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**No. S 802**

**MONETARY AUTHORITY OF SINGAPORE ACT  
(CHAPTER 186)**

**MONETARY AUTHORITY OF SINGAPORE  
(RESOLUTION OF FINANCIAL INSTITUTIONS)  
(AMENDMENT NO. 2) REGULATIONS 2021**

In exercise of the powers conferred by section 126 of the Monetary Authority of Singapore Act, the Senior Minister and Coordinating Minister for Social Policies, Mr Tharman Shanmugaratnam, who is charged with the responsibility for the Monetary Authority of Singapore Act (Cap. 186), makes the following Regulations:

**Citation and commencement**

1. These Regulations are the Monetary Authority of Singapore (Resolution of Financial Institutions) (Amendment No. 2) Regulations 2021 and come into operation on 1 November 2021.

**New regulations 16A to 16E**

2. The Monetary Authority of Singapore (Resolution of Financial Institutions) Regulations 2018 (G.N. No. S 714/2018) (called in these Regulations the principal Regulations) are amended by inserting, immediately before regulation 17 in Part 3, the following regulations:

**“Definitions of this Part**

**16A.** In this Part, “2nd transferee”, “certificate of transfer”, “onward transfer”, “reverse transfer”, “transferee” and “transferor” have the meanings given by section 60 of the Act.

**Setting-off and netting rights in relation to reverse transfer and onward transfer**

**16B.—**(1) A reverse transfer under section 61 of the Act of a part (but not the whole) of the business of a transferor that was transferred to a transferee under a certificate of transfer must not

provide for the transfer of some, and not all, of the protected rights and liabilities between the transferor and the transferee.

(2) An onward transfer under section 63 of the Act of a part (but not the whole) of the business of a transferor that was transferred to a transferee under a certificate of transfer must not provide for the transfer of some, and not all, of the protected rights and liabilities between the transferee and the 2nd transferee.

(3) In this regulation —

(a) rights and liabilities between the transferor and the transferee mentioned in paragraph (1) are protected if —

- (i) they are rights and liabilities that arise from one or more financial contracts between them; and
- (ii) they are rights and liabilities which either the transferor or the transferee is entitled to set-off or net under a set-off arrangement, netting arrangement or title transfer arrangement; and

(b) rights and liabilities between the transferee and the 2nd transferee mentioned in paragraph (2) are protected if —

- (i) they are rights and liabilities that arise from one or more financial contracts between them; and
- (ii) they are rights and liabilities which either the transferee or the 2nd transferee is entitled to set-off or net under a set-off arrangement, netting arrangement or title transfer arrangement.

(4) For the purposes of paragraph (3)(a), it is immaterial whether —

(a) the set-off arrangement or netting arrangement also permits the transferor or the transferee to set-off or net rights and liabilities with another person; or

(b) the right to set-off or net is exercisable only on the occurrence of a particular event.

(5) For the purposes of paragraph (3)(b), it is immaterial whether —

(a) the set-off arrangement or netting arrangement also permits the transferee or the 2nd transferee to set-off or net rights and liabilities with another person; or

(b) the right to set-off or net is exercisable only on the occurrence of a particular event.

**Rights and liabilities connected with clearing and settlement arrangement of market infrastructure in relation to reverse transfer and onward transfer**

**16C.**—(1) A reverse transfer under section 61 of the Act of a part (but not the whole) of the business of a transferor that was transferred to a transferee under a certificate of transfer must not provide for the transfer of some, and not all, of the rights and liabilities of the transferee that arise from a clearing and settlement arrangement of a market infrastructure, if the failure to transfer any such right or liability will result in a disruption of the arrangement.

(2) An onward transfer under section 63 of the Act of a part (but not the whole) of the business of a transferor that was transferred to a transferee under a certificate of transfer must not provide for the transfer of some, and not all, of the rights and liabilities of the transferee that arise from a clearing and settlement arrangement of a market infrastructure, if the failure to transfer any such right or liability will result in a disruption of the arrangement.

(3) Without limiting the circumstances that constitute a disruption of the clearing and settlement arrangement of a market infrastructure, any of the following is considered a disruption of the arrangement under paragraph (1) or (2):

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- (a) a disruption of the discharge of payment and delivery obligations in respect of transactions cleared and settled through the market infrastructure;
  - (b) a disruption of the operation of the business rules of the market infrastructure relating to settlement finality;
  - (c) a disruption of the operation of the business rules of the market infrastructure regarding processes to be observed on the default of a participant.

(4) In this regulation, “clearing and settlement arrangement”, in relation to a market infrastructure, means any of the following that is governed by the business rules of the market infrastructure:

- (a) a market contract;
- (b) the business rules of the market infrastructure relating to the settlement of a market contract;
- (c) any proceedings or other actions taken under the business rules;
- (d) a market charge;
- (e) the provision of market collateral;
- (f) the default rules of the market infrastructure;
- (g) any default proceedings.

(5) In paragraph (4), “default proceedings”, “default rules”, “market charge”, “market collateral” and “market contract” have the meanings given by section 48(1) of the Securities and Futures Act (Cap. 289), with the reference in each definition to an approved clearing house or a recognised clearing house substituted with a reference to a market infrastructure.

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**Rights and liabilities connected with designated system in relation to reverse transfer or onward transfer**

**16D.**—(1) This regulation applies where —

- (a) a right or liability arising from a transfer order effected through a designated system has yet to be settled by a transferee; and
- (b) a failure to transfer the right or liability when transferring a part of the business of a transferor that was transferred to a transferee under a certificate of transfer (whether the transfer is a reverse transfer under section 61 of the Act or an onward transfer under section 63 of the Act) is likely to result in a disruption of the operation of the designated system.

(2) A reverse transfer under section 61 of the Act of a part (but not the whole) of the business of a transferor that was transferred to a transferee under a certificate of transfer —

- (a) must not take effect until after the right or liability is settled; or
- (b) must include the transfer of —
  - (i) the right or liability; and
  - (ii) any security posted by the transferee in accordance with the designated system rules.

(3) An onward transfer under section 63 of the Act of a part (but not the whole) of the business of a transferor that was transferred to a transferee under a certificate of transfer —

- (a) must not take effect until after the right or liability is settled; or
- (b) must include the transfer of —
  - (i) the right or liability; and
  - (ii) any security posted by the transferee in accordance with the designated system rules.