced.

(4) A written direction issued under subsection (1) need not be published in the *Gazette*.

(5) The Authority may at any time vary or revoke any written direction issued under subsection (1).

(6) Any person who fails to comply with a written direction issued under subsection (1) to that person, or to a class of persons to whom that person belongs, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part of a day during which the offence continues after conviction.

[Act 4 of 2018 wef 06/06/2018]

Exemption

20B.—(1) The Authority may, by regulations made under section 20, exempt any person or class of persons from all or any of the provisions of this Act, subject to such conditions as may be prescribed in those regulations.

(2) The Authority may, on the application of any person, and if the Authority considers it appropriate to do so in the circumstances of the case, by notice in writing exempt that person, subject to such conditions as the Authority may specify by notice in writing, from —

- (a) all or any of the provisions of this Act; and

- (b) any requirement that —
- (i) is imposed by the Authority under this Act; or
 - (ii) is specified in any written direction issued under section 20A(1).
- (3) The Authority may at any time, by notice in writing —
- (a) revoke any exemption granted under subsection (2); or
 - (b) add to, vary or revoke any condition of such an exemption imposed under subsection (2) or this paragraph.
- (4) An exemption granted under subsection (2), and every other notice in writing under this section, need not be published in the *Gazette*.

[Act 4 of 2018 wef 06/06/2018]

Settlement system deemed to be designated system under this Act

21. A settlement system operated by the Authority under the repealed section 59A of the Banking Act (Cap. 19, 1999 Ed.) immediately before 9th December 2002 shall be deemed to be a designated system under this Act.

[19

22. *[Repealed by Act 4 of 2018 wef 06/06/2018]*

23. *[Repealed by Act 4 of 2018 wef 06/06/2018]*

LEGISLATIVE HISTORY
PAYMENT AND SETTLEMENT SYSTEMS (FINALITY AND
NETTING) ACT
(CHAPTER 231)

This Legislative History is provided for the convenience of users of the Payment and Settlement Systems (Finality and Netting) Act. It is not part of the Act.

1. Act 39 of 2002 — Payment and Settlement Systems (Finality and Netting) Act 2002

Date of First Reading : 31 October 2002
(Bill No. 41/2002 published on
1 November 2002)

Date of Second and Third Readings : 25 November 2002

Date of commencement : 9 December 2002

2. Act 9 of 2003 — Statutes (Miscellaneous Amendments) Act 2003
(Consequential amendments made by)

Date of First Reading : 20 March 2003
(Bill No. 7/2003 published on
21 March 2003)

Date of Second and Third Readings : 24 April 2003

Date of commencement : 16 May 2003

3. 2003 Revised Edition — Payment and Settlement Systems (Finality and Netting) Act

Date of operation : 31 July 2003

4. Act 24 of 2003 — Monetary Authority of Singapore (Amendment) Act 2003

(Related and consequential amendments made to Act by)

Date of First Reading : 16 October 2003
(Bill No. 21/2003 published on
17 October 2003)

Date of Second and Third Readings : 10 November 2003

Date of commencement : 1 January 2004

**5. Act 4 of 2018 — Payment and Settlement Systems (Finality and Netting)
(Amendment) Act 2018**

Date of First Reading	:	6 November 2017 (Bill No. 44/2017 published on 6 November 2017)
Date of Second and Third Readings	:	8 January 2018
Date of commencement	:	6 June 2018

COMPARATIVE TABLE
PAYMENT AND SETTLEMENT SYSTEMS (FINALITY AND
NETTING) ACT
(CHAPTER 231)

The following provisions in the Payment and Settlement Systems (Finality and Netting) Act 2002 (Act 39 of 2002) have been renumbered by the Law Revision Commissioners in this 2003 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Payment and Settlement Systems (Finality and Netting) Act.

2003 Ed.	Act 39 of 2002
17	16A
18	16B
19	17
20	18
21	19
<i>Omitted</i>	20
22	21
23	22