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The following Act was passed by Parliament on 8th April 2013 and assented to by the President on 30th April 2013:—

FINANCIAL HOLDING COMPANIES ACT 2013

(No. 13 of 2013)

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REPUBLIC OF SINGAPORE

No. 13 of 2013.

I assent.

TONY TAN KENG YAM,
President.
30th April 2013.

An Act to regulate financial holding companies and to make consequential amendments to certain other written laws.

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 Financial Holding Companies Act 2013 and shall 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 —

"Accounting Standards" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"activity" means any activity whether carried out as or as part of a business or otherwise;

"agreement" means an agreement whether formal or informal and whether express or implied;

"Authority" means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

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

"bank holiday" means a day declared by the Authority to be a bank holiday under section 60(1) of the Banking Act;

"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 by electronic process or otherwise;

"business day" means any calendar day other than a Saturday, Sunday, public holiday or bank holiday;

"capital funds" means the amount determined by adding the designated financial holding company's paid-up capital (excluding any amount represented by treasury shares) to its published reserves (excluding such reserves as the Authority may specify by notice in writing to the

designated financial holding company), and then deducting therefrom any loss appearing in the accounts of the designated financial holding company;

"chief executive", in relation to a designated financial holding company, means any person, by whatever name described, who —

(*a*) is in the direct employment of, or acting for or by arrangement with, the designated financial holding company; and

(*b*) is principally responsible for the management and conduct of the activities of the FHC group;

"company" means any company defined in any written law for the time being in force relating to companies, any company formed in pursuance of any Royal Charter or Letters Patent, and any company incorporated or registered under any written law in force in Singapore, and includes any body corporate or unincorporate, whether incorporated, formed or established in or outside Singapore;

"co-operative society" means a co-operative society registered under the Co-operative Societies Act (Cap. 62);

"corporation" —

(*a*) has the same meaning as in section 4(1) of the Companies Act; but

(*b*) includes a co-operative society;

"credit facility" means —

(*a*) the granting by a designated financial holding company of advances, loans, guarantees, indemnities and other facilities to a person whereby the person has access to funds or financial guarantees; or

(*b*) the incurring by a designated financial holding company of other liabilities on behalf of any person,

but does not include the purchase by the designated financial holding company of any debt instrument;

"designated financial holding company" means a financial holding company designated under section 4;

"designation date", in relation to a financial holding company, means the date on which the financial holding company becomes designated under section 4;

"director" includes any person occupying the position of director of a corporation by whatever name described and includes a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act and an alternate or substitute director;

"employee" includes an individual seconded or temporarily transferred from another employer;

"executive officer", in relation to a corporation, means any person, by whatever name described, who —

(*a*) is in the direct employment of, or acting for or by arrangement with, the corporation; and

(*b*) is concerned with or takes part in the management of the corporation on a day-to-day basis;

"FHC group", in relation to a financial holding company, means the financial holding company, its subsidiaries and any other company or entity treated as part of the financial holding company's group of companies according to Accounting Standards;

"financial holding company" means a holding company —

(*a*) which has at least one subsidiary that is a bank incorporated in Singapore or a licensed insurer incorporated, formed or established in Singapore; and

(*b*) which subsidiary that is a financial institution accounts, or which subsidiaries that are financial institutions in the aggregate account, for 50% or more of the assets, capital, liabilities or revenue, of the FHC group of the holding company;

"financial institution" means any holding company or any company whose business the conduct of which is regulated

or authorised, or subject to oversight, by the Authority under any written law or, if carried on in Singapore, would be regulated or authorised, or subject to oversight, by the Authority under any written law;

"holding company" has the same meaning as in section 5 of the Companies Act except that any reference to "corporation" in that section shall be construed as if it did not exclude a co-operative society;

"licensed insurer" means an insurer licensed under section 8 of the Insurance Act (Cap. 142);

"limited liability partnership" has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

"officer", in relation to a corporation, includes —

(*a*) a director, a secretary or an employee of the corporation;

(*b*) a receiver or manager of any part of the undertaking of the corporation appointed under a power contained in any instrument; and

(*c*) the liquidator of the corporation appointed in a voluntary winding up;

"partner" or "manager", in relation to a limited liability partnership, have the respective meanings assigned to them in section 2(1) of the Limited Liability Partnerships Act;

"person" includes a corporation;

"profit and loss account" has the same meaning as in section 4(1) of the Companies Act;

"published reserve", in relation to a designated financial holding company, means reserves which appear in the accounts of the designated financial holding company which are duly audited by the auditor of the designated financial holding company;

"related corporation", in relation to a corporation, means a corporation that is deemed to be related to the first-mentioned corporation under section 6 of the Companies Act, except that

any reference to “corporation” in that section shall be construed as if it did not exclude a co-operative society;

“share” has the same meaning as in section 4(1) of the Companies Act and includes an interest in a share;

“subsidiary”, in relation to a financial holding company, has the same meaning as in section 5 of the Companies Act, except that any reference to “corporation” in that section shall be construed as if it did not exclude a co-operative society;

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

“total number of issued shares”, in relation to a company, does not include treasury shares;

“treasury share” has the same meaning as in section 4(1) of the Companies Act.

(2) Without prejudice to any other meaning which the word “insolvent” may have, a designated financial holding company shall, for the purposes of this Act, be deemed to be insolvent if either it has ceased to pay its debts in the ordinary course of business or is unable to pay its debts as they become due.

PART II

INFORMATION GATHERING POWERS OVER FINANCIAL HOLDING COMPANIES

Provision of information to Authority

3.—(1) The Authority may, by notice in writing, require any financial holding company to furnish to the Authority such information or statement at such time and in such manner as the Authority may specify if, in the opinion of the Authority, it requires that information or statement for the proper discharge of its functions under this Act.

(2) Any financial holding company to whom a notice is issued under subsection (1) shall comply with the notice.

(3) The Authority may require any information or statement submitted to it under subsection (1) to be accompanied by a certificate from the following auditors stating whether, in the opinion of the auditor, the information or statement is correct or reasonable:

(*a*) where a designated financial holding company furnishes the information or statement —

(i) the auditor appointed by the designated financial holding company under section 39(1); or

(ii) any other auditor appointed by the Authority under section 39(3); and

(*b*) in all other cases, an auditor appointed by the financial holding company.

(4) Except as provided in subsection (5), any information or statement received from a financial holding company under this section shall be treated as secret by the Authority.

(5) The Authority may disclose any information or statement received from a financial holding company under this section if —

(*a*) the information or statement is in the public domain;

(*b*) the information or statement is disclosed in such a manner that the financial holding company's identity cannot be ascertained;

(*c*) the financial holding company, or the person from whom the financial holding company had obtained the information or statement, consents to the disclosure;

(*d*) the person to whom the information or statement relates consents to the disclosure;

(*e*) the disclosure of the information or statement is necessary for the performance of any principal object or function, or the exercise of any power, of the Authority under this Act or any other written law; or

(*f*) the disclosure of the information or statement is pursuant to any requirement under any written law or order of court in Singapore.

(6) Nothing in this section shall prevent the Authority from preparing and publishing consolidated statements aggregating such information or statement as may be furnished in compliance with any notice under subsection (1).

(7) Any financial holding company which fails or neglects to furnish any information or statement required by the Authority under this section 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

PART III

DESIGNATION OF FINANCIAL HOLDING COMPANIES

Power of Authority to designate financial holding companies

4.—(1) The Authority may, by order published in the *Gazette*, designate a financial holding company as a designated financial holding company if it is —

(*a*) an ultimate financial holding company incorporated, formed or established in Singapore; or

(*b*) an intermediate financial holding company incorporated, formed or established in Singapore, and the operations of any bank incorporated in Singapore, or any licensed insurer incorporated, formed or established in Singapore, that is its subsidiary is considered by the Authority —

(i) to be significant to the FHC group of the intermediate financial holding company; or

(ii) to affect the stability of, or public confidence in, the financial system in Singapore.

(2) For the purposes of subsection (1)(*b*), where an intermediate financial holding company is a part of the FHC group of an ultimate

financial holding company that is incorporated, formed or established outside Singapore, the Authority may, in deciding whether to designate the intermediate financial holding company as a designated financial holding company, consider the extent to which the foreign supervisory authority supervises the FHC group of the ultimate financial holding company.

(3) Any order made under subsection (1) shall identify the designated financial holding company and shall continue to have effect until it is withdrawn by the Authority.

(4) A financial holding company which is aggrieved by a decision of the Authority to designate the financial holding company as a designated financial holding company may, within 30 days after the order is published in the *Gazette*, appeal in writing to the Minister whose decision shall be final.

(5) Notwithstanding the lodging of an appeal under subsection (4), the designation by the Authority under this section shall continue to have effect pending the decision of the Minister.

(6) The Minister may, when deciding an appeal under subsection (4), confirm or reverse the designation of the financial holding company as a designated financial holding company, and a decision to reverse the designation shall have effect from the date of the decision of the Minister.

(7) In this section —

"foreign supervisory authority" means the supervisory authority which is responsible, under the laws of the country or territory where the ultimate financial holding company referred to in subsection (2) is incorporated, formed or established, for —

(*a*) supervising the ultimate financial holding company; and

(*b*) exercising consolidated supervision over the ultimate financial holding company and its FHC group;

"intermediate financial holding company" means a financial holding company that is not an ultimate holding company;

"ultimate financial holding company" means a financial holding company that is an ultimate holding company;

"ultimate holding company" has the same meaning as in section 5A of the Companies Act (Cap. 50), except that any reference to "corporation" in that section shall be construed as if it did not exclude a co-operative society.

Withdrawal of designation of financial holding company

5. The Authority may, by order published in the *Gazette*, withdraw the designation of any designated financial holding company at any time if the Authority is of the opinion that the considerations in section 4(1) and (2) are no longer valid or satisfied.

Prohibition on holding out as designated financial holding company

6.—(1) No person shall hold itself out as a designated financial holding company if it is not designated by the Authority under section 4.

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

Use of financial holding company name, etc.

7.—(1) No person, other than an excepted person, shall, without the prior approval of the Authority, in the course of any profession, vocation, trade or business, use any name, logo or trade mark in a manner which indicates or represents that the person or his trade or business is related to or associated with a designated financial holding company.

(2) A designated financial holding company shall not cause or knowingly permit any person (other than an excepted person) to use its name, logo or trade mark in the course of the person's profession, vocation, trade or business without the prior approval of the Authority.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $125,000 and, in the case of a continuing offence, to a further fine not exceeding $12,500 for every day or part thereof during which the offence continues after conviction; or

(*b*) in any other case, to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(4) In subsections (1) and (2), "excepted person" means —

(*a*) a financial institution that is a related corporation of the designated financial holding company;

(*b*) any officer or agent of the designated financial holding company or any of its subsidiaries which is a financial institution, in the conduct of any duty or function in or for the designated financial holding company or the subsidiary, as the case may be;

(*c*) any person which, pursuant to any agreement or arrangement with the designated financial holding company or any of the financial institutions within the FHC group, carries on any business the conduct of which is regulated or authorised, or subject to oversight, by the Authority or, if carried on in Singapore, would be regulated or authorised, or subject to oversight, by the Authority under any written law;

(*d*) any person which, pursuant to any agreement or arrangement with the designated financial holding company or any of the financial institutions within the FHC group, carries on any business that is incidental to the business of any of the financial institutions within the FHC group;

(*e*) any person which, pursuant to any agreement or arrangement with a bank which is a subsidiary of the designated financial holding company, carries on any business that is prescribed under section 30(1)(*d*) of the Banking Act (Cap. 19); and

(*f*) such other person or class of persons as may be prescribed by regulations made under section 59.

(5) Nothing in this section shall prevent a person who, immediately before the designation date of a financial holding company, is lawfully using any name, logo or trade mark in the manner referred to in subsection (1) from continuing to use the name, logo or trade mark in such manner for a period of 3 years from the designation date.

Activities of designated financial holding company

8.—(1) A designated financial holding company shall not carry out any activity without the approval of the Authority, other than the following:

(*a*) being a holding company for its subsidiaries;

(*b*) acquiring or holding of shares in any company as permitted under section 31;

(*c*) for the purposes of providing support to the business conducted by any other company within the FHC group of the designated financial holding company —

(i) conducting general management, and capital and liquidity management; and

(ii) providing advisory, financial, accounting, or information processing services; and

(*d*) such other activity as may be specified by notice in writing by the Authority.

(2) Any designated financial holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

Annual levy

9.—(1) Every designated financial holding company shall pay to the Authority such annual levy as may be prescribed and in such manner as may be specified by the Authority.

(2) The Authority may prescribe different levies in respect of different classes or categories of designated financial holding companies and the levies shall apply uniformly to those classes or categories.

(3) All levies collected under subsection (1) shall be paid into the funds of the Authority.

Amendment of designated financial holding company's constitution

10.—(1) Every designated financial holding company shall, prior to the making of any amendment or alteration in the memorandum of association and articles of association or other instrument under which it is incorporated, formed or established, furnish to the Authority particulars in writing of the proposed amendment or alteration.

(2) Every designated financial holding company shall, within 3 months after the making of any amendment or alteration in the memorandum of association and articles of association or other instrument under which it is incorporated, formed or established, furnish to the Authority particulars in writing of the amendment or alteration, verified by either of the following:

(*a*) a statutory declaration or its equivalent made by a senior officer of the designated financial holding company; or

(*b*) proof of lodgment of the amendment or alteration under the Companies Act (Cap. 50).

(3) Any designated financial holding company which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $25,000 and, in the case of a continuing offence, to a further fine not exceeding $2,500 for every day or part thereof during which the offence continues after conviction.

PART IV

CHANGES IN SHAREHOLDINGS AND CONTROL OF DESIGNATED FINANCIAL HOLDING COMPANY

Application and interpretation of this Part

11.—(1) This Part shall apply to, and in relation to —

(*a*) all individuals, whether resident in Singapore or not and whether citizens of Singapore or not; and

(*b*) all bodies corporate or unincorporate, whether incorporated, formed or established, or carrying on business in Singapore or not.

(2) In this Part, unless the context otherwise requires —

"12% controller" means a person, not being a 20% controller, who alone or together with his associates —

(*a*) holds not less than 12% of the total number of issued shares in the designated financial holding company; or

(*b*) is in a position to control voting power of not less than 12% in the designated financial holding company;

"20% controller" means a person who, alone or together with his associates —

(*a*) holds not less than 20% of the total number of issued shares in the designated financial holding company; or

(*b*) is in a position to control voting power of not less than 20% in the designated financial holding company;

"arrangement" includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

"designated financial holding company with bank subsidiary" and "financial holding company with bank subsidiary" mean a designated financial holding company and a financial holding company, respectively, each of which has a subsidiary that is a bank incorporated in Singapore;

"designated financial holding company without bank subsidiary" and "financial holding company without bank subsidiary" mean a designated financial holding company and a financial holding company, respectively, that do not have a subsidiary that is a bank incorporated in Singapore;

"indirect controller" means any person, whether acting alone or together with any other person, and whether with or without holding shares or controlling voting power in a designated financial holding company —

(*a*) in accordance with whose directions, instructions or wishes the directors of the designated financial holding company are accustomed or under an obligation, whether formal or informal, to act; or

(*b*) who is in a position to determine the policy of the designated financial holding company,

but does not include —

(i) any person who is a director or other officer of the designated financial holding company whose appointment has been approved by the Authority; and

(ii) any person in accordance with whose directions, instructions or wishes the directors of the designated financial holding company are accustomed to act by reason only that they act on advice given by him in his professional capacity;

"voting shares" has the same meaning as in section 4(1) of the Companies Act (Cap. 50).

(3) For the purposes of subsection (2) —

(*a*) a person holds a share if —

(i) he is deemed to have an interest in that share under section 7(6) of the Companies Act; or

(ii) he otherwise has a legal or an equitable interest in that share except for such interests as is to be disregarded under section 7(7) to (9) of the Companies Act;

(*b*) a reference to the control of a percentage of the voting power in a designated financial holding company is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the designated financial holding company; and

(*c*) a person, *A*, is an associate of another person, *B*, if —

(i) *A* is the spouse, or a parent, remoter lineal ancestor or step-parent, or a son, daughter, remoter issue, step-son or step-daughter, or a brother or sister, of *B*;

(ii) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*, or where *B* is a corporation, of the directors of *B*;

(iii) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*, or where *A* is a corporation, of the directors of *A*;

(iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;

(v) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*;

(vi) *A* is a related corporation of *B*;

(vii) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the voting power in *A*;

(viii) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in

sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the voting power in *B*; or

(ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the designated financial holding company.

Mergers involving designated financial holding company with bank subsidiary

12.—(1) A designated financial holding company with bank subsidiary shall not be merged or consolidated with, or be taken over by, any other body corporate or unincorporate without the prior written approval of the Minister.

(2) The Minister may approve an application made under subsection (1) if —

(*a*) the Authority is satisfied that —

(i) the body corporate or unincorporate is a fit and proper person or body of persons; and

(ii) having regard to the likely influence of the body corporate or unincorporate, the activities of the designated financial holding company will be or will continue to be conducted prudently and the provisions of this Act will be or will continue to be complied with in relation to its activities; and

(*b*) the Minister is satisfied that it is in the national interest to do so.

(3) The parties to a proposed merger, consolidation or take-over, in respect of which an application is made under this section, shall furnish such information as the Minister or the Authority may require for the purposes of subsection (2).

(4) Without prejudice to the generality of subsection (1), for the purposes of this section, a designated financial holding company shall

be deemed to be merged with a body corporate or unincorporate if the designated financial holding company or its shareholders enter into any agreement or arrangement —

(*a*) under which all or substantially all of the activities of the designated financial holding company are to be managed; and

(*b*) under which the shareholders of the designated financial holding company will be accorded rights,

as if the designated financial holding company has been merged with such body corporate or unincorporate, as the case may be.

Control of substantial shareholdings of designated financial holding company with bank subsidiary

13.—(1) No person shall become a substantial shareholder of a designated financial holding company with bank subsidiary without first obtaining the approval of the Minister.

(2) Subject to section 15(5), a person (other than an excepted person) who is a substantial shareholder of a financial holding company with bank subsidiary immediately before the designation date shall cease to be a substantial shareholder before the expiry of the later of the following dates unless he has applied in writing to the Minister for approval before such date:

(*a*) 6 months after the designation date; or

(*b*) such longer period as the Minister may allow in any particular case.

(3) No person shall enter into any agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any person with respect to the acquisition, holding or disposal of, or the exercise of rights in relation to, their interest in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a designated financial holding company with bank subsidiary, without first obtaining the approval of the Minister.

(4) Subject to section 15(5), a person (other than an excepted person) who has entered into any agreement or arrangement referred to in subsection (3) at any time before the designation date shall cease to be a party to such an agreement or arrangement before the later of

the following dates unless he has applied in writing to the Minister for approval before such date:

(*a*) 6 months after the designation date; or

(*b*) such longer period as the Minister may allow in any particular case.

(5) For the purposes of this section, a person has an interest in any share if —

(*a*) he is deemed to have an interest in that share under section 7 of the Companies Act (Cap. 50); or

(*b*) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 of the Companies Act.

(6) For the purposes of —

(*a*) subsection (2), an "excepted person" means a person —

(i) who —

(A) is a substantial shareholder of a bank incorporated in Singapore which is a subsidiary of the relevant designated financial holding company; and

(B) had obtained approval to become a substantial shareholder of that bank under section 15C, read with section 15A(1) or (2), of the Banking Act (Cap. 19) and which approval has not been revoked; or

(ii) who —

(A) immediately before the date of commencement of this section, was a substantial shareholder of a designated financial institution under the Banking Act in force before that date; and

(B) had obtained approval to become a substantial shareholder of the designated financial institution under section 15C, read with section 15A(1) or (2), of the Banking Act in

force immediately before that date, and which approval has not been revoked;

(*b*) subsection (4), an "excepted person" means a person —

(i) who —

(A) has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any person with respect to the acquisition, holding or disposal of, or the exercise of rights in relation to, their interest in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a bank incorporated in Singapore which is a subsidiary of the relevant designated financial holding company; and

(B) had obtained the approval for such agreement or arrangement under section 15C, read with section 15A(3) or (4), of the Banking Act, and which approval has not been revoked; or

(ii) who, immediately before the date of commencement of this section —

(A) had an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any person with respect to the acquisition, holding or disposal of, or the exercise of rights in relation to, their interest in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a designated financial institution under the Banking Act in force before that date; and

(B) had obtained approval for such agreement or arrangement under section 15C, read with section 15A(3) or (4), of the Banking Act in force immediately before that date, and which approval has not been revoked; and

(*c*) subsection (5), any reference to "corporation" in section 7 of the Companies Act shall be construed as if it did not exclude a co-operative society.

Control of shareholdings and voting power of designated financial holding company with bank subsidiary

14.—(1) No person shall become —

(*a*) a 12% controller;

(*b*) a 20% controller; or

(*c*) an indirect controller,

of a designated financial holding company with bank subsidiary without first obtaining the approval of the Minister.

(2) Subject to section 15(5), a person who is —

(*a*) a 12% controller;

(*b*) a 20% controller; or

(*c*) an indirect controller,

of a financial holding company with bank subsidiary immediately before the designation date shall, unless he is an excepted person, cease to be such a controller before the expiry of 6 months after the designation date, or such longer period as the Minister may allow in any particular case, unless he has applied in writing to the Minister for approval before such date.

(3) For the purposes of —

(*a*) subsection (2)(*a*), an "excepted person" means a person —

(i) who —

(A) is a 12% controller of a bank incorporated in Singapore, which is a subsidiary of the relevant designated financial holding company; and

(B) had obtained approval to become a 12% controller of the bank under section 15C, read with section 15B(1)(*a*) or (2)(*a*), of the

Banking Act (Cap. 19) and which approval has not been revoked; or

(ii) who —

(A) immediately before the date of commencement of this section, was a 12% controller of a designated financial institution under the Banking Act in force before that date; and

(B) had obtained approval to become a 12% controller of the designated financial institution under section 15C, read with section 15B(1)(*a*) or (2)(*a*), of the Banking Act in force immediately before the date of commencement of this section, and which approval has not been revoked;

(*b*) subsection (2)(*b*), an "excepted person" means a person —

(i) who —

(A) is a 20% controller of a bank incorporated in Singapore, which is a subsidiary of the relevant designated financial holding company; and

(B) had obtained approval to become a 20% controller of the bank under section 15C, read with section 15B(1)(*b*) or (2)(*b*), of the Banking Act and which approval has not been revoked; or

(ii) who —

(A) immediately before the date of commencement of this section, was a 20% controller of a designated financial institution under the Banking Act in force before that date; and

(B) had obtained approval to become a 20% controller of the designated financial institution under section 15C, read with section 15B(1)(*b*) or (2)(*b*), of the Banking Act in force immediately before the date of

commencement of this section, and which approval has not been revoked;

(*c*) subsection (2)(*c*), an “excepted person” means a person —

(i) who —

(A) is an indirect controller of a bank incorporated in Singapore which is a subsidiary of the relevant designated financial holding company; and

(B) had obtained approval to become an indirect controller of that bank under section 15C, read with section 15B(1)(*c*) or (2)(*c*), of the Banking Act and which approval has not been revoked; or

(ii) who —

(A) immediately before the date of commencement of this section, was an indirect controller of a designated financial institution under the Banking Act in force before that date; and

(B) had obtained approval to become an indirect controller of the designated financial institution under section 15C, read with section 15B(1)(*c*) or (2)(*c*), of the Banking Act in force immediately before the date of commencement of this section, and which approval has not been revoked.

Approval of applications in case of designated financial holding company with bank subsidiary

15.—(1) The Minister may approve an application made by any person under section 13 or 14 if —

(*a*) the Authority is satisfied that —

(i) the person is a fit and proper person; and

(ii) having regard to the likely influence of the person, the designated financial holding company will or will continue to carry on its activities prudently and comply with the provisions of this Act; and

(*b*) the Minister is satisfied that it is in the national interest to do so.

(2) Any approval under this section may be granted to any person subject to such conditions as the Minister may determine, including but not limited to any condition —

(*a*) restricting the person’s disposal or further acquisition of shares or voting power in the designated financial holding company; or

(*b*) restricting the person’s exercise of voting power in the designated financial holding company.

(3) The Minister may at any time add to, vary or revoke any condition imposed under subsection (2).

(4) Any condition imposed under subsection (2) shall have effect notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the designated financial holding company.

(5) Where the Minister disapproves an application made by any person under section 13(2) or (4) or 14(2), the person shall, within such time as the Minister may specify, take such steps as are necessary —

(*a*) in the case of section 13(2), to cease to be a substantial shareholder;

(*b*) in the case of section 13(4), to cease to be a party to the agreement or arrangement; or

(*c*) in the case of section 14(2), to cease to be —

(i) a 12% controller;

(ii) a 20% controller; or

(iii) an indirect controller,

as the case may be.

Power to exempt and make further transitional provisions

16. The Minister may, by order published in the *Gazette* —

(*a*) exempt from section 13 or 14, subject to such terms and conditions as may be specified in the order —

(i) any person or class of persons; or

(ii) any class or description of shares or interest in shares; and

(*b*) make such further transitional provisions as he considers necessary or expedient for the purposes of section 13, 14 or 15.

Objection to existing control of designated financial holding company with bank subsidiary

17.—(1) The Minister may serve a written notice of objection on any person referred to in section 13 or 14, other than an excepted person as defined in those sections, if —

(*a*) the Minister is satisfied that —

(i) any condition of approval imposed on the person under section 15(2) has not been complied with;

(ii) it is no longer in the national interest to allow the person to continue to be a party to the agreement or arrangement described in section 13(3), or to continue to be a substantial shareholder, a 12% controller, a 20% controller or an indirect controller, as the case may be;

(iii) the person has furnished any false or misleading information or document in connection with the person's application for approval under section 13 or 14; or

(iv) he would not have granted his approval under section 15 had he been aware, at that time, of circumstances relevant to the person's application for such approval; or

(*b*) the Authority is satisfied that —

(i) the person has ceased to be a fit and proper person;

(ii) having regard to the likely influence of the person, the designated financial holding company is no longer likely to carry on its activities prudently or to comply with the provisions of this Act; or

(iii) it would not have been satisfied as to any of the matters specified in section 15(1)(*a*) had it been aware, at that time, of circumstances relevant to the person's application under section 13 or 14.

(2) The Minister may serve a written notice of objection on any excepted person referred to in section 13 or 14 if —

(*a*) the Minister is satisfied that it is not in the national interest to allow the excepted person to continue, as the case may be —

(i) to be a party to the agreement or arrangement described in section 13(4); or

(ii) to be a substantial shareholder, a 12% controller, a 20% controller or an indirect controller; or

(*b*) the Authority is satisfied that —

(i) the excepted person is not a fit and proper person; or

(ii) having regard to the likely influence of the excepted person, the designated financial holding company is not likely to carry on its activities prudently or to comply with the provisions of this Act.

(3) Before the service of a written notice of objection, the Minister shall, unless he decides that it is not practicable or desirable to do so, cause to be given to the person concerned notice in writing of his intention to serve the written notice of objection, specifying a date by which the person may make written representations with regard to the proposed written notice of objection.

(4) Upon receipt of any written representations, the Minister shall consider them for the purposes of determining whether to issue a written notice of objection.

(5) The Minister shall, in any written notice of objection, specify a reasonable period within which the person to be served the written notice of objection shall —

(*a*) take such steps as are necessary to ensure that he ceases to be a party to the agreement or arrangement described in section 13(3) or (4), or ceases to be a substantial shareholder, a 12% controller, a 20% controller or an indirect controller, as the case may be; or

(*b*) comply with such direction or directions as the Minister may make under section 18.

(6) Any person served with a written notice of objection under this section shall comply with the notice.

Power to make directions in relation to designated financial holding company with bank subsidiary

18.—(1) Without prejudice to section 26, if the Minister is satisfied that any person has contravened section 13, 14, 15(5) or 17(6) or has failed to comply with any condition imposed under section 15(2), or if the Minister has served a written notice of objection under section 17, the Minister may, by directions in writing —

(*a*) direct the transfer or disposal of all or any of the shares in the designated financial holding company held by the person or any of his associates (referred to in this section as the specified shares) within such time or subject to such conditions as the Minister considers appropriate;

(*b*) restrict the transfer or disposal of the specified shares; or

(*c*) make such other direction or directions as may be specified in the notice.

(2) Any person to whom a direction is given under subsection (1) shall comply with such direction or directions as may be specified therein.

(3) In the case of any direction made under subsection (1)(*a*) or (*b*), until a transfer or disposal is effected in accordance with the direction or until the restriction on the transfer or disposal is removed, as the case may be, notwithstanding any of the provisions of the Companies

Act (Cap. 50) or anything contained in the memorandum or articles of association of the designated financial holding company —

(*a*) no voting rights shall be exercisable in respect of the specified shares unless the Minister expressly permits such rights to be exercised;

(*b*) no shares of the designated financial holding company shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares unless the Minister expressly permits such issue or offer; and

(*c*) except in a liquidation of the designated financial holding company, no payment shall be made by the designated financial holding company of any amount (whether by way of dividends or otherwise) in respect of the specified shares unless the Minister expressly authorises such payment.

Mergers involving designated financial holding company without bank subsidiary

19.—(1) A designated financial holding company without bank subsidiary shall not be merged or consolidated with, or be taken over by, any other body corporate or unincorporate without the prior written approval of the Authority.

(2) The Authority may approve an application made under subsection (1) if the Authority is satisfied that —

(*a*) the body corporate or unincorporate is a fit and proper person or body of persons; and

(*b*) having regard to the likely influence of the body corporate or unincorporate, the activities of the designated financial holding company will be or will continue to be conducted prudently and the provisions of this Act will be or will continue to be complied with in relation to its activities.

(3) The parties to a proposed merger, consolidation or take-over, in respect of which an application is made under this section, shall furnish such information as the Authority may require for the purposes of subsection (2).

(4) Without prejudice to the generality of subsection (1), for the purposes of this section, a designated financial holding company shall be deemed to be merged with a body corporate or unincorporate if the designated financial holding company or its shareholders enter into any agreement or arrangement —

(*a*) under which all or substantially all of the activities of the designated financial holding company are to be managed; and

(*b*) under which the shareholders of the designated financial holding company will be accorded rights,

as if the designated financial holding company has been merged with such body corporate or unincorporate, as the case may be.

Control of substantial shareholdings of designated financial holding company without bank subsidiary

20.—(1) No person shall become a substantial shareholder of a designated financial holding company without bank subsidiary without first obtaining the approval of the Authority.

(2) Subject to section 22(5), a person (other than an excepted person) who is a substantial shareholder of a financial holding company without bank subsidiary immediately before the designation date shall cease to be a substantial shareholder before the expiry of the later of the following dates unless he has applied in writing to the Authority for approval before such date:

(*a*) 6 months after the designation date; or

(*b*) such longer period as the Authority may, in any particular case, allow.

(3) No person shall enter into any agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any person with respect to the acquisition or holding of, or the exercise of rights in relation to, their interest in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a designated financial holding company without bank subsidiary, without first obtaining the approval of the Authority.

(4) No person shall enter into any agreement or arrangement, whether oral or in writing and whether express or implied, to act

together with any person with respect to the disposal of their interest in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a designated financial holding company without bank subsidiary, without first notifying the Authority.

(5) Subject to section 22(5), a person (other than an excepted person) who has entered into any agreement or arrangement referred to in subsection (3) at any time before the designation date shall cease to be a party to such an agreement or arrangement before the later of the following dates unless he has applied in writing to the Authority for approval before such date:

(*a*) 6 months after the designation date; or

(*b*) such longer period as the Authority may, in any particular case, allow.

(6) For the purposes of this section —

(*a*) a person has an interest in any share if —

(i) he is deemed to have an interest in that share under section 7 of the Companies Act (Cap. 50); or

(ii) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 of the Companies Act;

(*b*) an "excepted person", in relation to subsection (2), means a person who —

(i) is a substantial shareholder of a licensed insurer incorporated in Singapore which is a subsidiary of the relevant designated financial holding company; and

(ii) had obtained approval, or is deemed to have obtained approval, to become such a substantial shareholder under section 29(1) of the Insurance Act (Cap. 142) and which approval has not been revoked; and

(*c*) an "excepted person", in relation to subsection (5), means a person who —

(i) has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any person with respect to the acquisition or holding of, or the exercise of rights in relation to, their interest in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a licensed insurer incorporated in Singapore which is a subsidiary of the relevant designated financial holding company; and

(ii) had obtained the approval for such agreement or arrangement under section 29(2) of the Insurance Act and which approval has not been revoked.

(7) For the purposes of subsection (6)(*a*), any reference to "corporation" in section 7 of the Companies Act shall be construed as if it did not exclude a co-operative society.

Control of shareholdings and voting power of designated financial holding company without bank subsidiary

21.—(1) No person shall become —

(*a*) a 20% controller; or

(*b*) an indirect controller,

of a designated financial holding company without bank subsidiary without first obtaining the approval of the Authority.

(2) Subject to section 22(5), a person who is —

(*a*) a 20% controller; or

(*b*) an indirect controller,

of a financial holding company without bank subsidiary immediately before the designation date shall, unless he is an excepted person, cease to be such a controller before the expiry of 6 months after the designation date, or such longer period as the Authority may allow in any particular case, unless he has applied in writing to the Authority for approval before such date.

(3) In subsection (2), "excepted person" means a person who has obtained, or is deemed to have obtained, approval to obtain effective

control of a licensed insurer incorporated in Singapore which is a subsidiary of the relevant designated financial holding company without bank subsidiary under section 28 of the Insurance Act (Cap. 142), and which approval has not been revoked.

Approval of applications in case of designated financial holding company without bank subsidiary

22.—(1) The Authority may approve an application made by any person under section 20 or 21 if the Authority is satisfied that —

(*a*) the person is a fit and proper person; and

(*b*) having regard to the likely influence of the person, the designated financial holding company will or will continue to carry on its activities prudently and comply with the provisions of this Act.

(2) Any approval under this section may be granted to any person subject to such conditions as the Authority may determine, including but not limited to any condition —

(*a*) restricting the person's disposal or further acquisition of shares or voting power in the designated financial holding company; or

(*b*) restricting the person's exercise of voting power in the designated financial holding company.

(3) The Authority may at any time add to, vary or revoke any condition imposed under subsection (2).

(4) Any condition imposed under subsection (2) shall have effect notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the designated financial holding company.

(5) Where the Authority disapproves an application made by any person under section 20(2) or (5) or 21(2), the person shall, within such time as the Authority may specify, take such steps as are necessary —

(*a*) in the case of section 20(2), to cease to be a substantial shareholder;

(*b*) in the case of section 20(5), to cease to be a party to the agreement or arrangement; or

(*c*) in the case of section 21(2), to cease to be —

(i) a 20% controller; or

(ii) an indirect controller,

as the case may be.

Objection to existing control of designated financial holding company without bank subsidiary

23.—(1) The Authority may serve a written notice of objection on any substantial shareholder, 20% controller or indirect controller, other than an excepted person, referred to in section 20 or 21 if the Authority is satisfied that —

(*a*) any condition of approval imposed on the person under section 22(2) has not been complied with;

(*b*) the person furnished any false or misleading information or document in connection with the person's application under section 20 or 21;

(*c*) the person has ceased to be a fit and proper person;

(*d*) having regard to the likely influence of the person, the designated financial holding company is no longer likely to carry on its activities prudently or to comply with the provisions of this Act; or

(*e*) it would not have been satisfied as to any of the matters specified in section 22(1) had it been aware, at that time, of circumstances relevant to the person's application under section 20 or 21.

(2) The Authority may serve a written notice of objection on any excepted person referred to in section 20 or 21, if the Authority is satisfied that —

(*a*) the excepted person is not a fit and proper person; and

(*b*) having regard to the likely influence of the excepted person, the designated financial holding company is not likely to

carry on its activities prudently or to comply with the provisions of this Act.

(3) Before the service of a written notice of objection, the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, cause to be given to the person concerned notice in writing of the Authority's intention to serve the written notice of objection, specifying a date by which the person may make written representations with regard to the proposed written notice of objection.

(4) Upon receipt of any written representations, the Authority shall consider them for the purposes of determining whether to issue a written notice of objection.

(5) The Authority shall, in any written notice of objection, specify a reasonable period within which the person served the written notice of objection shall —

(*a*) take such steps as are necessary to ensure that he ceases to be a party to the agreement or arrangement described in section 20(3), (4) or (5), or ceases to be a substantial shareholder, a 20% controller or an indirect controller, as the case may be; or

(*b*) comply with such direction or directions as the Authority may make under section 24.

(6) Any person served with a written notice of objection under this section shall comply with the notice.

Power to make directions in relation to designated financial holding company without bank subsidiary

24.—(1) Without prejudice to section 26, if the Authority is satisfied that any person has contravened section 20, 21, 22(5) or 23(6) or has failed to comply with any condition imposed under section 22(2), or if the Authority has served a written notice of objection under section 23, the Authority may, by direction in writing —

(*a*) direct the transfer or disposal of all or any of the shares in the designated financial holding company held by the person or any of his associates (referred to in this section as the

specified shares) within such time or subject to such conditions as the Authority considers appropriate;

(*b*) restrict the transfer or disposal of the specified shares; or

(*c*) make such other direction or directions as may be specified in the notice.

(2) Any person to whom a direction is given under subsection (1) shall comply with such direction or directions as may be specified therein.

(3) In the case of any direction made under subsection (1)(*a*) or (*b*), until a transfer or disposal is effected in accordance with the direction or until the restriction on the transfer or disposal is removed, as the case may be, notwithstanding any of the provision of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the designated financial holding company —

(*a*) no voting rights shall be exercisable in respect of the specified shares unless the Authority expressly permits such rights to be exercised;

(*b*) no shares of the designated financial holding company shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares unless the Authority expressly permits such issue or offer; and

(*c*) except in a liquidation of the designated financial holding company, no payment shall be made by the designated financial holding company of any amount (whether by way of dividends or otherwise) in respect of the specified shares unless the Authority expressly authorises such payment.

Appeals

25. Any person who is aggrieved by a decision of the Authority under this Part may, within 30 days after he is notified of the decision by the Authority, appeal in writing to the Minister whose decision shall be final.

Offences, penalties and defences under this Part

26.—(1) Any person who contravenes section 12(1), 13(1), (2), (3) or (4), 14(1)(*a*) or (2)(*a*), 15(5)(*a*), (*b*) or (*c*)(i), 19(1), 20(1), (2), (3), (4) or (5) or 22(5)(*a*) or (*b*) shall be guilty of an offence and shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $125,000 and, in the case of a continuing offence (if applicable), to a further fine not exceeding $12,500 for every day or part thereof during which the offence continues after conviction; or

(*b*) in any other case, to a fine not exceeding $250,000 and, in the case of a continuing offence (if applicable), to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(2) Any person who contravenes section 14(1)(*b*) or (*c*) or (2)(*b*) or (*c*), 15(5)(*c*)(ii) or (iii), 17(6), 18(2) or (3), 21(1) or (2), 22(5)(*c*), 23(6) or 24(2) or (3), or who fails to comply with any condition imposed under section 15(2) or 22(2), shall be guilty of an offence and shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence (if applicable), to a further fine not exceeding $12,500 for every day or part thereof during which the offence continues after conviction; or

(*b*) in any other case, to a fine not exceeding $250,000 and, in the case of a continuing offence (if applicable), to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(3) Where a person is charged with an offence in respect of a contravention of section 13, 14, 20 or 21, it shall be a defence for the person to prove that —

(*a*) he was not aware that he had contravened section 13, 14, 20 or 21, as the case may be; and

(*b*) within 14 days after becoming aware that he had contravened section 13, 14, 20 or 21, as the case may be, he notified the Minister or the Authority, as the case may be, of the contravention and, within such further time as determined by the Minister or the Authority, as the case may be, has taken such actions in relation to his shareholding or control of the voting power in the designated financial holding company as the Minister or the Authority, as the case may be, may direct.

(4) Where a person is charged with an offence in respect of a contravention of section 14 or 21, it shall also be a defence for the person to prove that, even though he was aware of the contravention —

(*a*) the contravention occurred as a result of an increase in the shareholding as described in section 11(3)(*a*) of, or in the voting power controlled by, any of his associates described in section 11(3)(*c*)(i);

(*b*) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of shares or other interests in, or under which they act together in exercising their voting power in relation to, the designated financial holding company; and

(*c*) he has, within 14 days of the date of the contravention, notified the Minister or the Authority, as the case may be, of the contravention and, within such time as may be determined by the Minister or the Authority, as the case may be, taken such action in relation to his shareholding or control of the voting power in the designated financial holding company as the Minister or the Authority, as the case may be, may direct.

(5) Except as provided in subsections (3) and (4), it shall not be a defence for a person charged with an offence in respect of a contravention of section 13, 14, 20 or 21 to prove that he did not intend to or did not knowingly contravene section 13, 14, 20 or 21, as the case may be.

Power of Authority to obtain information

27.—(1) The Authority may, by notice in writing, direct any designated financial holding company to obtain from any of its shareholders and to transmit to the Authority any information relating to its shareholders which the Minister or the Authority may require for the purposes of ascertaining or investigating into the control of shareholding or voting power in the designated financial holding company, or exercising any power or function under sections 13 to 18 and sections 20 to 25, including information —

(*a*) as to whether that shareholder holds any share in the designated financial holding company as beneficial owner or as trustee; and

(*b*) if he holds the share as trustee, to indicate as far as he can, the person for whom he holds the share (either by name or by other particulars sufficient to enable that person to be identified) and the nature of his interest,

and the designated financial holding company shall comply with that direction within such time as may be specified in the notice.

(2) The Authority may, by notice in writing, require any shareholder of a designated financial holding company, or any person who appears from information provided to the Authority under subsection (1) or this subsection to have an interest in any share in a designated financial holding company, to provide to the Authority any information relating to the shareholder or the person, as the case may be, which the Minister or the Authority may require for the purposes of ascertaining or investigating into the control of shareholding or voting power in the designated financial holding company, or exercising any power or function under sections 13 to 18 and sections 20 to 25, including —

(*a*) whether he holds that interest as beneficial owner or as trustee, and if he holds the interest as trustee, to indicate as far as he can, the person for whom he holds the interest (either by name or by other particulars sufficient to enable that person to be identified) and the nature of his interest; or

(*b*) whether any share or any voting right attached to the share is the subject of an agreement or arrangement described in section 11(3)(*c*)(ix), 13(3) or (4) or 20(3), (4) or (5) and if so, to give particulars of the agreement or arrangement and the parties to it,

and the shareholder or the person shall comply with that notice within such time as may be specified therein.

(3) Any person who —

(*a*) fails to comply with a notice under this section; or

(*b*) in purported compliance with the notice, knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence.

(4) Any person convicted of an offence under subsection (3) shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding $12,500 for every day or part thereof during which the offence continues after conviction; or

(*b*) in any other case, to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(5) Where a person claims, before furnishing the Authority with any information or document that he is required to furnish under subsection (2), that the information or documents might tend to incriminate him, the information or documents shall not be admissible in evidence against him in criminal proceedings other than proceedings under this Part.

PART V

EXPOSURES AND LIMITS ON INVESTMENTS

Exposures

28.—(1) A designated financial holding company shall not grant any credit facility except to —

(*a*) any company within its FHC group; or

(*b*) any company within the FHC group of the ultimate financial holding company of the designated financial holding company.

(2) The Authority may, by notice in writing to any designated financial holding company, or any class of designated financial holding companies, impose such requirements as may be necessary or expedient for the purposes of limiting the exposure of the designated financial holding company, or a designated financial holding company within the class of designated financial holding companies, to any one or more of the following:

(*a*) a substantial shareholder group of the designated financial holding company;

(*b*) the financial group of the designated financial holding company;

(*c*) a director group of the designated financial holding company;

(*d*) a third party single counterparty group of the designated financial holding company;

(*e*) any other person or class of persons as may be prescribed.

(3) Without prejudice to the generality of subsection (2), the Authority may in a notice issued under that subsection —

(*a*) specify the limit on any exposure;

(*b*) exclude any exposure from any limit;

(*c*) specify the method of measuring any exposure;

(*d*) exclude any designated financial holding company or class of designated financial holding companies from any requirement imposed under subsection (2); and

(*e*) vary any limit in a particular case.

(4) A designated financial holding company shall not grant any credit facility against the security of its own shares or those of any of its subsidiaries.

(5) Any designated financial holding company which fails to comply with subsection (1) or (4) or any requirement imposed under subsection (2) or (3) 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(6) In this section —

(*a*) the words "director group", "exposure", "financial group", "substantial shareholder group" and "third party single counterparty group" have the meanings given to them in the Schedule; and

(*b*) a financial holding company is the "ultimate financial holding company" of another corporation if —

(i) the other corporation is a subsidiary of the financial holding company; and

(ii) the financial holding company is not itself a subsidiary of any other financial holding company.

Disclosure of interests by directors

29.—(1) Every director of a designated financial holding company who has in any manner, directly or indirectly, an interest in an exposure of, or a proposed exposure of —

(*a*) that designated financial holding company; or

(*b*) any of the companies within the FHC group of the designated financial holding company,

shall as soon as practicable declare the nature of his interest to the board of directors of that designated financial holding company and the secretary of that designated financial holding company shall cause the declaration to be circulated immediately to all the directors.

(2) The requirements in subsection (1) shall not apply in any case where the interest of the director consists only of being a member or creditor of a company which is interested in an exposure of, or a proposed exposure of, that designated financial holding company if the interest of the director may properly be regarded as of a trivial nature.

(3) For the purposes of subsection (1), a general notice given to the board of directors of a designated financial holding company to the effect that he is an officer or a member of a specified company, or a partner or manager of a specified firm or specified limited liability partnership, and that he is to be regarded as having an interest in any exposure which may, after the date of the notice, be acquired in respect of that company, firm or limited liability partnership, shall be deemed to be a sufficient declaration of interest in relation to any exposure so acquired if —

(*a*) the notice specifies the nature and extent of his interest in that company, firm or limited liability partnership;

(*b*) his interest is not different in nature from or greater in extent than the nature and extent so specified in the notice at the time any exposure is so acquired; and

(*c*) it is given at a meeting of the board of directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the board of directors after it is given.

(4) Every director of a designated financial holding company who holds any office or possesses any property whereby, directly or indirectly, duties or interest might be created in conflict with his duties or interest as director shall declare at a meeting of the directors of that designated financial holding company the fact and the nature, character and extent of the conflict.

(5) The declaration referred to in subsection (4) shall be made at the first meeting of the directors held —

(*a*) after he becomes a director of the designated financial holding company; or

(*b*) if already a director, after he commences to hold the office or to possess the property, as the case may be.

(6) The secretary of the designated financial holding company shall —

(*a*) cause to be brought up and read any declaration made under subsection (1) or (4) at the next meeting of the directors after it is given; and

(*b*) record any declaration made under this section in the minutes of the meeting at which it was made or at which it was brought up and read.

(7) Any director who acts in contravention of subsection (1) or (4) 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.

(8) In this section, "exposure" has the meaning given to it in the Schedule.

Limit on equity investments

30.—(1) The Authority may by regulations impose such requirements for the purposes of limiting the amount of equity investment in a single company which the designated financial holding company or class of designated financial holding companies may acquire or hold.

(2) This section shall not apply to —

(*a*) any interest held by way of security for the purposes of a transaction entered into in the ordinary course of the business of the designated financial holding company;

(*b*) any shareholding or interest acquired or held by the designated financial holding company in the course of satisfaction of debts due to it which is disposed of at the earliest suitable opportunity; or

(*c*) any major stake approved, or deemed to have been approved, by the Authority under section 31.

(3) Without prejudice to the generality of subsection (1), the Authority may, by regulations —

(*a*) provide for the manner of valuation of investments for the purposes of compliance with this section; and

(*b*) exclude the operation of this section in respect of any investment or class of investments which may be held by any designated financial holding company, subject to such conditions as may be prescribed.

(4) Any designated financial holding company which contravenes any regulation made under this section or fails to comply with any condition imposed or prescribed thereunder 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(5) In this section, "equity investment" means —

(*a*) any beneficial interest in the share capital of a company; and

(*b*) such other investment, interest or right as may be prescribed.

Investments in companies

31.—(1) No designated financial holding company shall acquire or hold, directly or indirectly, a major stake in any company without the prior approval of the Authority.

(2) Notwithstanding subsection (1) —

(*a*) a designated financial holding company may, within 6 months after its designation date or such longer period as the Authority may allow in any particular case, hold directly or indirectly, a major stake in any company without the prior approval of the Authority; but

(*b*) the designated financial holding company shall not continue to hold the major stake after the period referred to in paragraph (*a*) unless it has obtained the approval of the Authority.

(3) Subject to subsection (4), the approval of the Authority for a designated financial holding company to acquire or hold, directly or

indirectly, a major stake in a company shall be deemed to have been granted in the following circumstances:

(*a*) the major stake is acquired or held indirectly through a subsidiary of the designated financial holding company —

(i) that is a bank incorporated in Singapore which acquisition or holding of the major stake was approved by the Authority under section 32 of the Banking Act (Cap. 19) prior to the financial holding company being designated under section 4, and which approval has not been revoked; or

(ii) that is a licensed insurer which acquisition or holding of the major stake was approved, or deemed to have been approved, by the Authority under section 30B of the Insurance Act (Cap. 142) prior to the financial holding company being designated under section 4, and which approval has not been revoked; or

(*b*) the Authority had, prior to the financial holding company being designated under section 4, given the financial holding company approval to acquire or hold the major stake pursuant to the requirements of directions made under section 28(3) of the Monetary Authority of Singapore Act (Cap. 186), and which approval has not been revoked.

(4) Any approval granted, or deemed to have been granted, by the Authority under this section to a designated financial holding company to acquire or hold, directly or indirectly, a major stake in a company may be subject to such conditions as the Authority may determine, including any condition relating to the operations or activities of the company.

(5) For the avoidance of doubt, the conditions imposed by the Authority under subsection (4) may be specified by notice in writing to a designated financial holding company or any class of designated financial holding companies.

(6) The Authority may at any time add to, vary or revoke any condition imposed under subsection (4).

(7) This section shall not apply to —

(*a*) any interest held by way of security for the purposes of a transaction entered into in the ordinary course of the business of the designated financial holding company;

(*b*) any shareholding or interest acquired or held by a designated financial holding company in the course of satisfaction of debts due to it which is disposed of at the earliest suitable opportunity; and

(*c*) such other interest as may be prescribed.

(8) The Authority may, by regulations —

(*a*) exclude the operation of this section in respect of any company or class of companies, subject to such conditions as may be prescribed;

(*b*) provide for the manner of computation of major stakes; and

(*c*) provide that any interest or control referred to in the definition of "major stake" in subsection (10), that is acquired or held, directly or indirectly, by a company in which a designated financial holding company has, directly or indirectly, a major stake shall be deemed to be acquired or held by the designated financial holding company.

(9) Any designated financial holding company which contravenes this section or fails to comply with any condition imposed or prescribed under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(10) In this section, "major stake" means —

(*a*) any beneficial interest in issued shares of a company exceeding 10% of the total number of issued shares in the company;

(*b*) control over more than 10% of the voting power in a company; or

(*c*) any interest in a company, where the directors of the company are accustomed or under an obligation, whether formal or informal, to act in accordance with the designated financial holding company's directions, instructions or wishes, or where the designated financial holding company is in a position to determine the policy of the company.

Immovable property

32.—(1) No designated financial holding company shall acquire or hold interests in or rights over immovable property, wherever situated.

(2) Notwithstanding subsection (1) —

(*a*) a designated financial holding company may, within 6 months after its designation date or such longer period as the Authority may allow in any particular case, hold interests in or rights over immovable property, wherever situated; but

(*b*) the designated financial holding company shall not continue to hold the interests in or rights over immovable property, after the period referred to in paragraph (*a*) unless it obtained the approval of the Authority.

(3) In addition to the restriction under subsection (1), the Authority may make such regulations as may be necessary or expedient for the purpose of limiting, in relation to a designated financial holding company, the acquisition or holding of interests in or rights over immovable property by the FHC group of the designated financial holding company in such manner as the Authority may determine.

(4) For the purposes of complying with regulations under subsection (3), a designated financial holding company shall aggregate, in such manner as may be prescribed, the value of every interest in or right over immovable property that is acquired or held by any company within the FHC group of the designated financial holding company.

(5) In this section, "immovable property" shall exclude the following:

(*a*) any interest in or right over immovable property or any part thereof used for the purposes of conducting the business of

any of the companies within its FHC group or housing or providing amenities for the officers of any of the companies within its FHC group;

(*b*) any interest in or right over immovable property held by way of security for the purposes of a transaction entered into in the ordinary course of the business of any of the companies within its FHC group;

(*c*) any interest in or right over immovable property held by way of enforcement of such security referred to in paragraph (*b*), provided that it is disposed of at the earliest suitable opportunity;

(*d*) any interest in or right over immovable property or any part thereof held for the benefit of persons other than any company in the FHC group pursuant to an obligation imposed under any written law, rule of law, contract or order of court; and

(*e*) such other interest in or right over immovable property as the Authority may prescribe.

(6) The Authority may make regulations to provide for the manner of valuation or apportionment of immovable property for the purposes of this section.

(7) Any designated financial holding company which contravenes subsection (1), (2) or (4) 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

Power of Authority to secure compliance with provisions of this Part

33.—(1) Any designated financial holding company, if at any time called upon in writing by the Authority to do so, shall satisfy the Authority by the production of such evidence or information as it may require, that the designated financial holding company is not in contravention of any of the provisions in this Part.

(2) Without prejudice to sections 28, 30 and 31, the Authority may, for the purposes of securing compliance with those sections on a consolidated basis, from time to time by notice in writing, require any designated financial holding company to aggregate, in such manner as may be specified in the notice, its accounts, with the accounts of all or any of —

(*a*) the designated financial holding company's related corporations; and

(*b*) companies in which the designated financial holding company acquires or holds, directly or indirectly, a major stake as defined in section 31(10).

(3) The designated financial holding company shall comply with the requirement referred to in subsection (2) within such time as is specified in the notice.

(4) Any designated financial holding company that fails to provide any of the evidence or information required by the Authority under subsection (1), 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(5) Any designated financial holding company that fails, within the time referred to in subsection (3), to comply with a requirement referred to in subsection (2) relating to the aggregation of accounts for the purposes of complying with section 28, 30 or 31 on a consolidated basis shall be guilty of an offence and shall be liable on conviction to the same punishment provided under section 28, 30 or 31, whichever is applicable, for failure to comply with that section.

(6) In this section, "accounts" means any item on the profit and loss accounts and balance-sheet.

PART VI

MINIMUM ASSET AND CAPITAL REQUIREMENT

Minimum liquid assets

34.—(1) The Authority may, from time to time, by notice in writing to any designated financial holding company or class of designated financial holding companies, impose requirements in relation to the minimum amount or amounts of liquid assets to be held by the designated financial holding company or class of designated financial holding companies, having regard to the risks arising from the activities of the designated financial holding company and its FHC group and such other factors as the Authority considers relevant.

(2) Without prejudice to the generality of subsection (1), the Authority may impose limits on each liquid asset or class of liquid assets to be held by a designated financial holding company or class of designated financial holding companies.

(3) Where the Authority issues a notice under subsection (1) to a class of designated financial holding companies, the Authority may require different designated financial holding companies within the class of designated financial holding companies to hold different amount or amounts of liquid assets, having regard to the risks arising from the activities of each designated financial holding company and its FHC group, the systemic impact of each designated financial holding company and its FHC group on the financial sector and such other factors as the Authority may consider relevant.

(4) Whenever the Authority issues a notice under subsection (1), each designated financial holding company shall be allowed such period of grace, being not less than 3 business days, as may be specified in the notice, in which to comply with its provisions.

(5) A designated financial holding company shall not, during any period in which it has failed to comply with any requirement imposed under subsection (1), without the approval of the Authority, grant further credit facility to any person.

(6) Notwithstanding subsection (1) and subject to subsection (9), a designated financial holding company may, in accordance with the requirements imposed under subsection (7), utilise its liquid assets

held for the purposes of subsection (1) if the designated financial holding company —

(*a*) is in a liquidity stress situation; and

(*b*) is solvent immediately before, and will remain solvent after, the utilisation of its liquid assets.

(7) For the purposes of subsection (6), the Authority may, from time to time, by notice in writing to a designated financial holding company impose requirements in relation to the utilisation by the designated financial holding company of its liquid assets held for the purposes of subsection (1), including —

(*a*) the procedures which the designated financial holding company must comply with before or after utilising, or during the utilisation of, its liquid assets; and

(*b*) the manner in which the designated financial holding company may utilise its liquid assets.

(8) A designated financial holding company shall, within such time as may be specified by the Authority, provide any information required by the Authority in relation to its liquidity stress situation and the utilisation of its liquid assets held for the purposes of subsection (1).

(9) Where the Authority is of the opinion that —

(*a*) a designated financial holding company is not in a liquidity stress situation;

(*b*) a designated financial holding company has failed to comply with any requirement imposed under subsection (7);

(*c*) a designated financial holding company is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it is about to suspend payments; or

(*d*) it is in the public interest to do so,

the Authority may by notice in writing to the designated financial holding company —

(i) where the designated financial holding company has already utilised its liquid assets held for the purposes of

subsection (1), direct the designated financial holding company to comply with any requirement imposed under subsection (1) within such time as may be specified by the Authority in the notice; or

(ii) where the designated financial holding company has not, or has not fully, utilised its liquid assets held for the purposes of subsection (1), do one or more of the following:

(A) refuse to allow the designated financial holding company to utilise its liquid assets held for the purposes of subsection (1) which are within the control of the Authority;

(B) direct the designated financial holding company to cease utilising its liquid assets held for the purposes of subsection (1);

(C) direct the designated financial holding company to comply with any requirement imposed under subsection (1) within such time as may be specified by the Authority in the notice.

(10) Any designated financial holding company which fails to comply with —

(*a*) subsection (5) or (8);

(*b*) any requirement of the Authority under subsection (7); or

(*c*) any direction of the Authority under subsection (1) or (9),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(11) In this section —

"liquid assets" means —

(*a*) notes and coins which are legal tender in Singapore other than assets maintained and held by the subsidiary of the designated financial holding company which is a

bank incorporated in Singapore for the purposes of section 40 of the Banking Act (Cap. 19);

(*b*) balances with the Authority other than —

(i) cash balances maintained by a subsidiary of the designated financial holding company which is a bank incorporated in Singapore for the purposes of section 39 of the Banking Act; and

(ii) assets maintained and held by a subsidiary of the designated financial holding company which is a bank incorporated in Singapore for the purposes of section 40 of the Banking Act; and

(*c*) such other assets as the Authority may from time to time approve;

"liquidity stress situation" has the meaning given to it in the Schedule.

Minimum capital requirements

35.—(1) A designated financial holding company shall have a minimum paid-up ordinary share capital of not less than the highest amount of the paid-up capital which any of its subsidiaries that is a bank incorporated in Singapore or a licensed insurer incorporated, formed or established in Singapore is required to hold under the Banking Act (Cap. 19) or the Insurance Act (Cap. 142), respectively.

(2) A designated financial holding company shall have capital funds of not less than the highest amount of the paid-up capital which any of its subsidiaries that is a bank incorporated in Singapore or a licensed insurer incorporated, formed or established in Singapore is required to hold under the Banking Act or the Insurance Act, respectively.

(3) Notwithstanding subsections (1) and (2), the Authority may, from time to time, by notice in writing, require a designated financial holding company or a class of designated financial holding companies to maintain paid-up capital and capital funds in Singapore of such amount, and in such manner as the Authority considers appropriate, having regard to the risks arising from the activities of the designated

financial holding company and its FHC group and such other factors as the Authority considers relevant.

(4) A designated financial holding company shall not, without the approval of the Authority —

(*a*) reduce its paid-up capital; or

(*b*) purchase or otherwise acquire shares issued by the designated financial holding company if such shares are to be held as treasury shares.

(5) For the purposes of subsections (1), (2) and (3), a designated financial holding company shall not maintain its paid-up capital and capital funds in any foreign currency or currencies without the approval of the Authority.

(6) Any designated financial holding company which fails to comply with any requirement under subsection (1), (2) or (3) shall immediately notify the Authority.

(7) Where the designated financial holding company fails to comply with subsection (1), (2) or (4), or any requirement under subsection (3), the Authority may, without prejudice to subsection (8), by notice in writing to the designated financial holding company —

(*a*) restrict or suspend the activities of the designated financial holding company; or

(*b*) give such other directions to the designated financial holding company as the Authority considers appropriate.

(8) Any designated financial holding company which fails to comply with —

(*a*) subsection (1), (2) or (5);

(*b*) any requirement of the Authority under subsection (3); or

(*c*) any direction of the Authority under subsection (7),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(9) In this section, "paid-up capital" does not include any amount that is represented by treasury shares.

Capital adequacy requirements

36.—(1) The Authority may, from time to time, by notice in writing to any designated financial holding company or a class of designated financial holding companies, require the designated financial holding company, or class of designated financial holding companies, to maintain, on a consolidated basis in aggregate with any one or more companies in which the designated financial holding company has a major stake, as the Authority may determine, such amount of capital adequacy, as calculated in the form and manner determined by the Authority.

(2) Notwithstanding subsection (1), the Authority may, if it considers appropriate in the particular circumstances of a designated financial holding company, or a class of designated financial holding companies, having regard to —

(*a*) the risks arising from the activities of the designated financial holding company and its FHC group, or of the class of designated financial holding companies and their respective FHC groups, as the case may be; and

(*b*) such other factors as the Authority considers relevant,

vary the amount of capital adequacy to be maintained by that designated financial holding company or class of designated financial holding companies.

(3) Where a designated financial holding company fails to comply with any requirement under subsection (1) or (2), the Authority may, without prejudice to subsection (4), by notice in writing to the designated financial holding company —

(*a*) restrict or suspend the activities of the designated financial holding company; or

(*b*) give such other directions to the designated financial holding company as the Authority considers appropriate, and the designated financial holding company shall comply with such directions.

(4) Any designated financial holding company which fails to comply with —

(*a*) any requirement of the Authority under subsection (1) or (2); or

(*b*) any direction of the Authority under subsection (3),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(5) In subsection (1), “major stake” has the meaning as defined in section 31(10).

Leverage ratio requirement

37.—(1) The Authority may, from time to time, by notice in writing to any designated financial holding company, or any class of designated financial holding companies, require that its leverage ratio must not be less than a specified amount as calculated in the form and manner determined by the Authority.

(2) Any person to whom a notice is issued under subsection (1) shall comply with the notice.

(3) Where the Authority issues a notice under subsection (1) to a class of designated financial holding companies, the Authority may specify different minimum amounts of leverage ratios for different companies within that class having regard to the risks arising from the activities of the designated financial holding company and its FHC group, the financial soundness of the designated financial holding company and such other factors as the Authority may consider relevant.

(4) Any prescription of, or change in, the minimum amount of leverage ratio under subsection (1) or (3) shall take effect only after the expiration of 30 days’ notice to the designated financial holding company of the Authority’s intention to take such action.

(5) Any designated financial holding company which fails to comply with subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the

case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(6) In this section, “leverage ratio” means the ratio of the capital to the exposures of the designated financial holding company, as calculated in the form and manner determined by the Authority.

Power of Authority to secure compliance with any provision in this Part

38.—(1) Any designated financial holding company, if at any time called upon in writing by the Authority to do so, shall satisfy the Authority by the production of such evidence or information as it may require, that the designated financial holding company is not in contravention of any of the provisions in this Part.

(2) Without prejudice to sections 34 to 37, the Authority may, for the purposes of securing compliance with those sections on a consolidated basis, from time to time by notice in writing, require any designated financial holding company to aggregate, in such manner as may be specified in the notice, its accounts, with all the accounts of all or any of —

(*a*) the designated financial holding company’s related corporations; and

(*b*) companies in which the designated financial holding company acquires or holds, directly or indirectly, a major stake as defined in section 31(10).

(3) The designated financial holding company shall comply with the requirement referred to in subsection (2) within such time as is specified in the notice.

(4) Any designated financial holding company which fails to comply with subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(5) In this section, "accounts" means any item on the profit and loss accounts and balance-sheet.

PART VII

AUDIT, INSPECTIONS AND INVESTIGATIONS

Annual account and audit

39.—(1) Notwithstanding the provisions of the Companies Act (Cap. 50), every designated financial holding company —

(*a*) shall on an annual basis, appoint, and obtain the approval of the Authority for the appointment of, an auditor; and

(*b*) where, for any reason, the auditor ceases to act for the designated financial holding company, shall, as soon as practicable thereafter, appoint another auditor approved by the Authority.

(2) An auditor shall not be approved by the Authority as an auditor for a designated financial holding company unless the auditor is able to comply with such conditions in relation to the discharge of his duties as may be determined by the Authority.

(3) The Authority may appoint an auditor —

(*a*) if the designated financial holding company fails to appoint an auditor; or

(*b*) if it considers it desirable that another auditor should act with the auditor appointed under subsection (1),

and may at any time fix the remuneration to be paid by the designated financial holding company to the auditor.

(4) The duties of an auditor appointed under subsections (1) and (3) shall be —

(*a*) to carry out, for the year in respect of which he is appointed, an audit of the accounts of the designated financial holding company;

(*b*) to make a report in accordance with section 207 of the Companies Act, or if the Companies Act does not apply, in

accordance with that section with the necessary modifications, upon the latest audited annual balance-sheet and profit and loss account, together with any notes thereon, of the designated financial holding company; and

(*c*) to prepare such statements of account and other statement and in such form and manner as may be specified by the Authority and lodge them with the Authority.

(5) The Authority may, by notice in writing, impose all or any of the following duties on an auditor:

(*a*) a duty to submit such additional information to the Authority in relation to his audit as the Authority considers necessary;

(*b*) a duty to enlarge or extend the scope of his audit of the business and affairs of the designated financial holding company;

(*c*) a duty to carry out any other examination or establish any procedure in any particular case;

(*d*) a duty to submit a report on any of the matters referred to in paragraphs (*b*) and (*c*).

(6) An auditor to whom a notice is given under subsection (5) shall comply with such direction or directions as may be specified in the notice.

(7) The designated financial holding company shall remunerate the auditor in respect of the discharge by him of all or any of the additional duties mentioned in subsection (5).

(8) Notwithstanding any other provision of this Act or the provisions of the Companies Act, the Authority may, if it is not satisfied with the performance of duties by an auditor appointed by a designated financial holding company —

(*a*) at any time direct the designated financial holding company to remove the auditor; and

(*b*) direct the designated financial holding company, as soon as practicable thereafter, to appoint another auditor, and the designated financial holding company shall comply with such direction.

(9) An auditor's report made under subsection (4) shall be attached to the balance-sheet and the profit and loss account and a copy thereof together with any report submitted under subsection (5) shall be transmitted in writing to the Authority.

(10) If an auditor, in the course of the performance of his duties as an auditor of a designated financial holding company, is satisfied that —

(*a*) there has been a serious contravention of any provision of this Act or that an offence involving fraud or dishonesty has been committed;

(*b*) losses have been incurred which reduce the capital funds of the designated financial holding company by 50% or more;

(*c*) serious irregularities have occurred, including irregularities that jeopardise the security of the creditors of the designated financial holding company; or

(*d*) he is unable to confirm that the claims of creditors of the designated financial holding company are still covered by the assets,

he shall immediately report the matter to the Authority.

(11) Any designated financial holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000.

(12) Any auditor who contravenes subsection (4), (6) or (10) 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(13) Any designated financial holding company which fails to comply with a direction under subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

Inspection of designated financial holding companies and other companies within FHC group

40. The Authority may, from time to time, inspect under conditions of secrecy —

(*a*) the books of any designated financial holding company and any other company within its FHC group which is a financial institution; and

(*b*) any branch, agency or office outside Singapore opened by any designated financial holding company or any other company within its FHC group, referred to in paragraph (*a*).

Special investigation of designated financial holding companies

41. The Authority may at any time make an investigation, under conditions of secrecy, of the books of any designated financial holding company and any other company within its FHC group, if the Authority has reason to believe that any designated financial holding company is contravening the provisions of this Act.

Provisions supplementary to sections 40 and 41

42.—(1) For the purposes of an inspection under section 40 or an investigation under section 41, the designated financial holding company or a company within its FHC group shall —

(*a*) produce its books to the Authority and afford the Authority access thereto;

(*b*) provide such information or facilities as may be required by the Authority to conduct the inspection or investigation; and

(*c*) in the case where the books are not in the possession of the designated financial holding company or the company within the FHC group, as the case may be, procure that any person who is in possession of such books produce the books to the Authority and give such information and facilities as may be required by the Authority.

(2) The books referred to in subsection (1) shall not be required to be produced at such times or at such places as would unduly interfere with the proper conduct of the normal daily business of that

designated financial holding company or that company within the FHC group, as the case may be.

(3) The Authority may appoint any person to exercise the powers of the Authority under section 40 or 41.

(4) The remuneration and expenses of the person appointed under subsection (3) shall be paid by the designated financial holding company.

(5) The Authority may make copies of, or take possession of, any of the books produced to it under subsection (1).

(6) Any designated financial holding company or any company within the FHC group which, without reasonable excuse, contravenes subsection (1) 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(7) Where the offence under subsection (6) is proved to have been committed with the consent of, or to be attributable to any negligence on the part of an officer of the company, that officer shall 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 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction.

Inspection in Singapore by foreign supervisory authority

43.—(1) In relation to a designated financial holding company any of the holding companies of which is incorporated outside Singapore, a foreign supervisory authority may, with the prior written approval of the Authority and under conditions of secrecy, conduct an inspection in Singapore of the books of any branch or office of that designated financial holding company, and any other company within its FHC group which is a financial institution, in accordance with this section if the following conditions are satisfied:

(*a*) the inspection is required by the foreign supervisory authority for the sole purpose of carrying out its supervisory functions;

(*b*) the foreign supervisory authority —

(i) is prohibited by the laws applicable to the foreign supervisory authority from disclosing information obtained by it in the course of the inspection to any other person; and

(ii) has given to the Authority such written undertaking, as to the confidentiality of the information obtained, as the Authority may determine; and

(*c*) the foreign supervisory authority has given a written undertaking to the Authority to comply with the provisions of this Act and such conditions as the Authority may impose under subsection (2).

(2) The Authority may at any time, whether before, on or after giving written approval for an inspection under this section, require the foreign supervisory authority to comply with conditions relating to —

(*a*) the classes of information to which the foreign supervisory authority shall or shall not have access in the course of the inspection;

(*b*) the conduct of the inspection;

(*c*) the use or disclosure of any information obtained in the course of the inspection; and

(*d*) such other matters as the Authority may determine.

(3) Subject to compliance by a foreign supervisory authority with such conditions as the Authority may impose under subsection (2), a designated financial holding company, or any other company within its FHC group which is a financial institution under inspection —

(*a*) shall afford the foreign supervisory authority access to such books of the branch or office of the designated financial holding company or company under inspection, as the case may be, and provide such information (including information relating to the internal control systems of the designated

financial holding company or company, as the case may be) and facilities as may be required to conduct the inspection; and

(*b*) shall not be required to afford the foreign supervisory authority access to its books or to provide information or facilities at such times or at such places as would unduly interfere with the proper conduct of the normal daily business of the designated financial holding company or company under inspection, as the case may be.

(4) A foreign supervisory authority may, with the prior written approval of the Authority, appoint any person to conduct the inspection under subsection (1) and in such event, this section (other than this subsection) shall apply to the person as if a reference to the foreign supervisory authority in this section includes a reference to the person.

(5) A designated financial holding company, or any other company within its FHC group which is a financial institution which, without reasonable excuse, contravenes subsection (3)(*a*) 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(6) In this section, "foreign supervisory authority" means the supervisory authority of a holding company of the designated financial holding company referred to in subsection (1), which is responsible, under the laws of the country or territory where the holding company is incorporated, for —

(*a*) supervising the holding company; and

(*b*) exercising consolidated supervision over the holding company and all its subsidiaries which are financial institutions, including the designated financial holding company.

Confidentiality of inspection and investigation reports

44.—(1) Where a written report or any part thereof (referred to in this section as the report) has been produced in respect of any designated financial holding company or any other company within its FHC group —

(*a*) by the Authority upon an inspection under section 40 or an investigation under section 41; or

(*b*) by the foreign supervisory authority upon an inspection under section 43,

the report shall not be disclosed by the designated financial holding company or the company within the FHC group, as the case may be, or any officer or auditor of the designated financial holding company or the company within the FHC group, as the case may be, to any other person except in the circumstances provided under subsection (2).

(2) Disclosure of the report referred to in subsection (1) may be made —

(*a*) by the designated financial holding company or the company within the FHC group, as the case may be, to any officer or auditor approved under section 39 of that designated financial holding company or that company within the FHC group, as the case may be, solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that designated financial holding company or that company within the FHC group, as the case may be;

(*b*) by any officer or auditor approved under section 39 of the designated financial holding company or the company within the FHC group, as the case may be, to any other officer or auditor of that designated financial holding company or that company within the FHC group, as the case may be, solely in connection with the performance of their duties in that designated financial holding company or that company within the FHC group, as the case may be; or

(*c*) to any other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2)(*c*), the Authority may impose such conditions as it considers appropriate.

(4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment at the designated financial holding company or that company within the FHC group, as the case may be.

(5) Any person who contravenes subsection (1) or fails to comply with any condition imposed by the Authority under subsection (3) shall be guilty of an offence and shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(*b*) in any other case, to a fine not exceeding $250,000.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years or to both; or

(*b*) in any other case, to a fine not exceeding $100,000,

unless the person proves that —

(i) the disclosure was made contrary to that person's desire;

(ii) where the disclosure was made in any written form, the person has as soon as practicable surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and

(iii) where the disclosure was made in an electronic form, the person has as soon as practicable taken all reasonable steps to ensure that all electronic copies of the report have been deleted and that the report and all copies thereof in other forms have been surrendered to the Authority.

PART VIII

POWERS OF CONTROL OVER DESIGNATED FINANCIAL HOLDING COMPANIES

Interpretation of this Part

45. In this Part, unless the context otherwise requires —

"business" includes affairs and property;

"office-holder", in relation to a designated financial holding company, means any person acting in relation to the designated financial holding company as its liquidator, provisional liquidator, receiver, receiver and manager or an equivalent person;

"relevant business" means any business of a designated financial holding company —

(*a*) which the Authority has assumed control of under section 47(2)(*c*); or

(*b*) in relation to which a statutory adviser or a statutory manager has been appointed under section 47(2)(*b*) or (*c*);

"statutory adviser" means a statutory adviser appointed under section 47;

"statutory manager" means a statutory manager appointed under section 47.

Information of insolvency, etc.

46. Any designated financial holding company which is or is likely to become insolvent, or which is or is likely to become unable to meet its obligations, or which has suspended or is about to suspend payments, shall immediately inform the Authority of that fact.

Action by Authority if designated financial holding company is unable to meet obligations, etc.

47.—(1) Where —

(*a*) a designated financial holding company informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;

(*b*) a designated financial holding company becomes unable to meet its obligations, or is insolvent, or suspends payments;

(*c*) the Authority is of the opinion that the designated financial holding company —

(i) is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it is about to suspend payments; or

(ii) has contravened any of the provisions of this Act; or

(*d*) the Authority considers it in the public interest to do so,

the Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary.

(2) Subject to subsection (1), the Authority may —

(*a*) require the designated financial holding company concerned immediately to take any action or to do or not to do any act or thing whatsoever in relation to its businesses, including —

(i) suspending any payments, as the Authority may consider necessary; and

(ii) removing any of its directors or any executive officer whom the Authority considers unfit to be associated with it;

(*b*) subject to subsection (3), appoint one or more persons as statutory adviser, on such terms and conditions as the Authority may specify, to advise the designated financial holding company on the proper management of such of the businesses of the designated financial holding company as the Authority may determine; or

(*c*) assume control of and manage such of the businesses of the designated financial holding company as the Authority may determine, or appoint one or more persons as statutory managers to do so on such terms and conditions as the Authority may specify.

(3) Where the Authority appoints 2 or more persons as statutory managers of a designated financial holding company, it shall specify in the terms and conditions of the appointment which of the duties, functions and powers of the statutory manager —

(*a*) may be discharged or exercised by such persons jointly and severally;

(*b*) shall be discharged or exercised by such persons jointly; and

(*c*) shall be discharged or exercised by a specified person of such persons.

(4) Where the Authority has exercised any power under subsection (2), it may at any time do one or more of the following:

(*a*) vary or revoke any requirement of, any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;

(*b*) further exercise any of the powers under subsection (2);

(*c*) add to, vary or revoke any term or condition specified by the Authority under this section.

(5) Any designated financial holding company which fails to comply with a direction issued by the Authority under subsection (2)(*a*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(6) No liability shall be incurred by —

(*a*) a statutory manager; or

(*b*) a statutory adviser,

for anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(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 compliance or purported compliance with this Act.

Effect of assumption of control under section 47

48.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a designated financial holding company, the Authority or statutory manager shall manage the relevant business of the designated financial holding company in the name of and on behalf of the designated financial holding company and shall be deemed to be an agent of the designated financial holding company.

(2) In managing the relevant business of a designated financial holding company, the Authority or statutory manager shall have all the duties, powers and functions of the members of the board of directors of the designated financial holding company (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the designated financial holding company, including powers of delegation, in relation to the relevant business of the designated financial holding company; but nothing in this subsection shall require the Authority or statutory manager to call any meeting of the designated financial holding company under the Companies Act or the constitution of the designated financial holding company.

(3) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a designated financial holding company by the Authority or statutory manager, any appointment of a person as chief executive or director of the designated financial holding company which was in force immediately before the assumption of control, shall be deemed to be revoked unless the Authority gives its approval, by notice in

writing to the person and the designated financial holding company, for the person to remain in the appointment.

(4) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a designated financial holding company, no person shall be appointed as chief executive or director of the designated financial holding company, in so far as the appointment relates to the relevant business of the designated financial holding company, except with the approval of the Authority.

(5) Where the Authority has given its approval under subsection (3) or (4) to a person to remain in the appointment of, or to be appointed as, chief executive or director of a designated financial holding company, the Authority may at any time, by notice in writing to the person, revoke its approval and such appointment shall be deemed to be revoked on the date specified in the notice.

(6) Notwithstanding any written law or rule of law, if any person whose appointment as chief executive or director of a designated financial holding company is revoked under subsection (3) or (5) acts or purports to act after the revocation, as chief executive or director of the designated financial holding company in relation to the relevant business of the designated financial holding company, during the period when the Authority or statutory manager is in control of the relevant business of the designated financial holding company —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(7) Notwithstanding any written law or rule of law, if any person who is appointed as chief executive or director of a designated financial holding company in contravention of subsection (4) acts or purports to act, as chief executive or director of the designated financial holding company in relation to the relevant business of the designated financial holding company, during the period when the Authority or statutory manager is in control of the relevant business of the designated financial holding company —

(*a*) the act or purported act of the person shall be invalid and of no effect; and

(*b*) the person shall be guilty of an offence.

(8) During the period when the Authority or statutory manager is in control of the relevant business of a designated financial holding company —

(*a*) if there is any conflict or inconsistency between —

(i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

(ii) a direction or decision given by any chief executive, director, member, executive officer, employee, agent or office-holder, or the board of directors, of the designated financial holding company, or any trustee for the designated financial holding company,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

(*b*) no person shall exercise any voting or other right attached to any share in the designated financial holding company in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(9) Any person who contravenes subsection (8)(*b*) shall be guilty of an offence.

(10) Any person who is guilty of an offence under subsection (6), (7) or (8) 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 and, in the case of a continuing offence, to a further fine not exceeding $12,500 for every day or part thereof during which the offence continues after conviction.

(11) In this section, "constitution of the designated financial holding company" means the memorandum of association and articles of

association of the designated financial holding company or other instrument under which the designated financial holding company is incorporated, formed or established.

Duration of control

49.—(1) The Authority shall cease to be in control of the relevant business of a designated financial holding company when the Authority is satisfied that the reasons for its assumption of control of the relevant business have ceased to exist.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a designated financial holding company on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a designated financial holding company may be revoked by the Authority at any time —

(*a*) if the Authority is satisfied that the reasons for the appointment have ceased to exist; or

(*b*) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the designated financial holding company.

(4) The Authority shall publish in the *Gazette* the date, and such other particulars as it thinks fit, of —

(*a*) its assumption of control of the relevant business of a designated financial holding company;

(*b*) the cessation of its control of the relevant business of a designated financial holding company;

(*c*) the appointment of a statutory manager in relation to the relevant business of a designated financial holding company; and

(*d*) the revocation of a statutory manager's appointment in relation to the relevant business of a designated financial holding company.

Responsibilities of officers, member, etc., of designated financial holding company

50.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a designated financial holding company —

(*a*) the High Court may, on an application of the Authority or statutory manager, direct any person who has ceased to be or who is still a chief executive, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the designated financial holding company to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property or book of the designated financial holding company which is comprised in, forms part of or relates to the relevant business of the designated financial holding company, and which is in his possession or control; and

(*b*) any person who has ceased to be or who is still a chief executive, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the designated financial holding company shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of its or his duties or functions, or the exercise of its or his powers, in relation to the designated financial holding company, within such time and in such manner as may be specified by the Authority or statutory manager.

(2) Any person who —

(*a*) without reasonable excuse, fails to comply with subsection (1)(*b*); or

(*b*) in purported compliance with subsection (1)(*b*), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

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 and, in the case of a continuing offence, to a further fine not exceeding $12,500 for every day or part thereof during which the offence continues after conviction.

Remuneration and expenses of Authority and others in certain cases

51. The Authority may at any time fix the remuneration and expenses to be paid by a designated financial holding company —

(*a*) to a statutory adviser or statutory manager appointed in relation to the designated financial holding company, whether or not the appointment has been revoked; and

(*b*) where the Authority has assumed control of the relevant business of the designated financial holding company, to the Authority and any person appointed by the Authority under section 61 in relation to its assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

Winding up where designated financial holding company is co-operative society

52.—(1) Where a designated financial holding company is a co-operative society, no proceedings for the transfer of assets and liabilities, dissolution or winding up of the co-operative society shall be taken under sections 74, 75 and 83 to 89 of the Co-operative Societies Act (Cap. 62).

(2) Notwithstanding section 101 of the Co-operative Societies Act, any designated financial holding company that is a co-operative society shall be deemed to be an unregistered company within the meaning of Division 5 of Part X of the Companies Act (Cap. 50) and may be wound up by the Court under the Companies Act (as modified by this section) and the applicable provisions of this Part.

(3) In any winding up —

(*a*) in applying the provisions of the Companies Act, any reference to the Registrar under the Companies Act shall be read as reference to the Registrar under the Co-operative Societies Act;

(*b*) notwithstanding subsection (2), section 344 of the Companies Act shall be applicable and in applying this provision, any reference to the register under the Companies Act shall be read as a reference to the register of societies referred to in section 10A(1)(*a*) of the Co-operative Societies Act;

(*c*) upon winding up of the society, the assets shall be applied first to the cost of liquidation, then to the discharge of the liabilities of the society, then to the payment of the share capital or subscription capital, and then, provided that the by-laws of the society permit, to the payment of a dividend or patronage refund at a rate not exceeding that laid down in the rules made under the Co-operative Societies Act or in the by-laws for any period during which no dividend or patronage refund was in fact paid; and

(*d*) any moneys remaining after the application of the funds to the purposes specified in paragraph (*c*), shall be carried to the Co-operative Societies Liquidation Account kept by the Registrar and section 89(4) and (5) of the Co-operative Societies Act shall apply to deal with the moneys in the Co-operative Societies Liquidation Account.

(4) In this section, "Court" means the High Court or a Judge thereof.

PART IX

ASSISTANCE TO FOREIGN REGULATORY AUTHORITIES

Interpretation of this Part

53. In this Part, unless the context otherwise requires —

"enforce" means enforce through criminal, civil or administrative proceedings;

"enforcement" means the taking of any action to enforce a law or regulatory requirement against a specified person, being a law or regulatory requirement that relates to the financial holding companies in the foreign country of the regulatory authority concerned;

"foreign country" means a country or territory other than Singapore;

"investigation" means an investigation to determine if a specified person has contravened or is contravening a law or regulatory requirement, being a law or regulatory requirement that relates to the financial holding companies in the foreign country of the regulatory authority concerned;

"material" includes any book or information in any form whatsoever, and any container or article relating thereto;

"prescribed written law" means this Act, or any of the following written laws and any subsidiary legislation made thereunder:

(*a*) Banking Act (Cap. 19);

(*b*) Finance Companies Act (Cap. 108);

(*c*) Financial Advisers Act (Cap. 110);

(*d*) Insurance Act (Cap. 142);

(*e*) Monetary Authority of Singapore Act (Cap. 186);

(*f*) Money-changing and Remittance Businesses Act (Cap. 187);

(*g*) Securities and Futures Act (Cap. 289); or

(*h*) such other Act as the Authority may prescribe;

"regulatory authority", in relation to a foreign country, means an authority of the foreign country exercising any function that corresponds to a regulatory function of the Authority under this Act;

"supervision", in relation to a regulatory authority, means the taking of any action for or in connection with the supervision of a subject-matter in the foreign country of the regulatory authority similar to that to which this Act pertains.

Conditions for provision of assistance

54.—(1) The Authority may provide the assistance referred to in section 56 to a regulatory authority of a foreign country if the Authority is satisfied that all of the following conditions are fulfilled:

(*a*) the request by the regulatory authority for assistance is received by the Authority on or after the date of commencement of this Act;

(*b*) the assistance is intended to enable the regulatory authority, or any other authority of the foreign country, to carry out supervision, investigation or enforcement;

(*c*) the contravention of the law or regulatory requirement to which the request relates took place on or after the date of commencement of this Act;

(*d*) the regulatory authority has given a written undertaking that any material or copy thereof obtained pursuant to its request shall not be used for any purpose other than a purpose that is specified in the request and approved by the Authority;

(*e*) the regulatory authority has given a written undertaking not to disclose to a third party (other than a designated third party of the foreign country in accordance with paragraph (*f*)) any material received pursuant to the request unless the regulatory authority is compelled to do so by the law or a court of the foreign country;

(*f*) the regulatory authority has given a written undertaking to obtain the prior consent of the Authority before disclosing any material received pursuant to the request to a designated third party, and to make such disclosure only in accordance with such conditions as may be imposed by the Authority;

(*g*) the material requested for is of sufficient importance to the carrying out of the supervision, investigation or enforcement to which the request relates and cannot reasonably be obtained by any other means;

(*h*) the matter to which the request relates is of sufficient gravity; and

(*i*) the rendering of assistance will not be contrary to the public interest.

(2) In subsection (1)(*e*) and (*f*), "designated third party", in relation to a foreign country, means —

(*a*) any person or body responsible for supervising the regulatory authority in question;

(*b*) any authority of the foreign country responsible for carrying out the supervision, investigation or enforcement in question; or

(*c*) any authority of the foreign country exercising a function that corresponds to a regulatory function of the Authority under this Act.

Other factors to consider for provision of assistance

55. In deciding whether to grant a request for assistance referred to in section 56 from a regulatory authority of a foreign country, the Authority may also have regard to the following:

(*a*) whether the act or omission that is alleged to constitute the contravention of the law or regulatory requirement to which the request relates would, if it had occurred in Singapore, have constituted an offence under this Act;

(*b*) whether the regulatory authority has given or is willing to give an undertaking to the Authority to comply with a future request by the Authority to the regulatory authority for similar assistance;

(*c*) whether the regulatory authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the assistance that the regulatory authority has requested for.

Assistance that may be rendered

56.—(1) Notwithstanding the provisions of any prescribed written law or any requirement imposed thereunder or any rule of law, the Authority or any person authorised by the Authority may, in relation to a request by a regulatory authority of a foreign country for assistance —

(*a*) transmit to the regulatory authority any material in the possession of the Authority that is requested by the regulatory authority or a copy thereof;

(*b*) order any person to furnish to the Authority any material that is requested by the regulatory authority or a copy thereof, and transmit the material or copy to the regulatory authority;

(*c*) order any person to transmit directly to the regulatory authority any material that is requested by the regulatory authority or a copy thereof;

(*d*) order any person to make an oral statement to the Authority on any information requested by the regulatory authority, record such statement, and transmit the recorded statement to the regulatory authority; or

(*e*) request any ministry or department of the Government, or any statutory authority in Singapore, to furnish to the Authority any material that is requested by the regulatory authority or a copy thereof, and transmit the material or copy to the regulatory authority.

(2) The assistance referred to in subsection (1)(*c*) may only be rendered if the material sought is to enable the regulatory authority to carry out investigation or enforcement.

(3) An order under subsection (1)(*b*), (*c*) or (*d*) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

(4) Nothing in this section shall compel an advocate and solicitor or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97) —

(*a*) to furnish or transmit any material or copy thereof that contains; or

(*b*) to disclose,

a privileged communication made by or to him in that capacity.

(5) An advocate and solicitor or a legal counsel referred to in section 128A of the Evidence Act who refuses to disclose, or to furnish or transmit any material or copy thereof that contains, any privileged communication shall nevertheless be obliged to give the

name and address (if he knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made.

(6) A person is not excused from making an oral statement pursuant to an order made under subsection (1)(*d*) on the ground that the statement might tend to incriminate him but, where the person claims before making the statement that the statement might tend to incriminate him, that statement is not admissible in evidence against him in criminal proceedings other than proceedings for an offence under section 57.

Offences under this Part

57.—(1) Any person who —

(*a*) without reasonable excuse, refuses or fails to comply with an order under section 56(1)(*b*), (*c*) or (*d*); or

(*b*) in purported compliance with an order —

(i) under section 56(1)(*b*) or (*c*), furnishes to the Authority, or transmits to the regulatory authority, any material or copy thereof that is false or misleading in a material particular; or

(ii) under section 56(1)(*d*), makes a statement to the Authority that is false or misleading in a material particular,

shall be guilty of an offence.

(2) Any person guilty of an offence under subsection (1)(*a*) shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $50,000; or

(*b*) in any other case, to a fine not exceeding $100,000.

(3) Any person guilty of an offence under subsection (1)(*b*) shall be liable on conviction —

(*a*) in the case of an individual, to a fine not exceeding $125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(*b*) in any other case, to a fine not exceeding $250,000.

(4) Notwithstanding subsection (3), an individual shall not be sentenced to imprisonment for an offence under subsection (1)(*b*) unless he committed the offence wilfully.

Immunities

58.—(1) No civil or criminal proceedings, other than proceedings for an offence under section 57, shall lie against any person for —

(*a*) furnishing to the Authority or transmitting any material or copy thereof to the Authority or a regulatory authority of a foreign country if he had furnished or transmitted that material or copy in good faith in compliance with an order made under section 56(1)(*b*) or (*c*);

(*b*) making a statement to the Authority in good faith and in compliance with an order made under section 56(1)(*d*); or

(*c*) doing or omitting to do any act, if he had done or omitted to do the act in good faith and as a result of complying with such an order.

(2) Any person who complies with an order referred to in subsection (1)(*a*) or (*b*) shall not be treated as being in breach of any restriction upon the disclosure of information or thing imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

PART X

MISCELLANEOUS

Regulations

59.—(1) The Authority may, from time to time, 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), regulations may be made for or with respect to —

(*a*) the corporate governance, and the appointment and removal of directors and executive officers, of designated financial holding companies, their related corporations or other companies in which the designated financial holding company acquire or hold, directly or indirectly, a major stake as defined in section 31(10); and

(*b*) the prohibition or restriction on mutual shareholdings held between the designated financial holding companies, related corporations and other companies referred to in paragraph (*a*).

(3) Regulations made under this section —

(*a*) may relate to all, or any class, category or description of persons or designated financial holding companies; and

(*b*) may make different provisions for different classes, categories or descriptions of persons or designated financial holding companies or to a particular person or designated financial holding company or be of general or specifically limited application.

(4) Except as otherwise expressly provided in this Act, regulations made under this section may provide that any contravention thereof shall be an offence punishable —

(*a*) in the case of an individual, with a fine not exceeding $50,000 or with imprisonment for a term not exceeding 2 years or with both and, in the case of a continuing offence, with a further fine not exceeding $5,000 for every day or part thereof during which the offence continues after conviction; or

(*b*) in any other case, with a fine not exceeding $100,000 and, in the case of a continuing offence, with a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

Notices to designated financial holding company

60.—(1) The Authority may, if it appears to the Authority to be necessary or expedient in the public interest, or in the interest of a FHC group or the financial system in Singapore, by notice in writing to a designated financial holding company or a class of designated

financial holding companies give directions or impose requirements on or relating to the operations or activities of, or the standards to be maintained by, the designated financial holding company or designated financial holding companies.

(2) A designated financial holding company shall comply with any direction given to the designated financial holding company or any requirement imposed on the designated financial holding company by any notice issued under this Act.

(3) Any designated financial holding company which fails to comply with subsection (2) 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

(4) It shall not be necessary to publish any notice issued under this Act in the *Gazette*.

Appointment of assistants

61.—(1) Subject to subsection (2), the Authority may appoint any person 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 the power to make subsidiary legislation.

(2) The Authority may, by notification in the *Gazette*, appoint one or more of its officers to exercise the power to grant an exemption to any person (not being an exemption granted to a class of persons) under section 74(2), or to revoke any such exemption.

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

Disqualification of directors and executive officers

62.—(1) Notwithstanding the provisions of any other written law, a designated financial holding company shall not, without the prior written consent of the Authority, permit a person to act as its director or executive officer if the person —

(*a*) has been convicted before, on or after the date of commencement of this section, whether in Singapore or elsewhere of an offence —

(i) involving fraud or dishonesty;

(ii) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(iii) specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

(*b*) is an undischarged bankrupt, whether in Singapore or elsewhere;

(*c*) has had execution against him in respect of a judgement debt returned unsatisfied in whole or in part;

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

(*e*) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A of the Securities and Futures Act (Cap. 289) made against him that remains in force; or

(*f*) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —

(i) which is being or has been, wound up by a court; or

(ii) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.

(2) Any designated financial holding company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every

day or part thereof during which the offence continues after conviction.

(3) In this section —

"regulatory authority", in relation to a foreign country, has the same meaning as that defined in section 53;

"regulated financial institution" means a financial institution that carries on a business the conduct of which is regulated or authorised, or subject to oversight, by the Authority or, if carried on in Singapore, would be regulated or authorised, or subject to oversight, by the Authority.

Appointment and removal of chief executive and other persons

63.—(1) Every designated financial holding company shall have a chief executive who is principally responsible for the management and conduct of the activities of its FHC group.

(2) No designated financial holding company shall appoint a person as director, chief executive or to such other position in the company as may be prescribed, unless —

(*a*) the designated financial holding company satisfies the Authority that the person is a fit and proper person to be so appointed; and

(*b*) the Authority has approved the appointment.

(3) The Authority may grant its approval under subsection (2)(*b*), with or without conditions, and may at any time add to, vary or revoke any condition imposed.

(4) A designated financial holding company shall immediately inform the Authority where the designated financial holding company is of the view that a person appointed under subsection (2) is no longer a fit and proper person for the position to which that person was appointed.

(5) Notwithstanding any other written law, where the Authority is satisfied that a person so approved under subsection (2) —

(*a*) has wilfully contravened or wilfully caused the designated financial holding company to contravene any provision of this Act;

(*b*) has, without reasonable excuse, failed to secure the compliance of the designated financial holding company with any provision of this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act; or

(*c*) has failed to discharge any of the duties of his office,

the Authority may, if it thinks it necessary in the public interest or the interest of the FHC group concerned, direct the designated financial holding company to remove the person from office or employment within such period as may be specified by the Authority in the notice, and the designated financial holding company shall comply with the notice.

(6) Without prejudice to any other matter that the Authority may consider relevant, the Authority shall, in determining whether the person so approved under subsection (2) has failed to discharge the duties of his office for the purposes of subsection (5)(*c*), have regard to such criteria as may be prescribed.

(7) Before directing a designated financial holding company to remove a person under subsection (5), the Authority shall —

(*a*) give the designated financial holding company and the person, notice in writing of its intention to do so; and

(*b*) in the notice referred to in paragraph (*a*), call upon the designated financial holding company and the person to show cause, within such time as may be specified by the Authority in the notice, why the person should not be removed.

(8) If the designated financial holding company and the person referred to in subsection (7) —

(*a*) fail to show cause within the time specified in a notice issued under subsection (7) or within such extended period of time as the Authority may allow; or

(*b*) fail to show sufficient cause,

the Authority may direct the designated financial holding company to remove the person under subsection (5).

(9) Any person who is aggrieved by a direction of the Authority under subsection (5) may, within 30 days after receiving the direction, appeal in writing to the Minister whose decision shall be final.

(10) Any designated financial holding company which contravenes subsection (1) or (2), or fails to comply with any condition of approval imposed under subsection (3), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000.

(11) Any designated financial holding company which contravenes subsection (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000 and, in the case of a continuing offence, to a further fine not exceeding $25,000 for every day or part thereof during which the offence continues after conviction.

(12) No criminal or civil liability shall be incurred by a designated financial holding company, or any person acting on behalf of the designated financial holding company, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the designated financial holding company under this section.

Offences by directors and executive officers of designated financial holding companies and false or misleading information, etc.

64.—(1) Subject to subsection (5), any director or executive officer of a designated financial holding company who fails to take all reasonable steps to secure compliance by the designated financial holding company with any provision of this Act or any other written law administered by the Authority that is applicable to designated financial holding companies in Singapore shall, if such failure is not already an offence under any other provision of this Act, 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.

(2) Any person who —

(*a*) furnishes the Minister or the Authority with any information or document under or for the purposes of any provision of this Act which is false or misleading in a material particular; and

(*b*) does not use due care to ensure that the information or document referred to in paragraph (*a*) is not false or misleading in any material particular,

shall, if the furnishing of such information or document which is false or misleading in a material particular is not already an offence under any other provision of this Act, 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.

(3) In any proceedings against a person under subsection (1) or (2), it shall be a defence for him to prove that —

(*a*) he had reasonable grounds for believing that a competent and reliable person was charged with the duty of securing compliance with the provision of this Act or any other written law applicable to designated financial holding companies, or with the duty of ensuring that the information or document is not false or misleading in any material particular, as the case may be; and

(*b*) the person referred to in paragraph (*a*) was in a position to discharge that duty.

(4) A person shall not be sentenced to imprisonment for any offence under subsection (1) or (2) unless, in the opinion of the court, he committed the offence wilfully.

Offences by directors, employees and agents

65. Any director, executive officer, trustee, auditor, employee or agent of any designated financial holding company who —

(*a*) wilfully makes or causes to be made a false entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that designated financial holding company;

(*b*) wilfully omits to make an entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that designated financial holding company, or wilfully causes any such entry to be omitted; or

(*c*) wilfully alters, abstracts, conceals or destroys an entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that designated financial holding company, or wilfully causes any such entry to be altered, abstracted, concealed or destroyed,

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.

Composition of offences

66.—(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.

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

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

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

General penalty

67. Any designated financial holding company which contravenes any of the provisions of this Act for which no penalty is expressly provided 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 not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.

Jurisdiction of court

68. 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.

Consent of Public Prosecutor

69. No prosecution in respect of any offence under this Act shall be instituted except with the consent of the Public Prosecutor.

Recovery of fees, expenses, etc.

70. There shall be recoverable as a civil debt due to the Authority from the designated financial holding company concerned —

(*a*) the amount of the levy payable under section 9; and

(*b*) any remuneration and expenses payable by the designated financial holding company to —

(i) any person appointed under section 42(3);

(ii) a statutory adviser appointed under section 47(2);

(iii) a statutory manager appointed under section 47(2); and

(iv) the Authority or any person appointed by the Authority under section 61 in relation to the Authority assuming control of any businesses of the designated financial holding company under section 47.

Operation of this Act not to affect Companies Act

71.—(1) Except as expressly provided by this Act, nothing in this Act shall affect the operation of the Companies Act (Cap. 50), and any designated financial holding company that is liable to be incorporated under that Act shall continue to be so liable as if this Act had not been passed.

(2) In case of conflict between the Companies Act and this Act, the provisions of this Act shall prevail unless otherwise provided in this Act.

Service of documents, etc.

72.—(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 company, a partnership or body of persons —

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

(ii) by sending it by registered post addressed to the company, partnership 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.

Electronic service

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

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

(*a*) an authentication code; and

(*b*) an account with the electronic service.

(3) Notwithstanding section 72, where any person has given his consent for any document to be served on him through the electronic service, the Authority may serve the document on that person by transmitting an electronic record of the document to that person's account with the electronic service.

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

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

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

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

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

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

(ii) is duly authenticated in the manner specified in subsection (7).

(6) For the avoidance of doubt —

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

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

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

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

(*a*) giving the particulars of —

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

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

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

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

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

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

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

(10) In this section —

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

"authentication code", in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that

person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;

"document" includes notice and order;

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

General powers of exemption

74.—(1) The Authority may, by regulations, exempt any person or class of persons from all or any of the provisions of this Act, other than sections 13 and 14, subject to such conditions as may be prescribed.

(2) The Authority may, on the application of any person, by notice in writing, exempt the person from all or any of the provisions of this Act, other than sections 13 and 14, or any direction issued or requirement imposed by the Authority under this Act if the Authority considers it appropriate to do so in the circumstances of the case.

(3) An exemption under subsection (2) —

(*a*) may be granted subject to such conditions as the Authority may specify by notice in writing; and

(*b*) need not be published in the *Gazette*.

(4) The Authority may at any time —

(*a*) revoke any exemption granted; or

(*b*) add to, vary or revoke any condition imposed,

under this section.

Opportunity to be heard

75. Where this Act provides for a person to be given an opportunity to be heard by the Authority, the Authority may prescribe the manner in which the person shall be given the opportunity to be heard.

Amendment of Schedule

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

(2) The Minister may, in any order 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*.

Transitional provision

77. For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such provisions of a saving or transitional nature consequent on the enactment of that provision as he may consider necessary or expedient.

Consequential amendments to Banking Act

78. The Banking Act (Cap. 19) is amended —

(*a*) by deleting the definition of "financial holding company" in section 2(1) and substituting the following definition:

" "financial holding company" means a company designated by the Authority under section 4 of the Financial Holding Companies Act 2013;";

(*b*) by deleting the definition of "designated financial institution" in section 15(2);

(*c*) by deleting the words "designated financial institution" wherever they appear in sections 15A, 15B, 15C, 15E, 16, 17 and 18 and substituting in each case the words "bank incorporated in Singapore"; and

(*d*) by deleting the words "designated financial institutions" in the section headings of sections 15A, 15B and 15E and substituting in each case the words "banks incorporated in Singapore".

Consequential amendment to Monetary Authority of Singapore Act

79. The Schedule to the Monetary Authority of Singapore Act (Cap. 186) is amended by inserting, immediately after item 12, the following item:

"12A. Financial Holding Companies Act 2013".

THE SCHEDULE

Sections 28(6), 29(8), 34(11) and 76(1)

DEFINITIONS OF TERMS IN SECTIONS 28(6), 29(8) AND 34(11)

1. For the purposes of sections 28(6), 29(8) and 34(11) and this Schedule —

"affiliate" means —

(*a*) in relation to a substantial shareholder of a designated financial holding company, any corporation which is an associate of the substantial shareholder, other than the designated financial holding company and any company in which the designated financial holding company acquires or holds, directly or indirectly, a major stake; and

(*b*) in relation to a substantial shareholder of a financial holding company of which the designated financial holding company is a subsidiary, any corporation which is an associate of the substantial shareholder, other than the first-mentioned financial holding company and any company in which the first-mentioned financial holding company acquires or holds, directly or indirectly, a major stake;

"associate", in relation to a substantial shareholder, means —

(*a*) any corporation in which the substantial shareholder controls the composition of the board of directors;

(*b*) any corporation in which the substantial shareholder controls more than half of the voting power;

(*c*) any corporation in which the substantial shareholder holds more than half of the total number of issued shares;

(*d*) any corporation which is a subsidiary of any other corporation which is an associate by virtue of paragraph (*a*), (*b*) or (*c*);

(*e*) any corporation in which the substantial shareholder or any other corporation which is an associate by virtue of paragraph (*a*), (*b*), (*c*) or (*d*) has, or the substantial shareholder and such other corporation together have, an interest in shares entitling the beneficial owners

THE SCHEDULE — *continued*

thereof the right to cast, whether by proxy or in person, not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the first-mentioned corporation; or

(*f*) any corporation (not being a corporation which is an associate by virtue of paragraph (*a*), (*b*), (*c*), (*d*) or (*e*)) the policies of which the substantial shareholder or any other corporation which is an associate by virtue of paragraph (*a*), (*b*), (*c*), (*d*) or (*e*) is, or the substantial shareholder together with such other corporation are, able to control or influence materially;

"counterparty", in relation to a designated financial holding company, means a person —

(*a*) who has an obligation to the designated financial holding company as a result of the designated financial holding company's contractual or other arrangements; or

(*b*) in relation to whom the designated financial holding company is at risk as a result of the designated financial holding company's contractual or other arrangements or investments;

"director", in relation to a designated financial holding company, includes the spouse, parent and child of a director of the designated financial holding company;

"director group", in relation to a designated financial holding company, means a group of persons comprising —

(*a*) any director of the designated financial holding company;

(*b*) every firm or limited liability partnership in which the director is a partner, a manager, an agent, a guarantor or a surety;

(*c*) every individual of whom, and every company of which, the director is a guarantor or surety; and

(*d*) every company in which the director —

(i) is an executive officer;

(ii) owns more than half of the total number of issued shares, whether legally or beneficially;

(iii) controls more than half of the voting power; or

(iv) controls the composition of the board of directors;

"exposure" means the maximum loss that a designated financial holding company may incur as a result of the failure of a counterparty to meet any of its obligations;

THE SCHEDULE — *continued*

"family member", in relation to an individual, means the individual's spouse, parent or child;

"financial group", in relation to a designated financial holding company, means a group of companies comprising every company in which the designated financial holding company acquires or holds, directly or indirectly, a major stake;

"liquidity stress situation", in relation to a designated financial holding company, means a situation where the designated financial holding company, having exhausted all reasonable sources or avenues for obtaining funds, is unable to meet its obligations, as and when they fall due, without incurring significant costs or losses;

"substantial shareholder group", in relation to a designated financial holding company, means a group of persons comprising —

(*a*) any substantial shareholder of the designated financial holding company;

(*b*) every affiliate of the substantial shareholder of the designated financial holding company; and

(*c*) where the designated financial holding company is a subsidiary of a financial holding company —

(i) any substantial shareholder of the second-mentioned financial holding company; and

(ii) every affiliate of the substantial shareholder referred to in sub-paragraph (i);

"third party single counterparty group" means a group of persons —

(*a*) who are financially dependent on one another; or

(*b*) where one person controls every other person in that group,

and where at least one of the persons is a counterparty to the designated financial holding company.

2. For the purposes of the definitions of "associate" and "substantial shareholder group", a reference to a substantial shareholder shall, where the substantial shareholder is an individual, include a reference to a family member of the substantial shareholder.

3. For the purposes of the definition of "associate", a substantial shareholder is deemed to control the composition of the board of directors of a corporation if he has any power, exercisable by him without the consent or concurrence of any other person, to appoint or remove all or a majority of the directors of the corporation.

THE SCHEDULE — *continued*

4. For the purposes of the definition of "director group", a director of a designated financial holding company is deemed to control the composition of the board of directors of a company if he has any power, exercisable by him without the consent or concurrence of any other person, to appoint or remove all or a majority of the directors of the company.

5. For the purposes of the definition of "exposure", in determining the maximum loss that a designated financial holding company may incur as a result of the failure of a counterparty to meet any of its obligations —

(*a*) any collateral available to the designated financial holding company; and

(*b*) any likelihood of recovery from the counterparty in the event of the bankruptcy or winding up, or its equivalent, of the counterparty,

shall not be taken into account.

6. For the purposes of the definition of "third party single counterparty group" —

(*a*) a person *A* is financially dependent on another person *B* if by virtue of a contractual or other relationship between them, *A* will or is likely to be unable to meet *A*'s financial obligations if *B* is unable to meet *B*'s financial obligations;

(*b*) a person is controlled by the controlling person if the person is —

(i) a person in which the controlling person holds more than half of the total number of issued shares, whether legally or beneficially;

(ii) a person in which the controlling person controls more than half of the voting power;

(iii) a person in which the controlling person controls the composition of the board of directors;

(iv) a subsidiary of a person described in sub-paragraph (i), (ii) or (iii); or

(v) a person the policies of which the controlling person is in a position to determine.

7. For the purposes of paragraph 6, any reference to the controlling person shall, if he is an individual, include a reference to his family members.

8. In this Schedule, unless the context otherwise requires, any reference to a company in which a financial holding company acquires or holds, directly or indirectly, a major stake is a reference to a company in which the designated financial holding company acquires or has a major stake as defined in section 31(10).