



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

ACTS SUPPLEMENT

Published by Authority

NO. 34]

FRIDAY, DECEMBER 13

[2002

First published in the *Government Gazette*, Electronic Edition, on 9th December 2002 at 5:00 pm.

The following Act was passed by Parliament on 25th November 2002 and assented to by the President on 3rd December 2002:—

PAYMENT AND SETTLEMENT SYSTEMS (FINALITY AND NETTING) ACT 2002

(No. 39 of 2002)

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
3. Designation of system
4. Revocation of designation
5. Application of this Act

PART II

TRANSACTIONS EFFECTED THROUGH DESIGNATED SYSTEM

Section

6. Modifications of law of insolvency
7. Transactions under rules of designated system are final and irrevocable
8. Proceedings of designated system shall take precedence over law of insolvency
9. Disclaimer of property, restriction on dispositions of property, etc.
10. Adjustment of prior transactions
11. Net sum payable on completion of action taken under default arrangements
12. Transfer orders entered into designated system after insolvency

PART III

NETTING

13. Netting

PART IV

MISCELLANEOUS

14. Law of insolvency in other jurisdictions
 15. Preservation of rights, etc.
 16. Obligation to notify designated system of insolvency
 17. Immunity of Authority and its employees, etc.
 18. Power to make regulations
 19. Settlement system deemed to be designated system under this Act
 20. Related and consequential amendments
 21. Consequential amendments to other written laws
 22. Transitional provisions
-

REPUBLIC OF SINGAPORE

No. 39 of 2002.

I assent.



S R NATHAN,
President.
3rd December 2002.

An Act to make provision for the protection of payment and settlement systems from disruptions that may lead to risks to the financial system and for purposes connected therewith, and to make related amendments to the Banking Act (Chapter 19 of the 1999 Revised Edition), the Monetary Authority of Singapore Act (Chapter 186 of the 1999 Revised Edition) and the Securities and Futures Act 2001 (Act 42 of 2001).

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

PART I
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Payment and Settlement Systems (Finality and Netting) Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

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

“book-entry Government securities” means any securities issued by the Government under any written law transferable by a book-entry on a register or otherwise;

“default arrangements” means the arrangements put in place by a designated system to limit systemic and other types of risk which arise in the event of a participant appearing to be unable, or likely to become unable, to meet its obligations in respect of a transfer order, including any arrangements for —

(a) netting; or

(b) the closing out of open positions;

“defaulter” means a person in respect of whom action has been taken by a designated system under its default arrangements;

“designated system” means a system that is designated by the Authority under section 3 to be a designated system for the purposes of this Act;

“disposition of property” includes a payment made into or out of an account of a participant;

“netting” means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant either issues to, or receives from,

one or more other participants with the result that only a net claim can be demanded or a net obligation be owed;

“operator”, in relation to a designated system, means the person specified in the order referred to in section 3(1) as the operator of the designated system;

“participant” means a party to an arrangement that establishes a system;

“relevant office holder” means —

- (a) the Official Assignee exercising his powers under the Bankruptcy Act (Cap. 20);
- (b) a person acting in relation to a company as its liquidator, receiver, receiver and manager, judicial manager or an equivalent officer; or
- (c) a person acting in relation to an individual as his trustee in bankruptcy or interim receiver of his property or an equivalent officer;

“settlement institution”, in relation to a designated system, means a body corporate providing accounts for the participants of the designated system to hold funds and to settle transactions between participants in the designated system;

“system” means a system established for —

- (a) the clearing or settlement of payment obligations; or
- (b) the clearing, settlement or transfer of book-entry Government securities;

“transfer order” means —

- (a) an instruction by a participant to place at the disposal of a recipient an amount of money by means of a book-entry on the accounts of a settlement institution for a designated system, or an instruction which, when settled, results in the assumption or discharge of a payment obligation as defined by the rules of a designated system; or