

BUSINESS TRUSTS ACT
(CHAPTER 31A, SECTIONS 3, 5, 7, 10, 14, 15, 19, 20, 21, 22, 74,
83, 87, 111 AND 114)

BUSINESS TRUSTS REGULATIONS

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[6th January 2005]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Business Trusts Regulations.

Definitions

2. In these Regulations, unless the context otherwise requires —
"associated company" and "chief executive officer" have the same meanings as in section 86(10) of the Act;

“executive director” means a director who is concurrently an executive officer, and “non-executive director” shall be construed accordingly;

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

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

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

“immediate family” and “interested person transaction” have the same meanings as in section 86(10) of the Act;

“subsidiary” has the same meaning as in section 5 of the Companies Act (Cap. 50).

When directors considered to be independent from management and business relationships with trustee-manager

3.—(1) A director of the trustee-manager of a registered business trust is considered to be independent from management and business relationships with the trustee-manager (whether or not the trustee-manager is acting for or on behalf of the registered business trust) if —

(a) the director has no management relationships with the trustee-manager or with any of its subsidiaries; and

(b) the director has no business relationships with the trustee-manager or with any of its related corporations, or with any officer of the trustee-manager or any of its related corporations,

that could interfere with the exercise of the director’s independent judgment with regard to the interests of all the unitholders of the registered business trust as a whole.

(2) Without prejudice to the generality of paragraph (1)(a), a director shall not be considered to be independent from management relationships with the trustee-manager of a registered business trust or with any of its subsidiaries if —

- (a) he is employed by the trustee-manager or by any of its subsidiaries, or has been so employed, at any time during the current financial year or any of the preceding 3 financial years of the trustee-manager;
- (b) any member of his immediate family —
 - (i) is being employed by the trustee-manager or by any of its subsidiaries as an executive officer whose compensation is determined by the board of directors of the trustee-manager or the subsidiary, as the case may be; or
 - (ii) has been so employed at any time during the current financial year or any of the preceding 3 financial years of the trustee-manager; or
- (c) he is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the management of the trustee-manager or any of its subsidiaries.

(3) Without prejudice to the generality of paragraph (1)(b), a director shall not be considered to be independent from business relationships with the trustee-manager or with any of its related corporations, or with any officer of the trustee-manager or any of its related corporations, if —

- (a) he is a substantial shareholder, a director or an executive officer of any corporation, or a sole proprietor or partner of any firm, where such corporation, sole proprietorship or firm carries on business for purposes of profit to which the trustee-manager or any of its related corporations has made, or from which the trustee-manager or any of its related corporations has received, payments (whether or not the trustee-manager is acting for or on behalf of the registered business trust) at any time during the current or immediately preceding financial year of the trustee-manager; or
- (b) he is receiving or has received compensation from the trustee-manager or any of its related corporations, other than remuneration received for his service as a director or as an

employee of the trustee-manager or any of its related corporations, at any time during the current or immediately preceding financial year of the trustee-manager.

When directors considered to be independent from substantial shareholder

4.—(1) A director of a trustee-manager of a registered business trust is considered to be independent from a substantial shareholder of the trustee-manager if he is not that substantial shareholder of the trustee-manager or is not connected to that substantial shareholder of the trustee-manager.

(2) For the purposes of paragraph (1), a person is connected to a substantial shareholder if —

- (a) in the case where the substantial shareholder is an individual, the person is —
 - (i) a member of the immediate family of the substantial shareholder;
 - (ii) a partner of a firm of which the substantial shareholder is also a partner; or
 - (iii) accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the substantial shareholder; or
- (b) in the case where the substantial shareholder is a corporation, the person is —
 - (i) employed by the substantial shareholder;
 - (ii) employed by a subsidiary or an associated company of the substantial shareholder;
 - (iii) a director of the substantial shareholder;
 - (iv) an executive director of a subsidiary or an associated company of the substantial shareholder;
 - (v) a non-executive director of a subsidiary or an associated company of the substantial shareholder;

where the subsidiary or associated company is not the trustee-manager;

- (vi) a partner of a firm of which the substantial shareholder is also a partner; or
- (vii) accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the substantial shareholder.

PART II

REGISTRATION OF TRUSTS AND RELATED MATTERS

Forms

5.—(1) The forms to be used for the purposes of these Regulations are those set out at <http://www.mas.gov.sg> (under “Business Trusts”), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number in that website.

(2) Where no numbered form is provided for the lodgment of any document with the Authority as required under any provision of the Act or these Regulations, then that document shall be lodged using Form 1 with such modifications as the Authority may allow under paragraph (5).

(3) All forms used for the purposes of these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the forms or by the Authority.

(4) The Authority may refuse to accept any form that is not completed in accordance with this regulation or not accompanied by the relevant fee referred to in regulation 6.

(5) Where strict compliance with any form is not possible, the Authority may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the Authority thinks fit.

Fees

6.—(1) The fees specified in the First Schedule shall be payable to the Authority for the purposes specified therein, and shall not be refundable.

(2) Payment of fees may be made through such electronic funds transfer system as the Authority may designate from time to time, whereby payment may be effected by directing the transfer of funds electronically from the bank account of the payer to a bank account designated by the Authority.

Manner of application for registration

7. An application for the registration of a business trust shall be in Form 2 and shall be lodged with the Authority together with any relevant annexure and information as may be specified in the Form.

Notice of particulars and register to be maintained by Authority

8.—(1) For the purposes of section 5(1) of the Act, the register of registered business trusts to be established and maintained by the Authority shall contain, in respect of each registered business trust, the particulars set out in the Second Schedule.

(2) Where a change subsequently occurs to any particulars entered in Form 2 in relation to an application for registration of a business trust, the trustee-manager of the registered business trust shall notify the Authority of such change in Form 3 within 14 days after such change.

(3) Any trustee-manager of a registered business trust which contravenes paragraph (2) (other than in relation to particulars required to be entered in the register of registered business trusts pursuant to section 5(1) of the Act) shall be guilty of an offence.

Other requirements for trustee-manager

9.—(1) The trustee-manager of a registered business trust shall, if so required by the Authority —

- (a) obtain professional indemnity insurance for such amount and on such terms as may be specified by the Authority by notice in writing; or
- (b) provide the Authority with a performance bond, guarantee or any similar instrument (by whatever name called) for such amount and on such terms as may be specified by the Authority by notice in writing from —
 - (i) its holding company (where applicable);
 - (ii) a bank; or
 - (iii) a financial institution,

as may be approved in any particular case by the Authority.

(2) Any trustee-manager of a registered business trust which contravenes paragraph (1) shall be guilty of an offence.

Membership of other professional association to qualify as secretary of trustee-manager

10. For the purposes of section 7(1)(b) of the Act, the other professional associations are —

- (a) the Institute of Singapore Chartered Accountants (formerly known as the Institute of Certified Public Accountants of Singapore);

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- (b) the Association of International Accountants (Singapore Branch); and
- (c) the Institute of Company Accountants, Singapore.

PART III

TRUSTEE-MANAGER

Duties of trustee-manager

11. The trustee-manager of a registered business trust shall, in exercising its powers and carrying out its duties as trustee-manager of the registered business trust —

- (a) treat unitholders of the registered business trust who hold units in the same class in the registered business trust fairly and equally and unitholders who hold units in different classes in the registered business trust fairly;
- (b) ensure that all payments out of the trust property of the registered business trust are made in accordance with the Act and the trust deed of the registered business trust;
- (c) report to the Authority any contravention of the Act or these Regulations by any other person that —
 - (i) relates to the registered business trust; and
 - (ii) has had, has or is likely to have, a materially adverse effect on the interests of all the unitholders, or any class of unitholders, of the registered business trust as a whole,as soon as practicable after the trustee-manager becomes aware of the contravention;
- (d) ensure that the trust property of the registered business trust is properly accounted for; and
- (e) ensure that the trust property of the registered business trust is kept distinct from the property of the trustee-manager held in its own capacity.

Board of directors of trustee-manager

12.—(1) For the purposes of section 14(1) of the Act and subject to paragraphs (2), (5) and (6), the composition of the board of directors of the trustee-manager of a registered business trust shall be in accordance with the following requirements:

- (a) at least a majority of the directors shall be independent from management and business relationships with the trustee-manager;
- (b) at least one-third of the directors shall be independent from management and business relationships with the trustee-manager and from every substantial shareholder of the trustee-manager; and

- (c) at least a majority of the directors shall be independent from any single substantial shareholder of the trustee-manager.
- (2) The requirements prescribed in paragraph (1) shall not apply —
- (a) where —
- (i) there is a change in status of a director under regulation 3 or 4 during the period between the date immediately after the date of the director's appointment and the date immediately before the next annual general meeting of the trustee-manager; and
 - (ii) the trustee-manager could not reasonably have known of that change on or before the date of the director's appointment; or
- (b) where —
- (i) there is a change in status of a director under regulation 3 or 4 during the period between the date immediately after an annual general meeting of the trustee-manager and the date immediately before the next annual general meeting of the trustee-manager (other than the period referred to in sub-paragraph (a)(i)); and
 - (ii) the trustee-manager could not reasonably have known of that change on or before the date of the first-mentioned annual general meeting.
- (3) In the circumstances prescribed in paragraph (2)(a)(i) or (b)(i), the trustee-manager shall, within 14 days of becoming aware of the change in status of a director, notify the Authority of the change.
- (4) The Authority may, upon being notified of a change in status of a director under paragraph (3), direct the trustee-manager of the registered business trust concerned to rectify the composition of the board of directors in accordance with the requirements prescribed in paragraph (1) within such time, and subject to such conditions or requirements, as the Authority may specify.

(5) Where a single substantial shareholder has an interest in 50% or more of the voting shares in the trustee-manager of a registered business trust, paragraph (1)(c) shall not apply to the trustee-manager in respect of the independence of its directors from that substantial shareholder.

(6) The board of directors of the trustee-manager of a registered business trust may determine that a director who is —

(a) not considered to be independent from management and business relationships with the trustee-manager under regulation 3; or

(b) not considered to be independent from a substantial shareholder of the trustee-manager under regulation 4,

is nonetheless independent from management and business relationships with the trustee-manager or independent from a substantial shareholder of the trustee-manager, as the case may be, if the board of directors is satisfied that the director's independent judgment and ability to act with regard to the interests of all the unitholders of the registered business trust as a whole will not be interfered with, despite the relationships.

(7) The board of directors of the trustee-manager of a registered business trust shall, prior to every annual general meeting of the registered business trust, review and determine the following using the criteria set out in regulation 3 or 4, as the case may be, and, where applicable, in accordance with paragraph (6):

(a) whether a director is independent from management and business relationships with the trustee-manager; and

(b) whether a director is independent from each substantial shareholder of the trustee-manager.

(8) Upon the board of directors' review and determination under paragraph (7), the board of directors shall disclose in a written statement annexed to the profit and loss account of the registered business trust required under section 76(1) of the Act for each director in respect of each of the following:

- (a) whether he is independent from management and business relationships with the trustee-manager;
- (b) whether he is independent from management and business relationships with the trustee-manager and from every substantial shareholder of the trustee-manager; and
- (c) whether he is independent from every substantial shareholder of the trustee-manager,

and if he is not independent under any or all of the circumstances specified in sub-paragraphs (a), (b) and (c), to describe and explain the relationship of such non-independence.

(9) Where the board of directors determines that a director is nonetheless independent under paragraph (6), the board of directors shall disclose in a written statement annexed to the profit and loss account of the registered business trust required under section 76(1) of the Act —

- (a) the nature of that director's relationship; and
- (b) an explanation of the grounds for the determination of that director's independence by the board of directors.

(10) Where the board of directors of the trustee-manager of any registered business trust has contravened paragraph (7), (8) or (9), any director who permits or authorises the contravention shall be guilty of an offence.

(11) For the purposes of this regulation, a reference to a director shall include a reference to a person proposed to be appointed as a director.

Audit committee

13.—(1) For the purposes of section 15(1) of the Act, the audit committee of the trustee-manager of a registered business trust shall be —

- (a) appointed by the trustee-manager of the registered business trust from among the directors of its board of directors (pursuant to a resolution of the board of directors); and

- (b) subject to paragraph (2), composed of 3 or more members —
- (i) all of whom are independent of management and business relationships with the trustee-manager; and
 - (ii) at least a majority of whom, including the chairman of the audit committee, are independent of management and business relationships with the trustee-manager and independent from every substantial shareholder of the trustee-manager.
- (2) The requirements prescribed in paragraph (1)(b) shall not apply —
- (a) where —
- (i) there is a change in status of a member under regulation 3 or 4 during the period between the date immediately after the date of the member's appointment and the date immediately before the next annual general meeting of the trustee-manager; and
 - (ii) the trustee-manager could not reasonably have known of that change on or before the date of the member's appointment; or
- (b) where —
- (i) there is a change in status of a member under regulation 3 or 4 during the period between the date immediately after an annual general meeting of the trustee-manager and the date immediately before the next annual general meeting of the trustee-manager (other than the period referred to in sub-paragraph (a)(i)); and
 - (ii) the trustee-manager could not reasonably have known of that change on or before the date of the first-mentioned annual general meeting.
- (3) In the circumstances prescribed in paragraph (2)(a)(i) or (b)(i), the trustee-manager shall, within 14 days of becoming aware of the change in status of a member, notify the Authority of the change.

(4) The Authority may, upon being notified of a change in status of a member under paragraph (3), direct the trustee-manager of the registered business trust concerned to rectify the composition of the audit committee in accordance with the requirements prescribed in paragraph (1) within such time, and subject to such conditions or requirements, as the Authority may specify.

(5) If a member of the audit committee of the trustee-manager of a registered business trust resigns, dies or for any other reason ceases to be a member with the result that the number of members is reduced to less than 3, the board of directors of the trustee-manager shall, within 3 months of that event, appoint such number of new members as may be required to make up the minimum number of 3 members in accordance with paragraph (1)(b).

(6) For the purposes of section 15(2) of the Act, the functions of an audit committee of the trustee-manager of a registered business trust shall be —

(a) to review with the auditor of the registered business trust —

- (i) the audit plan of the registered business trust;
- (ii) the auditor's evaluation of the system of internal accounting controls of the trustee-manager of the registered business trust; and
- (iii) the auditor's audit report for the registered business trust;

(b) to review —

- (i) the assistance given by the officers of the trustee-manager of the registered business trust to the auditor of the registered business trust;
- (ii) the scope and results of the internal audit procedures of the trustee-manager of the registered business trust;
- (iii) the policies and practices put in place by the trustee-manager of the registered business trust to ensure compliance with the Act and the trust deed of the registered business trust; and

- (iv) the procedures put in place by the trustee-manager of the registered business trust for managing any conflict that may arise between the interests of the unitholders of the registered business trust and the interests of the trustee-manager, including interested person transactions, the indemnification of expenses or liabilities incurred by the trustee-manager and the setting of fees or charges payable out of the trust property of the registered business trust;
- (c) to review the balance sheet and profit and loss account of the trustee-manager of the registered business trust and the balance sheet, profit and loss account and cash flow statement of the registered business trust submitted to it by the trustee-manager, and thereafter to submit them to the board of directors of the trustee-manager;
- (d) to report to the board of directors of the trustee-manager of the registered business trust —
 - (i) any inadequacies, deficiencies or matters of concern of which the audit committee of the trustee-manager becomes aware or that it suspects arising from its review of the items referred to in sub-paragraphs (a), (b) and (c); and
 - (ii) any breach of the Act or any breach of the provisions of the trust deed of the registered business trust, of which the audit committee becomes aware or that it suspects;
- (e) to report to the Authority if the audit committee is of the view that the board of directors of the trustee-manager of the registered business trust has not taken, or does not propose to take, appropriate action to deal with a matter reported under sub-paragraph (d); and
- (f) to nominate a person or persons as auditor of the registered business trust, notwithstanding anything contained in the trust deed of the registered business trust.

(7) In addition to the functions referred to in paragraph (6), the audit committee of the trustee-manager of a registered business trust may undertake such other functions as may be agreed to by the audit committee and the board of directors of the trustee-manager of the registered business trust.

(8) The auditor of a registered business trust has the right to appear and be heard at any meeting of the audit committee of the trustee-manager of the registered business trust and shall appear before the audit committee when required to do so by the audit committee.

(9) Upon the request of the auditor of a registered business trust, the chairman of the audit committee of the trustee-manager of the registered business trust shall convene a meeting of the audit committee to consider any matter which the auditor believes should be brought to the attention of the directors of the trustee-manager or the unitholders of the registered business trust.

(10) The audit committee of the trustee-manager of a registered business trust may regulate its own procedure and in particular the calling of meetings, the notice to be given of such meetings, the voting and proceedings thereat, the keeping of minutes and the custody, production and inspection of such minutes.

(11) For the purposes of section 76(10) of the Act, a report shall include a description of the nature and extent of the functions performed by the audit committee of the trustee-manager of the registered business trust pursuant to paragraph (6).

Resignation of trustee-manager

14.—(1) For the purposes of section 19 of the Act, the trustee-manager of a registered business trust who proposes to resign from its position as trustee-manager shall give notice of its intention to resign to all unitholders of the registered business trust, and shall —

- (a) state in the notice its reason for resigning;
- (b) nominate another company, which has consented in writing to serve as the replacement trustee-manager of the registered business trust and which satisfies the requirements of section 6 of the Act, for approval to be appointed, by

resolution, as the replacement trustee-manager to act as the trustee-manager of the registered business trust in place of the resigning trustee-manager; and

- (c) in the notice, inform unitholders of their right to nominate a company in accordance with paragraph (2).

(2) Notwithstanding paragraph (1)(b), unitholders of the registered business trust may nominate a company (not being a company nominated under that paragraph) which has consented in writing to serve as the replacement trustee-manager of the registered business trust, and which satisfies the requirements of section 6 of the Act, for approval to be appointed, by resolution, as the replacement trustee-manager of the registered business trust in place of the resigning trustee-manager if, and only if —

- (a) these unitholders represent unitholders holding at the date of nomination not less than 10% of the total voting rights of all unitholders of the registered business trust having at that date a right to vote; and
- (b) the nomination by these unitholders is served on the resigning trustee-manager not more than 21 days after the date of the notice given by the resigning trustee-manager under paragraph (1).

(3) Upon the expiry of 21 days after the date of the notice given by the resigning trustee-manager under paragraph (1), the resigning trustee-manager of the registered business trust shall —

- (a) call a general meeting of unitholders of the registered business trust within 28 days; and
- (b) give to unitholders notice of the meeting and any resolution to be raised at that meeting not less than 14 days before the meeting.

(4) A replacement trustee-manager of a registered business trust shall not be appointed without the approval of unitholders of the registered business trust holding in the aggregate not less than a majority of the voting rights of all unitholders of the registered business trust who, being entitled to do so, vote in person or, where proxies are allowed, by proxy present at the meeting.

(5) If the unitholders of a registered business trust do not approve the appointment of any of the companies nominated under paragraph (1)(b) or (2) to act as trustee-manager of the registered business trust in place of the resigning trustee-manager, the resigning trustee-manager shall apply to the court for the appointment of a temporary trustee-manager of the registered business trust in accordance with section 21 of the Act and regulation 16.

(6) The replacement trustee-manager of a registered business trust shall —

(a) within 7 days after the passing of the resolution of its appointment by unitholders —

- (i) lodge a notice with the Authority notifying it of the resolution and the effective date of the change; and
- (ii) inform all the unitholders of the registered business trust of the resolution and the effective date of the change; and

(b) within 14 days after its appointment as the replacement trustee-manager of the registered business trust takes effect or such other period of time as may be specified by the Authority, provide notice of the change to the other parties to the documents and agreements referred to in section 25(1) of the Act.

(7) The resigning trustee-manager or replacement trustee-manager of a registered business trust which contravenes this regulation shall be guilty of an offence.

Removal of trustee-manager by unitholders

15.—(1) For the purposes of section 20 of the Act, unitholders of a registered business trust may request a meeting to vote on a resolution to remove the trustee-manager of the registered business trust (referred to in this regulation as the original trustee-manager) if, and only if, these unitholders represent unitholders holding at the date of the requisition of the resolution not less than 10% of the total voting rights of all unitholders of the registered business trust having at that date a right to vote.

(2) Within 7 days of receiving a requisition referred to in paragraph (1), the original trustee-manager of the registered business trust shall give to unitholders of the registered business trust notice of the requisition and, in the notice, inform unitholders of their right to nominate a company in accordance with paragraph (3).

(3) Unitholders of the registered business trust may nominate a company (not being the original trustee-manager) which has consented in writing to serve as the replacement trustee-manager of the registered business trust, and which satisfies the requirements of section 6 of the Act, for approval to be appointed, by resolution, as the trustee-manager of the registered business trust in place of the original trustee-manager if, and only if —

(a) these unitholders represent unitholders holding at the date of nomination not less than 10% of the total voting rights of all unitholders of the registered business trust having at that date a right to vote; and

(b) the nomination by these unitholders is served on the original trustee-manager not more than 21 days after the date of the notice of the requisition referred to in paragraph (2).

(4) Upon the expiry of 21 days after the date of the notice of the requisition referred to in paragraph (2), the original trustee-manager of the registered business trust shall —

(a) call a general meeting of unitholders of the registered business trust within 28 days; and

(b) give to unitholders notice of the meeting and any resolution to be raised at that meeting not less than 14 days before the meeting.

(5) Any resolution to remove the original trustee-manager shall not take effect until a replacement trustee-manager or temporary trustee-manager of the registered business trust is appointed.

(6) A replacement trustee-manager of the registered business trust shall not be appointed without the approval of unitholders of the registered business trust holding in the aggregate not less than a majority of the voting rights of all unitholders of the registered

business trust who, being entitled to do so, vote in person or, where proxies are allowed, by proxy present at the meeting.

(7) If the unitholders of a registered business trust do not approve the appointment of any of the persons nominated under paragraph (3) to act as trustee-manager of the registered business trust in place of the original trustee-manager, the original trustee-manager of the registered business trust shall apply to the court for the appointment of a temporary trustee-manager of the registered business trust in accordance with section 21 of the Act and regulation 16.

(8) The replacement trustee-manager of a registered business trust shall —

(a) within 7 days after the passing of the resolution of its appointment by unitholders —

(i) lodge a notice with the Authority notifying it of the resolution and the effective date of the change; and

(ii) inform all the unitholders of the registered business trust of the resolution and the effective date of the change; and

(b) within 14 days after its appointment as the replacement trustee-manager of the registered business trust takes effect, or such other period of time as may be specified by the Authority, provide notice of the change to the other parties to the documents and agreements referred to in section 25(1) of the Act.

(9) The original trustee-manager or replacement trustee-manager of a registered business trust which contravenes this regulation shall be guilty of an offence.

Appointment of temporary trustee-manager by court

16. For the purposes of section 21 of the Act, the temporary trustee-manager of a registered business trust shall —

(a) within 7 days after the making of the order by the court appointing it as the temporary trustee-manager —

- (i) lodge a notice with the Authority notifying it of the order and the effective date of the change; and
 - (ii) inform all the unitholders of the registered business trust of the order and the effective date of the change; and
- (b) within 14 days after its appointment as the temporary trustee-manager takes effect, or such other period of time as may be specified by the Authority, provide notice of the change to the other parties to the documents and agreements referred to in section 25(1) of the Act.

Temporary trustee-manager to take steps for appointment of new trustee-manager

17.—(1) For the purposes of section 22 of the Act, the temporary trustee-manager of a registered business trust shall, as soon as practicable and, in any event, within 3 months of becoming such temporary trustee-manager —

- (a) call one or more meetings of the unitholders of the registered business trust for the purpose of having the unitholders, by resolution, appoint a company which has consented in writing to serve as the replacement trustee-manager of the registered business trust and which satisfies the requirements under section 6 of the Act; and
- (b) use its best efforts to initiate and facilitate the nomination of a company or companies which unitholders may, by resolution, appoint as the replacement trustee-manager of the registered business trust.

(2) For the purposes of paragraph (1)(a), a company which has consented in writing to serve as the replacement trustee-manager of the registered business trust may be appointed only if the resolution for such appointment is approved by unitholders of the registered business trust holding in the aggregate not less than a majority of the voting rights of all the unitholders of the registered business trust who, being entitled to do so, vote in person or where proxies are allowed, by proxy present at the meeting of the unitholders of the registered business trust.

(3) If the unitholders of a registered business trust do not approve the appointment of any of the companies nominated under paragraph (1) to act as the replacement trustee-manager by the end of the period of 3 months referred to in that paragraph, the temporary trustee-manager of the registered business trust shall, within 7 days from the end of that period, apply to the court for either of the following:

- (a) an extension of the period of its appointment for the purposes referred to in paragraph (1)(a) and (b); or
- (b) an order directing the temporary trustee-manager to wind up the registered business trust.

(4) If the unitholders of a registered business trust do not appoint any of the companies nominated under paragraph (1) (including such companies nominated during any period of extension granted by the court under paragraph (3)(a)) to act as the replacement trustee-manager by the end of that period of extension, the temporary trustee-manager of the registered business trust shall, within 7 days of the expiry of that period of extension, apply to the court for an order directing the temporary trustee-manager to wind up the registered business trust.

(5) The court may, on application by the temporary trustee-manager of a registered business trust under paragraph (3)(b) or (4), make an order directing the temporary trustee-manager to wind up the registered business trust if it is satisfied that the unitholders of the registered business trust have been unable to appoint a replacement trustee-manager at the meeting or meetings which were convened by the temporary trustee-manager within the period of 3 months referred to in paragraph (1) or the period of extension referred to in paragraph (4), as the case may be.

(6) The replacement trustee-manager of a registered business trust shall —

- (a) within 7 days after the passing of the resolution of its appointment by unitholders —
 - (i) lodge a notice with the Authority notifying it of the resolution and the effective date of the change; and

- (ii) inform all the unitholders of the registered business trust of the resolution and the effective date of the change; and
 - (b) within 14 days after its appointment as the replacement trustee-manager of the registered business trust takes effect, or such other period of time as may be specified by the Authority, provide notice of the change to the other parties to the documents and agreements referred to in section 25(1) of the Act.
- (7) If the temporary trustee-manager of a registered business trust fails to apply to the court for a direction under paragraph (3) or (4), a unitholder of the registered business trust may apply to the court for an order directing the temporary trustee-manager to wind up the registered business trust.
- (8) The court may, upon an application made by a unitholder of a registered business trust under paragraph (7) —
- (a) make an order directing the temporary trustee-manager to wind up the registered business trust; and
 - (b) make such order as it deems fit for the unitholder to be compensated out of the trust property of the registered business trust for any costs incurred in making the application.
- (9) The temporary trustee-manager of a registered business trust which contravenes paragraph (3) or (4) shall be guilty of an offence.
- (10) The replacement trustee-manager of a registered business trust which contravenes paragraph (6) shall be guilty of an offence.

PART IV

MANAGEMENT AND ADMINISTRATION

Annual returns and information

18. For the purposes of section 74(1) of the Act, the return of a registered business trust to be lodged with the Authority shall contain the following documents:

- (a) the audited profit and loss account of the registered business trust referred to in section 76(1) of the Act;
- (b) the audited balance sheet of the registered business trust referred to in section 76(5)(a) of the Act;
- (c) the audited cash flow statement of the registered business trust referred to in section 76(5)(b) of the Act;
- (d) the report referred to in section 76(10) of the Act and the statement referred to in section 76(18) of the Act;
- (e) the report of the auditor of the registered business trust referred to in section 84 of the Act;
- (f) the notes to the accounts of the registered business trust to be laid before the unitholders of the registered business trust at its annual general meeting in accordance with section 76 of the Act;
- (g) the statements required under section 86 of the Act;
- (h) the statement of the policies and practices of the trustee-manager in relation to its management and governance of the registered business trust required under section 87(1) of the Act; and
- (i) such other documents as may be specified by the Authority by notice in writing.

PART V

ACCOUNTS, AUDIT AND DISCLOSURE

Auditors' remuneration

19. For the purposes of section 83(2) of the Act, a review of the fees, expenses and emoluments of an auditor of a registered business trust shall be undertaken if the total amount of the fees paid to the auditor for non-audit services provided to the trustee-manager (whether or not the trustee-manager is acting for or on behalf of the registered business trust) in any financial year of the registered business trust exceeds 50% of the total amount of the fees paid to the auditor in that financial year.

Disclosure of policies and practices

20. For the purposes of section 87 of the Act, the statement of policies and practices in relation to the management and governance of a registered business trust shall —

- (a) describe the measures put in place by the trustee-manager of the registered business trust to ensure that the registered business trust is managed in the interests of the unitholders of the registered business trust, and include a description of measures —
 - (i) to ensure that the trust property of the registered business trust is properly accounted for and that such property is kept distinct from the property of the trustee-manager of the business trust held in its own capacity;
 - (ii) to ensure adherence with the business scope of the registered business trust as set out in the trust deed of the registered business trust;
 - (iii) to ensure that potential conflicts between the interests of the trustee-manager and the interests of all the unitholders of the registered business trust as a whole are appropriately managed;
 - (iv) to review interested person transactions in relation to the registered business trust;
 - (v) to review expense and cost allocations payable to the trustee-manager in its capacity as trustee-manager of the registered business trust out of the trust property of the registered business trust, and ensure that fees and expenses charged to the registered business trust are appropriate and in accordance with the trust deed of the registered business trust; and
 - (vi) to ensure compliance with the Act and, in the case of a registered business trust all or any of which units are listed for quotation on the official list of a securities exchange, with the listing rules of the securities exchange; and

- (b) disclose the fees and expenses paid to the trustee-manager from the trust property of the registered business trust in the preceding year, with breakdowns of the fee and expense items.

Prescribed manner of notice

20A.—(1) For the purposes of section 40A(1) of the Act, a notice given by a transferee to a dissenting unitholder of the subject trust that the transferee desires to acquire his units shall be in Form 4, and shall —

- (a) be delivered to the unitholder personally; or
- (b) be left at or sent by prepaid post to the address of the unitholder shown in the register of unitholders of the subject trust referred to in section 69(1)(a) of the Act.

(2) For the purposes of section 40A(4)(a) of the Act, a notice given by a transferee to a unitholder of the subject trust who has not assented to the arrangement or contract shall be in Form 5, and shall —

- (a) be delivered to the unitholder personally; or
- (b) be left at or sent by prepaid post to the address of the unitholder shown in the register of unitholders of the subject trust referred to in section 69(1)(a) of the Act.

PART VI

MISCELLANEOUS

Use of term “real estate investment trust”

21.—(1) A trustee-manager of a registered business trust shall not, when describing or referring to that business trust, use the term “real estate investment trust” or any of its derivatives in any language in the name or description, or in any representation, of that business trust, unless —

- (a) the Authority has given its consent in writing to the trustee-manager to use that term or derivative in relation to that business trust; or

(b) the trustee-manager belongs to a class of persons which the Authority has, by notification published in the *Gazette*, specified to be a class of persons who may use that term or derivative.

(2) Every trustee-manager of a registered business trust shall ensure that paragraph (1) is complied with by its officers, employees and agents.

(3) Any trustee-manager which contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 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.

(4) In this regulation, “representation”, in relation to a registered business trust, includes a representation of the business trust in any bill head, letter paper, notice, advertisement, publication or writing, whether in electronic, print or other form.

Opportunity to be heard

22.—(1) Where the Act provides for a person to be given an opportunity to be heard by the Authority, the Authority shall post or deliver to that person a notice —

(a) stating the decision it intends to make that affects him and the grounds for the decision; and

(b) inviting him to give the Authority, within such period as may be specified in the notice (not being less than 10 days from the date of the receipt of the notice) any written statement, accompanied by relevant supporting documents, as to why the Authority should reconsider the decision it intends to make.

(2) Any written statement referred to in paragraph (1)(b) shall be signed by the person to whom the opportunity to be heard is given, a duly authorised employee of that person, or an advocate and solicitor acting for that person.

(3) The Authority shall consider any written statement and supporting documents referred to in paragraph (1)(b) in making its decision.

(4) In this regulation, “decision” includes any action of, direction by or order issued by the Authority under the Act.

Compoundable offences

23. The following offences may be compounded by the Authority in accordance with section 111 of the Act:

- (a) any offence under the Act which is punishable by a fine only; and
- (b) any offence under section 80(1)(a) of the Act, where the non-compliance referred to in that section constitutes an offence which is compoundable under paragraph (a).

Acceptance of composition of offence

24.—(1) The Authority may compound an offence under section 111 of the Act only if the person reasonably suspected of having committed the offence —

- (a) accepts the offer of composition made by the Authority in writing in the form set out in the Third Schedule; and
- (b) pays the composition sum to the Authority,

within 14 days after the offer of composition is made or such longer period as the Authority may specify.

(2) Where the person referred to in paragraph (1) is not an individual, the acceptance of composition shall be made —

- (a) in the case of a body corporate, by an officer of that body corporate;
- (b) in the case of a partnership, by a partner of that partnership; or
- (c) in the case of an unincorporated association (other than a partnership), by an officer of that association or a member of its governing body.

(3) In paragraph (2), “officer” —

- (a) in relation to a body corporate, means any director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate; and
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, any member of the committee of the association or any person holding a position analogous to that of president, secretary or member of a committee.

FIRST SCHEDULE

Regulation 6(1)

FEES

<i>No.</i>	<i>Section or other provision under which transaction is carried out</i>	<i>Transaction</i>	<i>Fees</i>
		<i>Registration of business trust</i>	
1.	Section 3(2)(b)	Application for registration of a business trust	\$2,000
2.	Section 82(10)	Application for Authority to appoint an auditor for the registered business trust	\$150
		<i>Business trust particulars (including changes to particulars)</i>	
3.	—	Lodgment of notice of resolution pertaining to any other matter	\$50
4.	Regulation 8(2)	Lodgment of notice of an update to the particulars of a registered business trust	\$50
5.	Sections 31(7)(b) and 65(1)	Lodgment of resolution, application to the court, court order or other document affecting the trust	\$50

FIRST SCHEDULE — *continued*

		deed of a registered business trust	
6.	Section 31(7)(a)	Lodgment of provisions in the trust deed which have been modified or replaced or lodgment of the new trust deed of a registered business trust	\$50
7.	Section 36(1)	Lodgment of notice of unitholder approval for the issue of units by trustee-manager	\$50
		<i>Annual filing of forms and documents by trustee-manager of business trust</i>	
8.	Section 74(1)	Lodgment of annual return by trustee-manager of a registered business trust	\$100
9.	Section 76(4)	Application for extension of time for period of accounts	\$1,000
10.	Section 53(2)	Application for extension of time to hold annual general meeting	\$1,000
11.	Section 77(1)	Application for relief from requirements as to form and content of accounts and reports	\$150
12.	Section 77(4)	Application to revoke or suspend the operation of order for relief from requirements as to form and content of accounts and reports	\$150
		<i>Winding up and deregistration in respect of business trust</i>	

FIRST SCHEDULE — *continued*

13.	Section 46(4)(a)	Lodgment of a copy of winding up order	\$50
14.	Section 47(2)(a)	Lodgment of notice of winding up	\$50
15.	Sections 47(3) and 48(5)	Lodgment of notice on completion of winding up	\$50
16.	Section 51(1)	Application for deregistration of a registered business trust	\$500
17.	Section 52(1)	Lodgment of objection to deregistration	\$150
		<i>Miscellaneous transactions</i>	
18.	Section 112(2)	Application for any exemption under section 112 (2)	\$500
19.	Sections 41(4), 46(4)(a), 52(4), 72(3) and others	Lodgment of order of Court	\$50
20.	—	Lodgment of notice of error in document lodged	\$50
21.	—	On late lodging of any document under the Act after the period prescribed by law in addition to any other fee	\$150 (The Authority, if satisfied that just cause existed for the late lodgment, may waive in whole or in part the additional fee.)
22.	—	Lodgment of any other application to the Authority	\$500
23.	—	On lodging, registering, depositing or filing any other document with or by the	\$50

FIRST SCHEDULE — *continued*

		Authority under any Act (where the fee is not specified in any relevant Act or regulations made thereunder)	
24.	Section 51(2) and others	Lodgment of affidavit or statutory declaration	\$50
		<i>Information Services</i>	
25.	Section 5(2)	For providing an extract of a register of registered business trusts	\$5
26.	—	Application for certification of any extract by the Authority	\$2 per page or part thereof
27.	—	For any other information concerning a registered business trust supplied by the Authority	\$25 per document
<p><i>The fees specified in items 25, 26 and 27 are inclusive of the goods and services tax chargeable under the Goods and Services Tax Act (Cap. 117A). No goods and services tax is chargeable for the other items.</i></p>			

[S 212/2012 wef 21/05/2012]

SECOND SCHEDULE

Regulation 8(1)

PARTICULARS TO BE ENTERED IN REGISTER OF REGISTERED BUSINESS TRUSTS

I. INFORMATION ON THE BUSINESS TRUST

1. Name of business trust
2. Nature of business of the business trust
3. Number of units in the business trust that have been issued or are to be issued

II. INFORMATION ON THE TRUSTEE-MANAGER

4. Name of trustee-manager
5. Corporation Registration No. of the trustee-manager

SECOND SCHEDULE — *continued*

6. Contact details:

- Address of the principal place of business of the trustee-manager
- Tel. No.
- Fax No.
- E-mail Address

7. Place at which the register of unitholders and the minute books of the registered business trust will be kept (if different from the principal place of business of the trustee-manager)

III. PARTICULARS OF AUDITOR OF BUSINESS TRUST

8. Name of auditor

9. Corporation Registration No./Audit Firm No.

IV. PARTICULARS OF CHIEF EXECUTIVE OFFICER OF TRUSTEE-MANAGER

10. Name of Chief Executive Officer

11. NRIC/Passport No.

12. Residential Address

V. PARTICULARS OF SECRETARY OF TRUSTEE-MANAGER

13. Name of secretary

14. Corporation Registration No. or NRIC/Passport No.

15. Professional qualification or membership

16. Registered/Residential Address

VI. PARTICULARS OF DIRECTORS OF TRUSTEE-MANAGER

17. Name of director

18. NRIC/Passport No.

19. Residential Address

VII. PARTICULARS OF SUBSTANTIAL SHAREHOLDERS OF TRUSTEE-MANAGER

20. Name of substantial shareholder

21. Number and percentage of shares held

22. Corporation Registration No. or NRIC/Passport No.

SECOND SCHEDULE — *continued*

23. Registered/Residential Address

THIRD SCHEDULE

Regulation 24(1)(a)

ACCEPTANCE OF OFFER OF COMPOSITION MADE BY THE MONETARY
AUTHORITY OF SINGAPORE

1. I, _____ [Name and NRIC/Passport No.]
[If made by an officer of a body corporate, partner of partnership, or officer or member of governing body of unincorporated association, to state his position], acknowledge that the Monetary Authority of Singapore has by way of a letter dated _____ made an offer of composition under section 111 of the Business Trusts Act (Cap. 31A) (the Act) in respect of an offence [or offences] under the Act or any subsidiary legislation made thereunder, committed by _____ [myself/my business trading as Business Name/Name of body corporate, partnership or unincorporated association, of which I am a representative authorised by the body corporate/partnership/unincorporated association.].

2. The offer made by the Monetary Authority of Singapore is as follows:

<i>No.</i>	<i>Offence and date of offence</i>	<i>Composition sum offered</i>
1.	(Brief description of the offence, and state the provision of the Act breached and the date of the breach)	(State composition sum)

3. I agree to the offer of composition as stated above and enclose, with this form, payment of the composition sum.

	Signature of person accepting the offer of composition or authorised person accepting the offer of composition on behalf of a body corporate, a partnership, or an unincorporated association	
	Date: _____	

THIRD SCHEDULE — *continued*

4. If the person to whom the offer of composition is made and who accepts the composition is not literate in English, the person interpreting it shall attest as follows:

	I, _____ [Name and NRIC/Passport No.], have interpreted this form to the person accepting the offer of composition in _____ [state language] and have ascertained that he understands the contents of the form and agrees to the composition.	

	Signature of interpreter	
	Date: _____	

[G.N. No. S 11/2005]

LEGISLATIVE HISTORY
BUSINESS TRUSTS REGULATIONS
(CHAPTER 31A, RG 2)

This Legislative History is provided for the convenience of users of the Business Trusts Regulations. It is not part of these Regulations.

1. G. N. No. S 11/2005 — Business Trusts Regulations 2005

Date of commencement : 6 January 2005

2. 2006 Revised Edition — Business Trusts Regulations

Date of operation : 31 August 2006

3. G.N. No. S 212/2012 — Business Trusts (Amendment) Regulations 2012

Date of commencement : 21 May 2012

4. G.N. No. S 10/2014 — Business Trusts (Amendment) Regulations 2014

Date of commencement : 2 July 2013