



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

ACTS SUPPLEMENT

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The following Act was passed by Parliament on 11th April 2011 and assented to by the President on 13th April 2011:—

REPUBLIC OF SINGAPORE

No. 16 of 2011.

I assent.

(LS)

S R NATHAN,
President.
13th April 2011.

An Act to amend the Insurance Act (Chapter 142 of the 2002 Revised Edition), to make consequential amendments to the Companies Act (Chapter 50 of the 2006 Revised Edition) and for matters connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Insurance (Amendment) Act 2011 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 1A

2. Section 1A of the Insurance Act is amended —

(a) by inserting, immediately after the definition of “directions”, the following definition:

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

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

(b) is concerned with or takes part in the management of the company on a day-to-day basis;”;

(b) by inserting, immediately after the definition of “general reinsurance broker”, the following definition:

“ “guaranteed policy moneys” means the benefits that an insured policy owner is entitled to receive under his insured policy under section 54(2) or (3), as the case may be, of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;”;

(c) by inserting, immediately after the definition of “ “partner” and “manager” ”, the following definitions:

“ “PPF Agency” means the deposit insurance and policy owners’ protection fund agency constituted under section 56 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

“PPF Funds” means the Policy Owners’ Protection Life Fund and the Policy Owners’ Protection General Fund established under section 34 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

“principal officer”, in relation to a registered insurer, means any person, by whatever name called, employed by the insurer to be directly responsible for the conduct

of any class of insurance business of insurer in Singapore;” and

- (d) by deleting the full-stop at the end of the definition of ““statutory balance-sheet” and “statutory valuation”” and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““substantial shareholder”, in relation to an insurer, means a person who holds 5% or more of the voting power of the insurer.”.

Amendment of section 9

3. Section 9(1) of the Insurance Act is amended —

- (a) by inserting, at the end of paragraph (a), the word “and”; and
(b) by deleting paragraph (b).

Repeal of section 14

4. Section 14 of the Insurance Act is repealed.

Amendment of section 15

5. Section 15 of the Insurance Act is amended —

- (a) by deleting the words “section 14 or 14A, as the case may be,” in subsection (1)(a) and substituting the words “section 14A”; and
(b) by deleting the words “section 14 or 14A, as the case may be” in subsection (2) and substituting the words “section 14A”.

Amendment of section 17

6. Section 17 of the Insurance Act is amended —

- (a) by deleting the words “but shall not be applied to meet any levy payable by the insurer under section 46” in subsection (4); and
(b) by deleting subsection (12).

Amendment of section 29

7. Section 29(3) of the Insurance Act is amended by deleting paragraph (a).

Amendment of section 31

8. Section 31 of the Insurance Act is amended by deleting subsection (11).

Repeal and re-enactment of section 33

9. Section 33 of the Insurance Act is repealed and the following section substituted therefor:

“General obligation to furnish information

33.—(1) The Authority may, by notice in writing —

- (a) require any Singapore insurer to furnish it with information about any matter related to any business carried on by the insurer in Singapore or elsewhere; or
- (b) require any authorised reinsurer to furnish it with information about any matter related to any insurance business in respect of which it is authorised,

if, in the opinion of the Authority, it requires that information for the discharge of its functions under this Act.

(2) A registered insurer which is or was a PPF Scheme member as defined in the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011, shall furnish to the PPF Agency, the Public Trustee appointed under the Public Trustee Act (Cap. 260) and any person authorised or appointed by the PPF Agency or the Public Trustee to perform its functions under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011, upon request, such information, including information relating to its policy owners, as may be required by the PPF Agency, the Public Trustee or such person to carry out the objects and to perform the functions of the PPF Agency or the Public Trustee, as the case may be, under that Act.

(3) Subsection (2) shall apply notwithstanding the cancellation of the registration of the insurer under section 12, whether wholly or in respect of a class of business.”.

Amendment of Part III

10. The heading to Part III of the Insurance Act is amended by deleting the words “, WINDING UP AND TRANSFERS OF BUSINESS”.

Repeal and re-enactment of section 41 and new sections 41A to 41F

11. Section 41 of the Insurance Act is repealed and the following sections substituted therefor:

“Action by Authority if relevant person unable to meet obligations, etc.

41.—(1) The Authority may exercise one or more of the powers specified in subsection (2) as appears to it to be necessary where —

- (a) the Authority is satisfied that —
 - (i) the affairs of any relevant person are being conducted in a manner which is likely to be detrimental to the public interest or the interest of the policy owners or prejudicial to the interest of the relevant person;
 - (ii) a relevant person is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it is about to suspend payments;
 - (iii) a relevant person has contravened any of the provisions of this Act; or
 - (iv) a relevant person has failed to comply with any conditions attached to its registration;
- (b) a relevant person informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- (c) a relevant person becomes unable to meet its obligations, or is insolvent, or suspends payments; or
- (d) the Authority considers it in the public interest to do so.

(2) The Authority may exercise all or any of the following powers for the purposes of subsection (1):

- (a) issue such directions to require the relevant person to take any action or to do or not to do any act or thing whatsoever

in relation to its business as the Authority may consider necessary, including —

- (i) recruiting such management personnel as may be necessary to enable it to conduct its business in accordance with sound insurance principles;
 - (ii) removing any of its directors or any person whom the Authority considers unfit to be associated with it;
 - (iii) taking action as to the disposition or recovery of its property;
 - (iv) taking any available steps for the recovery by the relevant person, as the case may be, of sums appearing to the Authority to have been illegally or improperly paid;
 - (v) in the case of a registered insurer, stopping the renewal or issuance of further policies of the class of business which the insurer is carrying on;
 - (vi) making such arrangements with respect to reinsurance as the Authority so specifies; or
 - (vii) taking action to make good any default under section 16, 17, 18, 19, 20, 35ZC or 35ZD;
- (b) subject to subsection (3), assume control of and manage such of the business of a registered insurer as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

(3) In the case of a registered insurer incorporated outside Singapore, any appointment of a statutory manager or any assumption of control by the Authority of any business of the registered insurer under subsection (2) shall only be in relation to —

- (a) the business and affairs of the registered insurer carried on, or managed in or from, Singapore; and
- (b) the property of the registered insurer located in Singapore, or reflected in the books of the registered insurer in Singapore, as the case may be, in relation to its operations in Singapore.

(4) Where the Authority appoints 2 or more persons as the statutory manager of a registered insurer, it shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

- (a) may be discharged or exercised by such persons jointly and severally;
- (b) shall be discharged or exercised by such persons jointly; and
- (c) shall be discharged or exercised by a specified person or such persons.

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 12(2)(I), do one or more of the following:

- (a) vary or revoke any requirement of any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;
- (b) further exercise any of the powers under subsection (2);
- (c) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

- (a) the exercise or purported exercise of any power under this Act;
- (b) the performance or purported performance of any function or duty under this Act; or
- (c) the compliance or purported compliance with this Act.

Effect of assumption of control under section 41

41A.—(1) Upon assuming control of the relevant business of a registered insurer, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

(2) During the period when the Authority or statutory manager is in control of the relevant business of a registered insurer, the Authority or statutory manager shall manage the relevant business of the

registered insurer in the name of and on behalf of the insurer and shall be deemed to be an agent of the insurer.

(3) In managing the relevant business of a registered insurer, the Authority or statutory manager —

- (a) shall take into consideration the interests of the policy owners of the registered insurer; and
- (b) shall have all the duties, powers and functions of the members of the board of directors of the registered insurer (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the registered insurer, including powers of delegation, in relation to the relevant business of the registered insurer; but nothing in this paragraph shall require the Authority or the statutory manager to call any meeting of the registered insurer under the Companies Act, the Co-operative Societies Act (Cap. 62) or the constitution of the registered insurer.

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a registered insurer by the Authority or statutory manager —

- (a) where the registered insurer is established or incorporated in Singapore, any appointment of a person as a principal officer or director of the registered insurer; or
- (b) where the registered insurer is established or incorporated outside Singapore, any appointment of a person as a principal officer of the insurer in so far as the appointment relates to the relevant business of the registered insurer,

which was in force immediately before the assumption of control, shall be deemed to be revoked unless the Authority gives its approval, by notice in writing to the person and the registered insurer, for the person to remain in the appointment.

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a registered insurer, no person shall be appointed —

- (a) where the registered insurer is established or incorporated in Singapore, as a principal officer or director of the registered insurer; or
- (b) where the registered insurer is established or incorporated outside Singapore, as a principal officer of the registered insurer, in so far as the appointment relates to the relevant business of the registered insurer,

except with the approval of the Authority.

(6) Where the Authority has given its approval under subsection (4) or (5) for a person to remain in the appointment of, or for a person to be appointed as, a principal officer or a director of a registered insurer, the Authority may at any time, by notice in writing to the person and the registered insurer, revoke its approval and such appointment shall be deemed to be revoked on the date specified in the notice.

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as a principal officer or director of a registered insurer is revoked under subsection (4) or (6), acts or purports to act after the revocation —

- (a) where the registered insurer is established or incorporated in Singapore, as a principal officer or director of the insurer; or
- (b) where the registered insurer is established or incorporated outside Singapore, as a principal officer of the registered insurer in relation to the relevant business of the insurer,

during the period when the Authority or statutory manager is in control of the relevant business of the registered insurer —

- (i) the act or purported act of the person shall be invalid and of no effect; and
- (ii) the person shall be guilty of an offence.

(8) Notwithstanding any written law or rule of law, if any person who is appointed as a principal officer or director of a registered insurer in contravention of subsection (5) acts or purports to act —

- (a) where the registered insurer is established or incorporated in Singapore, as a principal officer or director of the registered insurer; or

- (b) where the registered insurer is established or incorporated outside Singapore, as a principal officer of the registered insurer in relation to the relevant business of the registered insurer,

during the period when the Authority or statutory manager is in control of the relevant business of the registered insurer —

- (i) the act or purported act of the person shall be invalid and of no effect; and
- (ii) the person shall be guilty of an offence.

(9) During the period when the Authority or statutory manager is in control of the relevant business of a registered insurer —

- (a) if there is any conflict or inconsistency between —
 - (i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and
 - (ii) a direction or decision given by a principal officer, director, member, executive officer, employee, agent or office holder, or the board of directors, of the registered insurer,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

- (b) no person shall exercise any voting or other right attached to any share in the registered insurer in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both 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.

(11) In this section, “constitution of the registered insurer” means the memorandum of association and articles of association of the registered insurer or other instrument under which the registered insurer is established or incorporated.

Duration of control

41B.—(1) The Authority shall cease to be in control of the relevant business of a registered insurer when the Authority is satisfied that the reasons for its assumption of control of the relevant business have ceased to exist or that it is no longer necessary for the protection of the policy owners of the registered insurer.

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a registered insurer on the date of his appointment as a statutory manager.

(3) The appointment of a statutory manager in relation to the relevant business of a registered insurer may be revoked by the Authority at any time —

- (a) if the Authority is satisfied that the reasons for the appointment have ceased to exist or that it is no longer necessary for the protection of the policy owners of the registered insurer; or
- (b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the registered insurer.

(4) The Authority shall publish in the *Gazette* the date, and such other particulars as it thinks fit, of —

- (a) its assumption of control of the relevant business of a registered insurer;
- (b) the cessation of its control of the relevant business of a registered insurer;
- (c) the appointment of a statutory manager in relation to the relevant business of a registered insurer; and
- (d) the revocation of a statutory manager’s appointment in relation to the relevant business of a registered insurer.

Responsibilities of officers, member, etc., of registered insurer

41C.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a registered insurer —

- (a) the High Court may, on an application of the Authority or statutory manager, direct any person who has ceased to be or who is still a principal officer, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the registered insurer to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property, book, accounts, record or other documents, whether in electronic, print or other form, of the insurer which is comprised in, forms part of or relates to the relevant business of the insurer, and which is in the person's possession or control; and
 - (b) any person who has ceased to be or who is still a principal officer, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the insurer shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of its or his duties or functions, or the exercise of its or his powers, in relation to the registered insurer, within such time and in such manner as may be specified by the Authority or statutory manager.
- (2) Any person who —
- (a) without reasonable excuse, fails to comply with subsection (1)(b); or
 - (b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both 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.

Remuneration and expenses of Authority and others in certain cases

41D. The Authority may at any time fix the remuneration and expenses to be paid by a registered insurer —

- (a) to a statutory manager appointed in relation to a registered insurer, whether or not the appointment has been revoked; and
- (b) where the Authority has assumed control of the relevant business of the registered insurer, to the Authority and any person employed or authorised by the Authority under section 41A in relation to its assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

Moratorium

41E.—(1) The High Court may, on the application of the Authority, if it considers it to be in the interests of the policy owners of a registered insurer, make one or more of the following orders:

- (a) that no resolution shall be passed, and no order shall be made, for the winding up of the registered insurer;
- (b) that no proceedings shall be commenced or continued by or against the registered insurer in respect of any business of the registered insurer;
- (c) that no execution, distress or other legal process shall be commenced, levied or continued against any property of the registered insurer;
- (d) that no steps shall be taken to enforce any security over any property of the registered insurer or to repossess from the registered insurer any goods under any hire-purchase agreement, chattels leasing agreement or retention of title agreement;
- (e) that no steps shall be taken by any person, other than a person specified in the order, to sell, transfer, assign or otherwise dispose of any property of the registered insurer.

(2) Any sale, transfer, assignment or other disposition of any property of the registered insurer in contravention of any order made under subsection (1)(e) shall be void.

(3) Any order made under subsection (1) shall be valid for a period not exceeding 6 months.

Interpretation of sections 41 to 41E

41F. In sections 41 to 41E, unless the context otherwise requires —
“business” includes affairs and property;

“office-holder”, in relation to a registered insurer, means any person acting in relation to the insurer as its liquidator, provisional liquidator, receiver, receiver and manager or an equivalent person;

“property” includes property, right and power of every description;

“relevant business” means any business of a registered insurer —

(a) which the Authority has assumed control of under section 41; or

(b) in relation to which a statutory manager has been appointed under section 41;

“relevant person” means a registered insurer or an insurance intermediary;

“statutory manager” means a statutory manager appointed under section 41.”.

Deletion of sub-heading to Part III

12. Part III of the Insurance Act is amended by deleting the sub-heading above section 42.

Repeal of sections 42 to 49

13. Sections 42 to 49 of the Insurance Act are repealed.

New Part IIIAA

14. The Insurance Act is amended by inserting, immediately after section 49F, the following Part:

“PART IIIAA

TRANSFER OF BUSINESS AND SHARES, RESTRUCTURING
OF REGISTERED INSURER AND WINDING UP

Division 1 — Voluntary scheme for transfer of business

Interpretation of this Division

49FA. In this Division —

“transferee” means a registered insurer, a company or a co-operative society registered under the Co-operative Societies Act (Cap. 62) which has applied or will be applying for a registration to carry on the relevant class or classes of business, to which the whole or part of a transferor’s business is or is to be, or is proposed to be, transferred under this Division;

“transferor” means a registered insurer, the whole or part of the business of which is or is to be, or is proposed to be, transferred under this Division.

Voluntary scheme for transfer of business

49FB.—(1) The whole or part of the insurance business of a transferor may only be transferred to a transferee in respect of the class or classes of business to be transferred if —

- (a) the transfer is effected by a scheme under this section; and
- (b) the transferor has obtained the approval of the Authority for such a transfer.

(2) Any approval granted by the Authority under this section for the transfer of the whole or part of the insurance business of a registered insurer may be subject to such conditions as the Authority may determine.

(3) The Authority may at any time, add to, vary or revoke any conditions imposed under subsection (2).

(4) Subject to subsection (6), subsection (1) shall not apply to the transfer of the whole or part of any insurance business of —

- (a) a company established or incorporated outside Singapore, except in so far as it relates to Singapore policies or offshore policies;
- (b) a registered insurer where it relates to the reinsurance business of that insurer; or
- (c) a captive insurer.

(5) For the avoidance of doubt, subsection (4)(b) shall not affect, in relation to the transfer of the whole or any part of any insurance business of a registered direct insurer under subsection (1), the reinsurance of liabilities under such transferred insurance business.

(6) A registered insurer which falls within subsection (4)(b) or (c) may apply to the Authority in writing for consent to transfer the whole or part of its insurance business to another registered insurer, by a scheme under this section, in which event Division 1 of this Part shall apply to the registered insurer.

(7) Any registered insurer, not being a company established or incorporated outside Singapore, shall by virtue of this section have power to make such a transfer by a scheme under this section, and the directors shall have authority on behalf of the insurer to arrange for and do all things necessary to give effect to such a transfer.

(8) Subsection (7) shall apply notwithstanding the absence of the power or authority mentioned in that subsection under the constitution of the registered insurer or any limitation imposed by its constitution on its powers or on the authority of its directors.

(9) A scheme under this section may provide for the business in question to be transferred to a body not registered as an insurer under this Act in respect of the relevant class of business (including a body not yet in existence), if the scheme is so framed as to operate only in the event of the body becoming so registered.

(10) A scheme under this section for the transfer of any insurance business by a transferor may extend to the transfer with it of any other business, not being insurance business, where the other business is carried on by the transferor as ancillary only to the insurance business transferred.

(11) A scheme under this section may include provision for matters incidental to the transfer thereby effected, and provision for giving effect to that transfer and, in particular —

- (a) for any property, rights or liabilities of the transferor (including assets comprised in a deposit under this Act or in an insurance fund) to vest, by virtue of the scheme and without further or other assurance, in the transferee; and
- (b) for the registration by the transferee of policies transferred, for the amounts to be included in respect of those policies in the transferee's insurance fund and for other matters arising under this Act out of the transfer.

(12) A scheme under this section shall be of no effect unless confirmed by the High Court, but may be prepared and submitted for confirmation to the High Court by any of the insurers concerned.

(13) If so confirmed, the scheme shall have effect according to its tenor notwithstanding anything in the preceding sections of this Act and be binding on any person thereby affected.

Confirmation of schemes

49FC.—(1) Before an application is made to the High Court for confirmation of a scheme under section 49FB —

- (a) a copy of the scheme shall be lodged with the Authority together with copies of the actuarial and other reports, if any, upon which the scheme is founded after the transferor has obtained the approval of the Authority pursuant to section 49FB(1);
- (b) not earlier than one month after the copy is so lodged, notice of the intention to make the application (containing such particulars as are prescribed) shall be published in the *Gazette* and in not less than 2 newspapers approved by the Authority; and
- (c) for a period of 15 days after the publication of the notice, a copy of the scheme shall be kept at each office in Singapore of the transferor and shall be opened to inspection by all members and policy owners of the transferor who are affected by the scheme.

(2) The Authority may cause a report on the scheme to be made by an actuary independent of the parties to the scheme and, if it does so, shall cause a copy of the report to be sent to each of the transferor and transferee.

(3) Copies of the scheme and any such report as is mentioned in subsection (1)(a) or (2), or summaries approved by the Authority of the scheme and any such report, shall, except in so far as the High Court upon application made in that behalf otherwise directs, be transmitted by the transferor and transferee, at least 15 days before application is made for confirmation of the scheme, to every policy owner affected by the scheme.

(4) An application to the High Court with respect to any matter connected with the scheme may, at any time before confirmation by the Court, be made by the Authority or by any person who, in the opinion of the Court, is likely to be affected by the scheme.

(5) The High Court may confirm the scheme without modification or subject to modifications agreed to by the transferor and transferee, or may refuse to confirm the scheme.

(6) The transferor and transferee shall be jointly and severally liable to reimburse to the Authority any expenses incurred by the Authority under this section in connection with any scheme or proposed scheme (subject to any order of the High Court as to costs).

(7) The scheme or proposed scheme referred to in subsection (6) shall include provision as to how that liability is, as between the transferor and transferee, to be borne.

Documents to be filed when scheme confirmed

49FD.—(1) Where, by a scheme under section 49FB, the insurance business of a transferor is transferred to a transferee, the transferee shall, within one month after the scheme takes effect, lodge with the Authority —

- (a) statements of the assets and liabilities of each of the transferor and transferee as at the time immediately before the transfer, signed on behalf of the transferor or transferee, as the case may be, and in the case of the transferor, indicating whether the transfer is of the whole of the transferor's business and, if not, the extent to which the

transferor's assets and liabilities relate to the business transferred;

- (b) a copy of the scheme as confirmed by the High Court, and a certified copy of the order of the Court confirming the scheme;
- (c) copies of any actuarial or other reports upon which the scheme was founded (being reports made since a copy of the scheme was lodged under section 49FC(1));
- (d) a statement from an auditor of the transferee who satisfies the conditions mentioned in section 36(6)(a) and (b) certifying that the assets and liabilities of the transferor relating to the business transferred have been assumed and accounted for in the books of the transferee; and
- (e) a statutory declaration made by the chairman of the board of directors of the transferee, or by its principal officer in Singapore, fully setting forth every payment made or to be made to any person on account of the transfer, and stating that, to the best of his belief, no other payment beyond those so set forth has been, or is to be, made on account thereof by or with the knowledge of any insurer concerned; and in this paragraph, references to the making of a payment include references to the transfer of property or rights of any description.

(2) On the confirmation of a scheme under section 49FC, each of the transferor and transferee shall (unless it is an unincorporated company) file a copy of the scheme with the Registrar of Companies or, in the case of societies registered under the Co-operative Societies Act (Cap. 62), with the Registrar of Co-operative Societies.

Division 2 — Compulsory transfer of business

Interpretation of this Division

49FE. In this Division, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of transfer issued by the Minister under section 49FG(1);

“debenture” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“determination” means a determination of the Authority under section 49FF(1);

“property” includes property, right and power of every description;

“specified business” means that part of the business of a transferor which is specified or identified in a certificate;

“transferee” means a registered insurer, a company or a co-operative society registered under the Co-operative Societies Act (Cap. 62) which has applied for or will be applying for a registration to carry on the relevant class or classes of business to be transferred in Singapore, as the case may be, to which the whole or part of a transferor’s business is, or is to be, or is proposed to be, transferred under this Division;

“transferor” means a registered insurer, the whole or part of the business of which is, or is to be, or is proposed to be, transferred under this Division.

Compulsory transfer of business

49FF.—(1) Subject to subsections (2), (3) and (7), the Authority may make a determination that the whole or any part of the business of a transferor (including its non-insurance business) shall be transferred to a transferee which is registered to carry on the relevant class or classes of insurance business to be transferred in Singapore if —

- (a) any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to the transferor, whether or not the Authority has exercised the power;
- (b) the board of directors of the transferee has consented to the transfer;
- (c) the Authority is satisfied that the transfer is appropriate, having regard to —

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- (i) the interests of the policy owners of the transferor given priority and the order of priority of each class of policy owners under section 49FR;
 - (ii) the interests of the policy owners of the transferee given priority and the order of priority of each class of policy owners under section 49FR;
 - (iii) the stability of the financial system in Singapore;
 - (iv) whether the PPF Agency has to make a payout from any of the PPF Funds to the transferee and the amount of such payout, if any; and
 - (v) any other matter that the Authority considers relevant; and
- (d) the transfer involves the whole or part of the insurance business of the transferor.

(2) Any determination made by the Authority for the purpose of subsection (1) may include a determination as to whether guaranteed policy moneys in relation to any policy should be adjusted after the proposed transfer.

(3) Where the transferor is a registered insurer incorporated or established outside Singapore, any determination shall only be in respect of the transferor's business (or any part thereof) which is reflected in the books of the transferor in Singapore in relation to the transferor's operations in Singapore and the reference to policy owners in subsection (1)(c)(i) shall be construed accordingly.

(4) The Authority may, before making a determination, appoint one or more persons to perform an independent assessment of the proposed transfer of the business (or any part thereof) of the transferor for the purpose of providing a report on the transfer to the Authority, including an assessment —

- (a) as to the compensation, if any, that should be paid by the transferee; and
- (b) as to whether guaranteed policy moneys in relation to any policy should be adjusted after the proposed transfer.

(5) The remuneration and expenses of a person appointed under subsection (4) shall be borne by the transferor.

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

(7) A determination may provide for the transfer of the business (or any part thereof) of the transferor to a transferee who is not registered to carry on the relevant class or classes of insurance business in Singapore on terms that the transfer is to take effect only in the event of the transferee becoming so registered.

(8) Upon making a determination, the Authority shall submit the determination to the Minister for his approval.

(9) Before approving the determination, the Minister shall, unless he decides that it is not practicable or desirable to do so —

- (a) publish in the *Gazette* and in such newspaper or newspapers as the Minister may determine a notice of his intention to approve the determination, specifying such particulars as the Minister considers appropriate; and
- (b) cause to be given to the transferor notice in writing of his intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which the transferor may make written representations to the Minister.

(10) In determining the period within which written representations have to be made under subsection (9), the Minister shall take into account the need for the transfer to be effected expeditiously in the interest of the stability of the financial system in Singapore.

(11) Upon receipt of any written representation, the Minister shall consider the representation for the purpose of deciding whether to approve the determination.

(12) Where the transferor is a registered insurer established or incorporated in Singapore, the Minister shall not approve the determination unless he is satisfied that it is in the public interest to do so.

(13) The Minister may —

- (a) approve the determination without modification;
- (b) approve the determination subject to any modification he considers appropriate if the transferee, or where the

transferee is a corporation, its board of directors of the transferee has agreed to the modification; or

(c) refuse to approve the determination.

(14) An approval under subsection (13) shall be subject to such conditions as the Minister may determine and the Minister may add to, vary or revoke any such conditions.

(15) The transferor or transferee, as the case may be, shall comply with the conditions referred to in subsection (14).

(16) A determination, the approval of a determination under this section or the issue of a certificate shall not preclude the exercise of any other power by the Authority or the Minister under this Act.

Certificate of transfer

49FG.—(1) If the Minister approves a determination, he shall, as soon as practicable, issue a certificate of transfer which shall come into effect on the date specified by the Minister in the certificate.

(2) The certificate shall specify such information as may be prescribed.

(3) The certificate may make provision for all or any of the following matters:

- (a) the transfer to the transferee of the whole or any part of the business of the transferor;
- (b) whether guaranteed policy moneys in relation to any policy should be adjusted after the proposed transfer;
- (c) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;
- (d) any property which is held by the transferor as trustee;
- (e) any future or contingent right or liability of the transferor;
- (f) the coming into effect of the transfer of any specified business on a date other than the date on which the certificate comes into effect;

- (g) the compensation, if any, to be paid by the transferee to the transferor and the period within which the compensation is to be paid;
- (h) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the transfer is fully effective, including conditions relating to the transfer.

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

(5) The Authority shall cause the certificate and any addition, variation or revocation referred to in subsection (4) to be served on the transferor and the transferee and published in the *Gazette* and in such newspaper or newspapers as the Minister may determine, on or before the date on which the certificate comes into effect.

(6) Subject to subsection (7), unless otherwise specified in the certificate, the transfer of the business (or any part thereof) of the transferor under the certificate shall take effect on the date on which the certificate comes into effect.

(7) Where the transferee is not registered to carry on insurance business or the relevant class of business in Singapore, the transfer of the business (or any part thereof) of the transferor shall not come into effect unless the transferee becomes so registered.

(8) Notwithstanding any written law or rule or law, upon the date on which the transfer of the business (or any part thereof) of the transferor comes into effect under the certificate —

- (a) subject to subsection (10), the business (or any part thereof) shall be transferred to and vest in the transferee without other or further assurance, act or deed and the certificate shall have effect according to its tenor and be binding on any person thereby affected;
- (b) all deeds, bonds, agreements and other arrangements subsisting immediately before that date which relate to the business (or any part thereof), and to which the transferor is a party shall, taking into account the adjustments as may be specified in the certificate to be made to guaranteed policy moneys payable under such agreements or arrangements,

continue in full force and effect, and shall be enforceable by or against the transferee, as from that date as if the transferee had been named therein or had been a party thereto instead of the transferor; and

- (c) any proceedings or cause of action, by or against the transferor, pending or existing immediately before that date and relating to the business (or any part thereof) may be continued and shall be enforced by or against the transferee as from that date.

(9) For the avoidance of doubt —

- (a) the business (or any part thereof) of the transferor shall be transferred to and vest in the transferee in accordance with subsection (8) notwithstanding any incapacity of the transferor; and
- (b) where guaranteed policy moneys under a policy has been adjusted (hereafter referred to as adjusted guaranteed policy moneys), the policy owner or claimant shall continue to have recourse against the transferor for the difference between the original guaranteed policy moneys and the adjusted guaranteed policy moneys.

(10) The certificate shall not have any effect or operation in transferring or otherwise vesting land in Singapore until the appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

(11) Section 259 of the Companies Act (Cap. 50) shall not apply to the transfer of any property under the certificate.

(12) If any specified business is governed by the law of any foreign country or territory, the certificate may require the transferor, if the transferee so requires, to take all necessary steps for securing that the transfer of the specified business to the transferee is fully effective under the law of that country or territory.

(13) The transferee and the transferor shall each lodge, within 7 days after being served with the certificate —

- (a) a copy of the certificate with the Registrar of Companies or, in the case of societies registered under the Co-operative

Societies Act (Cap. 62), with the Registrar of Co-operative Societies; and

- (b) where the certificate relates to land in Singapore, an office copy of the certificate with the appropriate authority concerned for the registration or recording of dealings in that land.

(14) A transferor or a transferee which fails to comply with any provision in the certificate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(15) A transferor which fails to comply with subsection (12) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(16) A transferor or a transferee which fails to comply with subsection (13) and every officer of the transferor or the transferee who fails to take all reasonable steps to secure compliance by the transferor or the transferee, as the case may be, with that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.

Moratorium, avoidance of disposition of property, etc.

49FH.—(1) Notwithstanding section 41E and subject to section 49FQ, no resolution shall be passed, and no order shall be made, for the winding up of a transferor during the period —

- (a) beginning on —
- (i) the date on which the Minister publishes the notice under section 49FF(9) in the *Gazette* on the transfer of the business (or any part thereof) of the transferor; or
 - (ii) where the notice is not published in the *Gazette*, the date on which the Authority publishes the certificate

under section 49FG(5) in the *Gazette* on the transfer of the business (or any part thereof) of the transferor; and

(b) ending on —

- (i) the date on which the certificate comes into effect; or
- (ii) where the certificate specifies a different date for the coming into effect of the transfer of any specified business, the last date on which the transfer of every specified business has come into effect.

(2) Notwithstanding section 41E and subject to section 49FU, during the period beginning with the date on which the Minister publishes the notice under section 49FF(9) in the *Gazette* on the transfer of a specified business of the transferor or, where the notice is not published in the *Gazette*, the date on which the Authority publishes the certificate under section 49FG(5) in the *Gazette* on the transfer of the specified business and ending with the date on which the transfer of the specified business comes into effect —

- (a) no proceedings shall be commenced or continued against the transferor in respect of the specified business;
- (b) no execution, distress or other legal process shall be commenced, levied or continued against the specified business;
- (c) no steps shall be taken to enforce any security over the specified business or repossess from the transferor the specified business under any hire-purchase agreement, chattels leasing agreement or retention of title agreement; and
- (d) any sale, transfer, assignment or other disposition of the specified business shall be void, except for any payment of claims to policy owners or claimants (other than policy owners who are related corporations of the transferor).

Division 3 — Compulsory transfer of shares

Interpretation of this Division

49FI.—(1) In this Division, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of transfer issued by the Minister under section 49FK(1);

“determination” means a determination of the Authority under section 49FJ(1);

“effective controller” means a person who has effective control as defined in section 27(4)(a);

“property” includes property, right and power of every description;

“transferee” means a person to whom a transferor’s shares are, or are to be, or are proposed to be, transferred under this Division;

“transferor” means a shareholder of a registered insurer incorporated in Singapore, whose shares in the registered insurer are, or are to be, or are proposed to be, transferred under this Division.

(2) This Division shall not apply to a registered insurer which is a co-operative society registered under the Co-operative Societies Act (Cap. 62).

Compulsory transfer of shares

49FJ.—(1) The Authority may make a determination that all or any of the shares held by a transferor in a registered insurer incorporated in Singapore shall be transferred to a transferee if —

- (a) any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to the registered insurer, whether or not the Authority has exercised the power;
- (b) the transferee or, where the transferee is a corporation, its board of directors has consented to the transfer; and
- (c) the Authority is satisfied that the transfer is appropriate, having regard to —

-
- (i) the interests of the policy owners of the registered insurer given priority and the order of priority of each class of its policy owners under section 49FR;
 - (ii) where the transferee is a registered insurer in Singapore, the interests of the policy owners of the transferee given priority and the order of priority of each class of its policy owners under section 49FR;
 - (iii) the stability of the financial system in Singapore;
 - (iv) whether the PPF Agency has to make a payout from any of the PPF Funds to the transferee and the amount of such payout, if any; and
 - (v) any other matter that the Authority considers relevant.

(2) The Authority may, before making a determination, appoint one or more persons to perform an independent assessment of the proposed transfer of shares, including the compensation, if any, that should be paid by the transferee, and furnish a report on the transfer.

(3) The remuneration and expenses of a person appointed under subsection (2) shall be borne by the registered insurer.

(4) The Authority shall serve a copy of any report furnished under subsection (2) on the transferor and the transferee.

(5) Upon making a determination, the Authority shall submit the determination to the Minister for his approval.

(6) Before approving the determination, the Minister shall, unless he decides that it is not practicable or desirable to do so, cause to be given to the transferor notice of his intention to approve the determination by publication in the *Gazette* and in such newspaper or newspapers as the Minister may determine, specifying such particulars as the Minister considers appropriate and the date by which the transferor may make written representations to the Minister.

(7) In determining the period within which written representations have to be made under subsection (6), the Minister shall take into account the need for the transfer to be effected expeditiously in the interest of the stability of the financial system in Singapore.

(8) Upon receipt of any written representation, the Minister shall consider the representation for the purpose of deciding whether to approve the determination.

(9) Where the determination, if approved, will result in the transferee becoming a substantial shareholder or an effective controller of the registered insurer, the Minister shall not approve the determination unless —

(a) the Authority is satisfied that —

(i) the transferee is a fit and proper person; and

(ii) having regard to the likely influence of the transferee, the registered insurer will or will continue to conduct its business prudently and comply with the provisions of this Act; and

(b) the Minister is satisfied that it is in the public interest to do so.

(10) The Minister may —

(a) approve the determination without modification;

(b) approve the determination subject to any modification he considers appropriate if the transferee or, where the transferee is a corporation, its board of directors has agreed to the modification; or

(c) refuse to approve the determination.

(11) Any approval under subsection (10) shall be subject to such conditions as the Minister may determine and the Minister may add to, vary or revoke any such conditions.

(12) The transferor or transferee, as the case may be, shall comply with the conditions referred to in subsection (11).

(13) A determination, the approval of a determination under this section or the issue of a certificate shall not preclude the exercise of any power by the Authority or the Minister under this Act.

Certificate of transfer

49FK.—(1) If the Minister approves a determination, he shall, as soon as practicable, issue a certificate of transfer which shall come into effect on the date specified by the Minister in the certificate.

(2) The certificate shall specify such information as may be prescribed.

(3) The certificate may make provision for all or any of the following matters:

- (a) the transfer to the transferee of all or any of the shares of the transferor;
- (b) any share which is held by the transferor as trustee;
- (c) the compensation, if any, to be paid by the transferee to the transferor and the period within which the compensation is to be paid;
- (d) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the transfer is fully effective, including conditions relating to the transfer.

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

(5) The Authority shall cause the certificate and any addition, variation or revocation referred to in subsection (4), to be served on the registered insurer and published in the *Gazette* and in such newspaper or newspapers as the Minister may determine, on or before the date on which the certificate comes into effect.

(6) Notwithstanding any written law or rule of law, upon the certificate coming into effect, any share of the transferor that is to be transferred under the certificate shall be transferred to and vest in the transferee, free from any claim or encumbrance, without other or further assurance, act or deed; and the certificate shall have effect according to its tenor and be binding on any person thereby affected.

(7) For the avoidance of doubt, the shares of the transferor shall be transferred to and vest in the transferee in accordance with subsection (6) notwithstanding the death or dissolution, or the bankruptcy or winding up, or the mental or other incapacity, of the transferor.

(8) Section 259 of the Companies Act (Cap. 50) shall not apply to the transfer of any share under the certificate.

(9) Where the transfer of shares under the certificate results in the transferee becoming a substantial shareholder or an effective

controller of the registered insurer, the transferee shall, upon the coming into effect of the certificate —

- (a) be deemed to have obtained the approval of the Minister under section 27, 28 or 29, as the case may be, in respect of the shares; and
- (b) not be required to make a take-over offer or be required to acquire the shares of the other shareholders of the registered insurer notwithstanding the provisions of the Companies Act (Cap. 50) or the Take-over Code.

(10) A transferor or a transferee who contravenes any provision in the certificate shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both 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; and
- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(11) Where a person is charged with an offence under subsection (10), it shall be a defence for the person to prove that —

- (a) he was not aware he had contravened any provision in the certificate; and
- (b) he has complied with the provision within a reasonable time after becoming aware of the contravention.

(12) Except as provided in subsection (11), it shall not be a defence for a person charged with an offence under subsection (10) that he did not intend to or did not knowingly contravene any provision in the certificate.

(13) Notwithstanding section 41E and subject to section 49FU, during the period beginning with the date on which the Minister publishes the notice under section 49FJ(6) in the *Gazette* on the transfer of any share in a registered insurer or, where the notice is not published in the *Gazette*, the date on which the Authority publishes

the certificate under subsection (5) in the *Gazette* on the transfer of the share and ending with the date on which the transfer of the share comes into effect —

- (a) no execution or other legal process shall be commenced or continued against the share;
- (b) no steps shall be taken to enforce any security over the share;
- (c) any sale, transfer, assignment or other disposition of the share shall be void;
- (d) no voting rights shall be exercisable in respect of the share unless the Minister expressly permits such rights to be exercised;
- (e) no shares in the registered insurer shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the share unless the Minister expressly permits such issue or offer;
- (f) no payment shall be made by the registered insurer of any amount (whether by dividends or otherwise) in respect of the share unless the Minister expressly authorises such payment;
- (g) no resolution shall be passed, and no order shall be made, for the winding up of the registered insurer;
- (h) no proceedings shall be commenced or continued against the registered insurer in respect of any business of the registered insurer;
- (i) no execution, distress or other legal process shall be commenced, levied or continued against any property of the registered insurer;
- (j) no steps shall be taken to enforce any security over any property of the registered insurer; and
- (k) any sale, transfer, assignment or other disposition of any property of the registered insurer shall be void except for any payment of claims to policy owners or claimants (other than policy owners who are related corporations of the registered insurer).

*Division 4 — Power to restructure capital***Interpretation of this Division**

49FL. In this Division, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of restructuring issued by the Minister under section 49FN(1);

“determination” means a determination of the Authority under section 49FM(1) or (2);

“effective controller” means a person who has effective control as defined in section 27(4)(a);

“property” includes property, right and power of every description;

“subscriber” means any person to whom shares in a registered insurer incorporated in Singapore are, or are to be, or are proposed to be, issued under this Division.

Compulsory restructure of capital

49FM.—(1) If any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to a registered insurer incorporated or established in Singapore, whether or not the Authority has exercised the power, and the Authority is of the opinion that —

- (a) the liability on any of the shares of the registered insurer in respect of share capital not paid up ought to be extinguished or reduced; or
- (b) any paid-up share capital of the registered insurer is lost or unrepresented by the available assets of the registered insurer,

the Authority may make a determination that the share capital of the registered insurer shall be reduced by the cancellation of the whole or any part of its share capital not paid up, or of its paid-up share capital which is lost or unrepresented by its available assets.

(2) The Authority may, in writing, make a determination that shares shall be issued by a registered insurer incorporated in Singapore to a subscriber if —

- (a) any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to the registered insurer, whether or not the Authority has exercised the power;
- (b) the subscriber or, where the subscriber is a corporation, its board of directors has consented to subscribe for the shares; and
- (c) the Authority is satisfied that the issue of shares is appropriate, having regard to —
 - (i) the interests of the policy owners of the registered insurer given priority and the order of priority of each class of its policy owners under section 49FR;
 - (ii) where the subscriber is a registered insurer in Singapore, the interests of policy owners of the subscriber given priority and the order of priority of each class of its policy owners under section 49FR;
 - (iii) the stability of the financial system in Singapore; and
 - (iv) any other matter that the Authority considers relevant.

(3) The Authority may, before making a determination, appoint one or more persons to perform an independent assessment of the value of the assets of the registered insurer and, in the case of a determination under subsection (2), the consideration, if any, that should be paid by the subscriber, and furnish a report on the restructuring.

(4) The remuneration and expenses of a person appointed under subsection (3) shall be borne by the registered insurer.

(5) The Authority shall serve a copy of any report furnished under subsection (3) on the registered insurer and, where the report is in relation to a determination to be made under subsection (2), on the subscriber.

(6) Upon making a determination, the Authority shall submit the determination to the Minister for his approval.

(7) Before approving the determination, the Minister shall, unless he decides that it is not practicable or desirable to do so —

- (a) publish in the *Gazette* and in such newspaper or newspapers as may be determined by the Minister a notice of his intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which any shareholder of the registered insurer may make written representations to the Minister; and
- (b) cause to be given to the registered insurer notice in writing of his intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which the registered insurer may make written representations to the Minister.

(8) In determining the period within which written representations have to be made under subsection (7), the Minister shall take into account the need for the restructuring to be effected expeditiously in the interest of the stability of the financial system in Singapore.

(9) Upon receipt of any written representation, the Minister shall consider the representation for the purpose of deciding whether to approve the determination.

(10) Where the determination under subsection (2), if approved, will result in the subscriber becoming a substantial shareholder or an effective controller of the registered insurer, the Minister shall not approve the determination unless —

- (a) the Authority is satisfied that —
 - (i) the subscriber is a fit and proper person; and
 - (ii) having regard to the likely influence of the subscriber, the registered insurer will or will continue to conduct its business prudently and comply with the provisions of this Act; and
- (b) the Minister is satisfied that it is in the public interest to do so.

(11) The Minister may —

- (a) approve the determination without modification;

(b) approve the determination subject to any modification he considers appropriate if the subscriber or, where the subscriber is a corporation, its board of directors has agreed to the modification; or

(c) refuse to approve the determination.

(12) Any approval under subsection (11) shall be subject to such conditions as the Minister may determine and the Minister may add to, vary or revoke any such conditions.

(13) The registered insurer or subscriber, as the case may be, shall comply with the conditions referred to in subsection (12).

(14) A determination, the approval of a determination under this section or the issue of a certificate shall not preclude the Authority or the Minister from exercising any power under this Act.

Certificate of restructuring

49FN.—(1) If the Minister approves a determination, he shall, as soon as practicable, issue a certificate of restructuring which shall come into effect on the date specified by the Minister in the certificate.

(2) The certificate shall specify such information as may be prescribed.

(3) The certificate may make provision for all or any of the following matters:

(a) the cancellation of the whole or any part of the share capital of the registered insurer not paid up;

(b) the cancellation of the whole or any part of the paid-up share capital of the registered insurer lost or unrepresented by the available assets of the registered insurer;

(c) the shares to be issued by the registered insurer to the subscriber, the compensation, if any, to be paid by the subscriber for the shares and the period within which the compensation is to be paid;

(d) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the

restructuring is fully effective, including conditions relating to the restructuring.

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

(5) The Authority shall cause the certificate and any addition, variation or revocation referred to in subsection (4) to be served on the registered insurer and published in the *Gazette* and in such newspaper or newspapers as the Minister may determine, on or before the date on which the certificate comes into effect.

(6) Notwithstanding any written law or rule of law (including anything in the memorandum or articles of association of the registered insurer) —

- (a) where the certificate provides for a reduction of the share capital of the registered insurer, upon the certificate coming into effect, the reduction of the share capital shall take effect and the certificate shall have effect according to its tenor without other or further act by the registered insurer and be binding on any person thereby affected; and
- (b) where the certificate provides for the issue of shares by the registered insurer, the registered insurer shall issue the shares in accordance with the certificate and the certificate shall have effect according to its tenor and be binding on any person thereby affected.

(7) Where the issue of shares under the certificate results in the subscriber becoming a substantial shareholder or an effective controller of the registered insurer, the subscriber shall, upon the coming into effect of the certificate —

- (a) be deemed to have obtained the approval of the Authority under section 27, 28 or 29, as the case may be, in respect of the shares; and
- (b) not be required to make a take-over offer or be required to acquire the shares of the other shareholders of the registered insurer notwithstanding the provisions of the Companies Act (Cap. 50) or the Take-over Code.

(8) The registered insurer shall lodge a copy of the certificate with the Registrar of Companies within 7 days after being served with the certificate.

(9) A registered insurer or a subscriber which contravenes any provision in the certificate shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both 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; and
- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(10) Where a subscriber is charged with an offence under subsection (9), it shall be a defence for the subscriber to prove that —

- (a) he was not aware he had contravened any provision in the certificate; and
- (b) he has complied with the provision within a reasonable time after becoming aware of the contravention.

(11) Except as provided in subsection (10), it shall not be a defence for a subscriber charged with an offence under subsection (9) that he did not intend to or did not knowingly contravene any provision in the certificate.

(12) Any registered insurer which fails to comply with subsection (8) and every officer of the registered insurer who fails to take all reasonable steps to secure compliance by the registered insurer with that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.

(13) Notwithstanding section 41E and subject to section 49FU, during the period beginning with the date on which the Minister publishes the notice under section 49FM(7) in the *Gazette* on the restructuring of the share capital of a registered person or, where the

notice is not published in the *Gazette*, the date on which the Authority publishes the certificate under subsection (5) in the *Gazette* on the restructuring of the share capital and ending with the date on which the certificate comes into effect —

- (a) no resolution shall be passed, and no order shall be made, for the winding up of the registered insurer;
- (b) no proceedings shall be commenced or continued against the registered insurer in respect of any business of the registered insurer;
- (c) no execution, distress or other legal process shall be commenced, levied or continued against any property of the registered insurer;
- (d) no steps shall be taken to enforce any security over any property of the registered insurer; and
- (e) any sale, transfer, assignment or other disposition of any property of the registered insurer shall be void, except for any payment of claims to policy owners or claimants (other than policy owners who are related corporations of the registered insurer).

Division 5 — Winding up

General provisions as to winding up

49FO.—(1) On an application of the Authority, the Court may, in addition to the grounds specified in section 254(1) of the Companies Act (Cap. 50), order under that Act the winding up of a company incorporated in Singapore which is carrying on or has carried on insurance or insurance broking business in Singapore if —

- (a) the Authority has exercised any power under section 41(2) in relation to the company; or
- (b) the company has contravened any of the provisions of this Act.

(2) On an application of the Authority, the Court may, in addition to the grounds specified in section 351(1) of the Companies Act, order under that Act the winding up of an unregistered company

which is carrying on or has carried on insurance or insurance broking business in Singapore if —

- (a) the Authority has exercised any power under section 41(2) in relation to the company;
- (b) the company has been registered under this Act or under any written law repealed by this Act, and that registration has been revoked or has expired and has not been renewed; or
- (c) the company is carrying on or has carried on insurance or insurance broking business in Singapore in contravention of any provision of this Act.

(3) Notwithstanding sections 254(2) and 351(2) of the Companies Act (Cap. 50), on an application of the Authority for the winding up, on the ground specified in section 254(1)(e) or 351(1)(c)(ii) of the Companies Act, of a company which is carrying on or has carried on insurance or insurance broking business in Singapore, any statement of account lodged by the company with the Authority at any time during the period beginning with the close of the last financial year of the company and ending with the making of the application for the winding up which shows that the company is insolvent shall be evidence that the company is unable to pay its debts unless the Court, in its discretion, calls for further evidence on this issue.

(4) Notwithstanding any written law or rule of law —

- (a) no person shall be appointed as a liquidator under the Companies Act of a company which is carrying on or has carried on insurance business in Singapore, without the prior written approval of the Authority; and
- (b) in the case of a foreign company which is a registered insurer which is carrying on or has carried on insurance business in Singapore, a liquidator appointed for its liquidation or dissolution at its place of incorporation or origin shall not have the powers and functions of a liquidator for Singapore unless the liquidator has been approved by the Authority, and the exercise of any power or function by the liquidator in contravention of this paragraph shall be invalid and of no effect.

(5) For the avoidance of doubt, subsection (4)(a) shall not affect the operation of section 263(a), (d), (da) or (e) of the Companies Act (Cap. 50).

(6) Any approval of the Authority under subsection (4)(b) shall be subject to such conditions as the Authority may determine and the Authority may add to, vary or revoke any such conditions.

(7) The registered insurer or the liquidator, as the case may be, referred to in subsection (4)(b) shall comply with the conditions referred to in subsection (6).

(8) Notwithstanding any written law or rule of law, a liquidator appointed in respect of a registered insurer carrying on insurance business in Singapore shall, when winding up the registered insurer —

- (a) endeavour, as far as reasonably practicable, to sell or transfer the whole or part of the insurance business of the registered insurer to any other insurer registered to carry on the relevant class or classes of business;
- (b) continue to carry on the insurance business of the registered insurer until the whole insurance business is transferred to another insurer registered to carry on the relevant class or classes of business, unless directed by the Court; and
- (c) have all necessary powers to carry out the functions set out in paragraphs (a) and (b).

(9) The Authority may at any time appoint one or more actuaries to perform an independent assessment of, and furnish a report on, the proposed transfer of the insurance business of a company by a liquidator pursuant to subsection (8).

(10) The remuneration and expenses of any actuary appointed under subsection (9) shall be paid by the registered insurer.

(11) The Authority shall serve a copy of any report furnished under subsection (9) on the liquidator.

(12) Notwithstanding any written law or rule of law, where a company which is carrying on or has carried on insurance or insurance broking business in Singapore is being wound up, the Authority shall, subject to such modifications as may be necessary, have the same powers and rights as a creditor of the company under

the Companies Act (Cap. 50) including the right to appear and be heard before a Court in any proceedings in the winding up.

(13) Without prejudice to subsection (12) and notwithstanding any written law or rule of law, where a company which is carrying on or has carried on insurance or insurance broking business in Singapore is being wound up, its liquidator (whether appointed under the Companies Act or, in the case of a foreign company, appointed at its place of incorporation or origin) shall give the Authority such information as the Authority may from time to time require about the affairs of the company or the winding up.

(14) Any liquidator who —

- (a) without reasonable excuse, fails to comply with subsection (7) or (13); or
- (b) in purported compliance with subsection (13), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both 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.

(15) The Authority shall be a party to any proceedings under the Companies Act relating to the winding up of the affairs of an insurer or insurance broker registered under this Act, and the liquidator in such a winding up shall give the Authority such information as it may from time to time require about the affairs of the insurer or insurance broker, as the case may be.

(16) For the purposes of any proceedings under the Companies Act for the winding up of the affairs of such an insurer by the Court, the contingent and prospective liabilities of the insurer in respect of policies shall, in determining whether it is unable to pay its debts, be estimated in accordance with such rules as may be prescribed.

(17) If the Authority submits to the Rules Committee, established under any written law relating to the courts, proposals for making special provision under section 410 of the Companies Act in relation to insurers registered under this Act or any description of such

insurers, the Rules Committee may by rules made under that section give effect to the proposals, either as submitted or subject to such modifications as the Rules Committee may think fit.

(18) Proposals under subsection (17), and rules made by virtue thereof, may provide for modifying or excluding, in relation to insurers so registered, provisions of Part X of the Companies Act (Cap. 50) requiring the holding of meetings or otherwise relating to the procedure in a winding up.

(19) In the winding up of the affairs of a registered insurer, section 327(2) of the Companies Act (which applies bankruptcy rules in the winding up of insolvent companies), shall not apply to the valuation of liabilities in respect of policies; but in any such winding up, whether the insurer is insolvent or not, those liabilities shall be estimated in accordance with the rules prescribed under subsection (16) and, as regards matters not fixed by the rules, on a basis approved by the Court.

(20) In a members' voluntary winding up, the basis to be adopted as regards matters not fixed by the rules may be approved by the Authority instead of by the Court.

(21) References in this section to a registered insurer shall extend also to a Singapore insurer which has ceased to be so registered but remains under any liability in respect of Singapore policies or offshore policies.

(22) In this section —

“Court” means the High Court or a Judge thereof;

“liquidator” includes a provisional liquidator;

“unregistered company” has the same meaning as in section 350 of the Companies Act.

Special provision for insurers directed to cease insurance business

49FP.—(1) Where the Authority gives an insurer a direction under section 41(2)(a)(v) by reason of the insolvency of the fund maintained by the insurer under this Act for either class of insurance business, the affairs of the insurer may be wound up by the Court under the Companies Act as if it had suspended its business for a

whole year or, in the case of a winding up under Division 5 of Part X of that Act, as if it had ceased to carry on business.

(2) Where the Authority gives an insurer a direction under section 41(2)(a)(v) but, on an application for the affairs of the insurer to be wound up by the Court, the Court is satisfied that the insurer will be able to pay its debts in full within 12 months or such longer period as the Court thinks reasonable, the Court may (if it thinks fit) order the affairs of the insurer to be wound up only as regards the insurance fund maintained for the class of insurance business to which the direction relates.

(3) An order made under subsection (2) for a limited winding up shall be of the same effect as an order for the affairs of the insurer to be wound up generally, except in so far as this section otherwise provides.

(4) Where such an order is made, the powers of the liquidator shall be exercisable only for the purpose of applying the assets of the relevant insurance fund in discharging the liabilities to which they are applicable, together with the costs, charges and expenses incurred in the winding up.

(5) The insurer shall, from time to time, as the Court may direct, make such additions to those assets as are required to secure that they are sufficient for the purpose or shall, if the Court so directs, discharge any of those liabilities out of other assets.

(6) In the winding up of the affairs of an insurer under such an order, the Companies Act (Cap. 50) shall have effect subject to the following modifications:

- (a) section 250 (or, as the case may be, section 352) of that Act and other sections so far as they relate to contributories shall not apply;
- (b) section 258 shall apply after, as it applies before, the making of the winding up order, and section 262(3) of that Act shall not apply; and
- (c) sections 259, 260, 319, 329, 330 and 332 to 335 of that Act shall not apply.

(7) Where such an order is made, the Court may, at any time, on the application of the liquidator or of any person who might apply for the affairs of the insurer to be wound up —

- (a) substitute an order for the affairs of the insurer to be wound up generally; and
- (b) give such directions as the Court thinks fit as to matters in progress under the previous order,

and, subject to any such directions, the winding up shall, for all purposes connected with the substituted order, be deemed to have commenced at the time of the application for that order.

(8) In this section, “Court” means the High Court or a Judge thereof.

Co-operative societies doing insurance business

49FQ.—(1) Where a co-operative society registered under the Co-operative Societies Act (Cap. 62) is a registered insurer, no proceedings for the transfer of assets and liabilities, dissolution or winding up of the co-operative society shall be taken under sections 74, 75 and 83 to 89 of that Act.

(2) Notwithstanding section 101 of the Co-operative Societies Act, any co-operative society which is a registered insurer shall be deemed to be an unregistered company within the meaning of Division 5 of Part X of the Companies Act (Cap. 50) and may be wound up by the Court under the Companies Act (as modified by this section) and the applicable provisions of this Part.

(3) In any such winding up —

- (a) in applying the provisions of the Companies Act, any reference to the Registrar under the Companies Act shall be read as reference to the Registrar under the Co-operative Societies Act;
- (b) notwithstanding subsection (2), section 344 of the Companies Act shall be applicable and in applying this provision, any reference to the register under the Companies Act shall be read as a reference to the register of societies referred to in section 10A(1)(a) of the Co-operative Societies Act;

- (c) upon winding up of the society, the assets shall be applied first to the cost of liquidation, then to the discharge of the liabilities of the society (where the priority of claim set out in section 49FR shall apply to unsecured liabilities of the registered insurer), then to the payment of the share capital or subscription capital, and then, provided that the by-laws of the society permit, to the payment of a dividend or patronage refund at a rate not exceeding that laid down in the Co-operative Societies Rules 2009 (G.N. No. S 349/2009) or in the by-laws for any period during which no dividend or patronage refund was in fact paid; and
- (d) any moneys remaining after the application of the funds to the purposes specified in paragraph (c), shall be carried to the Co-operative Societies Liquidation Account kept by the Registrar and section 89(4) and (5) of the Co-operative Societies Act (Cap. 62) shall apply to deal with the moneys in the Co-operative Societies Liquidation Account.

(4) In this section, “Court” means the High Court or a Judge thereof.

Priority of claims of policy owners and specified liabilities

49FR.—(1) Where a registered insurer becomes unable to meet its obligations or becomes insolvent, the assets of the registered insurer subject to section 17(11), shall be available to meet all liabilities in Singapore of the registered insurer specified in subsection (3), including liabilities which are properly attributable to the business to which an insurance fund relates.

(2) The liabilities in Singapore of the registered insurer specified in subsection (3) shall have priority over all unsecured liabilities of the insurer other than the preferential debts specified in section 328(1) of the Companies Act (Cap. 50).

(3) Notwithstanding the provisions of any written law or any rule of law relating to the winding up of companies, in the event of a winding up of a registered insurer, the following liabilities in Singapore of the registered insurer (which include liabilities which are properly attributable to the business to which an insurance fund relates) shall rank in the following order of priority:

- (a) firstly, any levy due and payable by the registered insurer under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011;
 - (b) secondly, protected liabilities incurred by the registered insurer, up to the amount paid or payable out of any of the PPF Funds by the PPF Agency under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 in respect of such protected liabilities and, if applicable, the amount paid or payable out of any of the PPF Funds by the PPF Agency under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 to fund any transfer or run-off of the business of the registered insurer;
 - (c) thirdly, any liabilities incurred by the registered insurer in respect of direct policies which are not protected under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011;
 - (d) fourthly, any liabilities incurred by the registered insurer in respect of reinsurance policies.
- (4) The liabilities in each class specified in subsection (3) shall —
- (a) rank in the order specified therein but as between liabilities of the same class shall rank equally between themselves; and
 - (b) be paid in full unless the assets of the registered insurer are insufficient to meet them in which case they shall abate in equal proportions between themselves.
- (5) In this section, “protected liabilities” has the same meaning as in the Deposit Insurance and Policy Owners' Protection Schemes Act 2011.

Division 6 — Miscellaneous

Modification of law of insolvency

49FS. Notwithstanding anything to the contrary contained in this Act, the Bankruptcy Act (Cap. 20) and the Companies Act (Cap. 50), any sale, transfer, assignment or other disposition of any property or business of the registered insurer pursuant to section 49FF, shall not be reversed, repaid or set aside and no order shall be made by any

court for the rectification or stay of such sale, transfer, assignment or other disposition.

Power to obtain information under this Part

49FT.—(1) The Minister or the Authority may require a person to furnish, within the period and in the manner specified by the Minister or the Authority, any information that the Minister or the Authority may reasonably require for the discharge of his or its duties or functions, or the exercise of his or its powers, under this Part.

(2) Any person who —

- (a) without reasonable excuse, fails to comply with any requirement under subsection (1); or
- (b) in purported compliance with any requirement under subsection (1), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both 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.

Cessation of moratorium, etc., under this Part

49FU.—(1) The Minister may, by order published in the *Gazette*, direct that section 49FH, 49FK(13) or 49FN(13), or any provision thereof, shall cease to apply to any registered insurer, any business (or any part thereof) of any registered insurer or any share in any registered insurer and on the date specified by the Minister in the order, the relevant section, or the provision thereof, shall cease to apply to the registered insurer, the business (or the part thereof) of the registered insurer or the share in the registered insurer, as the case may be.

(2) In this section, “business” includes affairs, property, right, obligation and liability.

Recovery of fees, expenses, etc.

49FV. There shall be recoverable as a civil debt due to the Authority from a registered insurer concerned, any remuneration and expenses payable by the registered insurer to —

- (a) a statutory manager appointed under section 41; and
- (b) any person appointed to perform any independent assessment under this Part.

Regulations for this Part

49FW. The Minister may make such regulations as may be necessary or expedient for carrying out the purposes and provisions of this Part and for prescribing anything that may be required to be prescribed under this Part.”.

Amendment of section 55

15. Section 55(1) of the Insurance Act is amended by deleting “49(1)(a)” in paragraph (a) and substituting “49FD(1)(a)”.

Consequential amendments to Companies Act

16. The Companies Act (Cap. 50) is amended —

- (a) by deleting the words “41(1)(b) of the Insurance Act” in section 145(6) and substituting the words “41(2)(a)(ii) of the Insurance Act”;
- (b) by inserting, immediately after the words “banking corporation” in section 210(3A), the words “or registered insurer, as the case may be”;
- (c) by deleting subsection (4A) of section 210 and substituting the following subsection:

“(4A) The Court shall not approve any compromise or arrangement which has been proposed for the purposes of or in connection with any scheme referred to in section 212(1) under which the whole or any part of the undertaking or the property of a banking corporation incorporated in Singapore or registered insurer incorporated in Singapore is to be transferred, unless the Minister charged with the responsibility for banking or insurance matters, as the case may be, has

consented to the compromise or arrangement or has certified that his consent is not required.”; and

- (d) by deleting subsection (1A) of section 212 and substituting the following subsection:

“(1A) Without prejudice to section 210(4A), the Court shall not make any order providing for the transfer of the whole or any part of the undertaking or the property of a banking corporation incorporated in Singapore or registered insurer incorporated in Singapore unless the Minister charged with the responsibility for banking or insurance matters, as the case may be, has consented to the transfer or has certified that his consent is not required.”.

Savings and transitional provisions

17.—(1) The Authority shall, within 6 months from the date of commencement of this Act (referred to in this section as the commencement date) —

- (a) refund the deposits retained by the Authority under the repealed section 14(4) of the Insurance Act in force immediately before that date to the Singapore insurers who made such deposits with the Authority under the repealed section 14(1) of the Insurance Act in force immediately before that date; and
- (b) terminate the bank covenants given under section 15 of the Insurance Act immediately in force before the commencement date to deposit with the Authority a specified sum in cash on account of the insurer’s deposit under the repealed section 14 of the Insurance Act in force immediately before that date.

(2) For a period of 2 years after the commencement date, the Minister may, by regulations published in the *Gazette*, prescribe such provisions of a savings or transitional nature consequent on the enactment of this Act, as he may consider necessary or expedient.
