
First published in the *Government Gazette*, Electronic Edition, on 1 October 2018 at 5 pm.

No. S 623

SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES
(AFFAIRS OF BUSINESS TRUST AND
AFFAIRS OF ENTITY) REGULATIONS 2018

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement
 2. Affairs of business trust
 3. Affairs of entity, etc., that is not corporation
 4. Revocation
-

In exercise of the powers conferred by section 341 of the Securities and Futures Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Securities and Futures (Affairs of Business Trust and Affairs of Entity) Regulations 2018 and come into operation on 8 October 2018.

Affairs of business trust

2.—(1) For the purposes of sections 251(18)(b) and (19)(b), 272A(11)(b), 275(2A)(b) and 330(3)(b) of the Act, unless the contrary intention appears, a reference to the affairs of a business trust includes a reference to —

- (a) the promotion, formation, control, business, profits and losses of the business trust;

-
-
- (b) the trading, transactions and dealings, property and liabilities of the trustee of the business trust acting in its capacity as trustee;
 - (c) matters concerned with the ascertainment of —
 - (i) the identities of the persons who are holders of units or derivatives of units in, or debentures or units of debentures of, the business trust;
 - (ii) the rights of the holders mentioned in sub-paragraph (i) in relation to the business trust; and
 - (iii) any payment that the holders mentioned in sub-paragraph (i) have received, or are entitled to receive, under the terms of the trust deed of the business trust;
 - (d) the internal management and proceeding of the trustee of the business trust acting in its capacity as trustee;
 - (e) any act or thing done (including any contract made and any transaction entered into) by or on behalf of the trustee of the business trust acting in its capacity as trustee, to or in relation to the business of the business trust, or to or in relation to the trust property of the business trust —
 - (i) at a time when a receiver, or a receiver and manager, or an equivalent person, is in possession of, or has control over, the trust property;
 - (ii) at a time when the trustee of the business trust (being a corporation) is under judicial management;
 - (iii) at a time when a compromise or arrangement mentioned in section 210 of the Companies Act (Cap. 50) made between the trustee of the business trust (being a corporation) acting in its capacity as trustee of the business trust and another person or persons is being administered;

-
-
- (iv) under an agreement between the trustee of the business trust (not being a corporation) acting in its capacity as trustee of the business trust and a majority of or all the creditors in respect of the business of the business trust, such agreement being a repayment arrangement of the debts incurred by the trustee on behalf of the business trust and owed to these creditors;
 - (v) at a time when the trustee of the business trust (being an individual) is an undischarged bankrupt; or
 - (vi) at a time when the trustee of the business trust (not being an individual) or the business trust itself is being wound up or dissolved;
- (f) without limiting sub-paragraph (e)(i) to (vi), any conduct of —
- (i) the receiver, receiver and manager, or equivalent person mentioned in sub-paragraph (e)(i);
 - (ii) the judicial manager of the judicial management mentioned in sub-paragraph (e)(ii);
 - (iii) the person administering the compromise or arrangement mentioned in sub-paragraph (e)(iii);
 - (iv) the person administering the repayment arrangement mentioned in sub-paragraph (e)(iv);
 - (v) the Official Assignee when administering the bankruptcy of the trustee of the business trust mentioned in sub-paragraph (e)(v); or
 - (vi) the Official Receiver when administering the winding up or dissolution of the trustee of the business trust or the business trust mentioned in sub-paragraph (e)(vi), or any liquidator, provisional liquidator or other person administering such winding up or dissolution, as the case may be;

-
-
- (g) the ownership of units or derivatives of units in, or debentures or units of debentures of, the business trust issued by the trustee of the business trust acting in its capacity as trustee;
 - (h) the power of persons to exercise, or to control the exercise of, the following rights:
 - (i) the right to vote attached to the units in the business trust;
 - (ii) the right to dispose of the units in the business trust;
 - (iii) the right to exercise control over the disposal of the units in the business trust;
 - (i) matters concerned with the ascertainment of the persons who —
 - (i) are or have been financially interested in the success or failure, or apparent success or failure, of the business trust; or
 - (ii) are or have been able to control or materially influence the policy of the trustee of the business trust acting in its capacity as trustee;
 - (j) the circumstances under which a person acquired or disposed of, or became entitled to acquire or dispose of, units or derivatives of units in, or debentures or units of debentures of, the business trust issued by the trustee of the business trust acting in its capacity as trustee; and
 - (k) matters relating to or arising out of the audit of any matters mentioned in sub-paragraphs (a) to (j), or working papers or reports of an auditor concerning any of those matters.
- (2) In paragraph (1) —
- “business”, in relation to a business trust, means the business relating to the trust property of the business trust and managed and operated by the trustee of the business trust in its capacity as trustee of the business trust;

“trust property”, in relation to a business trust, has the meaning given by section 2 of the Business Trusts Act (Cap. 31A).

Affairs of entity, etc., that is not corporation

3.—(1) For the purposes of sections 251(18)(b) and (19)(b), 272A(11)(b), 275(2A)(b) and 330(3)(b) of the Act, unless the contrary intention appears, a reference to the affairs of any of the following (as the case may be) that is not a corporation (each called in this regulation a relevant entity), includes a reference to all the matters in paragraph (2):

- (a) an entity;
- (b) a person making an offer;
- (c) an issuer;
- (d) an underlying entity.

(2) For the purposes of paragraph (1), the matters are —

- (a) all of the following:
 - (i) the promotion, formation, membership, control, business or trading of the relevant entity;
 - (ii) the transactions and dealings entered into by the relevant entity (whether entered into alone or jointly with another person or other persons), including transactions and dealings entered into by the relevant entity as an agent, a bailee or a trustee;
 - (iii) the property held by the relevant entity (whether held alone or jointly with another person or other persons), including property held by the relevant entity as an agent, a bailee or a trustee;
 - (iv) liabilities of the relevant entity, including liabilities that are owned jointly by the relevant entity with another person or other persons and liabilities that are incurred by the relevant entity as a trustee;
 - (v) profits and other income, receipts, losses, outgoings and expenditure of the relevant entity;

-
-
- (b) where the relevant entity is a trustee of a trust, without limiting sub-paragraph (a), matters concerned with the ascertainment of the identities of the persons who are beneficiaries under the trust, their rights under the trust and any payment that they have received, or are entitled to receive, under the terms of the trust;
 - (c) the internal management and proceeding of the relevant entity;
 - (d) any act or thing done (including any contract made and any transaction entered into) by or on behalf of the relevant entity, to or in relation to the relevant entity or its business or property —
 - (i) at a time when a receiver, or a receiver and manager, or an equivalent person, is in possession of, or has control over, property of the relevant entity;
 - (ii) under a repayment arrangement between the relevant entity and a majority of or all its creditors in respect of the debts owed by the relevant entity to these creditors; or
 - (iii) at a time when the relevant entity is being wound up or otherwise dissolved;
 - (e) without limiting sub-paragraph (d)(i), (ii) and (iii), any conduct of —
 - (i) the receiver, receiver and manager, or equivalent person mentioned in sub-paragraph (d)(i);
 - (ii) the person administering the repayment arrangement mentioned in sub-paragraph (d)(ii); or
 - (iii) the person administering the winding up or dissolution of the relevant entity;
 - (f) the ownership of specified interests in, debentures of, units of debentures of, or other securities or securities-based derivatives contracts issued by, the relevant entity;

-
-
- (g) the power of persons to exercise, or to control the exercise of, the following rights:
- (i) the right to vote attached to specified interests in the relevant entity;
 - (ii) the right to dispose of specified interests in the relevant entity;
 - (iii) the right to exercise control over the disposal of specified interests in the relevant entity;
- (h) matters concerned with the ascertainment of the persons who —
- (i) are or have been financially interested in the success or failure, or apparent success or failure, of the relevant entity; or
 - (ii) are or have been able to control or materially influence the policy of the relevant entity;
- (i) the circumstances under which a person acquired or disposed of, or became entitled to acquire or dispose of, specified interests in, debentures of, units of debentures of, or other securities or securities-based derivatives contracts issued by, the relevant entity;
- (j) where the relevant entity has issued units in a collective investment scheme, matters concerning the financial or business undertaking, scheme, common enterprise or investment contract to which the units relate; and
- (k) matters relating to or arising out of the audit of any matters mentioned in sub-paragraphs (a) to (j), or working papers or reports of an auditor concerning any of those matters.
- (3) In paragraph (1) —
- “securities” and “securities-based derivatives contracts” have the meanings given by section 2(1) of the Act;

“specified interest”, in relation to the relevant entity, means any right or interest, whether legal or equitable, in the relevant entity, by whatever name called, and includes any option to acquire any such right or interest in the relevant entity.

Revocation

4. The Securities and Futures (Affairs of Business Trust and Affairs of Entity) Regulations 2005 (G.N. No. S 604/2005) are revoked.

Made on 26 September 2018.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

[CFI SP/2018/02 PT6; AG/LEGIS/SL/289/2015/16 Vol. 1]