

Postal Services (Control of Designated Postal Licensees) Regulations 2012

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No. S 213

POSTAL SERVICES ACT (CHAPTER 237A)

POSTAL SERVICES
(CONTROL OF DESIGNATED POSTAL LICENSEES)
REGULATIONS 2012

In exercise of the powers conferred by sections 26H and 61 of the Postal Services Act, the Info-communications Development Authority of Singapore, with the approval of the Minister for Information, Communications and the Arts, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Postal Services (Control of Designated Postal Licensees) Regulations 2012 and shall come into operation on 25th May 2012.

Definitions

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

“applicant” means the person making an application and includes a designated postal licensee and an acquiring party within the meaning of regulation 7;

“application” means an application for the prior written approval of the Postal Authority under section 26B(2), (3) or (4) or 26F of the Act;

“open market transaction” means a transaction entered into in the ordinary course of business on, or otherwise subject to the business rules of, a securities exchange;

“relative”, in relation to a person, means —

- (a) the person’s spouse;
- (b) a parent or remoter lineal ancestor, or a step-parent, of the person;
- (c) a child or remoter issue, or a step-child, of the person; or
- (d) a sibling or step-sibling of the person;

“working day” means a day other than a Saturday, a Sunday or a public holiday.

(2) For the purposes of these Regulations, a person, *X*, is an affiliate of another person, *Y*, if —

- (a) *X* is an entity which has an attributable interest (direct or indirect) in *Y* of 5% or more (referred to in this paragraph as a parent);
- (b) *Y* is an entity in which *X* has an attributable interest (direct or indirect) of 5% or more (referred to in this paragraph as a subsidiary); or

- (c) *X* is an entity in which *Y*'s parent has an attributable interest (direct or indirect) of 5% or more (referred to in this paragraph as a sibling), but *X* will not be considered an affiliate of *Y* if the common parent of *X* and *Y* has only a passive ownership interest in the 2 sibling entities, such as where the parent entity does not in practice cause the subsidiary entity to take, or prevent the subsidiary entity from taking, decisions regarding the management and major operating decisions of the entity,

and any party's attributable interest shall be determined using the "sum-the-percentages" methodology applied successively at each level of the ownership chain.

Meaning of "associate"

3.—(1) For the purposes of the definition of "associate" in section 26A(1) and Part IVA of the Act, a person, *A*, is an associate of another person, *B*, if —

- (a) *A* is a relative of *B*;
- (b) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;
- (c) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;
- (d) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;
- (e) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;
- (f) *A* is a related corporation of *B*;
- (g) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (b) to (f), is in a position to control not less than 12% or 30%, as the case may be, of the voting power in *A*;
- (h) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in sub-paragraphs (b) to (f), is in a position to control not less than 12% or 30%, as the case may be, of the voting power in *B*; or
- (i) *A* is a person with whom *B* has an agreement or arrangement, whether oral

or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the designated postal licensee.

(2) In this regulation, “corporation” and “related corporation” have the same meanings as in section 4(1) of the Companies Act (Cap. 50).

Meaning of “holder” of shares

4.—(1) For the purposes of Part IVA of the Act and these Regulations, a person holds shares in a corporation if he has any legal or equitable interest in those shares, other than an interest that is to be disregarded under paragraph (3).

(2) Except as otherwise provided in paragraph (3), for the purposes of these Regulations, a person shall be deemed to have an interest in a share if —

- (a) the person has entered into a contract to purchase the share; or
- (b) the person, not being the registered holder of that share, is entitled (otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a corporation or of a class of its members) to exercise or control the exercise of a right attached to a share.

(3) For the purposes of paragraphs (1) and (2), there shall be disregarded —

- (a) an interest in a share of a person who holds the share as bare trustee;
- (b) an interest in a share of a person whose ordinary business includes the lending of money, if he holds the interest only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;
- (c) an interest in a share of a person whose ordinary business includes the underwriting of securities, if he holds the interest only as an underwriter or a sub-underwriter to any offering of shares of a designated postal licensee;
- (d) an interest in a share held by a person —
 - (i) in his capacity of a liquidator, the Official Receiver, the Official Assignee or the Public Trustee; or
 - (ii) by reason of his holding such other office as may be prescribed for the purposes of section 7(9)(c) of the Companies Act (Cap. 50);

- (e) an interest of a corporation in its own share purchased or otherwise acquired in accordance with sections 76B to 76G of the Companies Act; and
- (f) such interest in a share as may be prescribed for the purposes of section 7(9)(d) of the Companies Act, being an interest of such person, or of a person belonging to such class of persons as may be prescribed for the purposes of that provision.

(4) Section 7(7), (8) and (10) of the Companies Act shall apply in determining whether a person has an interest in a share for the purposes of paragraph (2).

Meaning of “voting power”

5.—(1) For the purposes of Part IVA of the Act and these Regulations, a reference therein to control of a percentage of the voting power in a corporation shall be a reference to control that is direct or indirect, including control that is exercisable as a result of or by means of arrangements or practices —

- (a) whether or not having legal or equitable force; and
- (b) whether or not based on legal or equitable rights,

of that percentage of the total number of votes that may be cast in a general meeting of the corporation.

(2) Where a corporation is limited both by shares and by guarantee or does not have a share capital, this regulation shall have effect as if the members or policy holders of the corporation were shareholders in the corporation.

Notice by designated postal licensee

6.—(1) For the purposes of section 26B(1) of the Act, a designated postal licensee shall give notice in writing to the Postal Authority on the occasion when a person, whether by a series of transactions over a period of time or otherwise —

- (a) first acquires 5% or more but less than 12% of the voting shares in the designated postal licensee; or
- (b) first controls 5% or more but less than 12% of the voting power in the designated postal licensee,

within a period of 5 working days after the designated postal licensee first becomes aware of the acquisition or control, as the case may be.

(2) The notice in paragraph (1) shall be in such form as may be approved by the Postal Authority.