



**THE STATUTES OF THE REPUBLIC OF SINGAPORE**

**EXCHANGES  
(DEMUTUALISATION AND MERGER) ACT  
(CHAPTER 99B)**

**Act  
27 of 1999**

**REVISED EDITION 2000**

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THE LAW REVISION COMMISSION  
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THE REVISED EDITION OF THE LAWS ACT (CHAPTER 275)

# Exchanges (Demutualisation and Merger) Act

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An Act to provide for the demutualisation and merger of the Stock Exchange of Singapore Limited, the Singapore International Monetary Exchange Limited and the Securities Clearing and Computer Services (Pte) Limited by making these companies wholly-owned subsidiaries of a transferee holding company.

[8th October 1999]

WHEREAS:

- (A) The Stock Exchange of Singapore Limited is a public company limited by shares incorporated in Singapore under the Companies Act (Chapter 50) and carries on, *inter alia*, the business of providing, regulating and maintaining facilities for conducting the business of a Stock Exchange in Singapore pursuant to the Securities Industry Act (Chapter 289).
- (B) The Singapore International Monetary Exchange Limited is a public company limited by shares incorporated in Singapore under the Companies Act and carries on, *inter alia*, the business of establishing and conducting a commodities and financial futures market in Singapore pursuant to the Futures Trading Act (Chapter 116).
- (C) The Securities Clearing and Computer Services (Pte) Limited is a company limited by shares incorporated in Singapore under the Companies Act and carries on, *inter alia*, the business of providing facilities for the clearing of contracts and the delivery and receipt of stocks and securities and for providing accounting, management consultancy and computer services to members of the Stock Exchange of Singapore Limited.
- (D) It is expedient to make provisions to facilitate the transfer of ownership of the Stock Exchange of Singapore Limited, the Singapore International Monetary Exchange Limited and the Securities Clearing and Computer Services (Pte) Limited to a transferee holding company designated by the Minister in order to demutualise and merge the respective Exchanges to form an integrated Exchange for the trading of securities and futures contracts and for leveraged foreign exchange trading in Singapore.

**Short title**

**1.** This Act may be cited as the Exchanges (Demutualisation and Merger) Act.

**Interpretation**

**2.** In this Act, unless the context otherwise requires —

“auditor” means an approved company auditor as defined in section 4 of the Companies Act (Cap. 50);

“Authority” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

“Financial Sector Development Fund” means the Financial Sector Development Fund established under Part IVA of the Monetary Authority of Singapore Act;

“record” means information that is inscribed, stored or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

“registered owner”, in relation to a SIMEX seat, means the person allotted a SIMEX seat and registered as the owner of a SIMEX seat in the register of allotment of seats referred to in the articles of association of SIMEX;

“rules”, in relation to the transferee holding company, means the rules governing the transferee holding company and its members, by whatever name called and wherever contained, and includes rules contained in the memorandum of association and the articles of association of the transferee holding company;

“SCCS” means Securities Clearing and Computer Services (Pte) Limited;

“SCCS shares” means shares issued by Securities Clearing and Computer Services (Pte) Limited;

“SES” means Stock Exchange of Singapore Limited;

“SES shares” means shares issued by Stock Exchange of Singapore Limited;

“SIMEX” means Singapore International Monetary Exchange Limited;

“SIMEX seat” means the place on the SIMEX futures market referred to in the articles of association of SIMEX as a “seat” and allotted by the Board of Directors of SIMEX in accordance with the rules of SIMEX;

“SIMEX shares” means shares issued by Singapore International Monetary Exchange Limited;

“special purpose company” means a company incorporated in Singapore and designated by the Minister under section 3 (2) (b);

“transfer date” means the transfer date referred to in section 3 (1);

“transferee holding company” means a public company incorporated in Singapore and designated by the Minister under section 3 (2) (a);

“transferee holding company’s shares” means shares issued by the transferee holding company.

### Transfer date and designation of companies

**3.—(1)** The transfer date shall be such date as the Minister may, by notification in the *Gazette*, appoint\*.

(2) The Minister may, by notification in the *Gazette*, designate† —

(a) a public company incorporated in Singapore to be the transferee holding company for the purposes of this Act; and

(b) a company incorporated in Singapore to be the special purpose company for the purposes of this Act.

## Reduction of share capital of SES, SIMEX and SCCS

**4.—(1)** The capital of SES shall, on the transfer date, be reduced by cancelling all issued SES shares as at the transfer date which shall be 34 SES shares.

\*1st December 1999 (G.N. No. S 524/99) — Transfer Date.

† (a) transferee holding company — Singapore Exchange Limited.

(b) special purpose company — SEL Holdings Pte Ltd (*see* G.N. No. S 525/99 — with effect from 1st December 1999).

(2) The capital of SIMEX shall, on the transfer date, be reduced by cancelling all issued SIMEX shares as at the transfer date which shall be 40 SIMEX shares.

(3) The capital of SCCS shall, on the transfer date, be reduced by cancelling all issued SCCS shares as at the transfer date which shall be 34 SCCS shares.

(4) Every certificate representing a holding of SES shares, SIMEX shares or SCCS shares held immediately before the transfer date shall, on the transfer date —

(a) be deemed to be cancelled; and

(b) cease to have effect as a document of title of the shares comprised in that certificate.

(5) The reduction of the share capital of SES, SIMEX and SCCS under subsections (1), (2) and (3), respectively, shall not be subject to the requirements of section 73 of the Companies Act (Cap. 50) (which provides for special resolution for reduction of share capital).

### **Capital creation and issue of shares of SES, SIMEX and SCCS**

**5.—**(1) Immediately upon the reduction of the issued share capital of SES under section 4 (1) taking effect, the capital of SES shall be increased to \$34 by the creation of 34 SES shares and such shares shall be allotted and issued and credited as fully paid-up to the transferee holding company on the transfer date.

(2) Immediately upon the reduction of the issued share capital of SIMEX under section 4 (2) taking effect, the capital of SIMEX shall be increased to \$40 by the creation of 40 SIMEX shares and such shares shall be allotted and issued and credited as fully paid-up to the transferee holding company on the transfer date.

(3) Immediately upon the reduction of the issued share capital of SCCS under section 4 (3) taking effect, the capital of SCCS shall be increased to \$34 by the creation of 34 SCCS shares and such shares shall be allotted and issued and credited as fully paid-up to the transferee holding company on the transfer date.

(4) The transferee holding company shall, within 30 days of the transfer date, give a notice to the Registrar of Companies of the particulars of the capital reduction under section 4 and the capital creation under this section.

(5) Nothing in —

- (a) the memorandum of association or articles of association of SES, SIMEX or SCCS; or

- (b) the rules, regulations or bye-laws of SES, SIMEX or SCCS,

### Allotment and issue of transferee holding company's shares

**6.—**(1) The transferee holding company shall, on the transfer date, allot and issue to SES shareholders as at the transfer date such number of new transferee holding company's shares as amounting to \$6 million in value for each SES share, with the exception of the SES shares held by any SES shareholder in involuntary liquidation as at 4th November 1998 including Associated Asian Securities (Pte) Limited (in liquidation).

(2) No fraction of a new transferee holding company's share shall be allotted or issued to any SES shareholder.

(3) The transferee holding company shall, on the transfer date, allot and issue —

- (a) to SIMEX shareholders as at the transfer date, such number of new transferee holding company's shares as amounting to \$115,000 in value for each SIMEX share, with the exception of the SIMEX shares held by any SIMEX shareholder in involuntary liquidation as at 4th November 1998; and

- (b) to registered owners of SIMEX seats as at the transfer date, such number of new transferee holding company's shares as amounting to \$170,000 in value for each SIMEX seat.

(4) No fraction of a new transferee holding company's share shall be allotted or issued to any SIMEX shareholder or any registered owner of a SIMEX seat.

(5) The transferee holding company's shares issued under this section shall —

- (a) be of such value as the Minister may, by notification in the *Gazette*, determine\*; and

\*\$5,000 per share (G.N. No. S 526/99 — with effect from 1st December 1999).

- (b) be issued as fully paid and deemed for the purposes of the Companies Act (Cap. 50) as if they had been paid-up.

### **Transfer of reserves of SES, SIMEX and SCCS**

**7.**—(1) The assets of SES, SIMEX and SCCS, respectively, certified under subsection (2) shall be transferred to the transferee holding company on such date or dates as the Minister may determine.

(2) For the purposes of subsection (1), the Minister shall on the transfer date and from time to time certify, by notification in the *Gazette*, the description and value of the assets to be transferred to the transferee holding company on such date or dates as the Minister may determine.

(3) For the purposes of this section, “assets” means property and assets of every description (whether present or future, actual or contingent) wheresoever situate, and includes property held on trust and securities, rights, benefits, powers and liabilities of every description.

### **Sale of transferee holding company’s shares by special purpose company**

**8.**—(1) The transferee holding company shall make a single offer to the special purpose company of such number of its shares for subscription, at such par value, as the Minister may, by notice in writing, direct.

(2) The special purpose company shall, from time to time, offer for sale such number of the transferee holding company’s shares, at such price and on such terms, as the Minister may, by notice in writing, direct.

(3) Divisions 1 and 5 of Part IV of the Companies Act (which provides for prospectus requirements) shall not apply to an offer of shares made by the transferee holding company under subsection (1) or by the special purpose company under subsection (2).

(4) Section 76 of the Companies Act (which prohibits a company from financing dealings in its own shares) shall not apply in relation to any guarantee, indemnity, warranty, representation or other undertaking given or obligation assumed by the transferee holding



shares made under subsection (1) or (2).

## Exemption from section 59 of Companies Act

**9.** Section 59 of the Companies Act (Cap. 50) (which requires a statement in lieu of a prospectus on allotment of shares) shall not apply to the issue of the transferee holding company's shares under section 6 or 8.

## Proceeds from sale of shares

**10.—**(1) The Authority shall be authorised to utilise the proceeds raised in connection with the sale of the transferee holding company's shares made under section 8 (2) to meet the expenses and fees associated with the demutualisation and merger of SES, SIMEX and SCCS, the formation of the transferee holding company and the special purpose company and the offer and sale of the transferee holding company's shares.

(2) The remainder of the proceeds referred to in subsection (1) (after deducting the par value of those shares) shall be paid by the special purpose company into the Financial Sector Development Fund.

## Application of Companies Act to shares held by special purpose company

**11.**—(1) Notwithstanding section 213 of the Companies Act (which deals with take-over offers) and the Singapore Code on Take-Overs and Mergers referred to in section 213 (18) (a) of the Companies Act (referred to in this section as the Code), the transferee holding company's shares held by the special purpose company under section 8 (1) shall not be taken into account in determining whether —

- (a) the special purpose company;
- (b) any other company that is deemed by virtue of section 6 of the Companies Act to be related to the special purpose company; or
- (c) a company acting in concert with the company referred to in paragraph (a) or (b), as defined in the Code,

has acquired shares which carry the right to exercise or control the exercise of the votes attached to the transferee holding company's shares for the purposes of section 213 of the Companies Act (Cap. 50) or the Code.

(2) Notwithstanding any of the provisions of the Companies Act or anything contained in the memorandum or articles of association of the transferee holding company or the special purpose company, the special purpose company shall —

- (a) hold the transferee holding company's shares subscribed by it under section 8 (1) for the benefit of the Financial Sector Development Fund;
- (b) not exercise or control the exercise of the votes attached to such shares;
- (c) not dispose of, or otherwise deal with such shares or create security interests over such shares without the prior approval of the Minister or as otherwise permitted under this Act; and
- (d) hold any dividend or other distribution paid in respect of such shares for the benefit of the Financial Sector Development Fund.

### **Application of Trustees Act to investment in transferee holding company**

**12.**—(1) For the purpose of applying paragraph 1 (1) (b), (c) and (d) of Part IV of the First Schedule to the Trustees Act (Cap. 337) (which provide that securities of a company shall not count as authorised investments within the meaning of that Act unless the company has a shareholders equity of not less than \$30 million and has paid dividends in each of the relevant 3 years, and has reported a profit in the financial year immediately preceding that in which the investment is made) in relation to investment in securities of the transferee holding company during the financial year in which the transfer date falls (referred to in this section as the first investment year) or during any financial year following that year, the transferee holding company shall be deemed —

- (a) to have paid a dividend as mentioned in the said paragraph 1 (1) (b) in each financial year preceding the first investment year which is included in the relevant 3 years, and in the first investment year, if that year is included in the relevant

- (b) to have had a shareholders equity of not less than \$30 million as mentioned in the said paragraph 1 (1) (c); and
- (c) to have reported a profit as mentioned in the said paragraph 1 (1) (d) in the financial year preceding the first investment year, and in the first investment year, if the transferee holding company does not in fact report such a profit in that year.

(2) In subsection (1), “the relevant 3 years” means the 3 financial

### Listing of transferee holding company on stock exchange

**13.—**(1) The securities of the transferee holding company may be listed or quoted on a stock exchange as defined in the Securities Industry Act (Cap. 289) if the transferee holding company has entered into such arrangements as the Authority may require —

- (a) for dealing with possible conflicts of interest that may arise from the listing or quotation of securities of the transferee holding company on a stock exchange; and
- (b) for the purpose of ensuring the integrity of trading of the securities of the transferee holding company,

and the transferee holding company shall comply with such arrangements.

(2) The rules of the stock exchange shall be deemed to provide for the Authority, instead of the stock exchange, to make decisions and to take action (or require the stock exchange to take action on the Authority's behalf) on the following matters:

- (a) the admission to or removal from the stock exchange's official list of the transferee holding company; and
- (b) granting, stopping or suspending the quotation of securities of the transferee holding company on the stock exchange.

(3) The Authority may, by notice in writing —

- (a) modify the rules of the stock exchange for the purpose of applying to the listing, quotation or trading of the securities of the transferee holding company; and

- (b) exempt the transferee holding company from any rule of the stock exchange.

**Power to issue directives to transferee holding company**

**14.**—(1) The Authority may, if it thinks it necessary or expedient —

- (a) for ensuring fair and orderly securities and futures markets; or
- (b) for ensuring the integrity of, and proper management of systemic risks in, the securities and futures markets,

issue directives either of a general or specific nature to the transferee holding company.

(2) Without prejudice to the generality of subsection (1), any directive under that subsection may be issued in respect of —

- (a) the requirement for the prior approval of the Authority in respect of any proposed amendment, whether by way of alteration or addition, to the rules of the transferee holding company;
- (b) the corporate governance of the transferee holding company;
- (c) the inspection by the Authority or by any person appointed by the Authority of the books, accounts, documents, records and affairs of the transferee holding company;
- (d) the production of the books, accounts, documents and records of the transferee holding company and the provision of such information, assistance and facilities as may be required by the Authority or by any person appointed by the Authority; and
- (e) the management by the transferee holding company of any of its subsidiaries that carries on the business of a securities exchange, futures exchange or clearing house, whether such business forms the whole or part of such subsidiary's undertaking.

(3) Any directive issued under subsection (2) may impose requirements or duties on any officer or employee or any class of

officers or employees of the transferee holding company in relation to conduct or matters connected with the transferee holding company or any of its subsidiaries referred to in subsection (2) (e).

(4) If the transferee holding company or any of its officers or employees, without reasonable excuse, fails to comply with any directive issued under subsection (1), the company, officer or employee 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 of \$10,000 for every day or part thereof during which the offence continues after conviction.

(5) The Authority may, without instituting proceedings against any person for an offence under this section, demand and receive the amount of such fine or such reduced amount as it thinks fit from that person.

(6) If the person referred to in subsection (5) —

(a) pays such amount to the Authority within 14 days after the demand, no proceedings shall be taken against him in relation to the offence; or

(b) does not pay the amount so demanded, the Authority may cause proceedings to be instituted against him in relation to the offence.

(7) Without prejudice to subsection (4), where the High Court is satisfied that the transferee holding company or any of its officers or employees has, without reasonable excuse, failed to comply with any directive issued under subsection (1), the High Court may, on the application of the Authority, grant an injunction directing the company or any of its officers or employees to do or refrain from doing a specific act.

(8) The High Court may revoke, vary or discharge an order made under subsection (7) or suspend the operation of such an order.

(9) If the transferee holding company or any of its officers or employees is aggrieved by any direction of the Authority under subsection (1), the transferee holding company may appeal to the High Court within 30 days of the date of issue of the Authority's directive.

**Control of substantial shareholdings in transferee holding company**

**15.**—(1) No person shall enter into any agreement to acquire shares by virtue of which he would, if the agreement is carried out, acquire a substantial shareholding in the transferee holding company without first notifying the Authority of his intention to enter into the agreement and obtaining the approval of the Authority to his entering into the agreement.

(2) The Authority may grant its approval referred to in subsection (1) subject to such conditions as it considers appropriate to impose.

(3) Without prejudice to subsection (6), the Authority may, for the purposes of securing compliance with subsection (1) or any condition imposed under subsection (2), by notice in writing direct the transfer or disposal of all or any of the transferee holding company's shares in which the substantial shareholder has or has had an interest.

(4) Any person who is in receipt of a direction given by the Authority under subsection (3) shall transfer or dispose of the number of shares of the transferee holding company which are the subject of such direction, and until such transfer or disposal —

- (a) no voting rights shall be exercisable in respect of that number of shares;
- (b) no shares of the transferee holding company shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of that number of shares; and
- (c) except in a liquidation of the transferee holding company, no payment shall be made by the transferee holding company of any sums (whether by way of dividends or otherwise) in respect of that number of shares.

(5) For the purposes of this section —

“interest” has the same meaning as in section 7 of the Companies Act (Cap. 50);

“substantial shareholder” and “substantial shareholding” have the same meanings as in section 81 of the Companies Act.

(6) Any person who contravenes subsection (1) or (4) or who fails to comply with any condition imposed by the Authority under subsection (2) shall be guilty of an offence and shall be liable on

conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

### **Additional powers of Authority in respect of auditors**

**16.—**(1) If an auditor, in the course of the performance of his duties as an auditor of the transferee holding company, becomes aware —

- (a) of any matter which, in his opinion, may adversely affect the financial position of the transferee holding company to a material extent;
- (b) of any matter which, in his opinion, may constitute a breach of any provision of this Act or a criminal offence involving fraud or dishonesty; or
- (c) of any irregularities that have a material effect upon the accounts, including irregularities that may affect or jeopardise the funds or property of investors in securities or futures contracts,

he shall immediately report the matter to the Authority.

(2) An auditor shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of any statement made in his report under subsection (1).

(3) Subsection (2) shall not restrict or affect any right, privilege or immunity that the auditor has, apart from this section, as a defendant in an action for defamation.

(4) Notwithstanding the provisions of the Companies Act (Cap. 50), the Authority may impose all or any of the following additional duties on an auditor of the transferee holding company:

- (a) a duty to submit such additional information and reports in relation to his audit as the Authority considers necessary;
- (b) a duty to enlarge, extend or alter the scope of his audit of the business and affairs of the transferee holding company;
- (c) a duty to carry out any other examination or establish any procedure in any particular case;
- (d) a duty to submit a report on any matter referred to in paragraph (b) or (c),

and the transferee holding company shall remunerate the auditor in respect of the discharge by him of all or any of these additional duties.

(5) For the avoidance of doubt, sections 207 and 208 of the Companies Act (Cap. 50) shall, to the extent to which they may be applicable, apply to the discharge of an auditor's additional duties under subsection (4).

### **Jurisdiction of District Court**

**17.** Notwithstanding the provisions of the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to hear and determine all offences under this Act and shall have power to impose the full penalty or punishment in respect of any offence under this Act.



LEGISLATIVE HISTORY  
EXCHANGES  
(DEMUTUALISATION AND MERGER) ACT  
(CHAPTER 99B)

**Act 27 of 1999 — Exchanges (Demutualisation and Merger) Act 1999**

Date of First Reading	:	6.7.99 (Bill No. 20/99 published on 7.7.99)
Date of Second and Third Readings	:	4.8.99
Dates of commencement	:	8.10.99 (except sections 19 (a), (b) and (c) and 20 (d), (e), (f), (h) and (i)) 1.12.99 (section 20 (d), (e), (f), (h) and (i)) 1.10.2000 (section 19 (a), (b) and (c))

## COMPARATIVE TABLE

### EXCHANGES (DEMUTUALISATION AND MERGER) ACT (CHAPTER 99B)

The following provisions in the Exchanges (Demutualisation and Merger) Act 1999 (Act 27 of 1999) have been renumbered by the Law Revision Commissioners in this 2000 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Exchanges (Demutualisation and Merger) Act.

<b>2000 Ed.</b>	<b>Act 27 of 1999</b>
<b>14—(5) and (6)</b>	<b>14—(5)</b>
<b>(7) to (9)</b>	<b>(6) to (8)</b>
<i>Omitted</i>	<b>18, 19 and 20</b>