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VARIABLE CAPITAL COMPANIES ACT 2018 (ACT 44 OF 2018)

VARIABLE CAPITAL COMPANIES (LODGMENT OF DOCUMENTS) REGULATIONS 2020

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In exercise of the powers conferred by section 165 of the Variable Capital Companies Act 2018, the Minister for Finance makes the following Regulations:

PART 1**PRELIMINARY****Citation and commencement**

1. These Regulations are the Variable Capital Companies (Lodgment of Documents) Regulations 2020 and come into operation on 14 January 2020.

Definitions

2. In these Regulations, unless the context otherwise requires —
- “electronic transaction system” means the electronic transaction system established by the Authority under section 28B(1) of the Accounting and Corporate Regulatory Authority Act (Cap. 2A);
 - “form” means a form provided by the Registrar on the electronic transaction system or through any other means determined by the Registrar;
 - “identity card” has the meaning given by section 2(1) of the National Registration Act (Cap. 201);
 - “registered filing agent” has the meaning given by section 28A of the Accounting and Corporate Regulatory Authority Act;

“VCC Act” means the Variable Capital Companies Act 2018;
“work pass” has the meaning given by section 2 of the
Employment of Foreign Manpower Act (Cap. 91A).

PART 2

GENERAL MATTERS

Requirement to use electronic transaction system to carry out transactions with Registrar

3.—(1) Except as provided in paragraph (2) or as the Registrar otherwise requires or permits, any transaction with the Registrar under the VCC Act must be carried out using the electronic transaction system on the applicable form.

(2) If a transaction with the Registrar under the VCC Act cannot be carried out using the electronic transaction system, the person seeking to carry out the transaction must carry out the transaction with the Registrar in the form and manner determined by the Registrar.

(3) The Registrar may refuse to process a transaction with the Registrar if the person seeking to carry out the transaction —

- (a) does not comply with paragraph (1) or (2) in respect of the transaction;
- (b) does not comply with a requirement imposed by the Registrar under regulation 4;
- (c) does not comply with regulation 5;
- (d) being required to complete a form, fails to properly complete the form in accordance with the instructions contained in the form;
- (e) being required to attach any document to, or provide any information required in, the applicable form, fails to attach the document or provide the information, as the case may be; or

(f) fails to pay the fees prescribed in the Variable Capital Companies (Fees and Late Lodgment Penalties) Regulations 2020 (G.N. No. S 26/2020) for the transaction.

(4) To avoid doubt, a reference to a refusal to process a transaction with the Registrar in paragraph (3) includes, where the transaction relates to the lodging of a document with the Registrar, a refusal to accept the document for lodgment.

Identification documents

4. The Registrar may require the production of the identity card or passport, or any other identification document that is acceptable to the Registrar, for the verification of the identity of any person who carries out any transaction with the Registrar or whose particulars are to be registered under the VCC Act.

Endorsements

5. Where a form requires that it be endorsed by more than one person —

(a) the endorsement must be made —

(i) if the endorsement is made in respect of an application to register a VCC — within 60 days after the date on which the Registrar informs the applicant that the form is required to be endorsed; or

(ii) if the endorsement is made in respect of any other matter — within 14 days after the date on which the form is first lodged with the Registrar; and

(b) payment of the fee prescribed in the Variable Capital Companies (Fees and Late Lodgment Penalties) Regulations 2020 for the transaction to which the form relates must be made by the last person endorsing the electronic transaction.

Lodgment of documents with Registrar

6.—(1) A form, or any document which is to accompany a form, to be lodged with the Registrar must —

- (a) comply with the directions specified by the Registrar; and
- (b) be lodged in accordance with the directions specified in that form or by the Registrar.

(2) Without limiting paragraph (1), the directions specified in the form or by the Registrar may provide for the format in which the document (which is to accompany the form) is to be lodged.

Time for lodging documents

7. Where a form or document is required under the VCC Act or these Regulations to be lodged with the Registrar but the period of time within which that form or document is to be lodged is not prescribed, that form or document must be lodged within 14 days after the occurrence of the event to which the form or document relates.

Certified translations of documents

8.—(1) For the purposes of section 397 of the Companies Act (Cap. 50) (as applied by section 158 of the VCC Act), “certified translation”, in relation to an instrument, a certificate, a contract or a document, or a certified copy of an instrument, a certificate, a contract or a document, that is required to be lodged by a VCC with the Registrar, means a translation that —

- (a) in the case of a translation made outside Singapore —
 - (i) is certified by an official to whom the custody of the original instrument, certificate, contract or document is committed, being an official holding or purporting to hold an office corresponding to that of the Registrar in the place in which the corporation is formed or incorporated;
 - (ii) is certified by a notary public or a translator duly admitted and sworn in accordance with the law of the place in which the VCC is formed or incorporated; or
 - (iii) is certified by a Singapore consular officer in the place in which the VCC is formed or incorporated; or

(b) in the case of a translation made within Singapore, is certified by a person approved by the Registrar to be a correct translation in the English language.

(2) The Registrar may, before accepting a translation for lodgment, require the person lodging the translation to furnish to the Registrar any evidence that the Registrar thinks sufficient of the ability of the person by whom the translation is made to make the translation.

(3) In this regulation, “Singapore consular officer” means a Consul or a person performing consular functions on behalf of the Government.

Affidavit and statutory declaration

9.—(1) Except as otherwise provided in the VCC Act, these Regulations or any form, an affidavit or a statutory declaration sworn or declared for the purposes of the VCC Act or these Regulations on behalf of a VCC must be sworn or declared by a director or the secretary of the VCC.

(2) Where an affidavit or a statutory declaration prescribed by the VCC Act or these Regulations purports to be sworn or declared at a place outside Singapore, the affidavit or statutory declaration is sufficient for the purposes of the VCC Act or these Regulations if it purports to be sworn or declared in accordance with the requirements of the law of that place.

Orders of court

10.—(1) Where the VCC Act requires an order of court to be lodged, the order of court must be lodged in the form relating to the general lodgment of orders of court.

(2) Paragraph (1) does not apply where there is a form for the particular type of order of court in question.

PART 3

LODGMENT OF DOCUMENTS

Documents for registration of VCCs

11.—(1) For the purposes of section 16(2)(a) of the VCC Act, the prescribed documents are —

- (a) a duly completed application form in the applicable form; and
- (b) a statement in the applicable form as to the compliance by each person to be appointed as a director of the VCC with the factors prescribed under section 53(3) of the VCC Act.

(2) For the purposes of section 16(2)(d) of the VCC Act, the prescribed information is —

- (a) the name of the proposed VCC;
- (b) the business activities to be carried on by the proposed VCC;
- (c) whether the proposed VCC has obtained the approval of any public authority that is required for —
 - (i) the carrying on of any business activity it proposes to carry on; or
 - (ii) the use of certain word or words in the name of the proposed VCC;
- (d) whether the proposed VCC is an umbrella VCC;
- (e) the period of —
 - (i) the first financial year of the proposed VCC; and
 - (ii) every subsequent financial year of the proposed VCC;
- (f) the address of the proposed VCC's registered office in Singapore;
- (g) the working days and hours of the proposed VCC;
- (h) the following particulars of each subscriber to the constitution of the proposed VCC:

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- (i) the subscriber's name;
 - (ii) where the subscriber is an individual — the subscriber's identity card number, work pass number or passport number;
 - (iii) where the subscriber is not an individual — the subscriber's unique entity number;
 - (iv) the subscriber's email address;
- (i) the following particulars of each person to be appointed as a director of the proposed VCC:
- (i) the person's identity card number, work pass number or passport number;
 - (ii) the person's nationality;
 - (iii) the person's date of birth;
 - (iv) the person's residential address;
 - (v) the person's alternate address, if applicable;
 - (vi) the person's contact number and email address;
 - (vii) whether the person is a director or qualified representative of another person who is to be appointed as the manager of the proposed VCC;
- (j) the following particulars of each person to be appointed as a secretary of the proposed VCC:
- (i) the person's name;
 - (ii) the person's identity card number, work pass number or passport number;
 - (iii) the person's nationality;
 - (iv) the person's date of birth;
 - (v) the person's residential address;
 - (vi) the person's alternate address, if applicable;
 - (vii) the person's contact number and email address;

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- (k) the following particulars of the person to be appointed as the auditor of the proposed VCC:
- (i) the person's name;
 - (ii) the person's unique entity number;
 - (iii) the address of the person's registered office, or principal place of business, in Singapore;
 - (iv) the person's contact number and email address;
- (l) the following particulars of the person to be appointed as the manager of the proposed VCC:
- (i) the person's unique entity number;
 - (ii) the address of the person's registered office, or principal place of business, in Singapore;
- (m) a confirmation that each person to be appointed as a director of the VCC —
- (i) has consented to act as a director of the VCC;
 - (ii) is not disqualified from acting as director of the VCC; and
 - (iii) has filed with the Registrar a statement mentioned in section 49(b) of the VCC Act in accordance with that provision;
- (n) a confirmation that each person to be appointed as a secretary of the VCC has consented to act as a secretary of the VCC; and
- (o) a confirmation that the person to be appointed as the manager of the VCC —
- (i) has consented to act as the manager of the VCC; and
 - (ii) is a person mentioned in section 46(2) of the VCC Act.
- (3) The confirmation mentioned in paragraph (2)(m), (n) and (o) must be lodged with the Registrar in the applicable form.

(4) Where a registered filing agent is engaged to make an application to register a VCC, the information mentioned in paragraph (2) may be provided by the registered filing agent.

Documents for registration of sub-funds

12. An application by an umbrella VCC for the registration of its sub-fund must be made in the applicable form.

Annual returns by VCCs

13. For the purposes of section 97(3) of the VCC Act, a return to be lodged by a VCC as mentioned in section 97(1) of the VCC Act —

- (a) must be in the applicable form;
- (b) must contain the following particulars and information:
 - (i) whether the VCC is an umbrella VCC;
 - (ii) the name of the VCC and each of its sub-funds, if any;
 - (iii) the unique entity number of the VCC and each of its sub-funds, if any;
 - (iv) the address of the registered office of the VCC;
 - (v) the investment strategy of the VCC and each of its sub-funds, if any;
 - (vi) the name of the manager of the VCC;
 - (vii) the following particulars of each director of the VCC:
 - (A) the director's name;
 - (B) the director's identity card number, work pass number or passport number;
 - (C) the director's nationality;
 - (D) the director's date of appointment or re-appointment, as the case may be; and

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- (c) must be accompanied by the following documents which concern the financial year of the VCC in respect of which the return is lodged and are prepared in accordance with Part 8 of the VCC Act:
- (i) the statement of directors of the VCC;
 - (ii) the financial statements of the VCC;
 - (iii) the report of the VCC's auditor on the financial statements mentioned in sub-paragraph (ii).

Satisfaction and release of property from charge

14.—(1) For the purposes of section 136(1) of the Companies Act (as applied by section 42 of the VCC Act), a statement of satisfaction in whole or in part of the debt for which a charge was given by a VCC, or of the fact that the property or undertaking or any part of the property or undertaking has been released from a registered charge or has ceased to form part of the property or undertaking of the VCC or its sub-fund (as the case may be), must be lodged in the applicable form.

(2) The statement mentioned in paragraph (1) must be endorsed by a statement by the chargee of the registered charge, as mentioned in section 136(2) of the Companies Act (as applied by section 42 of the VCC Act) —

- (a) before the firstmentioned statement is lodged with the Registrar; or
- (b) within 3 days after the lodgment of the firstmentioned statement with the Registrar.

Variation of charge

15.—(1) A VCC may lodge the applicable form with the Registrar to report any variation of the particulars mentioned in paragraph (2) in respect of a charge that is registered under —

- (a) section 131 of the Companies Act (as applied by section 42 of the VCC Act); or
- (b) section 43 of the VCC Act.

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- (2) For the purposes of paragraph (1), the particulars are —
- (a) the particulars of the chargee; and
 - (b) an increase in the charged amount.

Lodgment of statement of affairs and accounts of VCC or sub-fund by receiver or manager

16.—(1) For the purposes of section 223(1)(c)(i) of the Companies Act (as applied by section 125 of the VCC Act), a copy of a statement of affairs of a VCC or sub-fund must be —

- (a) certified in writing by the receiver or manager of the property of the VCC or sub-fund (as the case may be) to be a true copy of the original statement of affairs of the VCC or sub-fund, as the case may be; and
- (b) lodged together with an affidavit mentioned in section 224(2) of the Companies Act (as applied by section 125 of the VCC Act) in the applicable form.

(2) For the purposes of section 225(1) of the Companies Act (as applied by section 125 of the VCC Act), a detailed account of a receiver or manager of the property of a VCC must be —

- (a) lodged in the applicable form; and
- (b) accompanied by the affidavit of the receiver or manager verifying all accounts and statements mentioned in the detailed account.

(3) However, the detailed account need not be accompanied by the affidavit of the receiver or manager mentioned in paragraph (2)(b) if —

- (a) the detailed account is personally lodged by the receiver or manager; and
- (b) the receiver or manager declares in the applicable form that the accounts and statements mentioned in the detailed account are true and correct.

Lodgment of statement of affairs of sub-fund or VCC that is being wound up

17.—(1) For the purposes of section 270(3) of the Companies Act (as applied by section 33(2) of the VCC Act), a copy of a statement of affairs of a sub-fund must be —

- (a) certified in writing by the liquidator of the sub-fund to be a true copy of the original statement of affairs of the sub-fund; and
- (b) lodged with the Registrar by the liquidator of the sub-fund together with an affidavit in the applicable form verifying that statement by one or more persons mentioned in section 270(2) of the Companies Act (as applied by section 33(2) of the VCC Act).

(2) The lodgment of a copy of a statement of affairs of a sub-fund by the liquidator in accordance with paragraph (1) is treated as a lodgment of the copy of the statement with both the Registrar and Official Receiver upon payment of the prescribed fees for the firstmentioned lodgment.

(3) For the purposes of section 270(3) of the Companies Act (as applied by section 130(1) of the VCC Act), a copy of a statement of affairs of a VCC must be —

- (a) certified in writing by the liquidator of the VCC to be a true copy of the original statement of affairs of the VCC; and
- (b) lodged with the Registrar by the liquidator of the VCC together with an affidavit in the applicable form verifying that statement by one or more persons as mentioned in section 270(2) of the Companies Act (as applied by section 130(1) of the VCC Act).

(4) The lodgement of a copy of a statement of affairs of a VCC by the liquidator in accordance with paragraph (3) is treated as a lodgment of the copy of the statement with both the Registrar and Official Receiver upon payment of the prescribed fees for the firstmentioned lodgment.

Circumstances where lodgment of documents by liquidator of sub-fund or VCC with Registrar is treated as lodgment of documents with both Registrar and Official Receiver

18.—(1) A lodgment of any document specified in paragraph (2) by a liquidator of a sub-fund in the applicable form with the Registrar is treated as a lodgment of the document with both the Registrar and Official Receiver upon payment of the prescribed fees for the firstmentioned lodgment.

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

- (a) a notice mentioned in section 295(4) of the Companies Act (as applied by section 33(2) of the VCC Act);
- (b) both of the following documents mentioned in section 308(3) of the Companies Act (as applied by section 33(2) of the VCC Act):
 - (i) a return of the holding of a meeting of the members of the umbrella VCC holding shares issued in respect of the sub-fund or a meeting of the umbrella VCC and the creditors of the sub-fund (as the case may be) and the date of the meeting;
 - (ii) a copy of an account showing how the winding up of the sub-fund has been conducted and how the property of the sub-fund has been disposed of;
- (c) both of the following documents mentioned in section 308(4) of the Companies Act (as applied by section 33(2) of the VCC Act):
 - (i) a return that a meeting of the members of the umbrella VCC holding shares issued in respect of the sub-fund or a meeting of the umbrella VCC and the creditors of the sub-fund (as the case may be) was

duly summoned and that no quorum was present at the meeting;

- (ii) a copy of an account showing how the winding up of the sub-fund has been conducted and how the property of the sub-fund has been disposed of;
- (d) any of the following documents mentioned in section 316(1) and (3) of the Companies Act (as applied by section 33(2) of the VCC Act):
- (i) a notice of the appointment of the liquidator of the sub-fund and of the situation of the liquidator's office;
 - (ii) a notice of any change in the situation of the office of the liquidator of the sub-fund;
 - (iii) a notice of the resignation or removal of the liquidator of the sub-fund; and
- (e) all the following documents mentioned in section 317(1) of the Companies Act (as applied by section 33(2) of the VCC Act):
- (i) an account of the receipts and payments of the liquidator of the sub-fund;
 - (ii) a statement of the position in the winding up of the sub-fund;
 - (iii) a statutory declaration by the liquidator of the sub-fund verifying the documents mentioned in sub-paragraphs (i) and (ii).

(3) A lodgment of any document specified in paragraph (4) by a liquidator of a VCC in the applicable form with the Registrar is treated as a lodgment of the document with both the Registrar and Official Receiver upon payment of the prescribed fees for the firstmentioned lodgment.

(4) For the purposes of paragraph (3), the documents are —

- (a) a notice mentioned in section 295(4) of the Companies Act (as applied by section 130(1) of the VCC Act);

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- (b) both of the following documents mentioned in section 308(3) of the Companies Act (as applied by section 130(1) of the VCC Act):
- (i) a return of the holding of a general meeting of the VCC or a meeting of the VCC and its creditors (as the case may be) and the date of the meeting;
 - (ii) a copy of an account showing how the winding up of the VCC has been conducted and how the property of the VCC has been disposed of;
- (c) both of the following documents mentioned in section 308(4) of the Companies Act (as applied by section 130(1) of the VCC Act):
- (i) a return that a general meeting of the VCC or a meeting of the VCC and its creditors (as the case may be) was duly summoned and that no quorum was present at the meeting;
 - (ii) a copy of an account showing how the winding up of the VCC has been conducted and how the property of the VCC has been disposed of;
- (d) any of the following documents mentioned in section 316(1) and (3) of the Companies Act (as applied by section 130(1) of the VCC Act):
- (i) a notice of the appointment of the liquidator of the VCC and of the situation of the liquidator's office;
 - (ii) a notice of any change in the situation of the office of the liquidator of the VCC;
 - (iii) a notice of the resignation or removal of the liquidator of the VCC; and
- (e) all the following documents mentioned in section 317(1) of the Companies Act (as applied by section 130(1) of the VCC Act):
- (i) an account of the receipts and payments of the liquidator of the VCC;

- (ii) a statement of the position in the winding up of the VCC;
- (iii) a statutory declaration by the liquidator of the VCC verifying the documents mentioned in sub-paragraphs (i) and (ii).

Made on 13 January 2020.

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