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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (QUALIFYING DEBT SECURITIES) (AMENDMENT) REGULATIONS 2016

In exercise of the powers conferred by sections 13(1)(a), (aa), (ab), (ba), (bc) and (bd), (2E) and (16), 45(9) and 45A of the Income Tax Act, the Minister for Finance makes the following Regulations:

Citation and commencement

1.—(1) These Regulations are the Income Tax (Qualifying Debt Securities) (Amendment) Regulations 2016 and, except for regulations 2(1)(b), (c) and (d) and (2), 3(a), 4(a), 5(a), 6(a), 10 and 11(b), are deemed to have come into operation on 28 June 2013.

(2) Regulations 2(1)(b) and (d), 3(a), 4(a), 5(a), 6(a), 10 and 11(b) are deemed to have come into operation on 1 January 2014.

Amendment of regulation 2

2.—(1) Regulation 2 of the Income Tax (Qualifying Debt Securities) Regulations (Rg 35) (called in these Regulations the principal Regulations) is amended —

- (a) by inserting, immediately after the definitions of “ “approved bond intermediary”, “break cost”, “financial institution”, “financial sector incentive (bond market) company”, “prepayment fee”, “qualifying debt securities” and “redemption premium” ”, the following definition:

“ “Authority” means the Monetary Authority of Singapore;”;

- (b) by deleting the definitions of “ “approved bond intermediary”, “break cost”, “financial institution”, “financial sector incentive (bond market) company”,

“prepayment fee”, “qualifying debt securities” and “redemption premium” ” and substituting the following definitions:

““approved bond intermediary”, “break cost”, “financial institution”, “financial sector incentive (bond market) company”, “financial sector incentive (capital market) company”, “financial sector incentive (standard tier) company”, “prepayment fee”, “qualifying debt securities” and “redemption premium” have the same meanings as in section 13(16) of the Act;”;

- (c) by deleting the words “and certificates of deposit” in the definition of “debt securities” and substituting the words “, certificates of deposit, and AT1 instruments (as defined in section 100(2) of the Act),”; and
- (d) by inserting, immediately after the definition of “programme”, the following definition:

““Singapore-based issuer” —

- (a) in relation to an issuer which is not a special purpose vehicle, means an entity which carries on any operation in Singapore; and
- (b) in relation to an issuer which is a special purpose vehicle, means an entity whose sponsor carries on any operation in Singapore;”.

(2) Paragraph (1)(c) has effect for the year of assessment 2015 and subsequent years of assessment.

Amendment of regulation 3

3. Regulation 3(1) of the principal Regulations is amended —

- (a) by deleting the words “31st December 2013” in sub-paragraph (a)(ii) and substituting the words “31st December 2018”; and

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- (b) by deleting the word “Comptroller” wherever it appears in sub-paragraph (a)(iii) and substituting in each case the word “Authority”.

Amendment of regulation 3A

4. Regulation 3A(1) of the principal Regulations is amended —
- (a) by deleting the words “31st December 2013” in sub-paragraph (a)(ii)(B) and (iii)(B) and substituting in each case the words “31st December 2018”; and
- (b) by deleting the word “Comptroller” wherever it appears in sub-paragraph (a)(iii) and substituting in each case the word “Authority”.

Amendment of regulation 3B

5. Regulation 3B(1) of the principal Regulations is amended —
- (a) by deleting the words “31st December 2013” in sub-paragraphs (a)(ii) and (iii) and (b) and substituting in each case the words “31st December 2018”; and
- (b) by deleting the word “Comptroller” wherever it appears in sub-paragraph (a)(iii) and substituting in each case the word “Authority”.

Amendment of regulation 3C

6. Regulation 3C(1) of the principal Regulations is amended —
- (a) by deleting the words “31st December 2013” in sub-paragraphs (a)(ii) and (iii) and (b) and substituting in each case the words “31st December 2018”; and
- (b) by deleting the word “Comptroller” wherever it appears in sub-paragraph (a)(iii) and substituting in each case the word “Authority”.

Amendment of regulation 3D

7. Regulation 3D of the principal Regulations is amended by deleting the word “Comptroller” wherever it appears and substituting in each case the word “Authority”.

New regulation 3DA

8. The principal Regulations are amended by inserting, immediately after regulation 3D, the following regulation:

“Prescribed circumstances for tax exemption under section 13(1)(bc) of Act

3DA. The circumstances mentioned in section 13(1)(bc)(i)(C)(CB) and (ii)(C) of the Act under which the tenure of the qualifying debt securities may be shortened to less than 10 years from the date of their issue are —

- (a) the shortening of the tenure is a result of any early termination pursuant to an early termination clause specified in the Schedule which the issuer included in any offering document for those qualifying debt securities; and
- (b) the qualifying debt securities do not contain any call, put, conversion, exchange or similar option that can be triggered at specified dates or at specified prices which have been priced into the value of the securities at the time of their issue.”.

Amendment of regulation 3E

9. Regulation 3E of the principal Regulations is amended by deleting the word “Comptroller” wherever it appears and substituting in each case the word “Authority”.

Amendment of regulation 4

10. Regulation 4 of the principal Regulations is amended —

- (a) by inserting, immediately after sub-paragraph (b) of paragraph (1), the following sub-paragraph:

“(ba) where the debt securities are issued during the period from 1 January 2014 to 31 December 2018 and are not issued under a programme, any one of the following is satisfied:

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- (i) the lead manager is any, or if there is more than one lead manager, more than half of the lead managers are any or any combination, of the following:
 - (A) a financial sector incentive (bond market) company;
 - (B) a financial sector incentive (capital market) company;
 - (C) a financial sector incentive (standard tier) company;
 - (ii) if the issuer is a Singapore-based issuer —
 - (A) more than half of the amount of gross revenue from arranging the issue is attributable to any or any combination of the following:
 - (AA) a financial sector incentive (bond market) company;
 - (AB) a financial sector incentive (capital market) company;
 - (AC) a financial sector incentive (standard tier) company;and
 - (B) more than half of the staff arranging the issue, of the company or cumulatively of the companies mentioned in sub-paragraph (A), are based in Singapore;
 - (iii) if the issuer is not a Singapore-based issuer, more than half of the debt securities issued under the issue are distributed by any or any combination of the following:

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- (A) a financial sector incentive (bond market) company;
 - (B) a financial sector incentive (capital market) company;
 - (C) a financial sector incentive (standard tier) company;”;
- (b) by deleting the words “31st December 2013” in paragraph (1)(c) and (d) and substituting in each case the words “31st December 2018”;
- (c) by deleting the word “or” at the end of paragraph (1)(c)(ii);
- (d) by inserting, immediately after sub-paragraph (iii) of paragraph (1)(c), the following sub-paragraphs:
- “(iv) the programme as a whole is arranged by a financial sector incentive (bond market) company, the arrangement of which is not completed on or before 31 December 2013 by the financial sector incentive (bond market) company, and the arrangement is completed on or after 1 January 2014 by a financial sector incentive (capital market) company or a financial sector incentive (standard tier) company; or
 - (v) the programme as a whole is arranged on or after 1 January 2014 by a financial sector incentive (capital market) company or a financial sector incentive (standard tier) company;”;
- (e) by deleting the words “any approved bond intermediary or” in paragraph (1)(d)(i) and (ii);
- (f) by deleting the word “or” at the end of paragraph (1)(d)(ii);
- (g) by deleting the words “a financial sector incentive (bond market) company or” in paragraph (1)(d)(iii);

(h) by deleting the word “and” at the end of sub-paragraph (iii) of paragraph (1)(d) and substituting the word “or”, and by inserting immediately thereafter the following sub-paragraph:

“(iv) the participation of the new issuer in the programme is arranged on or after 1 January 2014 by a financial sector incentive (capital market) company or a financial sector incentive (standard tier) company, and that programme as a whole —

(A) was previously arranged by an affiliate of any financial sector incentive (bond market) company; or

(B) was previously arranged on or after 1 January 2014 by an affiliate of any financial sector incentive (capital market) company or financial sector incentive (standard tier) company;”;

(i) by deleting the full-stop at the end of sub-paragraph (e) of paragraph (1) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraph:

“(f) where the debt securities are issued during the period from 1 January 2014 to 31 December 2018 under a tranche of a programme and the programme does not satisfy the requirements in sub-paragraph (c) or (d), more than half of the debt securities issued under that tranche are distributed by any or any combination of the following:

(i) a financial sector incentive (bond market) company;

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- (ii) a financial sector incentive (capital market) company;
 - (iii) a financial sector incentive (standard tier) company.”;
 - (j) by inserting, immediately after the words “Islamic debt securities” in paragraph (1A)(a), the words “are issued during the period from 1 January 2005 to 31 December 2013 and”;
 - (k) by inserting, immediately after sub-paragraph (a) of paragraph (1A), the following sub-paragraph:
 - “(aa) where the Islamic debt securities are issued during the period from 1 January 2014 to 31 December 2018 and are not issued under a programme, any one of the following is satisfied:
 - (i) the lead manager is any, or if there is more than one lead manager, more than half of the lead managers are any or any combination, of the following:
 - (A) a financial sector incentive (bond market) company;
 - (B) a financial sector incentive (capital market) company;
 - (C) a financial sector incentive (standard tier) company;
 - (ii) if the issuer is a Singapore-based issuer —
 - (A) more than half of the amount of gross revenue from arranging the issue is attributable to any or any combination of the following:
 - (AA) a financial sector incentive (bond market) company;

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- (AB) a financial sector incentive (capital market) company;
 - (AC) a financial sector incentive (standard tier) company;
and
 - (B) more than half of the staff arranging the issue, of the company or cumulatively of the companies mentioned in sub-paragraph (A), are based in Singapore;
 - (iii) if the issuer is not a Singapore-based issuer, more than half of the debt securities issued under the issue are distributed by any or any combination of the following:
 - (A) a financial sector incentive (bond market) company;
 - (B) a financial sector incentive (capital market) company;
 - (C) a financial sector incentive (standard tier) company;”;
 - (l) by inserting, immediately after the words “Islamic debt securities are issued” in paragraph (1A)(b), the words “during the period from 1 January 2005 to 31 December 2018”;
 - (m) by deleting the word “or” at the end of paragraph (1A)(b)(ii);
 - (n) by inserting, immediately after sub-paragraph (iii) of paragraph (1A)(b), the following sub-paragraphs:
 - “(iv) the programme as a whole is arranged by a financial sector incentive (bond market) company, the arrangement of which is not completed on or before 31 December 2013 by the financial

sector incentive (bond market) company, and the arrangement is completed on or after 1 January 2014 by a financial sector incentive (capital market) company or a financial sector incentive (standard tier) company; or

- (v) the programme as a whole is arranged on or after 1 January 2014 by a financial sector incentive (capital market) company or a financial sector incentive (standard tier) company;”;
- (o) by inserting, immediately after the words “Islamic debt securities are issued” in paragraph (1A)(c), the words “during the period from 1 January 2005 to 31 December 2018”;
- (p) by deleting the words “any approved bond intermediary or” in paragraph (1A)(c)(i);
- (q) by deleting the word “or” at the end of paragraph (1A)(c)(i);
- (r) by deleting the words “a financial sector incentive (bond market) company or” in paragraph (1A)(c)(ii);
- (s) by deleting the word “and” at the end of sub-paragraph (ii) of paragraph (1A)(c) and substituting the word “or”, and by inserting immediately thereafter the following sub-paragraph:
 - “(iii) the participation of the new issuer in the programme is arranged on or after 1 January 2014 by a financial sector incentive (capital market) company or a financial sector incentive (standard tier) company, and that programme as a whole —
 - (A) was previously arranged by an affiliate of any financial sector incentive (bond market) company; or

(B) was previously arranged on or after 1 January 2014 by an affiliate of any financial sector incentive (capital market) company or financial sector incentive (standard tier) company;”;

- (t) by inserting, immediately after the words “Islamic debt securities are issued” in paragraph (1A)(d), the words “during the period from 1 January 2005 to 31 December 2013”;
- (u) by deleting the full-stop at the end of paragraph (1A)(d)(ii) and substituting the word “; and”; and
- (v) by inserting, immediately after sub-paragraph (d) of paragraph (1A), the following sub-paragraph:

“(e) where the Islamic debt securities are issued during the period from 1 January 2014 to 31 December 2018 under a tranche of a programme and the programme does not satisfy the requirements in sub-paragraph (b) or (c), more than half of the Islamic debt securities issued under that tranche are distributed by any or any combination of the following:

- (i) a financial sector incentive (bond market) company;
- (ii) a financial sector incentive (capital market) company;
- (iii) a financial sector incentive (standard tier) company.”.

Amendment of regulation 5

11. Regulation 5 of the principal Regulations is amended —

- (a) by deleting the word “Comptroller” wherever it appears in paragraphs (1)(b), (2)(b) and (3)(b) and substituting in each case the word “Authority”; and
- (b) by deleting the words “31st December 2013” in paragraph (2)(a) and (b) and substituting in each case the words “31st December 2018”.

New Schedule

12. The principal Regulations are amended by inserting, immediately after regulation 5, the following Schedule:

“THE SCHEDULE

Regulation 3DA

PRESCRIBED EARLY TERMINATION CLAUSES

<i>First column</i>	<i>Second column</i>
<i>Type of early termination clause</i>	<i>Description of early termination circumstances covered by clause</i>
1. Change in tax law	This clause allows the issuer to redeem the qualifying debt securities before maturity when a change in tax laws results in additional tax liability.
2. Default event	This clause allows the qualifying debt securities holder to redeem the principal investment of the holder from the issuer or to convert the qualifying debt securities to equity should any event that has been agreed to be an event of default occur (including when the issuer is unable to service the coupon payments, is made bankrupt, or faces court proceedings).
3. Change of control or change of shareholding	This clause allows the qualifying debt securities holder to put the qualifying debt securities back to the issuer for

<i>First column</i>	<i>Second column</i>
<i>Type of early termination clause</i>	<i>Description of early termination circumstances covered by clause</i>
4. Change in listing status of an issuer or trading disruption	<p>redemption before maturity, or the issuer to redeem the securities before maturity, when there is a change in the controlling shareholder or shareholders of the issuer.</p> <p>This clause allows the qualifying debt securities holder to put the qualifying debt securities back to the issuer for redemption before maturity, or the issuer to redeem the securities before maturity, when the shares of the issuer cease to be listed or are suspended for trading beyond a certain period in a certain stock exchange.</p>
5. Change of qualification event due to regulatory capital requirements	<p>This clause allows the issuer to redeem the qualifying debt securities before maturity where the issuer issued the securities with the intention to treat them as either Tier 1 or Tier 2 capital or such other class of designated regulatory capital as the Authority may allow and, because of any change in the relevant requirements for classification of regulatory capital, the securities are no longer treated as Tier 1 or Tier 2 capital or such other class of designated regulatory capital (as the case may be).</p>
6. Change in accounting classification	<p>This clause allows the issuer to redeem the qualifying debt securities before maturity where the issuer issued the qualifying debt securities with the intention of classifying them as equity, and, because of a change in the relevant accounting standard or a change in rating, the securities have a lower equity credit than was</p>

<i>First column</i>	<i>Second column</i>
<i>Type of early termination clause</i>	<i>Description of early termination circumstances covered by clause</i>
	originally assigned or the securities are no longer regarded as equity.
7. Change in rating	This clause allows the issuer to redeem the qualifying debt securities before maturity where the securities are issued with an assigned rating of a certain level (e.g. investment grade), and the rating is downgraded by a specified threshold or it is publicly announced that the securities are being considered for a downgrade, whether or not as a result of a change in the issuer's circumstances (e.g. change of control) or for any other reason.
8. Repurchase upon a non-compliance	This clause requires the issuer to offer to repurchase all of the qualifying debt securities if the securities issued by the issuer require registration with any local regulator and such registration is not obtained.
9. Purchase	This clause allows the issuer and its related parties to purchase the qualifying debt securities from the open market.
10. Modification and amendment	This clause allows the issuer to redeem the qualifying debt securities before maturity in specific circumstances that the issuer is not able to completely describe upfront. The issuer may invoke this clause to seek majority qualifying debt securities holders' consent to restructure the terms of the qualifying debt securities issue (which may include modifying the maturity date, reducing the principal

<i>First column</i> <i>Type of early termination clause</i>	<i>Second column</i> <i>Description of early termination circumstances covered by clause</i>
11. Amendment of written law relevant to issuance	<p>amount, or changing the currency of the payment) in order to —</p> <p>(a) avoid a default; or</p> <p>(b) implement corporate restructuring.</p> <p>This clause requires the issuer, at the option of the qualifying debt securities holder, to repurchase the qualifying debt securities, where the securities are issued by an authority or body established by written law to discharge functions of a public nature, and the written law is amended such that the issuer ceases to be such an authority or a body, or the securities cease to be the obligations of the issuer.</p>

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[G.N. Nos. S 350/2005; S 52/2006; S 99/2007; S 399/2008; S 268/2009; S 521/2013]

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