

**Securities and Futures (Offers of Investments) (Exemption for Business Trusts)
Regulations 2006**

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No. S 669

SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES (OFFERS OF INVESTMENTS) (EXEMPTION FOR
BUSINESS TRUSTS) REGULATIONS 2006

In exercise of the powers conferred by sections 282I(5) and 337(1) of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Offers of Investments) (Exemption for Business Trusts) Regulations 2006 and shall come into operation on 13th December 2006.

Definitions

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

“ASIC” means the Australian Securities and Investments Commission;

“ASX Listing Rule” means a Listing Rule of the Australian Stock Exchange Limited;

“ATM” means automated teller machine;

“Australia Corporations Act” means the Corporations Act 2001 of the Commonwealth of Australia;

“Fund” means the business trust known as MacarthurCook Property Securities Fund;

“relevant statement” means a statement purporting to be made by, or to be based on a statement made by, an expert, which is included in —

- (a) a prospectus or profile statement relating to the offer of units or derivatives of units in the Fund referred to in regulation 3(2); or
- (b) an offer information statement relating to the offer of units or derivatives of units in the Fund referred to in regulations 6 and 7;

“responsible entity” means the company named in ASIC’s record of registration of the Fund, as a managed investment scheme, as the responsible entity or temporary responsible entity of the Fund;

“WAP phone” means a mobile telephone with wireless application protocol.

(2) In these Regulations —

- (a) a reference to an ASX Listing Rule by number is a reference to —
 - (i) the ASX Listing Rule of that number that is in force on 13th December 2006; or
 - (ii) if it has since been renumbered or replaced with another provision, the renumbered or replacement provision, as amended from time to time; and
- (b) a reference to the responsible entity doing an act in its capacity as the responsible entity is a reference to the responsible entity doing that act in its capacity as the entity responsible for managing and operating the Fund.

Exemptions in respect of initial offer

3.—(1) Where a person makes the initial offer of units or derivatives of units in the Fund in any of the circumstances specified in section 282X(1)(a), (b), (c), (f) and (g) of the Act, he shall, subject to the conditions set out in paragraph (3), be exempt from the requirements under Subdivision (2) of Division 1A of Part XIII of the Act (other than section 282Q of the Act).

(2) Where a person makes the initial offer of units or derivatives of units in the Fund in circumstances other than the circumstances specified in section 282X(1)(a), (b), (c), (f) and (g) of the Act —

- (a) he shall, subject to the conditions set out in paragraph (3) and the First Schedule, be exempt from —
 - (i) the requirement under section 282C(1)(a) of the Act for the Fund to be a registered business trust; and
 - (ii) the requirements under sections 282F, 282G, 282L and 282T of the Act; and
- (b) he shall, subject to the conditions set out in paragraph (6), be exempt from the requirements under section 282I(1) of the Act in respect of a relevant statement which —
 - (i) is not made in connection with the offer concerned;
 - (ii) is not made for the sole benefit of the Fund;

- (iii) does not relate specifically to the affairs of the Fund; and
- (iv) is a correct and fair copy or a representation of, or an extract from, a statement made or information published by a source which the persons signing the prospectus or profile statement reasonably believe to be reliable.

(3) For the purposes of paragraphs (1) and (2)(a), the conditions are that —

- (a) no distribution is made out of the Fund to the holders of the units in the Fund unless the board of directors of the responsible entity issue a written statement that they are satisfied on reasonable grounds that, immediately after making the distribution, the Fund is able to fulfil the liabilities incurred by the responsible entity on behalf of the Fund as these liabilities fall due;
- (b) the Fund is a managed investment scheme within the meaning of and is regulated as such under the Australia Corporations Act;
- (c) the responsible entity shall ensure that the assets of the Fund are held separate and distinct from the assets of the responsible entity and the assets of all other schemes managed by the responsible entity;
- (d) the responsible entity has procured an independent legal opinion that, in the event that the responsible entity becomes insolvent or is in financial difficulties, the constitutive documents of the Fund, read with the law governing the management and operation of the Fund —
 - (i) do not enable, authorise or allow the responsible entity or its liquidator, provisional liquidator, receiver, receiver and manager, judicial manager, or an equivalent officer to apply; or
 - (ii) prohibit any of them from applying,directly or indirectly the assets of the Fund to fulfil any liability incurred by the responsible entity, other than a liability incurred in managing or operating the Fund;
- (e) the responsible entity has confirmed in writing to the Authority that the constitutive documents of the Fund, read with the prevailing law governing the management and operation of the Fund —
 - (i) do not, and will not at any time during the period of the validity and operation of the Fund, enable, authorise or allow the responsible entity or its liquidator, provisional liquidator,

receiver, receiver and manager, judicial manager, or an equivalent officer to apply; or

- (ii) prohibit, at all times during the period of validity and operation of the Fund, any of them from applying,

the assets of the Fund to fulfil any liability incurred by the responsible entity (other than a liability incurred in managing or operating the Fund), in the event that the responsible entity becomes insolvent or is in financial difficulties;

- (f) the responsible entity has included in the prospectus for the offer of units in the Fund —

- (i) the independent legal opinion referred to in sub-paragraph (d); or

- (ii) a statement that such independent legal opinion has been obtained;

- (g) the responsible entity shall not, without the prior approval of a majority of the number of votes of the holders of units in the Fund who, being entitled to do so, vote in person or, where proxies are allowed, by proxy present at a general meeting, exercise any power —

- (i) to issue units in the Fund; or

- (ii) to make or grant an offer, agreement or option which would or might require units in the Fund to be issued; and

- (h) the Fund has a primary listing on the Australian Stock Exchange.

(4) For the purposes of paragraph (3)(g), approval for the responsible entity to exercise any power to issue units in the Fund or to make or grant an offer, agreement or option which would or might require units in the Fund to be issued shall be deemed to have been given by a holder of units in the Fund (referred to in this paragraph as the relevant units) and at the time such holder subscribes for or purchases the relevant units if, and only if —

- (a) a statement of such deeming effect has been disclosed in a prominent place on the front page of the prospectus for the offer of the relevant units in Singapore; and

- (b) either —