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INSOLVENCY, RESTRUCTURING
AND DISSOLUTION ACT 2018
(ACT 40 OF 2018)

INSOLVENCY, RESTRUCTURING AND DISSOLUTION
(PRESCRIBED CONTRACTS UNDER SECTION 440)
REGULATIONS 2020

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In exercise of the powers conferred by section 449 of the Insolvency, Restructuring and Dissolution Act 2018, the Minister for Law makes the following Regulations:

PART 1
PRELIMINARY

Citation and commencement

1. These Regulations are the Insolvency, Restructuring and Dissolution (Prescribed Contracts under Section 440) Regulations 2020 and come into operation on 30 July 2020.

PART 2
PRESCRIBED FINANCIAL CONTRACTS

Definitions for this Part

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

“approved clearing house”, “approved exchange”, “capital markets products”, “debenture”, “licensed foreign trade repository”, “licensed trade repository”, “recognised clearing house”, “recognised market operator” and “spot contract” have the meanings given by section 2(1) of the Securities and Futures Act (Cap. 289);

“asset-backed securities” and “securitisation transaction” have the meanings given by section 262(3) of the Securities and Futures Act;

“business rules”, in relation to an approved exchange, a licensed trade repository, a licensed foreign trade repository, an approved clearing house, a recognised clearing house or a recognised market operator, has the meaning given by section 2(1) of the Securities and Futures Act;

“Central Depository System” and “depository rules” have the meanings given by section 81SF of the Securities and Futures Act;

“commodities lending or repurchase contract” means a contract under which a person (called in this definition the transferor) transfers the legal or beneficial interest in any commodities to another person (called in this definition the transferee) subject to a commitment that the transferee will return

equivalent commodities at some future date or when requested to do so by the transferor;

“covered bond” and “securitisation special purpose vehicle” have the meanings given by paragraph 2 of the Insolvency, Restructuring and Dissolution (Prescribed Companies and Entities) Order 2020 (G.N. No. S 619/2020);

“derivatives contract”, “master netting agreement”, “securities contract” and “securities lending or repurchase agreement” have the meanings given by regulation 2 of the Insolvency, Restructuring and Dissolution (Prescribed Arrangements and Proceedings) Regulations 2020 (G.N. No. S 615/2020);

“designated system” has the meaning given by section 2(1) of the Payment and Settlement Systems (Finality and Netting) Act (Cap. 231);

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

(a) the designated system; and

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

“member”, in relation to an approved exchange, an approved clearing house, a recognised clearing house or a recognised market operator, has the meaning given by section 2(1) of the Securities and Futures Act;

“netting arrangement” and “set-off arrangement” have the meanings given by section 61(1) of the Act;

“operator”, in relation to a designated system, means the person specified in the order mentioned in section 3(1) of the Payment and Settlement Systems (Finality and Netting) Act as the operator of the designated system;

“participant” —

- (a) in relation to a designated system, means a party to an arrangement that establishes the designated system; and
- (b) in relation to a licensed foreign trade repository, has the meaning given by section 2(1) of the Securities and Futures Act.

Prescribed financial contracts for purposes of section 440(5)(a) of Act

3. The following financial contracts are prescribed for the purposes of section 440(5)(a) of the Act:

- (a) the business rules of an approved exchange, a licensed trade repository or an approved clearing house, which have effect as a contract by virtue of section 24, 46R or 67 (as the case may be) of the Securities and Futures Act;
- (b) the business rules of a licensed foreign trade repository, recognised clearing house or recognised market operator which operate as a contract —
 - (i) between the licensed foreign trade repository and its participants, and between each participant and each other participant; or
 - (ii) between the recognised clearing house or recognised market operator and its members, and between each member and each other member;
- (c) any contract between a recognised clearing house or recognised market operator and its members, or any contract between a licensed foreign trade repository and its participants, containing or incorporating by reference the business rules of the recognised clearing house, recognised market operator or licensed foreign trade repository, as the case may be;
- (d) the depository rules (as may be amended from time to time) in relation to the operation of the Central Depository System, which have the same force and effect as if made by

an approved exchange under section 81ST of the Securities and Futures Act, and have effect as a contract by virtue of section 24 of that Act;

- (e) any contract containing or incorporating by reference the designated system operating rules of a designated system, that is entered into —
 - (i) between the operator of the designated system and a participant of the designated system;
 - (ii) between the operator or a participant of the designated system and another party; or
 - (iii) between such other party mentioned in sub-paragraph (ii) and a further party for the purpose of carrying out a contract mentioned in sub-paragraph (i) or (ii);
- (f) any derivatives contract, margin lending agreement or securities contract;
- (g) any master netting agreement, securities lending or repurchase agreement, commodities lending or repurchase contract, or spot contract, that contains a netting arrangement or set-off arrangement;
- (h) any contract or agreement that is —
 - (i) a covered bond; or
 - (ii) connected with a covered bond or the issuing of a covered bond;
- (i) any contract or agreement that is, or that is directly connected with, a debenture;
- (j) any agreement to clear or settle transactions relating to a derivatives contract;
- (k) any contract between —
 - (i) an approved exchange, an approved clearing house, a recognised clearing house or a recognised market operator; and

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- (ii) one or more of its members,
for the sale, purchase or transfer of any capital markets products, which is to be carried out pursuant to the business rules of the approved exchange, approved clearing house, recognised clearing house or recognised market operator (as the case may be) mentioned in paragraph (a) or (b);
- (l) any contract for the offer of asset-backed securities by a securitisation special purpose vehicle, or any contract connected with such offer of asset-backed securities or the securitisation transaction pursuant to which the securities are issued;
- (m) any contract that creates a mortgage, charge, pledge, lien or other type of security interest that is recognised by law, being a mortgage, charge, pledge, lien or other security interest that secures an obligation under a financial contract mentioned in paragraphs (a) to (l);
- (n) any contract providing for a guarantee, letter of credit, title transfer of assets, or other credit support arrangement in respect of an obligation under a financial contract mentioned in paragraphs (a) to (l).

PART 3

OTHER PRESCRIBED CONTRACTS

Definitions for this Part

4. In this Part —

“essential services” has the meaning given by section 2(1) of the Cybersecurity Act 2018 (Act 9 of 2018);

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

“public body” means a Group 1 public body as defined in section 2(1) of the Public Sector (Governance) Act 2018 (Act 5 of 2018).

Prescribed contracts for purposes of section 440(5)(c) of Act

5. A contract that meets any of the following descriptions is prescribed for the purposes of section 440(5)(c) of the Act:

- (a) a contract for the supply of goods or services to the Government or a public body that are essential for the Government or the public body to carry out its functions;
- (b) a contract between the Government or a public body and another person for the provision by the person of one or more essential services;
- (c) a contract between the Monetary Authority of Singapore and another person that is essential for the Monetary Authority of Singapore to carry out its statutory functions.

Made on 21 July 2020.

LOH KHUM YEAN
*Permanent Secretary,
Ministry of Law,
Singapore.*

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