

Business Trusts (Summary Financial Statement) Regulations

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FIRST SCHEDULE Form And Content Of Summary Financial Statement

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Legislative History

BUSINESS TRUSTS ACT (CHAPTER 31A, SECTION 79(8))

BUSINESS TRUSTS (SUMMARY FINANCIAL STATEMENT) REGULATIONS

Rg 1

G.N. No. S 10/2005

[6th January 2005]

Citation

1. These Regulations may be cited as the Business Trusts (Summary Financial Statement) Regulations.

Definitions

2. In these Regulations, unless the context otherwise requires —

“entitled persons”, in relation to a registered business trust, means such persons as are or would, apart from section 79 of the Act, be entitled to be sent copies of those documents relating to the registered business trust which are referred to in section 78(1) of the Act;

“full accounts and reports”, in relation to a registered business trust, means —

- (a) the annual accounts of the registered business trust;
- (b) the report of the directors of the trustee-manager of the registered business trust required under section 76(10) of the Act; and
- (c) the report of the auditor of the registered business trust on those accounts,

and accounts for the purposes of this definition shall have the same meaning as defined in section 76(9) of the Act;

“future financial years” means the financial years following the financial year in respect of which a summary financial statement has been sent out in accordance with section 79 of the Act and these Regulations.

Conditions that must be complied with for sending of summary financial statements

3.—(1) The trustee-manager of a registered business trust may not send out, under section 79 of the Act, a summary financial statement of the registered business trust to an entitled person, in place of copies of the full accounts and reports of the registered business trust, unless the following conditions have been complied with:

- (a) the trustee-manager must have ascertained, in accordance with regulation 4, that the entitled person does not wish to continue to receive copies of those documents;
- (b) the summary financial statement must have been approved by the board of

directors of the trustee-manager and the original statement signed on behalf of the board by a director of the trustee-manager;

- (c) the summary financial statement must state the name of the person who signed it on behalf of the board of directors of the trustee-manager;
- (d) the summary financial statement must include the following statement in a prominent position:

“This summary financial statement does not contain sufficient information to allow for a full understanding of the results and state of affairs of [*insert name of the registered business trust*]. For further information, the full accounts and reports of the registered business trust should be consulted.”;

- (e) the summary financial statement must contain a conspicuous statement that an entitled person has the right to demand free of charge a copy of the full accounts and reports of the registered business trust by notifying the trustee-manager of the registered business trust; and
- (f) the trustee-manager shall, with respect to every financial year following the financial year with respect to which the entitled person was consulted as to his wishes in accordance with regulation 4(3), give to the entitled person the opportunity to notify the trustee-manager of a change in his wishes by sending to the entitled person a summary financial statement or the full accounts and reports of the registered business trust, as the case may be, accompanied by a printed card or form in respect of which any postage necessary for its return to the trustee-manager has been, or will be, paid by the trustee-manager on behalf of the registered business trust and which is so worded as to enable the entitled person, by marking a box and returning the card or form, to notify the trustee-manager of any of the following matters:
 - (i) that he wishes to receive the full accounts and reports of the registered business trust for the current financial year as well as for future financial years;
 - (ii) that he wishes to receive the summary financial statements for future financial years; or
 - (iii) that he does not wish to receive the summary financial statements or the full accounts and reports of the registered business trust for future financial years,

and shall inform the entitled person that his failure to respond will be taken to indicate that there has been no change in his wishes.

(2) An entitled person who notifies the trustee-manager of a registered business trust

under paragraph (1)(f)(ii) or (iii) shall not be precluded from requesting for the full accounts and reports of the registered business trust or a summary financial statement, as the case may be, in any future year.

Manner in which wishes of entitled persons are to be ascertained

4.—(1) For the purposes of section 79(4) of the Act, whether or not an entitled person of a registered business trust wishes to receive copies of the full accounts and reports of the registered business trust for a financial year as well as for future financial years is to be ascertained —

- (a) from any relevant notification he has given to the trustee-manager of the registered business trust as to whether he wishes to receive copies of the full accounts and reports of the registered business trust or as to whether he wishes, instead of copies of those documents, to receive the summary financial statements under section 79(1) of the Act;
- (b) from any notification he has given to the trustee-manager of the registered business trust with respect to future financial years as to whether he wishes to receive copies of the full accounts and reports of the registered business trust for those future financial years; or
- (c) failing any such express notification, from any failure to respond to an opportunity given to the entitled person to elect to receive copies of the full accounts and reports of the registered business trust as part of a relevant consultation of his wishes by the trustee-manager of the registered business trust.

(2) For the purposes of paragraph (1)(a), a notification is a relevant notification with respect to a financial year if it relates to that year and if it is received by the trustee-manager of a registered business trust not later than 7 days before the first date on which copies of the full accounts and reports of the registered business trust are sent out to entitled persons of the registered business trust in compliance with section 78(1) of the Act with respect to that financial year.

(3) For the purposes of paragraph (1)(c), a relevant consultation of the wishes of an entitled person of a registered business trust is a notice given by the trustee-manager of the registered business trust to the entitled person which —

- (a) states that for that financial year and all future financial years, so long as he is an entitled person, he will be sent a summary financial statement instead of the full accounts and reports of the registered business trust, unless he notifies the trustee-manager that he wishes to continue to receive those documents;
- (b) contains a statement in a prominent position that a failure to respond to the