



THE STATUTES OF THE REPUBLIC OF SINGAPORE

DEPOSIT INSURANCE ACT

(CHAPTER 77A)

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Deposit Insurance Act

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An Act to establish a Deposit Insurance Scheme in Singapore for the purpose of providing limited compensation to insured depositors under certain circumstances, and for matters connected therewith.

[18th October 2005]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Deposit Insurance Act.

Interpretation

- 2.—(1) In this Act, unless the context otherwise requires —

“account with the electronic service”, in relation to any person, means a computer account within the electronic service which is assigned by the Authority to that person for the storage and retrieval of electronic records relating to that person;

“Agency” or “deposit insurance agency” means the company designated by the Minister under section 12 to be the deposit insurance agency;

Notes:—Unless otherwise stated, the abbreviations used in the references to other Acts and statutory provisions are references to the following Acts and statutory provisions. The references are provided for convenience and are not part of the Act:

HK DPS Ord 2004	: Hong Kong Deposit Protection Scheme Ordinance (No. 7 of 2004)
ACRA 2004	: Singapore Accounting and Corporate Regulatory Authority Act 2004 (No. 3 of 2004)
Accountants 2004	: Singapore Accountants Act 2004 (No. 4 of 2004)
Banking 2003 Ed.	: Singapore Banking Act (Chapter 19, 2003 Revised Edition)
Companies 1994 Ed.	: Singapore Companies Act (Chapter 50, 1994 Revised Edition)
FAA 2002 Ed.	: Singapore Financial Advisers Act (Chapter 110, 2002 Revised Edition)
Income Tax 2004 Ed.	: Singapore Income Tax Act (Chapter 134, 2004 Revised Edition)
Insurance 2002 Ed.	: Singapore Insurance Act (Chapter 142, 2002 Revised Edition)
LPA 2001 Ed.	: Singapore Legal Profession Act (Chapter 161, 2001 Revised Edition)
LT (Strata) 1999 Ed.	: Singapore Land Titles (Strata) Act (Chapter 158, 1999 Revised Edition)
MAS 1999 Ed.	: Monetary Authority of Singapore Act (Chapter 186, 1999 Revised Edition)
SFA 2002 Ed.	: Singapore Securities and Futures Act (Chapter 289, 2002 Revised Edition)

- “authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;
- “Authority” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);
- “bank” has the same meaning as in section 2 (1) of the Banking Act (Cap. 19);
- “bank in Singapore” has the same meaning as in section 2 (1) of the Banking Act;
- “book” includes any record, register, document or other record of information, and any account or accounting record, however compiled, recorded or stored, whether in written or printed form or on microfilm or in electronic form or otherwise;
- “Chief Executive” means the Chief Executive of the Agency appointed under section 18 and includes any person acting in that capacity;
- “client account”, in relation to a depositor, means an account maintained by the depositor with a Scheme member for the purpose of holding moneys held by the depositor for a client of the depositor, whether or not other moneys may be held in the account;
- “company” has the same meaning as in section 4 (1) of the Companies Act (Cap. 50);
- “corporation” has the same meaning as in section 4 (1) of the Companies Act;
- “CPFIS” means the Central Provident Fund Investment Scheme introduced by the Central Provident Fund Board under the Central Provident Fund (Investment Schemes) Regulations (Cap. 36, Rg 9);
- “deposit” means a sum of money paid on terms —
- (a) under which it will be repaid, with or without interest or a premium, or with any consideration in money or money’s worth, either on demand or at a time or in

circumstances agreed by or on behalf of the person making the payment and the person receiving it; and

- (b) which are not referable to the provision of property or services or to the giving of security;

“deposit-taking business” has the same meaning as in section 4B of the Banking Act (Cap. 19);

“depositor” means any person who is entitled to repayment of a deposit, whether or not the deposit is made by him;

“electronic record” has the same meaning as in section 2 of the Electronic Transactions Act (Cap. 88);

“electronic service” means the electronic service provided by the Authority under section 59;

“exempt member” means a full bank or finance company which has been exempted by the Authority under section 6 from the requirement to be a Scheme member;

“failed Scheme member” means a Scheme member in respect of which the Authority has determined that compensation will be paid out of the Fund to insured depositors;

“finance company” has the same meaning as in section 2 of the Finance Companies Act (Cap. 108);

“full bank” means any bank holding a licence granted by the Authority under the Banking Act which permits the bank to carry on the full range of banking business;

“Fund” means the Deposit Insurance Fund established under section 9;

“insured deposit” has the meaning as specified in the First Schedule;

“insured deposit base” has the meaning assigned to it in section 3;

“insured depositor” means any of the following depositors:

- (a) an individual, except an individual who places a deposit in an account with a Scheme member in the name of a partnership or sole proprietorship;
- (b) a charity as defined in section 2 (1) of the Charities Act (Cap. 37), which is —
 - (i) registered under section 5 of that Act;

- (ii) specified in the Schedule to that Act; or
- (iii) excepted by regulations made under that Act;
- (c) such other person or class of persons as may be prescribed,

and includes —

- (i) in the case of a deposit held by a trustee under a trust, a beneficiary of the trust who is a person specified in paragraph (a), (b) or (c) or the estate of a deceased person; and
- (ii) in the case of a deposit held by a depositor in a client account, the depositor's client who is a person specified in paragraph (a), (b) or (c) and whose moneys are held in the client account;

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

“officer” has the same meaning as in section 2 (1) of the Banking Act (Cap. 19);

“premium year”, in relation to the determination and payment of premium contributions, means such period as may be prescribed by the Authority as a premium year under section 21 (4);

“quantification date” means —

- (a) the date on which a Scheme member is wound up; or
- (b) where a Scheme member is not wound up, the date on which the notice of payment of compensation is published in the *Gazette* under section 30 (4);

“relevant insured deposits” has the meaning assigned to it in section 3;

“Rules” means any rules issued by the Agency under section 19;

“Scheme” means the Deposit Insurance Scheme established under section 4;

“Scheme member” means a member of the Scheme;

“securities” has the same meaning as in section 2 (1) of the Securities and Futures Act (Cap. 289);

“Supplementary Retirement Scheme” has the same meaning as in section 2 (1) of the Income Tax Act (Cap. 134).

(2) For the purposes of the definition of “deposit”, money is paid on terms which are referable to the provision of property or services or to the giving of security if, and only if —

- (a) it is paid by way of advance or part payment under a contract for the sale, hire or other provision of property or services, and is repayable only in the event that the property or services is or are not in fact sold, hired or otherwise provided;
- (b) it is paid by way of security for the performance of a contract or by way of security in respect of loss which may result from the non-performance of a contract; or
- (c) without prejudice to paragraph (b), it is paid by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise.

Meaning of “insured deposit base” and “relevant insured deposits”

3.—(1) In this Act, unless the context otherwise requires, “insured deposit base”, in relation to a Scheme member, means the aggregate of the amount of the relevant insured deposits of all the insured depositors of the Scheme member.

(2) For the purposes of subsection (1), “relevant insured deposits”, in relation to an insured depositor of a Scheme member, means the aggregate of the amount of —

- (a) any insured deposit placed with the Scheme member and —
 - (i) held by that insured depositor in his own right or in his own right jointly with one or more persons in a joint account;
 - (ii) held by a depositor as a trustee under a trust and the books of the Scheme member disclose that the insured depositor is a beneficiary of that trust and the share of the insured depositor in the insured deposit under that trust;
 - (iii) held by a depositor as a trustee under a trust and the books of the Scheme member disclose that the insured depositor is a beneficiary of that trust and the total number of beneficiaries of that trust;

- (iv) held by a depositor as a trustee under 2 or more trusts and the books of the Scheme member disclose that the insured depositor is a beneficiary of any of the trusts and the share of the insured depositor in the insured deposit under that trust;
 - (v) held by a depositor as a trustee under 2 or more trusts and the books of the Scheme member disclose that the insured depositor is a beneficiary of any of the trusts, the part of the insured deposit under that trust and the total number of beneficiaries of that trust;
 - (vi) held by a depositor in a client account for the insured depositor and the books of the Scheme member disclose that the insured depositor is a client of the depositor and the share of the client in the insured deposit; and
 - (vii) held by a depositor in a client account for the insured depositor and the books of the Scheme member disclose that the insured depositor is a client of the depositor and the total number of clients in the client account,
- up to a maximum of \$20,000; and
- (b) any moneys, denominated in Singapore dollars, placed by that insured depositor with the Scheme member under the CPFIS, up to a maximum of \$20,000.
- (3) For the purposes of subsection (2) —
- (a) a reference to an insured deposit includes a reference to part of the insured deposit;
 - (b) where an insured depositor holds an insured deposit in his own right jointly with one or more depositors in a joint account, each of the depositors, whether or not he is an insured depositor, shall be deemed to have an equal share in the insured deposit unless there is an express provision to the contrary in the books of the Scheme member;
 - (c) where an insured deposit is held by a depositor as a trustee under a trust for 2 or more beneficiaries, each of the beneficiaries, whether or not he is an insured depositor, shall be deemed to have an equal share in the insured deposit, unless there is an express provision to the contrary in the books of the Scheme member; and

- (d) where an insured deposit is held by a depositor in a client account for 2 or more clients, each of the clients, whether or not he is an insured depositor, shall be deemed to have an equal share in the insured deposit, unless there is an express provision to the contrary in the books of the Scheme member.

PART II

DEPOSIT INSURANCE SCHEME

Establishment of Deposit Insurance Scheme

4. There shall be established a scheme to be called the Deposit Insurance Scheme for the benefit of insured depositors in respect of their insured deposits placed with Scheme members.

Membership of Scheme

5.—(1) Every full bank or finance company which is not exempted under section 6 shall be a Scheme member so long as it holds a valid licence under the Banking Act (Cap. 19) or Finance Companies Act (Cap. 108), as the case may be.

(2) A full bank or finance company, which holds a valid licence under the Banking Act or Finance Companies Act, as the case may be, immediately before 18th October 2005, shall be deemed to be a Scheme member from 18th October 2005.

(3) A full bank or finance company, which is granted a licence under the Banking Act or Finance Companies Act, as the case may be, on or after 18th October 2005, shall be a Scheme member from the date on which its licence is granted.

Exemption from membership

6.—(1) A full bank or finance company may apply in writing to the Authority to be exempted from the requirement under section 5 (1) to be a Scheme member.

(2) The Authority may, by notification published in the *Gazette*, exempt a full bank or finance company referred to in subsection (1) from the requirement under section 5 (1).

(3) The Authority may require an applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

(4) Without prejudice to the generality of subsection (2), the Authority shall, in determining whether to grant an exemption under subsection (2), have regard to —

- (a) the scope of deposit-taking business conducted by the full bank or finance company, as the case may be, in Singapore; and
- (b) in the case of a full bank which is incorporated in a jurisdiction other than Singapore —
 - (i) whether the deposits accepted by its branches and offices located within Singapore are insured by a deposit insurance scheme, or any other scheme of a similar nature, established and maintained in the jurisdiction in which the full bank is incorporated (referred to in this section as the foreign scheme); and
 - (ii) whether the scope and level of protection available to those deposits under the foreign scheme are not less than the scope and level of protection that would be available to the deposits under the Scheme if those deposits were insured by the Scheme.

(5) The Authority may, by notice in writing, impose on an exempt member such conditions or restrictions relating to the exemption as the Authority may think fit.

(6) The Authority may at any time —

- (a) by notice in writing to an exempt member, add to, vary or revoke any existing condition or restriction imposed by the Authority under subsection (5); or
- (b) by notice in writing impose such conditions or restrictions as the Authority may think fit on a class of exempt members.

(7) An exempt member shall comply with all conditions or restrictions imposed on it under subsection (5) or (6), as the case may be.

(8) Any exempt member which contravenes subsection (7) 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.

[HK DPS Ord 2004, s. 13; SFA 2002 Ed., s. 14]

Withdrawal of exemption

7.—(1) The Authority may withdraw an exemption granted to an exempt member under section 6 (2) if —

- (a) the exempt member fails to comply with a condition or restriction imposed in respect of the exemption; or
- (b) the Authority considers it necessary in the public interest.

(2) Before withdrawing any exemption granted to an exempt member under section 6 (2), the Authority shall —

- (a) give the exempt member notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the exempt member to show cause within such time as may be specified in the notice why the exemption should not be withdrawn.

(3) If the exempt member referred to in subsection (2) —

- (a) fails to show cause within the time specified in the notice or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the exempt member of the date on which the withdrawal of the exemption is to take effect.

(4) Where a withdrawal of exemption becomes effective, the Authority shall publish a notice of the withdrawal in the *Gazette*.

[FAA 2002 Ed., s. 23 (10); Insurance 2002 Ed., s. 35ZN (5); SFA 2002 Ed., s. 99 (6)]

Maintenance of assets in Singapore

8.—(1) The Authority may by regulations require a Scheme member, or a class of Scheme members, to maintain, in relation to its insured deposit base, such minimum amount of assets in Singapore as may be specified in the regulations for meeting its liabilities in respect of insured deposits placed with the Scheme member.

(2) The Authority may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations for or with respect to —

- (a) the circumstances under which, and the manner in which, the Authority may impose an asset maintenance requirement;

- (b) the types of assets that are to be treated as assets maintained in Singapore and the minimum amount of assets for the purpose of an asset maintenance requirement; and
- (c) the method for the valuation of assets maintained in Singapore.

(3) If the Authority is satisfied that a Scheme member has failed to comply with any asset maintenance requirement under subsection (1), the Authority may by notice in writing to the Scheme member, impose a financial penalty.

(4) The financial penalty shall be of an amount not exceeding the interest calculated per day on the deficiency in the amount of assets necessary to comply with the asset maintenance requirement, for every day or part thereof during which there is a deficiency.

(5) For the purposes of subsection (4), the interest shall be calculated at the rate of 10% above SIBOR.

(6) Before imposing a financial penalty on a Scheme member, the Authority shall —

- (a) give the Scheme member notice in writing of its intention to do so, including the basis for its decision to impose the financial penalty; and
- (b) in the notice referred to in paragraph (a), call upon the Scheme member to show cause within such time as may be specified in the notice why the financial penalty should not be imposed.

(7) If the Scheme member referred to in subsection (6) —

- (a) fails to show cause within the time specified in the notice or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the Scheme member of the date by which the payment of the financial penalty is to be made.

(8) Where a Scheme member is given a notice under subsection (7), the Scheme member shall pay the financial penalty to the Authority by the date of payment specified in the notice.

(9) Any financial penalty payable under this Act shall be recoverable as a debt due to the Authority by the Scheme member.

(10) Notwithstanding any provision in the Limitation Act (Cap. 163), an action to recover any financial penalty recoverable by virtue of this section shall not be brought after the expiration of 3 years from the date on which the cause of action accrued.

(11) Any financial penalty paid to or recovered by the Authority shall be paid into the Fund.

(12) Where the Authority has commenced any proceedings in a court to recover a financial penalty from a Scheme member, the Authority shall be entitled to claim costs on a full indemnity basis from that Scheme member.

(13) Any Scheme member who is aggrieved by a decision of the Authority to impose a financial penalty under subsection (3) may, within 30 days of the decision of the Authority, appeal in writing to the Minister whose decision shall be final and shall be given effect to by the Authority.

(14) In this section, “SIBOR” means the Singapore Interbank Offer Rate for such tenor and determined in such manner as may be prescribed by the Authority.

[HK DPS Ord 2004, s. 53 (2) (a) to (d); Banking 2003 Ed., s. 38]

PART III

DEPOSIT INSURANCE FUND

Establishment of Deposit Insurance Fund

9.—(1) There shall be established a fund to be called the Deposit Insurance Fund which shall, subject to the directions of the Minister, be controlled and administered by the Agency designated by the Minister under section 12.

(2) The Fund shall consist of —

- (a) all premium contributions and late payment fees paid by Scheme members;
- (b) all moneys borrowed by the Agency for the purpose of performing its functions under this Act;
- (c) all moneys recovered by the Agency from, or out of the assets of, failed Scheme members;
- (d) any interest, dividend and other income derived from the investment of the moneys in the Fund;

(e) all moneys paid to or recovered by the Authority as a financial penalty under section 8; and

(f) all other moneys lawfully paid into the Fund.

(3) The Fund shall be used for the objects and purposes of the Scheme set out in this Act.

(4) For the avoidance of doubt, the Fund shall not be a fund of the Agency or the Authority.

[HK DPS Ord 2004, s. 14; MAS 1999 Ed., s. 30A]

Expenditure of moneys of Fund

10.—(1) In carrying out the objects of this Act, there shall be paid out of the Fund as required and at such time as the Agency considers proper —

(a) all expenses incurred in or incidental to —

(i) the establishment and maintenance of the Scheme;

(ii) the administration and management of the Fund;

(iii) the administration and management of the Agency and the performance of the duties and functions of the Agency under this Act; and

(iv) the conduct of any investigations by the Agency for the purpose of determining the eligibility and entitlement of insured depositors to compensation;

(b) any fees payable to agents appointed by the Agency for the purposes of this Act; and

(c) all other moneys payable out of the Fund in accordance with this Act.

(2) Notwithstanding subsection (1), the Authority may recover from the Agency out of the Fund, all expenses incurred in the establishment of the Agency and all expenses incurred in connection with the discharge of the functions and responsibilities of the Authority under sections 8, 22, 23 and 24 of this Act.

[HK DPS Ord 2004, s. 16; MAS 1999 Ed., s. 30B]

Investment

11.—(1) The Agency may invest any moneys in the Fund in one or more of the following:

(a) any security issued by the Government;

(b) Singapore dollar deposits with the Authority;

- (c) such other investments, with the objects of capital preservation and maintenance of liquidity, as may be approved by the Minister.

(2) The Agency may delegate, on such conditions or restrictions as it thinks fit, all or any of its powers and functions under subsection (1) to any employee or agent as it may appoint.

(3) The Agency may pay to any person appointed under subsection (2) a reasonable fee for any service rendered in exercise of any power and function delegated to that person under that subsection.

(4) The Agency may continue to exercise any power conferred upon it or perform any function under this Act notwithstanding the delegation of such power or function to an employee or agent under this section.

[MAS 1999 Ed., s. 30 (2) and (3)]

PART IV

DEPOSIT INSURANCE AGENCY

Designation of company to be deposit insurance agency

12. The Minister may, by notification in the *Gazette*, designate a company incorporated in Singapore to be the deposit insurance agency for the purposes of this Act.

Objects, functions and powers of Agency

13.—(1) Subject to the provisions of this Act, the objects of the Agency shall be —

- (a) to administer the Scheme; and
- (b) to administer and manage the Fund.

(2) Without prejudice to the generality of subsection (1), the functions of the Agency shall include the following:

- (a) collect premium contributions levied on Scheme members;
- (b) make payments of compensation in respect of insured deposits to insured depositors out of the Fund after the Agency has determined the eligibility and entitlement of the depositors;

- (c) make interim payments of compensation out of the Fund to insured depositors of such amounts as the Agency considers appropriate;
- (d) claim from the failed Scheme member for reimbursement of the amount of compensation paid to the insured depositors concerned out of the Fund, together with any interest accrued thereon;
- (e) claim payment from the liquidator or provisional liquidator of a failed Scheme member, out of the assets of the failed Scheme member, for reimbursement of the amount of compensation paid to the insured depositors concerned out of the Fund, together with any interest accrued thereon;
- (f) educate the public on the Scheme.

(3) The Agency shall have the power to do anything for the purpose of discharging its functions under this Act or any other written law, or which is incidental or conducive to the discharge of those functions.

Amendment to memorandum and articles of association of Agency

14.—(1) Notwithstanding any provision in the Companies Act (Cap. 50), the Agency shall not amend the memorandum and articles of association of the Agency without the prior approval of the Minister.

(2) Any amendment made to the memorandum and articles of association of the Agency without the approval of the Minister shall be void.

Appointment of board of directors

15.—(1) This section shall have effect notwithstanding any provision in the Companies Act and the memorandum and articles of association of the Agency.

(2) The board of directors of the Agency shall consist of —

- (a) a Chairman who shall be appointed by the board; and
- (b) not less than 4 but not more than 9 other directors.

(3) A director shall hold office for a term not exceeding 3 years and shall be eligible for reappointment.

(4) No person shall be appointed as or remain a director on the board of directors if he is a substantial shareholder, a director or an employee of —

- (a) any Scheme member; or
- (b) a related corporation of any Scheme member.

(5) In this section —

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

“substantial shareholder” has the same meaning as in section 81 of the Companies Act.

Board to be accountable to Minister

16. The board of directors shall be accountable to the Minister for its acts and decisions.

[MAS 1999 Ed., s. 9 (4)]

Salaries, fees and allowances payable to Chairman and directors

17. There shall be paid to the Chairman of the board of directors and directors of the Agency out of the Fund such salaries, fees and allowances as the Minister may, from time to time, determine.

[ACRA 2004, 1st Sch., para. 11]

Appointment of Chief Executive, officers and employees, etc.

18.—(1) The board of directors shall appoint a Chief Executive on such terms and conditions as the board may determine.

(2) The Chief Executive shall —

- (a) be known by such designation as the board of directors may determine; and
- (b) be responsible to the board of directors for the proper administration and management of the functions and affairs of the Agency in accordance with the policies and directions established by the board.

(3) The board of directors may appoint any other person to perform the duties of the Chief Executive whenever the Chief Executive is unable to perform his duties for any period because of absence from Singapore, illness or any other reason.

(4) The Agency may, from time to time, appoint and employ, on such terms and conditions as it may determine, such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

[ACRA 2004, s. 10]

Rules issued by Agency

19.—(1) The Agency may issue, and in its discretion publish for information in the *Gazette* or in any other manner it considers appropriate, Rules for any matter relating to any of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), such Rules may provide for —

- (a) the manner and method of collection of premium contributions and late payment fees;
- (b) the disclosure by Scheme members as to whether their financial products are insured deposits and the manner of such disclosure;
- (c) the particulars to be recorded in, or in respect of, books kept by Scheme members for the purpose of computing the amount of insured deposits placed with the Scheme members;
- (d) the manner in which compensation is to be paid to insured depositors from the Fund; and
- (e) the collection from any Scheme member by the Agency of any information in relation to its insured deposits and insured depositors for the purpose of computing the amount of compensation which is to be paid to the insured depositors.

(3) The Agency may, at any time, amend or revoke the whole or part of any Rule issued under this section.

(4) Without limiting the operation of any other provision of this Act, the Rules shall bind the Agency and the Scheme members to the same extent as if the Rules had been contained in properly executed agreements on the part of the Agency and each Scheme member, to observe and comply with all the Rules.

(5) For the avoidance of doubt, no person, other than the Agency or a Scheme member, shall have any right to enforce the observance of or compliance with any of the Rules.

(6) For the avoidance of doubt, any Rules issued under this section shall be deemed not to be subsidiary legislation.

[LT (Strata) 1999 Ed., s. 41 (4) (repealed)]

Power of court to order observance of or compliance with Rules

20.—(1) Where any person who is bound to observe or comply with the Rules fails to do so, the High Court may, on the application of the Agency or a Scheme member, and after giving the first-mentioned person an opportunity to be heard, make an order directing the first-mentioned person to observe or comply with those Rules.

(2) This section is in addition to, and not in derogation of, any other remedy available to the Agency or the Scheme member.

[SFA 2002 Ed., s. 25]

PART V

PREMIUMS

Premium contributions payable by Scheme members

21.—(1) Every Scheme member shall, from the effective date appointed under section 30(5), pay a premium contribution for any premium year or part thereof in respect of the insured deposits placed with the Scheme member.

(2) Subject to the provisions of this Act, the premium contribution shall be of an amount computed by the Authority under section 22.

(3) The premium year shall be such period as may be prescribed in regulations.

(4) The Authority may make regulations for the purpose of prescribing the premium year.

Determination of premium rates and premium contributions

22.—(1) The Authority shall assess and determine the premium rates for the purposes of computing the premium contributions payable by Scheme members.

(2) The Authority shall, on the basis of the premium rates determined under subsection (1) and the insured deposit base of a Scheme member, compute the amount of premium contribution payable by the Scheme member for any premium year or part thereof.

(3) For the purposes of assessing and determining the premium rates and computing the amounts of premium contributions payable, the Authority may make regulations for or in respect of all or any of the following matters:

- (a) the establishment of a system of classifying Scheme members into different categories;
- (b) the criteria and procedure for determining the category in which a Scheme member is to be classified;
- (c) the prescribing of the premium rate applicable to each category of Scheme members;
- (d) the manner in which the premium rate for each category of Scheme members is to be determined;
- (e) the prescribing of a minimum premium contribution payable by Scheme members;
- (f) the manner in which the amount of premium contribution for each category of Scheme members is to be determined;
- (g) the computation of premium contribution on a pro rata basis where a full bank or finance company becomes a Scheme member, or is no longer exempted from the requirement to be a Scheme member, at any time during a premium year;
- (h) the size of the Fund;
- (i) such other matters as the Authority considers necessary.

(4) Regulations made pursuant to or dealing with the matters referred to in subsection (3) (c) or (d) may provide for different premium rates for different categories of Scheme members.

(5) If the Authority wishes to amend or vary any regulations made under subsection (3), the Authority shall first conduct a joint review with the Agency and such regulations shall not be amended or varied without the concurrence of the Agency.

Notice of payment of premium contribution

23.—(1) Where the Authority has computed the amount of premium contribution payable by a Scheme member for any premium year or part thereof under section 22 (2), the Authority shall notify the Agency accordingly.

(2) Upon receipt of the notification referred to in subsection (1), the Agency shall, within such time as may be specified in the Rules,

give the Scheme member notice in writing of the amount of premium contribution that the Scheme member is required to pay under the Scheme for that premium year or part thereof.

Additional premium contributions where Fund insufficient to pay compensation

24.—(1) Where the Fund is insufficient to pay any compensation due to insured depositors under this Act, the Authority may, with the concurrence of the Agency, determine —

- (a) that Scheme members shall be required to pay additional premium contributions for any premium year or part thereof; and
- (b) the premium rate or rates for the purposes of computing the additional premium contributions.

(2) Where a determination is made under subsection (1) —

- (a) the Authority shall, as soon as practicable —
 - (i) publish a notice in the *Gazette* of the requirement to pay additional premium contributions and the premium rate or rates for the purposes of computing the additional premium contributions referred to in subsection (1); and
 - (ii) compute the additional premium contributions payable by Scheme members for that premium year or part thereof and notify the Agency accordingly; and
- (b) the Agency shall, upon receipt of the notification referred to in paragraph (a) (ii), give notice in writing to every Scheme member of the additional premium contribution that the Scheme member is required to pay for that premium year or part thereof and the date by which the additional premium contribution shall be paid.

(3) Any Scheme member shall not, without the prior approval of the Minister, be required to pay additional premium contribution for any premium year exceeding 0.3% of the insured deposit base of that Scheme member.

(4) For the purposes of subsection (3), the insured deposit base of a Scheme member shall be determined on the date prescribed by the Authority for computing the amounts of premium contribution payable by Scheme members.

Payment of premium contributions and late payment fees

25.—(1) Where a Scheme member is given notice in writing to pay a premium contribution under section 23 (2) or an additional premium contribution under section 24 (2) for any premium year or part thereof, the Scheme member shall pay to the Agency —

(a) in the case of the premium contribution, on or before the date of payment specified in the Rules; and

(b) in the case of the additional premium contribution, on or before the date of payment specified in the notice,

the amount of premium contribution or additional premium contribution, as the case may be, that the Scheme member is required to pay for that premium year or part thereof.

(2) Subject to subsection (3), if a Scheme member fails to pay the premium contribution or additional premium contribution or any part thereof in contravention of subsection (1) —

(a) the Agency may, by notice in writing, impose on the Scheme member such late payment fee as the Agency may by Rules determine; and

(b) the Scheme member shall pay to the Agency the late payment fee together with the unpaid premium contribution or additional premium contribution, as the case may be, on or before the date of payment specified in the notice.

(3) The late payment fee referred to in subsection (2) shall not exceed the amount of premium contribution or additional premium contribution, as the case may be, owing by the Scheme member.

(4) The amount of premium contribution or additional premium contribution owing by the Scheme member and the late payment fee shall be paid in such manner as may be specified in the Rules.

(5) Without prejudice to any other remedy, any premium contribution, additional premium contribution or late payment fee payable under this Act shall be recoverable as a debt due to the Agency by the Scheme member.

(6) Where the Agency has commenced any legal proceedings in a court to recover a premium contribution, an additional premium contribution or a late payment fee from a Scheme member, the Agency shall be entitled to claim costs on a full indemnity basis from that Scheme member.

Power to refund or remit premium contributions

26. The Agency may, with the approval of the Minister, refund or remit in whole or in part any premium contribution paid or payable by any Scheme member under this Act.

Refund of premium contributions paid in excess

27.—(1) Where it appears to the Authority that a Scheme member has paid premium contribution in excess of the amount payable under this Act, the Authority shall notify the Agency accordingly.

(2) Upon receipt of the notification referred to in subsection (1), the Agency shall refund to the Scheme member the amount of premium contribution paid in excess.

Re-computation of premium contributions

28.—(1) Where it appears to the Authority that the premium contribution for any premium year or part thereof —

- (a) computed by the Authority under section 22 (2) and notified to the Agency under section 23 (1); or
- (b) in respect of which a Scheme member has been required to pay under section 23 (2) or has paid,

is of an amount less than that which ought to have been computed, imposed or paid, as the case may be, the Authority may within the same premium year re-compute such amount of premium contribution which ought to have been computed, imposed or paid, as the case may be, under this Act.

(2) Sections 23 and 25 shall apply, with the necessary modifications, to any amount of premium contribution re-computed under subsection (1) and to the recovery of any shortfall in premium contribution upon a re-computation under that subsection —

- (a) as if the reference to premium contribution were a reference to the difference between the amount of premium contribution as re-computed and the amount of premium contribution that was originally computed, imposed or paid, as the case may be, under this Act; and
- (b) the reference in section 25 (1) (a) to the “date of payment specified in the Rules” shall be read as a reference to the date of payment specified in the notice.

Disclosure of information relating to premium contributions

29.—(1) Subject to subsections (2) and (3), no Scheme member or officer of any Scheme member shall disclose to any person —

- (a) the premium rate applicable to the Scheme member;
- (b) the category in which the Scheme member is classified pursuant to section 22;
- (c) where the system of classifying a Scheme member incorporates a rating of the Scheme member based on the assessment by the Authority of the risks arising from the activities of the Scheme member, the rating of the Scheme member; and
- (d) any information which if disclosed, would enable any of the information referred to in paragraph (a), (b) or (c) to be identified or deduced.

(2) Notwithstanding subsection (1), a Scheme member or an officer of a Scheme member may disclose to —

- (a) any director or officer of the Scheme member;
- (b) in the case where the Scheme member is a full bank, the head office, parent bank or parent supervisory authority of the Scheme member; or
- (c) such other person or class of persons as the Authority may approve,

any of the matters referred to in subsection (1) where such disclosure is necessary for the performance of the duties of the person referred to in paragraph (a), (b) or (c), as the case may be.

(3) No person to whom the Scheme member or officer of the Scheme member has disclosed information pursuant to subsection (2) shall disclose that information to any other person except as approved by the Authority.

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

PART VI**COMPENSATION****Occurrence of events precipitating payment of compensation**

30.—(1) Where, on or after the effective date —

- (a) an order is made by a court in Singapore or elsewhere to wind up a Scheme member; or
- (b) the Authority is of the opinion that a Scheme member is insolvent, unable or likely to become unable to meet its obligations, or about to suspend payments,

the Authority may determine that compensation shall be paid out of the Fund to the insured depositors of the Scheme member in accordance with this Act.

(2) Where the Authority determines that compensation shall be paid out of the Fund under subsection (1), the Authority shall immediately give notice in writing to the Agency of its determination.

(3) The notice in writing referred to in subsection (2) shall be in such form and contain such information as may be agreed between the Authority and the Agency.

(4) The Agency shall, as soon as practicable upon receiving the notice referred to in subsection (2), publish a notice in the *Gazette* stating that a payment of compensation shall be made out of the Fund.

(5) For the purposes of this Act, the Minister shall by notification in the *Gazette** appoint a date to be the effective date.

Entitlement to compensation

31.—(1) Subject to sections 32 and 33, where an insured depositor has one or more insured deposits (other than any moneys, denominated in Singapore dollars, placed with a Scheme member under the CPFIS) placed with a failed Scheme member, which —

- (a) the insured depositor holds in his own right;
- (b) the insured depositor holds in his own right jointly with one or more other persons in a joint account;
- (c) a depositor holds as a trustee for the insured depositor under a trust; or

*The effective date is 1st April 2006 — *vide* S 181/2006.

- (d) a depositor holds in a client account for the insured depositor as the depositor's client,

the insured depositor shall be entitled to compensation from the Fund of a specified amount which shall not exceed \$20,000, regardless of the number or amount of insured deposits that the insured depositor has placed with the failed Scheme member.

(2) Where any insured deposit of an insured depositor placed with a failed Scheme member consists of moneys, denominated in Singapore dollars, placed with the failed Scheme member under the CPFIS, such moneys shall not be aggregated with his other insured deposits placed with that failed Scheme member for the purposes of determining the amount of compensation that the insured depositor is entitled to, and the insured depositor shall be entitled, in respect of moneys, denominated in Singapore dollars, placed with the failed Scheme member under the CPFIS, to compensation from the Fund of an amount not exceeding \$20,000.

- (3) For the purposes of this section —

- (a) “specified amount” means the amount by which the aggregate amount, as at the quantification date, of insured deposits (other than any moneys, denominated in Singapore dollars, placed with the failed Scheme member under the CPFIS) which the insured depositor has placed with the failed Scheme member exceeds the aggregate amount, as at the quantification date, of liabilities of the insured depositor to that failed Scheme member in respect of which a right of set-off would have existed had a winding-up order been made in respect of the failed Scheme member; and
- (b) in determining the amount of liabilities of the insured depositor to the failed Scheme member, the same rules shall apply with regard to future and contingent liabilities as are in force for the time being under the law relating to bankruptcy in relation to the estates of persons adjudged bankrupt, as if the failed Scheme member were a person so adjudged.

Deposits in own right and joint accounts

32.—(1) Where an insured depositor holds an insured deposit in his own right, the insured depositor is entitled, in respect of the insured deposit as at the quantification date, to compensation from the Fund.

(2) Where there are 2 or more insured depositors in respect of any insured deposit, each of those insured depositors is entitled, in respect of his share in the insured deposit as at the quantification date, to compensation from the Fund.

(3) For the purposes of determining the share of an insured depositor in an insured deposit under subsection (2), each depositor holding such an insured deposit, whether or not he is an insured depositor, shall be deemed to have an equal share in the insured deposit unless there is an express provision to the contrary in the books of the failed Scheme member.

(4) For the avoidance of doubt —

- (a) any insured deposit of a deceased person held in an estate account shall be treated as an insured deposit held by the deceased person in his own right; and
- (b) subsection (3) does not affect any rights as between the depositors themselves.

Deposits under trust

33.—(1) Where a depositor of an insured deposit placed with a failed Scheme member holds the insured deposit as a trustee under a trust and the books of the Scheme member disclose —

- (a) the identity of a beneficiary of the trust and his share of the insured deposit; or
- (b) the identity of a beneficiary of the trust and the total number of beneficiaries of the trust,

any beneficiary who is an insured depositor, but not the depositor, shall be entitled, in respect of the insured deposit held under the trust as at the quantification date, to compensation from the Fund.

(2) Where a depositor of an insured deposit placed with a failed Scheme member holds the insured deposit as a trustee under 2 or more trusts and the books of the Scheme member disclose —

- (a) the identity of a beneficiary of any one of those trusts and his share of the insured deposit; or
- (b) the identity of a beneficiary of any one of those trusts, the part of the insured deposit under that trust and the total number of beneficiaries of that trust,

the beneficiary of each of those trusts who is an insured depositor, but not the depositor, shall be entitled, in respect of the part of

the insured deposit held under the trust as at the quantification date, to compensation from the Fund.

(3) For the purposes of subsections (1) and (2), where the beneficiaries of a trust consist of 2 or more insured depositors, each of those insured depositors shall be entitled, in respect of his share in the insured deposit as at the quantification date, to compensation from the Fund.

(4) For the purposes of determining the share of each insured depositor in an insured deposit under subsection (3), each beneficiary of such an insured deposit held under a trust, whether or not he is an insured depositor, shall be deemed to have an equal share in the insured deposit or part of the insured deposit, as the case may be, unless there is an express provision to the contrary in the books of the failed Scheme member.

(5) For the avoidance of doubt, subsection (4) does not affect any rights as between the beneficiaries themselves.

Deposits in client accounts

34.—(1) Where a depositor of an insured deposit placed with a failed Scheme member holds the insured deposit in a client account and the books of the Scheme member disclose —

- (a) the identity of a client and his share of the insured deposit;
or
- (b) the identity of a client and the total number of clients in that client account,

any client who is an insured depositor, but not the depositor, shall be entitled, in respect of the insured deposit held in the client account as at the quantification date, to compensation from the Fund.

(2) For the purposes of subsection (1), where the clients in a client account consist of 2 or more insured depositors, each of those insured depositors shall be entitled, in respect of his share in the insured deposit as at the quantification date, to compensation from the Fund.

(3) For the purposes of determining the share of each insured depositor in an insured deposit under subsection (2), each client in a client account which contains an insured deposit, whether or not he is an insured depositor, shall be deemed to have an equal share in the insured deposit unless there is an express provision to the contrary in the books of the failed Scheme member.

(4) For the avoidance of doubt, subsection (3) does not affect any rights as between the clients themselves.

[HK DPS Ord 2004, s. 29 (3) to (5)]

Restrictions on entitlement to compensation

35. Where the Agency has paid an insured depositor the full amount of compensation payable to the insured depositor in respect of his insured deposits in accordance with this Act, no other person is entitled, in respect of the insured deposits, to compensation under this Act.

[HK DPS Ord 2004, s. 31 (4)]

Computation and method of payment of compensation

36.—(1) The Agency shall compute the amount of compensation due to an insured depositor in respect of his insured deposits placed with a failed Scheme member in accordance with this Act.

(2) In determining the eligibility and entitlement of an insured depositor to compensation and computing the amount of compensation due to an insured depositor, the Agency is entitled to rely on the books of the failed Scheme member and any other books which, in the opinion of the Agency, are relevant for such computation.

(3) Subject to subsection (4), the Agency shall pay the compensation in such form and manner as may be specified in the Rules.

(4) The Authority may make regulations for the purposes of payment of compensation by the Agency.

(5) Without prejudice to the generality of subsection (4), such regulations may —

- (a) specify the person to whom, or the account into which, payment of compensation is to be made for the benefit of an insured depositor who is entitled to compensation under this Act;
- (b) provide for the payment of compensation in respect of a depositor holding insured deposits in different accounts; and
- (c) provide for the payment of compensation into an equivalent account with another Scheme member and for such compensation to be held in that account in a manner equivalent to the manner of holding of the original insured deposit.

Subrogation

37.—(1) On payment out of the Fund of any compensation under this Act to, or for the benefit of, any insured depositor in respect of his insured deposit, the Agency shall be subrogated to the extent of such payment to all the rights and remedies of —

- (a) the insured depositor;
- (b) the person who received the compensation on behalf of the insured depositor;
- (c) in the case where payment is made to an insured depositor who is a beneficiary of a trust, the trustee; or
- (d) in the case where payment is made to an insured depositor who is a client in a client account, the depositor who held the insured deposit in that client account,

as the case may be, in respect of the insured deposit in priority over —

- (i) the rights and remedies of the insured depositor, the person who received the compensation on behalf of the insured depositor, the trustee or the depositor of a client account, as the case may be, in relation to that insured deposit; and
- (ii) the rights and remedies of any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of any of the persons referred to in paragraphs (a), (b), (c) and (d) in relation to that insured deposit,

and may maintain an action in respect of those rights and remedies in the name of the person referred to in paragraph (a), (b), (c) or (d), as the case may be, or in the name of the Agency.

(2) The persons referred to in paragraphs (a), (b), (c) and (d) of subsection (1), or any person who is subrogated, whether or not before the Agency's subrogation, to the rights and remedies of those persons, shall not be entitled to receive any amount from, or out of, the assets of the failed Scheme member until the Agency has been reimbursed in full the amount of compensation paid to those persons.

(3) The Agency shall be entitled —

- (a) in the case where the failed Scheme member is wound up, to be reimbursed out of the assets of the failed Scheme member for the expenses incurred in —
 - (i) the payment of any compensation to insured depositors; and

- (ii) the lodging of a claim with the liquidator of the failed Scheme member for any compensation that has been paid out to insured depositors; or
- (b) in any other case, to be reimbursed by the failed Scheme member or the provisional liquidator of the failed Scheme member, as the case may be, for the expenses incurred in —
 - (i) the payment of any compensation to insured depositors; and
 - (ii) where a claim has been lodged with the provisional liquidator of the failed Scheme member for any compensation that has been paid out to insured depositors, the lodging of the claim.

[HK DPS Ord 2004, s. 38]

Recovery of compensation paid in excess or wrongly paid

38.—(1) If —

- (a) any compensation paid to, or for the benefit of, an insured depositor out of the Fund is in excess of what ought to have been paid to the insured depositor under this Act; or
- (b) any compensation is wrongly paid to any person,

the Agency may recover the amount paid in excess or wrongly paid from the person who received the compensation paid out by the Agency in such manner and within such period as may be specified by the Agency to that person.

(2) Without prejudice to any other remedy, any amount paid in excess or wrongly paid to any person shall be recoverable as a debt due to the Agency by that person.

(3) Upon the recovery of any amount paid in excess or wrongly paid from any person under this section, the Agency shall pay such amount into the Fund.

[HK DPS Ord 2004, s. 37]

PART VII

OFFENCES

Offences committed by bodies corporate

39.—(1) Where an offence under this Act committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) In this section, “officer”, in relation to a body corporate, means any director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity.

(4) The Authority may make regulations to provide for the application of any provision of this section, with such modifications as the Authority considers appropriate, to any body corporate formed or recognised under the law of a territory outside Singapore.

[SFA 2002 Ed., s. 331]

False statements regarding membership and insured deposits

40.—(1) No person shall, knowingly or recklessly, make a false or misleading statement as to whether or not —

(a) any person is a Scheme member; or

(b) any deposit, or other financial product, is an insured deposit.

(2) Any person who contravenes subsection (1) shall, notwithstanding that a contract does not come into being, 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 12 months or to both.

[HK DPS Ord 2004, s. 49]

Offence by officer

41.—(1) Any officer of a full bank or finance company who fails to take all reasonable steps to secure —

(a) compliance by the full bank or finance company, as the case may be, with any provision of this Act; or

- (b) the accuracy and correctness of any statement submitted to the Authority, Agency or such other person as may be required under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) In any proceedings against a person under subsection (1), it shall be a defence for the person to prove that he had reasonable grounds for believing that another person was charged with the duty of securing compliance with the requirements of this Act, or with the duty of ensuring that those statements were accurate and correct, as the case may be, and that that person was competent, and in a position, to discharge that duty.

(3) A person shall not be sentenced to imprisonment for any offence under subsection (1) unless, in the opinion of the court, he committed the offence wilfully.

(4) Notwithstanding subsection (1), no officer shall be guilty of an offence where the contravention of any provision of this Act by a full bank or finance company results in the imposition of only a financial penalty on the full bank or finance company.

[Banking 2003 Ed., s. 66]

Duty not to furnish false information to Authority or Agency

42.—(1) Any person who furnishes the Authority or Agency with any information under or for the purposes of any provision of this Act shall use due care to ensure that the information is not false or misleading in any material particular.

(2) Subsection (1) applies only to a requirement in relation to which no other provision of this Act creates an offence in connection with the furnishing of information.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both.

[SFA 2002 Ed., s. 329]

General penalty

43. Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$50,000.

Penalty for corporation

44.—(1) Subject to subsections (2) and (3), where a corporation or body corporate is convicted of an offence under this Act, the penalty that the court may impose is a fine not exceeding 2 times the maximum amount that the court could, but for this subsection, impose as a fine for that offence.

(2) Subsection (1) shall not apply to —

- (a) an offence under section 6 (8); and
- (b) offences under the subsidiary legislation made under this Act where it is expressly provided in the subsidiary legislation that subsection (1) shall not apply to those offences.

(3) Where an individual is convicted of an offence under this Act by virtue of section 39, he shall be liable to the fine or imprisonment or to both as prescribed for that offence and subsection (1) shall not apply.

[SFA 2002 Ed., s. 333]

Jurisdiction of District Court

45. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

[SFA 2002 Ed., s. 327]

Composition of offences

46.—(1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine that is prescribed for the offence.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Authority may make regulations to prescribe the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Authority.

PART VIII

FINANCIAL AND AUDIT PROVISIONS

Financial provisions with respect to Fund

47. The financial provisions set out in the Second Schedule shall have effect with respect to all moneys in the Fund.

Financial provisions with respect to Agency

48. The financial provisions set out in the Third Schedule shall have effect with respect to the Agency.

Annual report of Agency

49. The Agency shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Agency during the preceding financial year and containing such information relating to the proceedings and policy of the Agency as the Minister may, from time to time, direct.

Annual estimates

50.—(1) The Agency shall, in every financial year, prepare or cause to be prepared annual estimates of income and expenditure of the Fund and the Agency for the ensuing financial year and a supplementary estimate for any financial year.

(2) All annual estimates and supplementary estimates shall be presented to the Minister for his approval.

[ACRA 2004, s. 16]

Reporting to Minister

51. If the auditor in the course of the performance of his duties as an auditor of the Agency or the Fund is satisfied that —

- (a) there has been a serious contravention of any provisions of this Act or the Companies Act (Cap. 50) or that an offence involving fraud or dishonesty has been committed; or

(b) serious irregularities have occurred, including irregularities that jeopardise the interests of insured depositors, the auditor shall immediately report the matter in writing to the Minister.

[Companies 1994 Ed., s. 207; Insurance 2002 Ed., s. 36 (11)]

PART IX

MISCELLANEOUS

Protection from personal liability

52. No suit or other legal proceedings shall lie against —

- (a) the Agency;
- (b) any director, officer, employee or agent of the Agency; or
- (c) any person acting under the direction of the Agency,

for anything done (including any statement made) or omitted to be done in good faith in —

- (i) the exercise or purported exercise of any power under this Act;
- (ii) the performance or purported performance of any function or duty under this Act; or
- (iii) the execution or purported execution of this Act.

[Accountants 2004, s. 63; MAS 1999 Ed., s. 22]

Preservation of confidentiality

53.—(1) No person who is or has been a member, a director, an officer, an employee or an agent of the Agency shall disclose any information relating to the affairs of the Agency or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions unless such disclosure is made —

- (a) with the permission of the person from whom the information was obtained or, where the information is the confidential information of a third person, with the permission of that third person;
- (b) for the purpose of the performance of his duties or the exercise of his functions under this Act;
- (c) in compliance with the requirement of any court or the provisions of any written law; or

- (d) for the purpose of assisting any public officer or officer of any other statutory board in the investigation or prosecution of any offence under any written law.

(2) No person who is or has been a member, a director, an officer, an employee or an agent of the Agency shall, for his own personal benefit or for the personal benefit of any other person, make use of any information, whether directly or indirectly, which has been obtained by him in the performance of his duties or the exercise of his functions.

(3) For the purpose of this section, the reference to a person disclosing or making use of any information includes his permitting any other person to have any access to any record, document or other thing which is in his possession or under his control by virtue of his being or having been a member, a director, an officer, an employee or an agent of the Agency.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both.

[ACRA 2004, s. 34]

General exemption

54.—(1) The Minister may, by regulations, exempt any person or class of persons from all or any of the provisions of this Act, subject to such terms or conditions as may be prescribed.

(2) The Minister may, on application of any person, by notice in writing exempt the person from all or any of the provisions of this Act if the Minister considers it appropriate to do so in the circumstances of the case.

(3) An exemption under subsection (2) —

- (a) may be granted subject to such terms or conditions as the Minister may specify by notice in writing;
- (b) need not be published in the *Gazette*; and
- (c) may be withdrawn at any time by the Minister if he considers it necessary in the public interest.

(4) Any person who contravenes any term or condition prescribed under subsection (1) or specified by the Minister under subsection (3) (a) shall be guilty of an offence.

[FAA 2002 Ed., s. 100]

Appointment of assistants

55.—(1) The Authority may, subject to such conditions or restrictions as it thinks fit, appoint any person to exercise any of its powers or perform any of its functions or duties under this Act, either generally or in any particular case, except the power to make subsidiary legislation.

(2) Any person appointed by the Authority under subsection (1) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

[FAA 2002 Ed., s. 65]

Inspection of books of Scheme members

56.—(1) The Authority may from time to time inspect, under conditions of secrecy, the books of a Scheme member for the purposes of this Act.

(2) For the purposes of an inspection under this section —

- (a) the Scheme member and any other person who is in possession of the books of the Scheme member shall produce such books to the Authority and give such information or facilities as may be required by the Authority;
- (b) the Scheme member shall procure that any other person who is in possession of its books produce its books to the Authority and give such information or facilities as may be required by the Authority; and
- (c) the Authority may —
 - (i) make copies of, or take possession of, any of such books;
 - (ii) use, or permit the use of, any of such books for the purposes of any proceedings under this Act; and
 - (iii) retain possession of any of such books for so long as is necessary —
 - (A) for the purposes of exercising a power conferred by this section;

- (B) for a decision to be made on whether or not proceedings should be commenced under this Act in relation to such books; or
- (C) for such proceedings to be commenced and carried on.

(3) No one shall be entitled, as against the Authority, to claim a lien on any of the books, but such a lien is not otherwise prejudiced.

(4) The Authority may require a person who produced any book to the Authority to explain, to the best of his knowledge and belief, any matter about the compilation of the book or to which the book relates.

(5) Any person who, without reasonable excuse, contravenes subsection (2) or a requirement of the Authority under subsection (4) 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.

[FAA 2002 Ed., s. 70]

Provision of information and production of books

57.—(1) The Authority may, by notice in writing, require a Scheme member to —

- (a) provide such information; or
- (b) produce any book,

at such time and in such manner as the Authority may reasonably require for the proper discharge of its functions.

(2) Any information received from a Scheme member under this section shall be treated as secret by the Authority.

(3) Nothing in subsection (1) shall preclude the Authority from disclosing the information if —

- (a) the information is already in the public domain;
- (b) the information is disclosed in such a manner that an individual Scheme member's identity cannot be ascertained;
- (c) the Scheme member consents to the disclosure; or

- (d) disclosure of the information on individual Scheme members is necessary in the Authority's performance of its functions or in the exercise of its powers.

(4) Any Scheme member which fails to or neglects to furnish any information or produce any book required by the Authority under this section shall be guilty of an offence.

[Banking 2003 Ed., s. 26 (6) to (8); FAA 2002 Ed., s. 29 (1)]

Service of documents, etc.

58.—(1) Any notice, order or document required or authorised by this Act to be served on any person may be served —

- (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to the person;
- (c) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or
- (d) in the case of a body corporate, firm or body of persons —
 - (i) by delivering it to the secretary or other like officer of the body corporate, firm or body of persons at its registered office or principal place of business; or
 - (ii) by sending it by registered post addressed to the body corporate, firm or body of persons at its registered office or principal place of business.

(2) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order or document, as the case may be, would in the ordinary course of post be delivered.

(3) When proving service of the notice, order or document referred to in subsection (2), it shall be sufficient to prove that the envelope containing the notice, order or document, as the case may be, was properly addressed, stamped and posted by registered post.

[FAA 2002 Ed., s. 101]

Electronic service

59.—(1) The Authority may provide an electronic service for the service of any notice that is required or authorised by this Act to be served on any person.

(2) The Authority may use the electronic service to serve any notice on behalf of the Agency.

(3) For the purposes of the electronic service, the Authority may assign to any person —

- (a) an authentication code; and
- (b) an account with the electronic service.

(4) Notwithstanding section 58, where any person has given his consent for any notice to be served on him through the electronic service, the Authority may serve the notice on that person by transmitting an electronic record of the notice to that person's account with the electronic service.

(5) Where a person has given his consent for a notice to be served on him through the electronic service, the notice shall be deemed to have been served at the time when an electronic record of the notice enters his account with the electronic service.

(6) Notwithstanding any other written law, in any proceedings under this Act —

- (a) an electronic record of any notice that was served, through the electronic service; or
- (b) any copy or print-out of that electronic record,

shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out —

- (i) is certified by the Authority to contain all or any information served through the electronic service in accordance with this section; and
- (ii) is duly authenticated in the manner specified in subsection (8) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

(7) For the avoidance of doubt —

- (a) an electronic record of any notice that was served, through the electronic service; or
- (b) any copy or print-out of that electronic record,

shall not be inadmissible in evidence merely because the notice was served, without the delivery of any equivalent document or counterpart in paper form.

- (8) For the purposes of this section, a certificate —
- (a) giving the particulars of —
 - (i) any person whose authentication code was used to serve the notice; and
 - (ii) any person or device involved in the production or transmission of the electronic record of the notice, or the copy or print-out thereof;
 - (b) identifying the nature of the electronic record or copy or print-out thereof; and
 - (c) purporting to be signed by the Authority or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

(9) Where the electronic record of any notice, or a copy or print-out of that electronic record, is admissible under subsection (6), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

(10) The Authority may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service.

[Income Tax 2004 Ed., s. 8A]

Copies or extracts of books to be admitted in evidence

60.—(1) Subject to this section, a copy of or an extract from a book mentioned in this Act that is proved to be a true copy of the book or of the relevant part of the book is admissible in evidence as if it were the original book or the relevant part of the original book.

(2) For the purposes of subsection (1), evidence that a copy of or an extract from a book is a true copy of the book or of a part of the book may be given by a person who has compared the copy or extract with the book or the relevant part of the book and may be given orally or by an affidavit sworn, or by a declaration made, before a person authorised to take affidavits or statutory declarations.

[FAA 2002 Ed., s. 102]

Application of Companies Act

61. Nothing in this Act, with the exception of sections 14, 15, 16, 18 and 52, shall affect the operation of the Companies Act (Cap. 50) in relation to its application to a company that is designated as the deposit insurance agency under section 12.

[LPA 2001 Ed., s. 81M (1)]

Insurance Act not to apply

62. The provisions of the Insurance Act (Cap. 142) shall not apply to the Scheme and anything done by the Agency under this Act.

Amendment of Schedules

63.—(1) The Minister may at any time, by order published in the *Gazette*, amend any Schedule.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

[SFA 2002 Ed., s. 340]

Regulations

64.—(1) The Minister may, with the exception of those matters which may be prescribed by the Authority under this Act, make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

(2) Except as otherwise expressly provided in this Act, regulations made under this Act may —

(a) be of general or specific application; and

(b) provide that a contravention thereof shall be punishable —

(i) in the case of an individual, with a fine not exceeding \$12,500 or with imprisonment for a term not exceeding 12 months or with both and, in the case of a continuing offence, with a further fine not exceeding \$1,250 for every day or part thereof during which the offence continues after conviction; or

(ii) in the case of a company or body corporate, with a fine not exceeding \$25,000 and, in the case of a

continuing offence, with a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

FIRST SCHEDULE

Section 2

INSURED DEPOSIT

In this Act, “insured deposit” means —

- (a) any of the following deposits in Singapore dollars, placed with a Scheme member in any of its branches in Singapore:
 - (i) a deposit in a savings account;
 - (ii) a deposit in a fixed deposit account;
 - (iii) a deposit in a current account;
 - (iv) a deposit under the Supplementary Retirement Scheme, including any accrued interest for each of the deposits specified in sub-paragraphs (i) to (iv);
- (b) any moneys denominated in Singapore dollars, placed with a Scheme member under the CPFIS; and
- (c) any other type of moneys placed with a Scheme member as may be prescribed by the Authority,

but does not include —

- (i) any structured deposit as defined in the Financial Advisers Act (Cap. 110);
- (ii) any deposit which is pledged, charged or secured as collateral; and
- (iii) in a case where there is a contractual set-off agreement between a Scheme member and a depositor, any deposit or part thereof placed with the Scheme member which is set aside in respect of any debt owing by the depositor to that Scheme member, and such deposit or part thereof which has been set aside cannot be withdrawn by the depositor unless and until the debt is fully paid up.

SECOND SCHEDULE

Section 47

FINANCIAL PROVISIONS WITH RESPECT TO FUND

Financial year

1. The financial year of the Fund shall begin on 1st April of every year and end on 31st March of the following year, except that the first financial year of the Fund shall begin on 18th October 2005 and end on 31st March of the following year.

Accounts of Fund

2. The Agency shall —

- (a) keep or cause to be kept proper accounts and records of the transactions and affairs in respect of the Fund; and

SECOND SCHEDULE — *continued*

- (b) after the close of each financial year prepare financial statements in respect of the Fund for that year.

Auditor

3. The accounts shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Agency in consultation with the Auditor-General.

Appointment of auditor

4. A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

Remuneration of auditor

5. The remuneration of the auditor shall be paid out of the Fund.

Duties of auditor

6. The auditor shall in his report state —
- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Fund;
 - (b) whether proper accounting and other records have been kept, including records of all assets of the Fund, whether purchased, donated or otherwise;
 - (c) whether the receipts, expenditure and investment of moneys by the Fund during the financial year were in accordance with the provisions of this Act; and
 - (d) such other matters arising from the audit as he considers necessary.

Auditor's report

7. The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Agency. He shall also submit such periodical and special reports to the Minister and to the Agency as may appear to him to be necessary or as the Minister or the Agency may require.

Powers of auditor

8.—(1) The auditor or any person authorised by him shall be entitled at all reasonable times to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Fund, and may make copies of or extracts from any such accounting and other records.

(2) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of his functions under this Act.

SECOND SCHEDULE — *continued***Penalty for obstructing auditor**

9. Any person who fails, without reasonable excuse, to comply with any requirement of the auditor under paragraph 8 (2) or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000.

Presentation of audited financial statements and auditor's report

10. The Agency shall, as soon as the financial statements have been audited in accordance with the provisions of this Act, submit a copy of the audited financial statements, together with a copy of the auditor's report, to the Minister.

Copy of auditor's report for Auditor-General

11. Where the Auditor-General is not the auditor of the Fund, the Agency shall cause to be sent to the Auditor-General a copy of the audited financial statements and any report made by the auditor at the same time they are submitted to the Minister.

THIRD SCHEDULE

Section 48

FINANCIAL PROVISIONS WITH RESPECT TO AGENCY

Financial year

1. The financial year of the Agency shall comprise such period as may be specified in the memorandum and articles of association of the Agency.

Accounts of Agency

2. The Agency shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are properly authorised and correctly made and that adequate control is maintained over the assets of, or in the custody of, the Agency and over the expenditure incurred by the Agency.

Auditor

3. The accounts of the Agency shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Agency in consultation with the Auditor-General.

Appointment of auditor

4. A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

THIRD SCHEDULE — *continued***Remuneration of auditor**

5. The remuneration of the auditor shall be paid out of the Fund.

Annual financial statements

6. The Agency shall, as soon as practicable after the close of each financial year, prepare and submit financial statements in respect of that year to the auditor of the Agency.

Duties of auditor

7. The auditor shall in his report state —
- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Agency;
 - (b) whether proper accounting and other records have been kept, including records of all assets of the Agency, whether purchased, donated or otherwise;
 - (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Agency during the financial year were in accordance with the provisions of this Act; and
 - (d) such other matters arising from the audit as he considers necessary.

Auditor's report

8. The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Agency. He shall also submit such periodical and special reports to the Minister and to the Agency as may appear to him to be necessary or as the Minister or the Agency may require.

Powers of auditor

- 9.—(1) The auditor or any person authorised by him shall be entitled at all reasonable times to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Agency and may make copies of or extracts from any such accounting and other records.

- (2) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of his functions under this Act.

Penalty for obstructing auditor

10. Any person who fails, without reasonable excuse, to comply with any requirement of the auditor under paragraph 9(2) or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000.

THIRD SCHEDULE — *continued***Presentation of audited financial statements and auditor's report**

11. The Agency shall, as soon as the financial statements have been audited in accordance with the provisions of this Act, submit a copy of the audited financial statements, together with a copy of the auditor's report, to the Minister.

Copy of auditor's report for Auditor-General

12. Where the Auditor-General is not the auditor of the Agency, the Agency shall cause to be sent to the Auditor-General a copy of the audited financial statements and any report made by the auditor at the same time they are submitted to the Minister.

LEGISLATIVE HISTORY

DEPOSIT INSURANCE ACT (CHAPTER 77A)

This Legislative History is provided for the convenience of users of the Deposit Insurance Act. It is not part of the Act.

Act 31 of 2005 — Deposit Insurance Act 2005

Date of First Reading	:	15 August 2005 (Bill No. 21/2005 published on 16 August 2005)
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